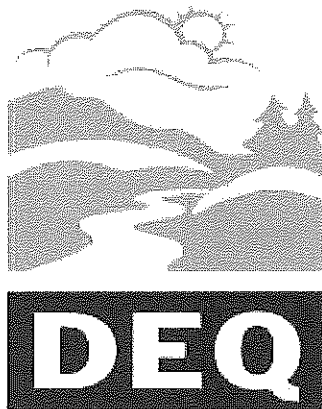


**OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS 04/24/2002**



**State of Oregon
Department of
Environmental
Quality**

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Environmental Quality Commission Meeting

April 23, 24 and 25, 2002

The Comfort Inn
504 Highway 20, Hines, Oregon

Tuesday, April 23, 2002

The regular Environmental Quality Commission meeting will begin at approximately 3:00 p.m., in the main meeting room at The Comfort Inn.

A. Information Item: Overview of the DEQ Land Quality Division

David Rozell, Acting DEQ Land Quality Administrator, will give a short presentation of major DEQ programs and initiatives for solid and hazardous waste management, environmental clean-up, and "cross program" activities that address air, water and land quality issues.

B. Information Item: DEQ Information Management Assessment Project Update

Helen Lottridge, DEQ Management Services Division Administrator working on special assignment, will update the Commission on DEQ's work to find ways to make environmental information more accessible to Oregonians and make the best use of the technology and information resources available to the agency. Helen has been leading a workgroup of managers and staff to evaluate information management since January 2002, and plans to conclude the project with recommendations for improvements in September.

At approximately 6:30 p.m., the Commission will join DEQ staff for dinner at The Apple Peddler, located at 540 Highway 20 North, in Hines, to discuss agency activities in Eastern Oregon.

Wednesday, April 24, 2002

On Wednesday, the Commission will tour the Malheur Wildlife Refuge and Frenchglen area to discuss local ecological conditions and environmental issues with DEQ staff. At 6:00 p.m., the Commission will dine with local officials to hear and discuss environmental issues, opportunities and challenges. The dinner will be held at The Pine Room, located at 543 W. Monroe, in Burns.

Thursday, April 25, 2002

At approximately 8:00 a.m., the Commission will hold an executive session to consult with counsel concerning legal rights and duties regarding current and potential litigation against the Department. Executive session is held pursuant to ORS 192.660(1)(h). Only representatives of the media may attend, and media representatives may not report on any deliberations during the session.

The regular Environmental Quality Commission meeting will resume at approximately 8:30 a.m., in the main meeting room at The Comfort Inn.

C. Approval of Minutes

The Commission will review, amend if necessary, and approve draft minutes of the March 7-8, 2002, Environmental Quality Commission meeting.

D. Director's Dialogue

Commissioners will discuss current events and issues involving the Department and state with DEQ Director Stephanie Hallock.

E. Information Item: Status Update on DEQ Approval for the Start of Umatilla Chemical Agent Disposal Facility Surrogate Operations

In March 2002, the Commission modified the hazardous waste permit for the Umatilla Chemical Agent Disposal Facility (UMCDF) to require DEQ approval for starting surrogate operations (scheduled for May 2002) and Commission approval for starting chemical agent operations (scheduled for February 2003). Wayne Thomas, DEQ Administrator of the Umatilla Chemical Demilitarization Program, will update the Commission on the status of all activities that must be completed before DEQ approves the start of UMCDF surrogate operations.

F. *Rule Adoption: Mercury Thermostat Labeling Rules

David Rozell, Acting DEQ Land Quality Administrator, will propose new rules for labeling mercury-containing thermostats to help homeowners and building contractors dispose of thermostats correctly. The rules are intended to reduce the release of mercury, a toxic chemical, to the environment, as required by a law passed during the 2001 Legislative session. To put the new rules in place this summer, DEQ plans to continue working with thermostat manufacturers that produce thermostats sold in Oregon, as well as stakeholders working to reduce mercury releases in the environment.

G. *Rule Adoption: Amendments to the Oregon Visibility Protection Plan

DEQ is required to periodically review and update Oregon's Visibility Plan, which was adopted in 1986 to protect certain areas of the state from air pollution. The plan covers Crater Lake National Park and eleven national wilderness areas in Oregon. Brian Finneran, DEQ Air Quality specialist, will propose changes to the plan that were developed and recommended by a diverse advisory committee. The changes include expanding Oregon's visibility monitoring network, improving smoke management coordination, increasing the use of non-burning alternatives for agriculture and forestry, and improving tracking of burning and fire emissions. The visibility plan is one part of Oregon's State Implementation Plan for protecting air quality, as required by the federal Clean Air Act.

H. Information Item: Updating the Performance Partnership Agreement between DEQ and the Environmental Protection Agency

Marianne Fitzgerald, DEQ Cross Program Coordinator, will report on negotiations with the federal Environmental Protection Agency (EPA) to update the Performance Partnership Agreement. This agreement describes how DEQ and EPA will carry out joint environmental responsibilities for air quality, water quality and hazardous waste, including work priorities and program commitments. DEQ will solicit input Commissioners, as well as from Tribes, other stakeholders and the general public, in preparation for finalizing the agreement in June.

I. Temporary Rule Adoption: Authorized Representatives for Parties in Contested Case Hearings

Susan Greco, DEQ Environmental Law Specialist, will propose temporary adoption of a rule that was inadvertently repealed in July 2000. The rule allows for certain entities that appear before DEQ in contested case hearings to be represented by an authorized representative. Without the rule, the entities would need to be represented by an attorney. Once adopted, temporary rules are effective for a maximum of 180 days.

J. Commissioners' Reports

Adjourn

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

Public Forum: The Commission will break the meeting at approximately 11:30 a.m. on Thursday, April 25, for public forum if people are signed up to speak. Public forum is an opportunity for citizens to speak to the Commission on environmental issues and concerns not part of the agenda for this meeting. Individual presentations will be limited to five minutes. The Commission may discontinue public forum after a reasonable time if a large number of speakers wish to appear. Public comment periods for Rule Adoption items have closed and, in accordance with ORS 183.335(13), no comments may be presented to the Commission on those agenda items.

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The next Commission meeting is scheduled for June 6-7, 2002.

Copies of staff reports for individual agenda items are available by contacting Emma Djodjic in the Director's Office of the Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204; telephone 503-229-5990, toll-free 1-800-452-4011, or 503-229-6993 (TTY). Please specify the agenda item letter when requesting reports. If special physical, language or other accommodations are needed for this meeting, please advise Emma Djodjic as soon as possible, but at least 48 hours in advance of the meeting.

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The regular Environmental Quality Commission meeting will begin at approximately 3:00 p.m., in the main meeting room at The Comfort Inn.

- 1
- 1, 2, 3
- A. **Information Item: Overview of the DEQ Land Quality Division - 3:04p.**
David Rozell, Acting DEQ Land Quality Administrator, will give a short presentation of major DEQ programs and initiatives for solid and hazardous waste management, environmental clean-up, and "cross program" activities that address air, water and land quality issues.
- B. **Information Item: DEQ Information Management Assessment Project Update - 3:45p**
Helen Lottridge, DEQ Management Services Division Administrator working on special assignment, will update the Commission on DEQ's work to find ways to make environmental information more accessible to Oregonians and make the best use of the technology and information resources available to the agency. Helen has been leading a workgroup of managers and staff to evaluate information management since January 2002, and plans to conclude the project with recommendations for improvements in September.

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The regular Environmental Quality Commission meeting will resume at approximately 8:30 a.m., in the main meeting room at The Comfort Inn.

- 3
- 3, 4, 5
- C. **Approval of Minutes - 8:37A** MOTION: TONY JAN JUET
2ND: DIDI MALARKEY
The Commission will review, amend if necessary, and approve draft minutes of the March 7-8, 2002, Environmental Quality Commission meeting.
- D. **Director's Dialogue - 8:40A**
Commissioners will discuss current events and issues involving the Department and state with DEQ Director Stephanie Hallock.

Tape #

5

E. **Information Item: Status Update on DEQ Approval for the Start of Umatilla Chemical Agent Disposal Facility Surrogate Operations - 9:34A**

In March 2002, the Commission modified the hazardous waste permit for the Umatilla Chemical Agent Disposal Facility (UMCDF) to require DEQ approval for starting surrogate operations (scheduled for May 2002) and Commission approval for starting chemical agent operations (scheduled for February 2003). Wayne Thomas, DEQ Administrator of the Umatilla Chemical Demilitarization Program, will update the Commission on the status of all activities that must be completed before DEQ approves the start of UMCDF surrogate operations.

5, 6

F. ***Rule Adoption: Mercury Thermostat Labeling Rules - 10:26A**

David Rozell, Acting DEQ Land Quality Administrator, will propose new rules for labeling mercury-containing thermostats to help homeowners and building contractors dispose of thermostats correctly. The rules are intended to reduce the release of mercury, a toxic chemical, to the environment, as required by a law passed during the 2001 Legislative session. To put the new rules in place this summer, DEQ plans to continue working with thermostat manufacturers that produce thermostats sold in Oregon, as well as stakeholders working to reduce mercury releases in the environment.

MOTION: MARK REEVE
2ND: DIDI MALARKEY

6, 7

G. ***Rule Adoption: Amendments to the Oregon Visibility Protection Plan - 10:43A**

DEQ is required to periodically review and update Oregon's Visibility Plan, which was adopted in 1986 to protect certain areas of the state from air pollution. The plan covers Crater Lake National Park and eleven national wilderness areas in Oregon. Brian Finneran, DEQ Air Quality specialist, will propose changes to the plan that were developed and recommended by a diverse advisory committee. The changes include expanding Oregon's visibility monitoring network, improving smoke management coordination, increasing the use of non-burning alternatives for agriculture and forestry, and improving tracking of burning and fire emissions. The visibility plan is one part of Oregon's State Implementation Plan for protecting air quality, as required by the federal Clean Air Act.

MOTION: TONY VAN ULL
2ND: HARVEY BENNETT

7

H. **Information Item: Updating the Performance Partnership Agreement between DEQ and the Environmental Protection Agency - 11:18A**

Marianne Fitzgerald, DEQ Cross Program Coordinator, will report on negotiations with the federal Environmental Protection Agency (EPA) to update the Performance Partnership Agreement. This agreement describes how DEQ and EPA will carry out joint environmental responsibilities for air quality, water quality and hazardous waste, including work priorities and program commitments. DEQ will solicit input Commissioners, as well as from Tribes, other stakeholders and the general public, in preparation for finalizing the agreement in June.

3

I. **Temporary Rule Adoption: Authorized Representatives for Parties in Contested Case Hearings - 4:57p (TUES.)**

Susan Greco, DEQ Environmental Law Specialist, will propose temporary adoption of a rule that was inadvertently repealed in July 2000. The rule allows for certain entities that appear before DEQ in contested case hearings to be represented by an authorized representative. Without the rule, the entities would need to be represented by an attorney. Once adopted, temporary rules are effective for a maximum of 180 days.

MOTION BY: HARVEY BENNETT
2ND: DIDI MALARKEY

7

J. **Commissioners' Reports - 11:54A**

Adjourn

TAPE #1
7
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State of Oregon
Department of Environmental Quality

Memorandum

To: Environmental Quality Commission

Date: April 5, 2002

From: David Rozell, Acting Administrator, Land Quality Division

Subject: Land Quality Presentation at 4/23 EQC meeting

At your upcoming meeting in Burns, Oregon I will be making a brief presentation about the major policy issues and other challenges that the Land Quality Division faces in the next 24 months. With the time I have on the agenda on April 23rd, I will not include discussion about the organization of the Division or our mission, so I am including that information in this memorandum and attachments. I hope you find them helpful.

These are exciting times for Land Quality programs and the timing for this presentation to you is perfect. Many of the local environmental issues you will be hearing about at your April meeting will be Land Quality issues.

There are four separate programs as well as DEQ's agency-wide cross program priorities that are managed under the umbrella of the Land Quality Division. These programs include Environmental Cleanup/Underground Storage Tanks, Solid Waste, Hazardous Waste, and Emergency Response/Spills. Each program has its own funding mechanisms, budget, operating plan, and priorities. In addition, each program has its own Program Management Team, consisting of the headquarters, region and laboratory managers in each program. Although the program complexity in Land Quality provides many management challenges, it also provides opportunities for programs to work together on issues. The work that the Cleanup and Solid Waste programs are doing on methane gas at old solid waste landfills is a recent example of this.

History of LQ Division:

The Land Quality Division has its roots in the Department's solid waste work of the late 1960's. The Solid Waste Division was formed in the early 1970's with a component focused on hazardous waste. The passage of the federal Resource Conservation and Recovery Act (RCRA) in 1976 and specific state rules brought a more formal hazardous waste effort and lead to the Department's Hazardous and Solid Waste Division.

The federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) was adopted in 1980, and during the 1980's, the Department's work at contaminated sites became more prominent. A separate section in the Hazardous and Solid Waste Division focused on cleanup and, in 1988 a separate Environmental Cleanup Division was formed. This structure stayed in place until 1993 when our major reorganization occurred. The Department



shifted significant resources and responsibilities to its region offices and again combined the headquarters waste and cleanup work into a single Waste Management and Cleanup Division.

In 1999, the work related to Portland Harbor and the desire to have a greater focus on the Department's cleanup program resulted in the creation of a separate Environmental Cleanup Division and a renamed Waste Prevention and Management Division. Last summer, the two divisions were again combined into the Land Quality Division, giving the Department its air, water and land divisions and allowing emphasis on cross program issues within Land Quality.

Division Issues:

Some of the emerging issues and challenges for the Land Quality Division include:

- Reducing toxic chemicals in Oregon's environment and addressing cross program issues related to this effort.
- Evaluating the scope of the hazardous waste program and how the program is funded.
- Prioritizing, funding, and cleaning up the contamination from abandoned mines throughout Oregon.
- Cleaning up Portland Harbor and developing policies/rules to ensure that there is no recontamination.
- Permitting and monitoring of hazardous waste at the Umatilla Army Depot.
- Developing an internal Emergency Response and Recovery Plan and addressing security related issues related to hazardous substances.
- Examples of rules that the EQC should see in the next 12 months: implementation of recommendations from the Emergency Response Program Advisory Committee; electronics product stewardship; financial assurance at permitted landfills; conditionally exempt small quantity hazardous waste generators; permanent rule regarding methane at old landfills; and hazardous waste rules regarding sediments from dredging operations.
- Performing environmental cleanups less expensively and quicker while ensuring that public health and the environment are protected.
- Taking solid waste prevention and recycling in Oregon to the next level, which may include changes to the Bottle Bill.

I am looking forward to discussing these issues and others as part of my presentation on April 23rd. If you have questions or would like to discuss any of these issues in advance, please contact me at (503)-229-5332.

Land Qual. Division / 510

1372 PRIN CONT 1 X0851 29 LANDMAN	0720 EXEC SPT SPEC 2 C0119 19 ROTH	0668 PE MGR G Z7012 38X Rozell/Acting	0046 NR SPEC 5 C8505 32 DANKO
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Environmental Cleanup/520

0571
PE MGR E
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KIPHUT

0824 ADM SPEC 1 C0107 17 PAIKO	0427 PROJ COORD C0810 26 CARLSON	0853 PROG TECH 2 C0813 27 CAMPBELL	0672 NR SPEC 5 C8505 32 ANDERSON	0566 DF NR SPEC 4 C8504 30 B.DANA	0852 NR SPEC 4 C8504 30 KOENIG	1278 NR SPEC 2 C8502 24 K.DANA
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0920 OFC SPEC 1 C0103 12C ENRIQUEZ	0784 LEAD PROG TECH 2 C0813 27 HOLMES	1370 LEAD NR SPEC 4 C8504 30 LEVINE	0592 NR SPEC 4 C8504 30 MCCULLOCH	1427 NR SPEC 4 C8504 30 DEZEEUW	0787 DF NR SPEC 3 C8503 27 HONADEL	2222 NR SPEC 4 C8504 30 SCHEEL
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Solid Waste Section/530

0693
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GILLIAND/ACTING

0626 ADMIN SPEC 2 C0108 19 SCHMITT	0681 DF PUB INFO REP 1 C2111 24 HANDALY	0432 PROJ COORD C0810 26 ROBERTSPILLON	0014 NR SPEC 4 C8504 30 BREE	1134 DF NR SPEC 4 C8504 30 ALLAWAY	0625 J NR SPEC 4 C8504 30 CONLEY	1134 DF NR SPEC 4 C8504 30 WHITWORTH
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0031 OFC SPEC 2 C0104 15C OSTER	0082 PROJ COORD C0810 26 JONASON	0909 PROJ COORD C0810 26 HENDERSON	0456 NR SPEC 4 C8504 30 ETTLIN	0436 NR SPEC 4 C8504 30 GILLILAND	0930 NR SPEC 4 C8504 30 SPENDELOW	0625 J NR SPEC 4 C8504 30 BOUDOURIS
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Hazardous Waste Section/540

0359
PE MGR E
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MONROE

0441 ADMIN SPEC 1 C0107 17 MAYES	0548 ADMIN SPEC 1 C0107 17 EIDMAN	0794 OFC SPEC 2 C0104 15C SANDOVAL	1040 PROJ COORD C0810 26 DOLLAR	0918 IS SPEC 4 C1484 25I MATHEWS	0277 NR SPEC 4 C8504 30 ROZELL	0931 NR SPEC 4 C8504 30 GLENDENING
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0793 ADMIN SPEC 1 C0107 17 KRUMMANN	1429 ADMIN SPEC 1 C0107 17 PATNODE	0913 OFC SPEC 1 C0103 12C VACANT	0818 IS SPEC 5 C1485 28I PICKENS	0361 NR SPEC 4 C8504 30 CALABA	0701 NR SPEC 4 C8504 30 VOLPEL	1428 NR SPEC 4 C8504 30 WHISLER
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Spills & Site Assessment/550

0642
PE MGR E
X7008 33X
DONALDSON

0786 ADMIN SPEC 1 C0107 17 VANPATTEN	0510 PUB SRV REP 2 C0322 12C ALSDORF	1369 IS SPEC 4 C1484 25I MCCLOUD	0685 NR SPEC 4 C8504 30 GREENBURG	0787 DF NR SPEC 3 C8503 27 WYLIE
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1280 J OFC SPEC 2 C0104 15C CUTTER	1246 PROG TECH 2 C0813 27 PERRY	1052 LEAD NR SPEC 4 C8504 30 ZOLLITSCH	0566 DF NR SPEC 4 C8504 30 WISTAR	0788 NR SPEC 3 C8503 27 WILSON
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Cross Program Section/560

0570
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X7008 33X
JOHNSON

1336 MGMT ANAL 2 C1181 23 WHITLOCK	1434 ADMIN SPEC 1 C0107 17 SCHLAFLE	0649 OFC SPEC 1 C0103 12C NELSON	0666 LEAD PROG TECH 2 C0813 27 KING	0472 DF PROJ COORD C0810 26 LATHAM	0612 EP DES SPEC 2 C2511 21 SHEPPERD	0647 NR SPEC 4 C8504 30 CHRISTENSEN
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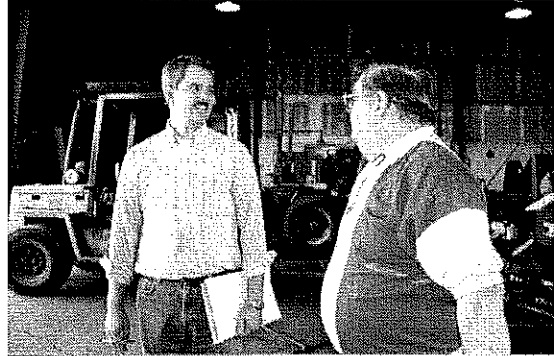
0739 ADM SPEC 1 C0107 17 GOMEZ	0633 OFC SPEC 2 C0104 15C WADDLE	0589 WP TECH 2 C0531 13 RATY	0942 PROG TECH 2 C0813 27 WOODROW	0472 DF PROJ COORD C0810 26 GODDARD	1912 NR SPEC 4 C8504 30 CRAIG	1430 LEAD NR SPEC 4 C8504 30 HOPE
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Program Overview

Land Quality Division

- Prevention
- Safe Management
- Cleanup



Land Quality Division Mission

To prevent the generation of solid and hazardous wastes and spills, to safely manage and dispose of waste that cannot be recycled, and to clean up ongoing and historical spills into Oregon's environment.

Land Quality Division Priorities

- Prevent and reduce the generation of hazardous and solid waste
- Prevent and coordinate clean up of spills and releases of hazardous substances
- Reduce the accumulation of toxic chemicals in the environment.
- Reduce the potential for petroleum leaks from underground tanks
- Clean up sites contaminated with hazardous materials



Programs

Land Quality Division

- Underground Storage Tanks
- Solid Waste
- Hazardous Waste
- Environmental Cleanup
- Spill Prevention and Response
- Cross Program

Underground Storage Tanks: Cleans up contamination resulting from underground petroleum tank leaks and spills. Provide compliance oversight and ensure future leaks are cleaned up quickly. License service providers who perform underground storage tank and heating oil tank removal and cleanup.

Solid Waste: Ensure prevention and proper management of solid waste by issuing permits to solid waste disposal facilities and assisting local governments and businesses with their waste prevention and recycling efforts.

Hazardous Waste: Provide technical assistance, promote minimization, proper management and recycling of hazardous waste by issuing permits and inspecting waste generators and handlers. Generators range from small businesses, such as dry cleaners and auto repair shops, to large high tech industries, such as Intel.

Environmental Cleanup: Ensure that responsible parties of properties contaminated with hazardous substances take appropriate remedial actions to protect human health and the quality of the environment. At orphan sites, where responsible individuals aren't identified, or can't afford cleanup, DEQ takes action on its own behalf.

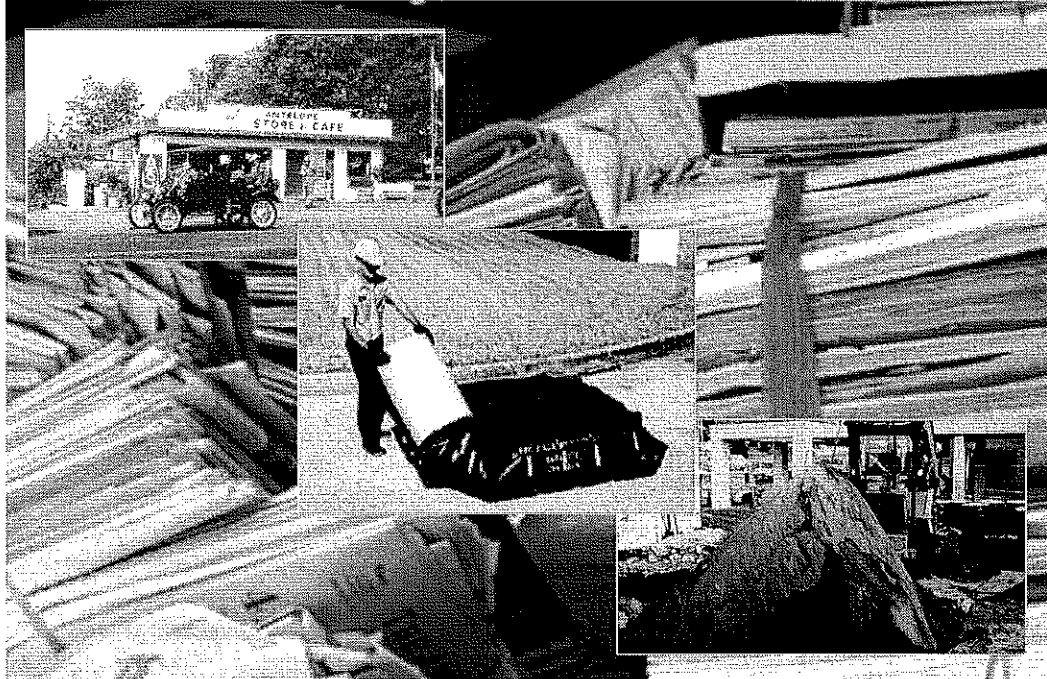
Spill Prevention and Response: The state's designated lead agency for response to oil and hazardous materials spills. Coordinate emergency response actions to ensure protection of Oregon's environmental resources. Work with marine community to improve oil spill preparedness in navigable waterways.

Cross Program: Created to assist in a coordinated approach to emerging environmental challenges that cross Divisional boundaries within the DEQ. Technical staff head workgroups that develop strategies for DEQ efforts in finding solutions to complex issues. Section also manages all fiscal and cost recovery operations for the LQD, including budget planning and development.



Accomplishments

Land Quality Division



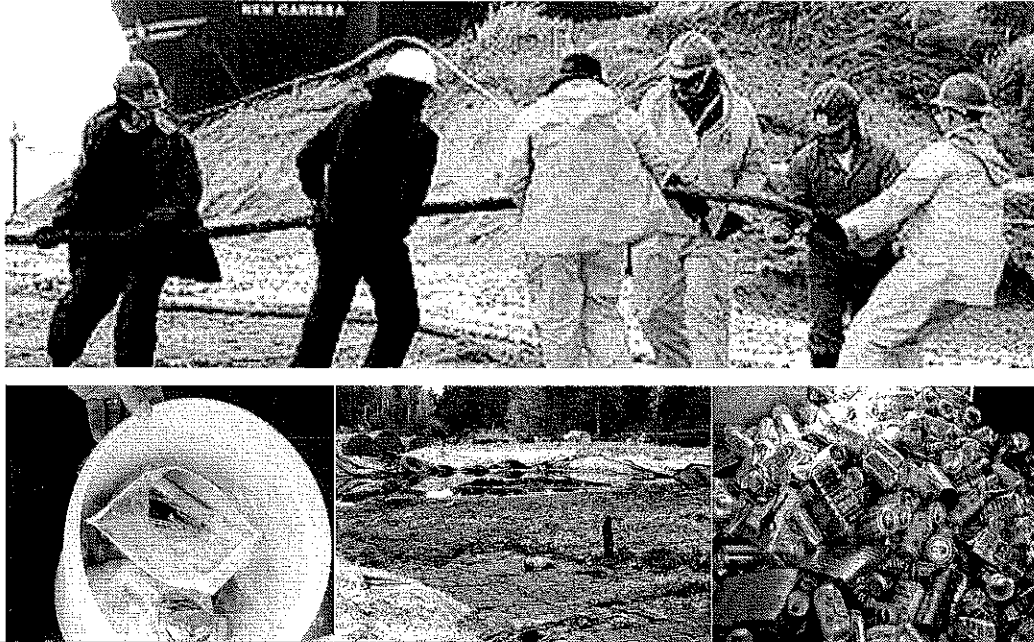
Accomplishments during the 99-01 biennium

- Streamlined the process and reduced the costs of environmental cleanup of heating oil tank releases. Increased the number of tank cleanups completed.
- Worked with stakeholders and other groups advising DEQ on solid waste program priorities, environmental cleanup process improvements, and issues related to financing environmental cleanups.
- Improved effectiveness of hazardous waste generator assistance and reduced hazardous waste generation across the state.
- Partnered with local governments and other agencies, providing assistance and education to residents and business owners on how to reduce waste and safely manage what is generated.
- Achieved an approximate 20% increase in the number of contaminated sites cleaned up to Oregon's environmental cleanup standards; currently have about 400 projects in process.
- Provided technical assistance and cleanup oversight for major spills and facilitated appropriate response at many of the approximately 1,500 spill events reported to DEQ annually
- Developed short-term strategy for reducing mercury in the environment.



Emerging Issues

Land Quality Division



Emerging Issues

Spill protection: need improved emergency response plans to coordinate the many participants involved in meeting the public's demand to protect Oregon's sensitive natural resources

Orphan site funding: Oregon continues to need an effective, adequately funded orphan site program to address the serious risks at sites where the source of contamination has not been identified or the property owners are unable or unwilling to pay for cleanup

Underground Tanks: Leaks continue --130 new leaks have been reported at upgraded tanks since 1998.

Reduce Solid Waste Generation: Work with businesses to reduce overall generation and also work to increase recovery of organic materials such as food waste and yard debris. Prevention is crucial to saving natural resources and money.

Identify and manage new waste streams: Examples include Persistent Bioaccumulative Toxics (PBTS, such as mercury, select pesticides, and dioxins), electronic product scrap, compact fluorescent bulbs.

Reduce the use of hazardous and toxic substances: Educate the public about risks and safe handling methods.

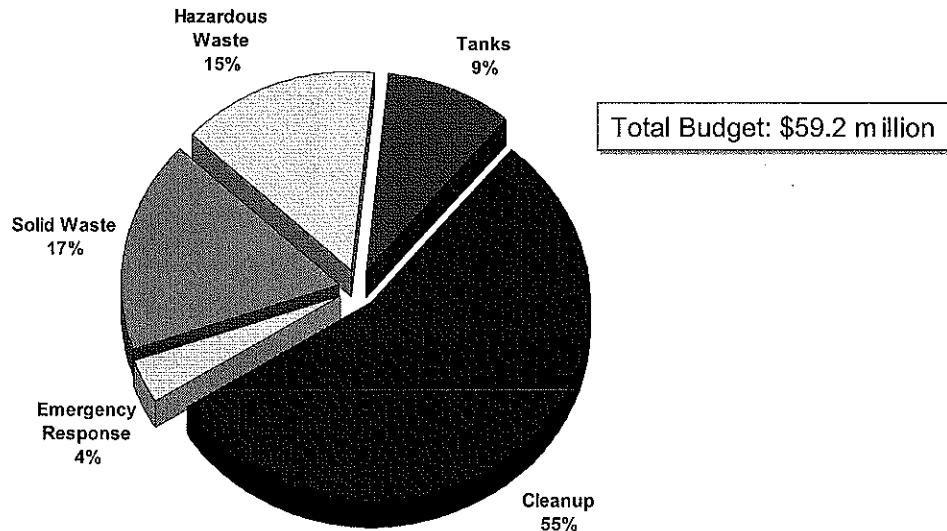
Management of contaminated sediments: contaminated sediments are being identified across the state in both freshwater and coastal waterways. Improving the DEQ's guidance to these opportunities through better cross-Agency coordination and policy decisions is a challenge.

Reducing mercury and other toxic chemicals: successful efforts in this area will expand the Agency's capability to respond to environmental issues that do not fall strictly in to the scope of traditional environmental programs (i.e. water, air, and land).



Legislative Adopted Budget, 2001-03

Land Quality Division



The Land Quality program consists of 5 individual programs:

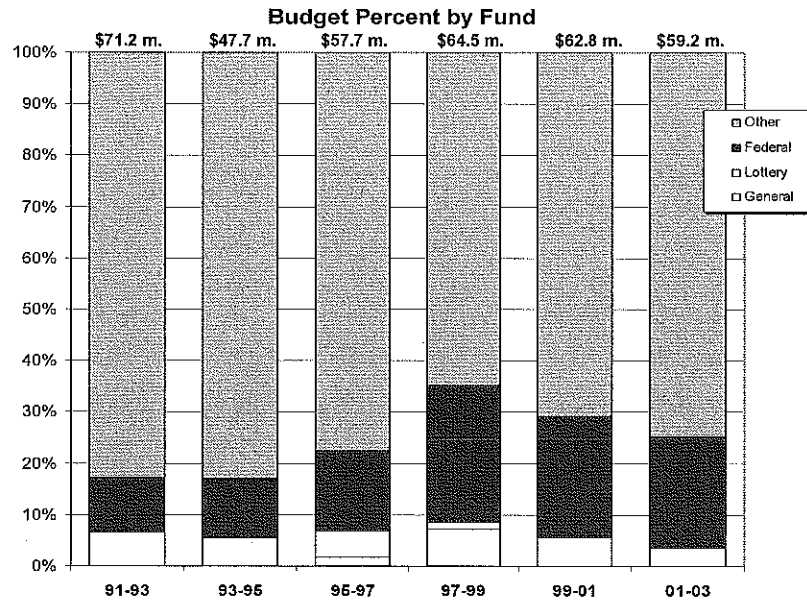
Cleanup	\$32.5 m.
Spills	\$ 2.2 m.
Solid Waste	\$10.1 m.
Haz Waste	\$ 8.9 m.
Tanks	\$ 5.5 m.

The Environmental Cleanup Program has the largest share of the budget. Within the Clean Up budget, roughly 45% is used to hire environmental consultants to investigate and clean up sites under EPA's Superfund program (\$8m dedicated to McCormick and Baxter only), Oregon's orphan sites (\$5.1 m.), and the dry cleaner program (\$1.5 m.).



Budget Over Time

Land Quality Division



Land Quality programs are supported primarily by

Federal \$12.8 m. (\$8.2 m. McCormick & Baxter)

Other \$44.3 m. (includes fees, cost recovery and bonds)

General fund (\$2.1 m.) is used only in Hazardous Waste and Emergency Response Programs. This amount has been reduced to more than \$500,000, due to the current state revenue shortfall.

“Other” revenue includes about \$4 m. in bond funds and \$12.5 m. in cost recovery. Hazardous waste disposal fees are expected to be about \$3 m. less than included in the budget.

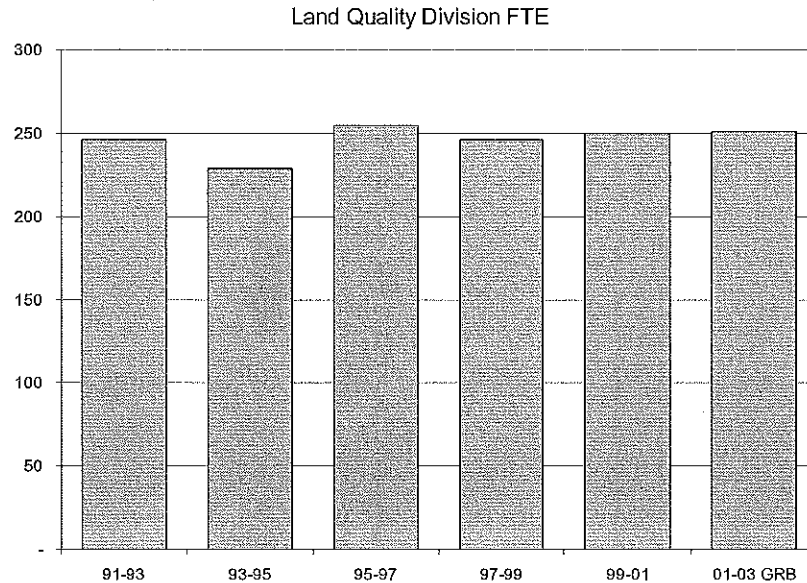
The budget reduction between 99-01 and 01-03 was mostly due to a cut in orphan funding and a reduction in the Haz. Waste General Fund Budget, offset by inflationary cost increases.

The large program budget in 91-93 resulted from approximately \$23M of budget intended for use in upgrading underground storage tanks. The source of the funding was found to be unconstitutional and the budget was reduced in 93-95.



Land Quality Mandates

Land Quality Division



Program mandates have expanded over time:

91-93: Initiated orphan site cleanup program

Created voluntary cleanup program at request of property owners

Tank assistance program to help tank owners cleanup sites

Implementation of federal landfill program and 1991 Oregon Recycling Act

Additional staff to provide Hazardous Waste reduction and technical assistance

93-95: Enhanced voluntary cleanup program to meet demand

Hazardous Waste small business technical assistance program

Lost tank program positions due to lack of funds

95-97: Oil spill planning program transferred from Water Quality Program

Established dry cleaner hazardous waste management and cleanup program

Additional staff required to carry out revised environmental cleanup law

Increased voluntary cleanup staff to meet demand

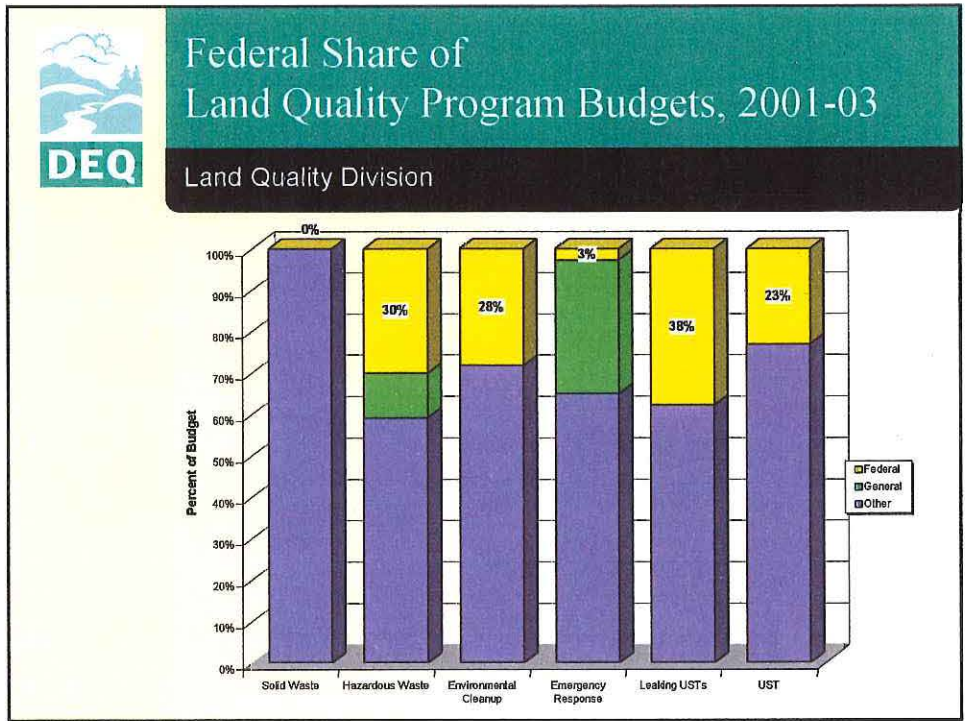
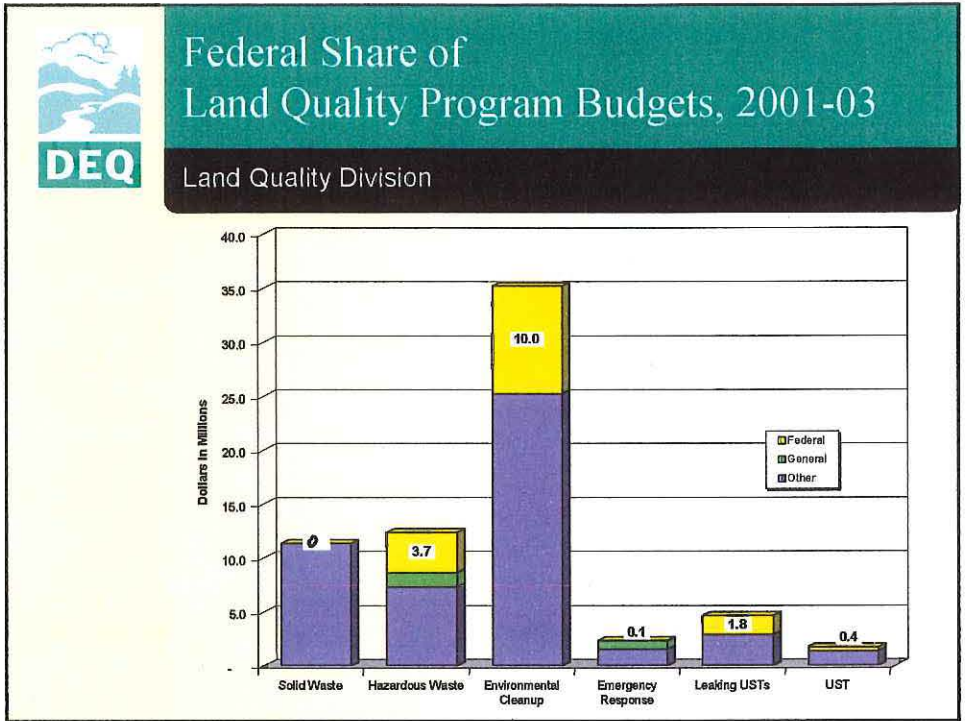
97-99: Spill program reduced due to lack of fee revenue

Reduction in UST program staff due to lack of fee revenue

99-01: Additional positions for construction oversight of Umatilla Demilitarization Project.

01-03: Portland Harbor cleanup positions transferred from DEQ "Cross Media" program

Hazardous Waste positions and funding transferred to Water Quality





DEQ In The Post September 11 World

Land Quality Division

Before 9/11

After 9/11

<ul style="list-style-type: none"> Limited funding (1/2 time SOSCs) Responded to only a few events Very limited community outreach New Carissa response not efficient 	Emergency Response (spills) program	<ul style="list-style-type: none"> Sufficient money to do limited planning Full time SOSCs Outreach to local, state, fed agencies Enhanced communications, readiness
<ul style="list-style-type: none"> 8/5 Orientation Response was a spill program thing Response planning confined to oil and hazardous chemicals No agency response plan 	DEQ	<ul style="list-style-type: none"> 24/7 ability to get senior level response Whole agency needed for large events Chemical/biological are DEQ problem Agency conceptual response plan DEQ Lab not funded for new mission
<ul style="list-style-type: none"> OEM director in state police State planning focused on natural disaster (earthquake, tsunami, flood) scenarios - FEMA lead OEM made no attempt to harmonize agency plans. 	State of Oregon	<ul style="list-style-type: none"> OEM director became cabinet level Planning expanded to multiple, rapidly occurring events OEM tasked to coordinate state agency plans
<ul style="list-style-type: none"> EPA/USCG focused on oil/haz chem spills FEMA responded to disasters 	Federal Agencies	<ul style="list-style-type: none"> EPA has significant CT response role USCG focusing on security Most events will involve multiple Fed agencies working under various authorities



Environmental Cleanup and Tanks

Land Quality Division

Program Basics

Challenges

<ul style="list-style-type: none"> Established in 1987 Discovers and assesses environmental priority of sites; refers to programs Funded by grants, CR, disposal fees 	Site Assessment program	<ul style="list-style-type: none"> Adequate funding Geographic/watershed scope of some problems
<ul style="list-style-type: none"> Established in 1987 Enforcement program - high priority sites Responsible party funded Active sites: 168 + 11 NPL 	Site Response Program	<ul style="list-style-type: none"> Future funding for non-billable costs Sediment cleanup criteria Portland Harbor
<ul style="list-style-type: none"> Established to address abandoned sites Bond sale in 1992 High priority sites with unknown, unwilling or unable responsible parties 36 active sites 	Orphan Site Program	<ul style="list-style-type: none"> Future funding (debt service on bond sales has come from general fund in past) Abandoned mines
<ul style="list-style-type: none"> Established in 1991 to address demand from private sector Responsible party funded 272 active sites 	Voluntary Cleanup Program	<ul style="list-style-type: none"> Future funding for non-billable costs Brownfield sites Methane rules



Environmental Cleanup and Tanks

Land Quality Division

Program Basics

Challenges

<ul style="list-style-type: none"> • Low and medium priority sites • Limited DEQ oversight • 106 projects have entered the program since inception in 1999 	<p>Independent Cleanup Program</p>	<ul style="list-style-type: none"> • Future funding for non-billable costs • Outreach/marketing strategies
<ul style="list-style-type: none"> • Established by industry in 1995 • Limited owner liability • Fee funded • 13 active projects; 10 NFAs • First rules being written 	<p>Dry Cleaner Program</p>	<ul style="list-style-type: none"> • Adequate funding from fees for cleanups
<ul style="list-style-type: none"> • Established in 1987 • 6,534 releases reported; 4,351 cleanups completed • UST compliance requirements • Heating Oil Tank program - 1999 	<p>Tanks Program</p>	<ul style="list-style-type: none"> • Major rule writing effort underway • HOTS workload (2600 releases reported last year) • Increasing number of responsible parties with no ability to pay for compliance or cleanup



Cross Program Activities

Land Quality Division

- **Land Quality Cross Program Section:**
Created to coordinate priority agency-wide activities that cross Divisional boundaries within DEQ.
- **Current Priorities**
 - Toxics Reduction Strategy- currently focusing on Mercury
 - Sediments- developing policy guidance and technical recommendations to reduce the impact of contaminated sediments on the environment.
 - Abandoned Mines- coordination with Federal and state agencies, addressing agency policies and developing funding options for cleanup of these sites.

State of Oregon
Department of Environmental Quality

Memorandum

To: Environmental Quality Commission

Date: April 2, 2002

From: Helen Lottridge, MSD Administrator

Subject: Information Management Assessment Project (IMAP)

I'm looking forward to April 23 in Burns, and the chance to report the status of the IMAP project.

Stephanie chartered the project to evaluate and recommend how we can use DEQ's information management resources for the highest return in environmental benefit, customer service and efficiency. As you know, she has assigned me to lead the project over the next five months, as I continue to administer the information management functions within MSD. During that time, Stephanie has appointed Holly Schroeder to administer the other service areas in MSD.

In Burns, I'll provide a briefing on the scope, process and timeline for the project. As always, I will value your comments, guidance and interests.

This project is on a fast development track, so I'll provide you with the most current information during the meeting. However, I've attached several documents containing background and activities to date. These documents include:

- A Fact Sheet on IMAP
- The IMAP Charter
- Selected pages from the IMAP Web-site

See you in Burns!

Helen

IMAP

What is IMAP?

IMAP is the acronym for the Information Management Assessment Project.

The project is a Director's special assignment that is scheduled to be completed by September 1, 2002. Helen Lottridge is leading the project, and remains the Administrator of MSD's Information Technology and Business Systems Development Sections.

What is the purpose of IMAP?

DEQ will spend over \$10 million and dedicate 55+ staff to information management during the 2001-2003 biennium. External stakeholders are very interested in knowing that the agency is efficiently and effectively using these resources. DEQ's Strategic Directions document identifies information use for decision-making and accessibility as priorities. The legislature has asked the agency to evaluate the option of centralizing information management functions. These factors all point to a need to evaluate our information management resource decisions.

The purpose of IMAP is to evaluate and recommend how we can use DEQ's information management resources for the highest return in environmental benefit, customer service and efficiency.

Who will participate in IMAP?

The project is designed to provide a broad range of participation opportunities so that those interested and potentially effected by the recommendations can contribute.

A Steering Board, with representatives from the various divisions and regions of the agency, will provide direction and guidance throughout the development of the project, and will prepare a comprehensive report of recommendations that will be presented to Stephanie and the Executive Management Team.

Four task forces will research the current situation and alternative solutions to problems and/or issues identified with the status quo. The four key areas of study are:

- Information management decision making processes & policies
- Information management culture
- Technology and applications processes and infrastructure

- Current and emerging information management business needs



A special workgroup, with participation from each of the task forces, will determine the best organizational structure to support DEQ's information management vision.

Auxiliary participants will provide key information and review intermittent project outputs to improve the quality of the project work.

How do I keep myself informed?

Keeping DEQ managers and staff informed throughout the development of IMAP is a priority. To facilitate this process several strategies are being implemented:

- Periodic meetings with all information management staff at DEQ.
- Discussions with program management teams and select groups, such as DEQ's Web Team.
- Creation of an IMAP web-page on Q-Net.
- Regular e-mails that announce opportunities to participate and completion of project milestones.



Helen Lottridge and Dawn Farr discuss IMAP with DEQ's Web Team



State of Oregon
Department of
Environmental
Quality

Management Services
Division
811 SW 6th Avenue
Portland, OR 97204
Phone: (503) 229-6725
(800) 452-4011
Fax: (503) 229-6730
Contact: Helen Lottridge
www.deq.state.or.us

Information Management Assessment Project (IMAP) Charter

Project Background

Over the last 20+ years the way that information is stored, accessed and distributed has evolved dramatically. In response to this evolution, DEQ has approximately 29 centralized staff who support desktop users, hardware maintenance, and business system development. These resources are complimented by approximately 25 program staff, who support the unique and additional information management needs of the various programs. For the 2001-2003 biennium, approximately \$10 million is budgeted to support information management activities.

Feedback from both internal and external consumers of DEQ's information management services points to a need for improved systems integration, utilization of data, and access to local environmental information. Technological advances have put more power in the hands of users. Some of these users are sophisticated enough to resolve many of their information management needs; however, more often these users lack important systems development and design skills. Quick fixes by users can conflict with longer-range data integration strategies, and this practice doesn't always support effective agency-wide resource allocation and prioritization.

In 2001, DEQ's cross program work group led by Steve Greenwood identified several agency challenges related to information management, and recommended that a group be charged to investigate these issues. The Legislature has also directed the agency to evaluate whether efficiencies might be gained through greater centralization of information management services. Finally, DEQ's Executive Management Team (EMT) has identified accessibility to information as a key action for involving Oregonians in environmental protection. All of these factors have culminated in a need to take a leadership stance to ensure that information management resources are being used in the most efficient and effective manner, and that DEQ's data management systems produce credible information for both internal and external consumers.

Project Purpose

The purpose of this project is to evaluate and recommend how we can use DEQ's information management resources for the highest return in environmental benefit, customer service and efficiency.

Scope of the Project

This assessment project has the potential to encompass a very large scope, which is problematic given the 6-8 month project time-frame. A scoping group, with diverse program and regional representation, met to identify the priority issues that should be included. This group identified 10 priority outcomes for information management.

- Identify agency-wide priorities & identify resource gaps
- Implement state-of-the-art systems (replacing obsolete key business systems)
- Develop tools to make DEQ more efficient – includes desktop support
- Improve internal and external integration of data systems
- Meet user needs for small project
- Develop a vision that gives direction to need/types of information to make available
- Increase E-government/commerce, GIS & Internet capabilities
- Satisfy internal & external customers (user needs should drive product development)
- Hold information management as an important component of our work – hence, it must be adequately funded and not the first thing cut in budget crisis
- Improve internal relationships between users & designers – needs are met with understanding of the context of the users

Information Management Assessment Project (IMAP) Charter

To achieve these outcomes, we've identified five key questions that frame the scope of the IMAP work. Exploring the related issues and making recommendations that address these questions will be the principle outcome of this effort.

1. What is the agency-wide vision and plan for information management systems and services?
2. What structures and/or processes are necessary to ensure that information management decisions and project prioritization align with the vision and plan?
3. What strategies and/or processes need to be developed to support core agency-wide, integrated information management values such as respect for the value of data/information, customer service, and cross-program/section collaboration?
4. What strategies and/or processes are needed to ensure that we are implementing state-of-the-art systems, moving towards greater internal and external integration, and efficiently supporting our core information systems infrastructure?
5. What are the diverse data management needs of the potential universe of data users, and, given these needs, what is the most effective data/information enhancement strategy to ensure that the "right" information gets to the "right" users?

Project Deliverable

The primary project deliverable will be recommendations to the Agency Director and EMT for viable changes. These recommendations, when implemented, will increase the efficiency and effectiveness of DEQ's information management and support more informed decisions for future environmental actions.

Resource Needs

Role(s)	Participant(s)	Estimated Time Investment
Project Leader: project leadership and coordination	Helen Lottridge	.65 FTE
Process Coordination: planning, process development, facilitation, and project coordination support	Dawn Farr	.75 FTE
Project Coordination Support: research, benchmarking, project coordination support and project documentation	Intern*	.5 FTE
Project Steering Board: provides a unified direction to the project, reviews the work of each subgroup and integrated final product, and develop scoping question 1.	See Draft Steering Board Workplan for list of participants	10-12 hours/month for 6-8 months
Task-force A: will explore and develop scoping questions 2 & 3	Tbd	20-24 hours/month for 4-6 months
Task-force B: will explore and develop scoping question 4	Tbd	20-24 hours/month for 4-6 months
Task-force C: will explore and develop scoping question 5	Tbd	20-24 hours/month for 4-6 months
Auxiliary Participants: provide input through surveys or focus groups, may review draft materials.	Tbd	2-10 hours total

*Note: If an intern is not used, a temporary employee could fill this role.



Water Cooler

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- ▶ [Background](#)
- ▶ [Participants](#)
- ▶ [Latest News/ Meeting Notes](#)
- ▶ [Questions and Feedback](#)

Information Management Assessment Project (IMAP)

IMAP is a priority for DEQ's Director and part of DEQ's [Strategic Directions](#). Its purpose is to evaluate and recommend how we can use DEQ's information management resources for the highest return in environmental benefit, customer service and efficiency. Helen Lottridge, MSD Division Administrator, was asked to lead the project and to remain as the Administrator for MSD's Information Technology and Business Systems Development sections. The project is scheduled for completion in September 2002.



Helen Lottridge and Dawn Farr discuss IMAP with DEQ's Web Team

What's New

- [Steering Board Notes](#) from March 11 Meeting
- [Draft Information Management Organizational Chart](#) (Excel spreadsheet)
- [Draft Vision Statement](#) (Word document)
- [DEQ Information Management Processes](#) - Your Input Needed!
- [Next IMAP Meeting: March 25, 2002](#)

[Background](#)

IMAP's official charter covers the background of this project including history, scope, purpose, deliverables and resource needs.

[Participants](#)

Find out who the key players are and how you can get involved. You can get involved right now - we'd like your help in [answering some questions](#) about Information Management at DEQ.

[Latest News](#)

This section includes a continually updated summary of project accomplishments as well as agendas and notes from all meetings.

[Questions and Feedback](#)

As more information becomes available, we will update this site. Your feedback and observations about this project and our process is valuable, so please ask questions and/or offer comments to Dawn Farr. We are maintaining a list of staff questions, concerns and rumors with responses.

Q-Net is DEQ's official Intranet site.

If you have questions or comments contact DEQ's [webmaster](#).



Water Cooler

▶ [SEARCH](#)

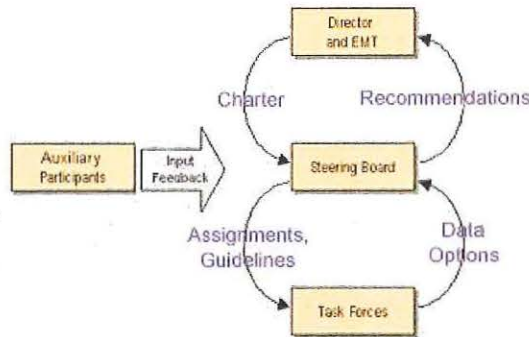
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IMAP - Participants

IMAP efforts are being guided by a Steering Board with representatives from the various divisions and regions of the agency. The Steering Board will develop an agency-wide vision and plan for information management systems and services, form and monitor the work of several task forces, and integrate project efforts to create the final report that will be presented to Stephanie Hallock, Director and the EMT.



Critical to the success of this project is having the right individuals helping to support the right issues. To accomplish this, two additional participation opportunities have been identified: to be involved in a task-force or to provide auxiliary support.

Task-forces

These are teams of individuals who will research, evaluate, and offer recommendations related to a specific issue or focus area. Task-force participants should be prepared to commit to roughly 20-24 hours a month for 4-6 months.

Auxiliary Participants

These individuals will provide key information and review intermittent project outputs to improve the quality of the project work. This will require a time commitment of 2-10 hours a month, as needed, to support the project in moving forward.

Steering Board Members:

- Mary Abrams
- Keith Anderson
- Mike Downs
- Joni Hammond
- Dennis Kirk
- Helen Lottridge
- Neil Mullane
- Gerry Preston
- Anne Price
- Wayne Thomas
- Mitch West
- ASFCME, Union Chief Steward: Josh Weber
- Facilitation/Coordination: Dawn Farr

Purpose of the Steering Board

The job of the steering board is to:

1. **Create:** Purpose and function (vision) of Information Management at DEQ.
2. **Decide:** Depth of information the Director and EMT need to make a decision on recommendations? What are right questions to ask?
3. **Supervise:** Task forces charged with specific assignments, expectations and schedules.
4. **Analyze:** Information from task forces and others.
5. **Recommend:** Changes needed to achieve the IMAP purpose and larger information management vision.
6. **Advocate:** Director and EMT to adopt recommendation(s).
7. **Launch:** Implement(?)



Mary Abrams



Keith Anderson



Mike Downs



Joni Hammond

4/1/2002

Mary Abrams

Keith Anderson

Mike Downs

Joni Hammond



Dennis Kirk



Neil Mullane



Gerry Preston



Anne Price



Wayne Thomas



Mitch West



Josh Weber



Dawn Farr

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8



Information Management Assessment Project (IMAP)



Presentation Prepared for the
Environmental Quality Commission
April 23, 2002

IMAP



IMAP Presentation

- Project Overview
- IMAP Road Map
- IMAP Progress to Date
- Vision for Information Management at DEQ
- IMAP Assessment Phase: Task Force Efforts
- Success Factors Guiding the Process



Project Overview



What is IMAP?

The purpose of IMAP is to evaluate and recommend how we can use DEQ's information management resources for the highest return in environmental benefit, customer service and efficiency.



Helen Lottridge discusses IMAP with Web group

IMAP considers:

- Agency-wide or enterprise view
- Information management processes & policies (how we do things)
- Performance measures
- Organizational issues

Project Overview



Why are we doing this?

- Environmental management no longer just pipes and stacks
 - Decision-makers need info about environmental health
- Others want and expect our information
- Technology and need intersect
- More and better service from information management
- \$10 million and over 55 FTE

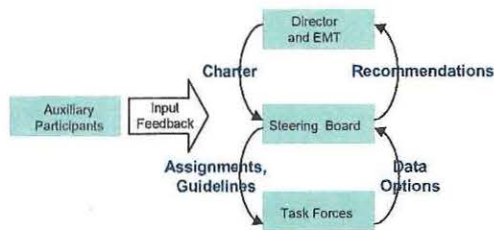
Project Overview



IMAP's Commitment to Participation

The project involves many people and there are various ways to contribute.

Anyone who is interested can participate in some way.



Project Overview



Steering Board

The Steering Board directs and guides the project and will prepare final recommendations for the Director and the EMT.



Mary Abrams



Keith Anderson



Mike Downs



Joni Hammond



Dennis Kirk



Neil Mullane



Gerry Preston



Anne Price



Wayne Thomas



Mitch West



Josh Weber



Dawn Farr

Project Overview



Task Forces

There are four task forces:

- Business Needs
- Technology and applications
- Information Culture
- Decision making, processes and policies



Each task forces will:

- Develop a work plan
- Conduct a baseline assessment
- Identify problems, issues and gaps
- Develop options
- Select and justify recommendations

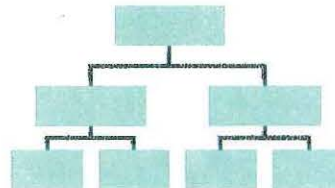
Project Overview



Organization Structure Workgroup

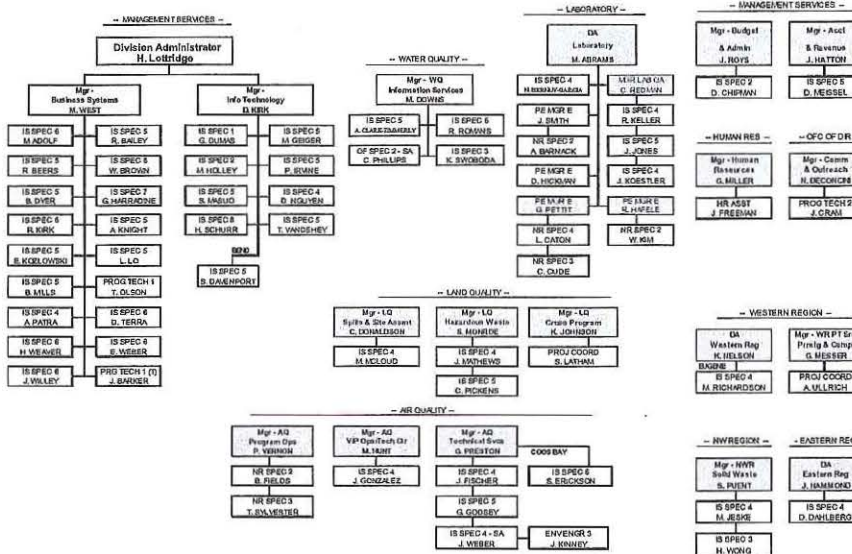
A workgroup, with participation from each of the task forces, will determine the best organizational structure to support DEQ's information management vision. The workgroup will:

- Research and identify structure options
- Recommend structural improvements



Project Overview

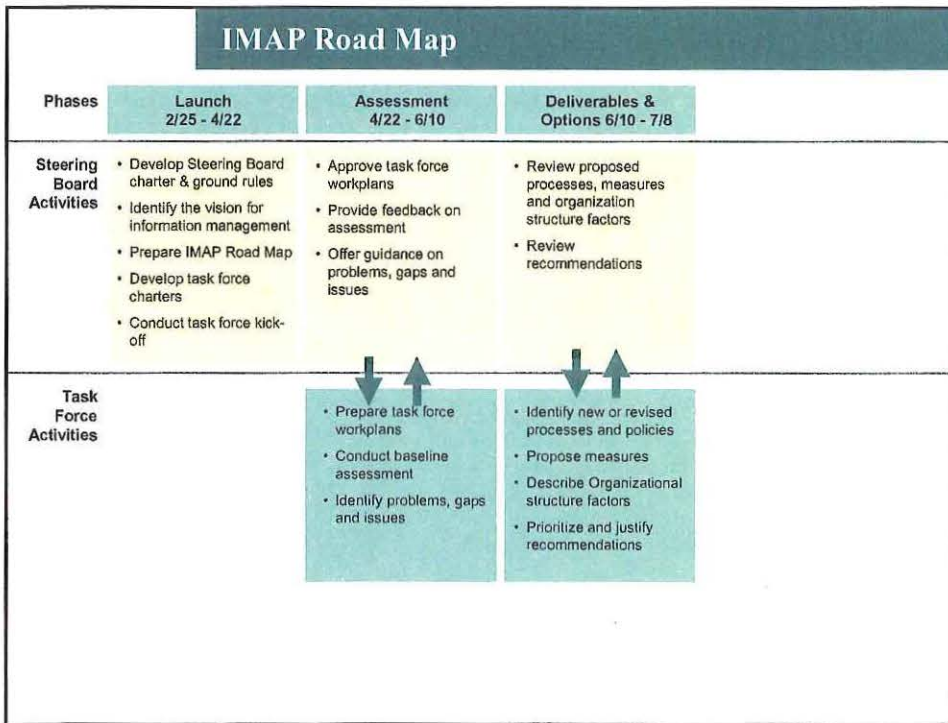
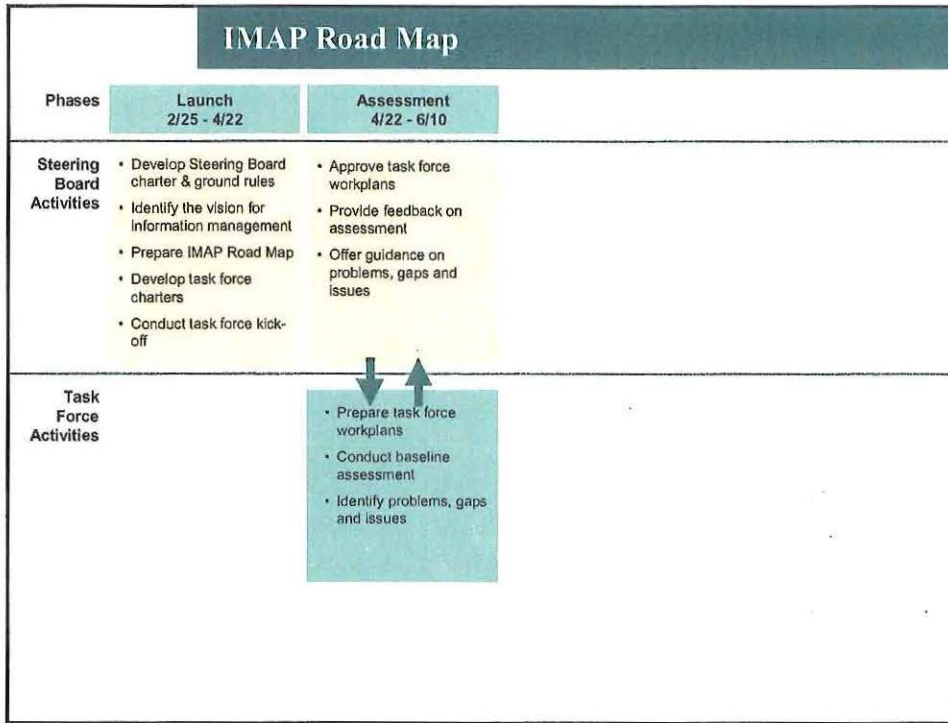
Current IM Organization Chart

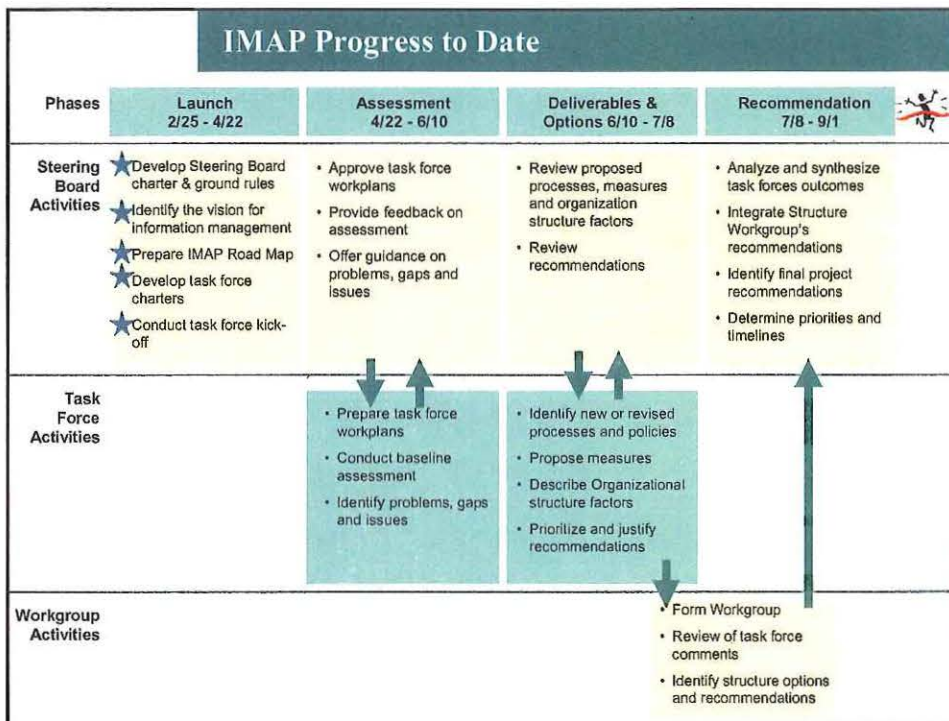
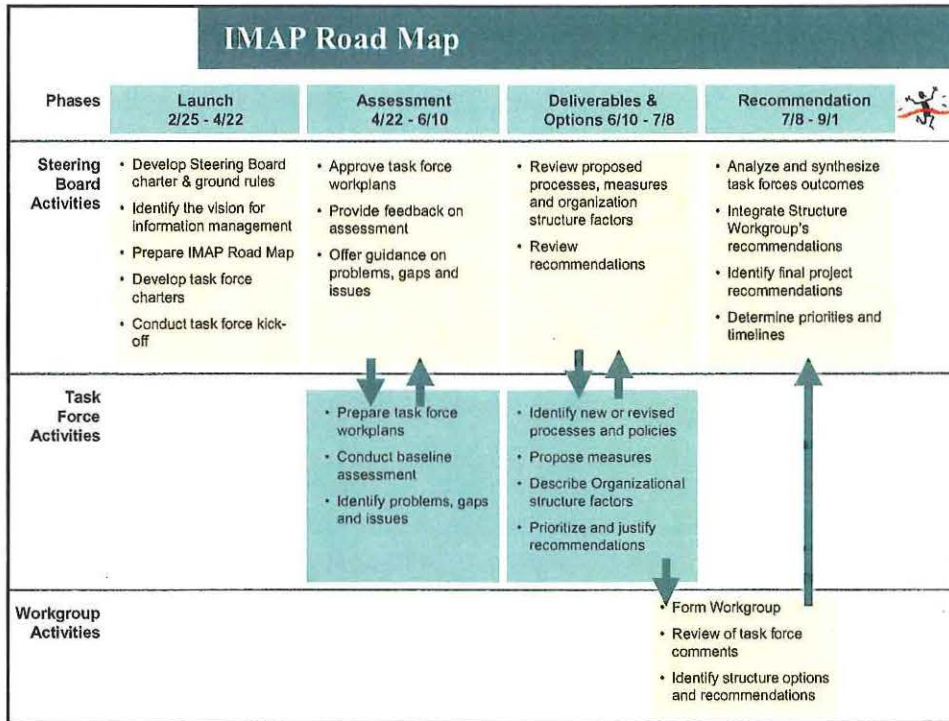


IMAP Road Map

Phases **Launch**
2/25 - 4/22

- Steering Board Activities**
- Develop Steering Board charter & ground rules
 - Identify the vision for information management
 - Prepare IMAP Road Map
 - Develop task force charters
 - Conduct task force kick-off





Vision for IM at DEQ



Vision for Information Management at DEQ

The mission of information management is to effectively and efficiently deliver information where and in the form needed to support the agency's priorities and key operations.



The vision for IMAP is to create a culture that values and knows how to use information. Aside from that, IMAP covers anything that does, could or should use a computer.

Developed by IMAP Steering Board

Vision for IM at DEQ



Key functions for IM at DEQ

- Maintain the Agency's information management infrastructure.
- Develop and implement policies for agency-wide information management.
- Ensure that data is meaningful, shareable, timely, accessible and consistent in definition across the agency.
- Evaluate new technologies to ensure continuity and the advancement of information use.
- Provide tools and techniques to aid in the collection, documentation and storage of data.
- Provide guidance, education and assistance to the IS and user communities in support of their data access and usage activities.
- Recruit, develop and retain competent IM staff.

Developed by IMAP Steering Board

Vision for IM at DEQ



Priority outcomes for IM at DEQ

- Identify agency-wide priorities & identify resource gaps
- Implement modern and maintainable systems
- Develop tools to make DEQ more efficient
- Improve internal and external integration of data systems
- Meet user needs for small projects
- Provide information along the full spectrum of need
- Increase E-government, GIS and Internet capabilities
- Satisfy internal & external customers
- Hold information management as important component of our work
- Improve internal relationships between users & designers

IMAP will determine the actions needed to achieve these outcomes.

Developed by IMAP Scoping Group

IMAP Assessment Phase: Task Force Efforts



Business Needs Task Force

This task force is responsible for assessing the current and desired links between business needs and information.

Key Question

What are DEQ's current and future highest priority business needs for information (both internally and externally); and what information and information management services are required to support these needs?

Specific Topic Areas

- Strategic Directions
- Basic Operations
- Internal and external customer service
- Decision-making information
- Shared information

IMAP Assessment Phase: Task Force Efforts



Technology and Applications Task Force

Investigate, document and formulate recommendations for managing, supporting and sustaining DEQ's technology infrastructure and applications.

Key Question

What strategies, policies or processes will ensure that we have modern and maintainable systems and efficiently support our information systems infrastructure?

Specific Topic Areas

- Standardization
- Infrastructure decision-making

IMAP Assessment Phase: Task Force Efforts



Information Culture Task Force

This task force will investigate DEQ's culture surrounding the use of information and identify actions to increase the extent to which we value and use information as we do our work and make decisions.

Key Question

What can DEQ do to increase and maintain a culture that cultivates, values and uses information?

Specific Topic Areas

- Information management cultural values
- Data quality and reliability
- Capacity of the agency to select information and use information
- Use of relevant information for decisions, and the expectation that we do this

IMAP Assessment Phase: Task Force Efforts



Decision Making, Processes and Policies Task Force

This task force will assess information management policies and processes, and identify policy and process structures that support the information management vision.

Key Question

What agency policies and processes for information management are needed to enable DEQ to achieve the vision for information management (as expressed in the vision document)?

Specific Topic Areas

- Over-arching, agency-wide information management issues
- Prioritization methods
- Decision making
- Support for small projects and real-time information requests
- Information management communication and flow of work on information management projects and issues

Success Factors Guiding the IMAP Process



IMAP Commitment to Communication

Keeping everyone informed throughout the project is a high priority. Examples:

- Meeting with all IM staff
- Meeting with program management teams and select groups
- IMAP Web site



Success Factors Guiding the IMAP Process



- Leaders are committed to the project's success
- Respect for multiple perspectives
- Understanding of agency business needs and priorities (or there is a willingness to develop this)
- Participants have and manage realistic expectations
- Participants can conceptualize the "whole shebang", but focus on agency priorities first
- Good timing
- Describe IMAP in terms of agency priorities (not the abstractions of information technology)
- Recognize of the need for expertise and be willing to train, develop, and acquire knowledge and skills
- Respect for the process, as well as the product
- Plan for incremental, coordinated progress
- Actively measure progress and adjust course as necessary.

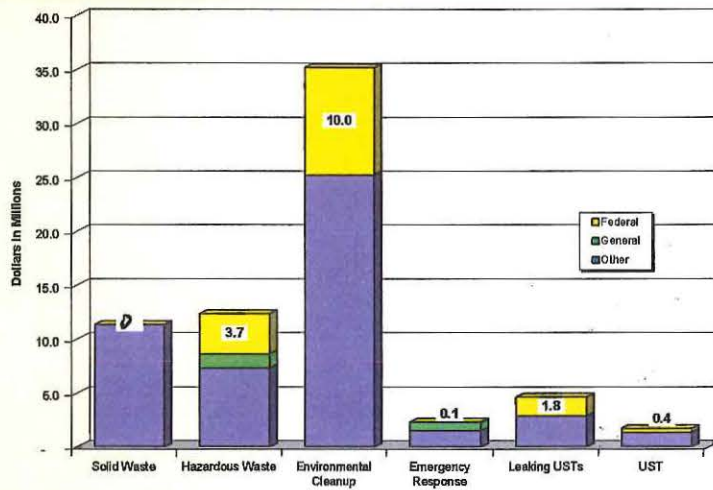
Prepared by Ross & Associates and Presented to the Steering Board on April 8th.





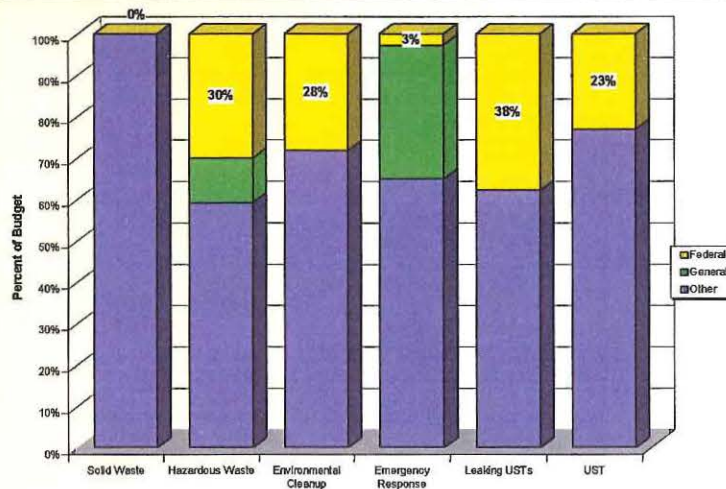
Federal Share of Land Quality Program Budgets, 2001-03

Land Quality Division



Federal Share of Land Quality Program Budgets, 2001-03

Land Quality Division





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Environmental Cleanup and Tanks

Land Quality Division

Program Basics

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<ul style="list-style-type: none"> Established in 1987 Enforcement program - high priority sites Responsible party funded Active sites: 168 + 11 NPL 	Site Response Program	<ul style="list-style-type: none"> Future funding for non-billable costs Sediment cleanup criteria Portland Harbor
<ul style="list-style-type: none"> Established to address abandoned sites Bond sale in 1992 High priority sites with unknown, unwilling or unable responsible parties 36 active sites 	Orphan Site Program	<ul style="list-style-type: none"> Future funding (debt service on bond sales has come from general fund in past) Abandoned mines
<ul style="list-style-type: none"> Established in 1991 to address demand from private sector Responsible party funded 272 active sites 	Voluntary Cleanup Program	<ul style="list-style-type: none"> Future funding for non-billable costs Brownfield sites Methane rules



Environmental Cleanup and Tanks

Land Quality Division

Program Basics

Challenges

<ul style="list-style-type: none"> • Low and medium priority sites • Limited DEQ oversight • 106 projects have entered the program since inception in 1999 	<p>Independent Cleanup Program</p>	<ul style="list-style-type: none"> • Future funding for non-billable costs • Outreach/marketing strategies
<ul style="list-style-type: none"> • Established by industry in 1995 • Limited owner liability • Fee funded • 13 active projects; 10 NFAs • First rules being written 	<p>Dry Cleaner Program</p>	<ul style="list-style-type: none"> • Adequate funding from fees for cleanups
<ul style="list-style-type: none"> • Established in 1987 • 6,534 releases reported; 4,351 cleanups completed • UST compliance requirements • Heating Oil Tank program - 1999 	<p>Tanks Program</p>	<ul style="list-style-type: none"> • Major rule writing effort underway • HQTs workload (2600 releases reported last year) • Increasing number of responsible parties with no ability to pay for compliance or cleanup



Cross Program Activities

Land Quality Division

- **Land Quality Cross Program Section:**
Created to coordinate priority agency-wide activities that cross Divisional boundaries within DEQ.
- **Current Priorities**
 - **Toxics Reduction Strategy-** currently focusing on Mercury
 - **Sediments-** developing policy guidance and technical recommendations to reduce the impact of contaminated sediments on the environment.
 - **Abandoned Mines-** coordination with Federal and state agencies, addressing agency policies and developing funding options for cleanup of these sites.

Minutes are not final until approved by the Commission.

Environmental Quality Commission Minutes of the Three Hundredth and First Meeting

**March 7-8, 2002
Regular Meeting¹**

The following Environmental Quality Commission (EQC) members were present for the regular meeting, held at the Heathman Hotel, 1001 SW Broadway at Salmon, Portland, Oregon.

Melinda Eden², Chair
Tony Van Vliet, Vice Chair
Deirdre Malarkey, Member
Mark Reeve, Member

Also present were Larry Knudsen, Oregon Department of Justice (DOJ), Stephanie Hallock, Department of Environmental Quality (DEQ) Director, and DEQ staff.

Thursday, March 7, 2002

Vice Chair Van Vliet called the meeting to order at approximately 11:00 a.m., to begin a day-long strategy session with DEQ's Executive Management Team (EMT). Commissioners and EMT members spent the day discussing major program initiatives, policy decisions and agency plans, building on work from the first EQC/DEQ Summit held in November 2000.

Setting the Stage

To set the context for discussion, Commissioners, Director Hallock and EMT members reviewed results of the 2000 EQC/DEQ Summit and considered accomplishments to date. The group then discussed desired outcomes for this meeting.

Initiatives in Communications and Outreach

Nina DeConcini, Office of Communications and Outreach Manager, described current and upcoming DEQ activities designed to engage Oregonians in environmental problem solving. Commissioners discussed a number of specific initiatives with Ms. DeConcini and gave suggestions for education and outreach efforts.

Air Quality Program Overview

Andy Ginsburg, Air Quality Division Administrator, presented major programs and initiatives in DEQ's Air Quality Division and reviewed the state and federal regulations that direct the Department's work. Commissioners discussed upcoming challenges and opportunities for protecting Oregon's air quality with Mr. Ginsburg and EMT members.

Water Quality Program Overview

Mike Llewelyn, Water Quality Division Administrator, gave an overview and visual presentation of DEQ's major water quality programs. Commissioners discussed current projects, upcoming initiatives, program funding and various other issues with Mr. Llewelyn and EMT members.

¹ Staff reports and written material submitted at the meeting are made part of the record and available from DEQ, Office of the Director, 811 SW Sixth Avenue, Portland, Oregon 97204; phone: (503) 229-5990.

² Chair Eden was absent on March 7 due to inclement weather, but was present on March 8.

Agenda for the 2003 Legislative Session

Director Hallock introduced this topic by discussing her vision and agenda for DEQ, building on the Department's *Strategic Directions*³ for the next four years. Lauri Aunan, Government Relations Manager, presented potential concepts DEQ is considering for the 2003 Legislative Session to implement agency programs and priorities. Commissioners shared legislative ideas and gave feedback to Ms. Aunan, Director Hallock and EMT members.

Review and Next Steps

Commissioners and EMT members concluded the strategy session with suggestions for next steps, including future program overviews by the Land Quality and Management Services Divisions.

Vice Chair Van Vliet adjourned the meeting for the day at approximately 3:45 p.m.

Friday, March 8, 2002

The Commission held an executive session at 8:00 a.m. on Friday, March 8, to consult with counsel concerning legal rights and duties with regard to current and potential litigation involving the Department. Executive session was held pursuant to ORS 192.660(1)(h).

At approximately 8:30 a.m., Chair Eden called the regular meeting to order and agenda items were taken in the following order.

A. Approval of Minutes

Commissioner Reeve amended draft minutes of the January 24-25, 2002, meeting on page 2, Item B, by changing "process improvements plans" to "process improvement plans." Director Hallock amended draft minutes on page 3, item J, by changing "Commissioners Bennett" to "Commissioner Bennett." Commissioner Van Vliet moved the Commission approve draft minutes with corrections. Commissioner Malarkey seconded the motion and it passed with four "yes" votes.

I. Commissioners' Reports

Commissioner Van Vliet reported the results of a briefing to the Oregon Economic and Community Development Commission (OECDC) on February 14, 2002. Commissioner Van Vliet and Director Hallock discussed the function and priorities of both the EQC and DEQ with OECDC, and initiated a dialogue on common agency issues including growth, nonpoint source pollution, regulatory compliance, and education and outreach. Commissioners discussed potential topics for a joint meeting with OECDC in late 2002.

Chair Eden reported on the development of a wind energy farm near Walla Walla, Washington, and described significant land use changes in the surrounding as a result of the development.

Commissioner Reeve reported on his participation in a DEQ EMT meeting on February 19, 2002, to assist the Department's rule development process. At that meeting, Commissioner Reeve and EMT members discussed a number of DEQ rulemakings ready to be released for public comment. The Department invited Commissioner Reeve's involvement in the meeting to assist in-progress improvements for DEQ's internal rulemaking process. Commissioner Reeve stated his intentions to continue working with the Department in this way.

C. Director's Dialogue

Commissioners and Director Hallock discussed current events and issues involving the Department and state. In addition, Commissioners discussed environmental issues in Southeastern Oregon with Harney County Judge Steve Grasty⁴, in preparation for the April 23-25, 2002, EQC meeting in Hines.

³ Copies of the Oregon Department of Environmental Quality *Strategic Directions 2002*, are available from DEQ, Office of Communication and Outreach, 811 SW Sixth Avenue, Portland, Oregon 97204; phone: (503) 229-5395; also available at <http://www.deq.state.or.us/pubs/strategicdirections/>.

⁴ Judge Steve Grasty participated in the meeting by conference call from Harney County, Oregon.

D. Action Item: Request from U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service for a Waiver to the Total Dissolved Gas Water Quality Standard on the Columbia River

Mike Llewelyn, Water Quality Division Administrator, presented requests from the U.S. Army Corps of Engineers (USACE) and U.S. Fish and Wildlife Service (USFWS) for variances to Oregon's total dissolved gas water quality standard to enable water to be spilled at the four Lower Columbia River dams: McNary, John Day, The Dalles and Bonneville. Russell Harding, Water Quality specialist, explained that the variances would assist outmigration of threatened and endangered salmon smolts by allowing spill between April 1, 2002, and August 31, 2002, as requested by USACE, and for a ten-day period in March 2002, as requested by USFWS for Spring Creek National Fish Hatchery. Dr. Harding introduced Dave Ponganis of the USACE, David Wills and Fred Olney of the USFWS, and Dr. Mark Schneider of the National Marine Fisheries Service to explain the requests and review results of variances granted by the Commission in past years.

The Commission considered monitoring results from previous spills and discussed the costs, benefits and alternatives of the proposed spills. Commissioner Reeve moved the Commission adopt findings as presented in the Department's staff report, and grant variances to Oregon's total dissolved gas water quality standard as requested by USACE and USFWS. Commissioner Van Vliet seconded the motion and it passed with four "yes" votes. The Commission directed the Department to prepare orders granting the waivers, for signature by the Director on behalf of the Commission. Commissioners also discussed the potential for a multi-year variance to address multiple spill seasons in future years, building on a draft Total Maximum Daily Load for total dissolved gas for the Lower Columbia River. The Commission asked Dr. Harding to report back on a potential multi-year variance later in 2002.

E. Action Item: Permit Modification for Umatilla Chemical Agent Disposal Facility

Wayne Thomas, Administrator of the Chemical Demilitarization Program, presented a proposed modification to the Umatilla Chemical Agent Disposal Facility (UMCDF) hazardous waste permit to specify the approval process for starting-up disposal of chemical weapons at the facility. In September 2001, the Commission asked for the development of this permit modification to require Department approval for starting surrogate testing (scheduled for May 2002) and Commission approval for starting chemical agent operations (scheduled for February 2003). The Department considered comments from the U.S. Army (the permittees), interested stakeholders and citizens on the approval process. Mr. Thomas introduced Sue Oliver, Hazardous Waste policy specialist, and Thomas Beam, Hazardous Waste permit specialist, to explain the proposed permit modification in detail. Chair Eden asked U.S. Army representatives Bob Nelson, Don Barclay, Loren Sharp and Dave Nylander, to discuss the status of the UMCDF and proposed approval process with Commissioners.

After thorough discussion, the Commission concluded that it possessed the authority to unilaterally modify the permit, and that there was sufficient and compelling justification for the proposed modification to ensure protection of human health and the environment. Commissioner Reeve moved the Commission modify the UMCDF permit to add Permit Condition II.A.5 and Attachment 6 to the permit as recommended by the Department, with the exception of moving requirement C-3 to section D of the proposed additional conditions, and including a deadline of September 1, 2002, for requirement C.3. Commissioner Malarkey seconded the motion and Director Hallock called for votes: Commissioner Van Vliet voted "yes," Chair Eden voted "yes," Commissioner Reeve voted "yes" and Commissioner Malarkey voted "yes." The motion passed with four "yes" votes. The Commission directed the Department and counsel to prepare an order modifying the permit for Chair Eden's signature to put the Commission's action into effect.

Public Forum

At approximately 11:30 a.m., Chair Eden asked whether anyone wished to provide public comment. No public comment was provided. Jeff Allen, Executive Director of the Oregon Environmental Council, had requested the opportunity to provide public comment earlier, but was not present in the meeting at the time when comment was invited.

B. Action Item: Pollution Control Facility Tax Credit Requests

Director Hallock introduced Holly Schroeder, Acting Management Services Division Administrator, to present Pollution Control Facility Tax Credit requests. Ms. Schroeder and Maggie Vandehey, Tax Credit coordinator,

presented tax credit applications from citizens, businesses and industry members for investments in technologies or processes that prevent, control or reduce significant amounts of pollution. Commissioners discussed the applications, and Commissioner Van Vliet stated his conflict of interest regarding Reclaimed Plastic Tax Credit application number 5955. Commissioner Van Vliet abstained from discussion of this application.

Commissioner Van Vliet moved the Commission approve all Pollution Control Facility Tax Credit applications as recommended by the Department. Commissioner Reeve seconded the motion and it passed with four "yes" votes. Commissioner Reeve moved the Commission approve all Reclaimed Plastic Tax Credit applications as recommended by the Department, with the exception of application number 5955. Commissioner Malarkey seconded the motion and it passed with four "yes" votes. Commissioner Reeve moved the Commission approve Reclaimed Plastic Tax Credit application number 5955 as recommended by the Department. Commissioner Malarkey seconded the motion and it passed with three "yes" votes. Commissioner Van Vliet abstained from this vote.

F. Rule Adoption: Air Contaminant Discharge Permit (ACDP) Fee Increase

Andy Ginsburg, Air Quality Division Administrator, introduced proposed rules for a thirty percent, across-the-board increase to Air Contaminant Discharge Permit (ACDP) fees as approved by the 2001 Legislature. Mr. Ginsburg explained the need for the increase to replace General Funds that are no longer available to support the permit program. Mr. Ginsburg introduced Scott Manzano, Air Quality program specialist, who explained that the proposed rules also adjust ACDP fees to more accurately reflect the amount of work associated with issuing different types of permits. Small businesses and other low-complexity sources would experience a smaller percent increase than larger, more complex sources as a result of the rules.

Commissioners discussed the proposed fee increase with Mr. Ginsburg and Mr. Manzano and commended Department staff for working with the regulated community to develop the rule. Commissioner Reeve moved the Commission adopt the proposed rules as recommended by the Department. Commissioner Van Vliet seconded the motion and it passed with four "yes" votes.

G. Information Item: Improvements for DEQ's Rulemaking Process

Loretta Pickerell, Rules Coordinator, gave an overview of process improvements the Department had developed over the past year to strengthen the internal rulemaking process. Ms. Pickerell explained that the improvements were designed to build greater coordination between agency programs, ensure smooth implementation of new rules on the ground, enable better planning of staff resources and workloads, and gain efficiencies overall. Ms. Pickerell noted that another goal was to provide more opportunity for Commissioners to be involved in the rulemaking process early-on. Commissioners discussed potential benefits of the rulemaking improvements, gave feedback and thanked Ms. Pickerell for her presentation.

H. Discussion Item: Schedule for Evaluating Director's Performance

In January 2002, the Commission approved a formal process for evaluating the DEQ Director's performance, including measures, criteria and an evaluation procedure. At this meeting, Commissioners discussed and decided a schedule for reviewing the Director's performance in late 2002.

Chair Eden adjourned the meeting at approximately 3:15 p.m.

To: Environmental Quality Commission **Date:** April 22, 2002
From: Stephanie Hallock, Director
Subject: Director's Dialogue

Recent Army Proposal for Umatilla Chemical Depot

On March 28, Governor Kitzhaber met with Dr. Mario Fiori, Assistant Secretary of the Army, to discuss the Army's proposed use of alternative technologies to neutralize bulk mustard agent stored at the Umatilla Chemical Depot. Earlier that day, Chair Eden, Wayne Thomas and I, along with Dan Opalski of the EPA, met with Dr. Fiori to discuss technical aspects of the proposal. After significant consideration, the Governor expressed concern that the Army's "11th hour" proposal could undermine public confidence in current activities at the Depot. He was also concerned about the availability of an adequate water supply to support the alternate process and disposal of hazardous wastewater generated by the neutralization process.

The Governor suggested that the Army submit a permit application if they wish to pursue alternative technology. He made it clear that Oregon supports initiatives that can accelerate destruction of the stockpile without compromising public safety and the environment. Subsequent to the meeting with Dr. Fiori, Congress did not appropriate money to support the Army's budget request for neutralization, so it is unclear whether the Army will pursue their request.

Report on Strategic Directions Tour

I have started my spring "Strategic Directions" tour to meet with legislators, local officials, Tribes, stakeholder groups and editorial boards to build awareness around DEQ's priorities and budget issues. Last week, Lauri Aunan and I visited The Dalles, John Day and Warm Springs to meet with Wasco County Judge John Mabrey (a candidate for House District 59), Senator Ted Ferrioli, and Olney Patt, Chair of the Warm Springs Tribe. We discussed a variety of local issues and agency activities, including small-community compliance with water quality laws, the effectiveness of local Community Solutions Teams, the balance between urban and rural environmental problems, opportunities for rural economic development, and the Tribes' interest in water quality issues.

Next week, I will be meeting with officials and stakeholders in Medford, Roseburg, Coos Bay and Gold Beach. Throughout May, I will finish the tour with key meetings in Portland and Salem areas. Next fall, I plan to do a second Strategic Directions tour to share and gain feedback on our legislative concepts for the 2003 session.

Director's Meeting on Oregon Plan for Salmon and Watersheds

In December 2001, the directors of Oregon's natural resource agencies, the Governor's Natural Resource Advisor, and Regional Administrators for the National Marine Fisheries Service, US Fish and Wildlife Service and the Environmental Protection Agency began meeting to discuss

shared issues and concerns around the Oregon Plan for Salmon and Watersheds. The intent of these meetings is to increase understanding of our respective missions and goals as they relate to salmon recovery. Our end objective is to agree upon shared protocols that will support a successful recovery effort and implementation of the Oregon Plan. I will report the results of our April 22 meeting to the Commission. I have asked EPA Region 10 Administrator, John Iani, to meet with the EQC pursuant to your request, and we are now working on scheduling.

Update on DEQ's Toxic Reduction Work

As you know, DEQ is working under one of our Strategic Directions and the Governor's 1999 Executive Order to reduce the release of Persistent, Bioaccumulative and Toxic pollutants. This is a complex issue to address and communicate to Oregonians, and I would like to take this opportunity to share with you some questions and answers that describe our toxic reduction efforts. The attached memo provides a general message we communicate to citizens and stakeholders about DEQ's work to implement the Governor's Order.

Privatization of Vehicle Inspection

The 2001 legislature directed DEQ to investigate privatizing the vehicle inspection program. In response, we have developed a Request for Proposals (RFP) to solicit bids on operating the program. The RFP describes DEQ's current inspection program in detail, and requires proposers to explain how they would operate the program and what fee they would charge. The RFP was reviewed by the Department of Administrative Services and Department of Justice, and presented to a subcommittee of the Emergency Board on April 18. Some subcommittee members encouraged DEQ to include flexibility for private contractors in the RFP, while others expressed concern about DEQ employees. We plan to issue the RFP in early May and report recommendations on privatization to the Emergency Board in November.

Columbia River Gorge Air Quality Study

DEQ, together with public and private partners in Oregon and Washington, is seeking a Congressional appropriation of \$1.2 million to fund an air quality study in the Columbia River Gorge National Scenic Area. The study is the first step in the air quality work plan for the Scenic Area that was approved by the Columbia River Gorge Commission last August. We are now forming an advisory committee that will guide the study and, ultimately, help select strategies to protect air quality in this scenic area. We have received strong support for the request from the Oregon and Washington Congressional delegations, particularly from Senator Patty Murray, who is a member of the Senate Appropriations Committee. To supplement the request, we have raised approximately \$600,000 for the study, primarily through EPA special projects and some state and local in-kind support.

Looking ahead to 2005-2007

Now that we have established Strategic Directions 2002, we want to begin this year to set longer term goals and develop initiatives for the 2005-2007 legislature and beyond. We want to engage the EQC in that discussion and will figure out how to incorporate it into this year's schedule of meetings.

Building on our March work session, we will update the EQC in June on the development of our concepts for the 2003 legislative session. Attached is a fact sheet that summarizes those.

Attachment

Questions and Answers on the Governor's Executive Order

- Developing water quality standards for 250 toxic pollutants. Once adopted by the Environmental Quality Commission, DEQ will use these standards to restrict toxic pollutant discharges into Oregon's waters.
- Developing a community-based program to reduce people's exposure to toxic air pollution.
- Funding and co-sponsoring efforts to remove and properly manage products containing mercury and other toxics, including:
 - Local collection centers to help small businesses and households properly manage toxics
 - Work with the auto recycling industry, car crushers and steel mills to remove mercury car switches before car crushing
 - Promotion of fluorescent lamp recycling to commercial and industrial facilities
 - Removal of mercury from school laboratories
 - Mercury thermometer collection events
- Developing strategies to reduce toxic releases to air, water and land, focusing on toxics that pose the greatest hazard and have the longest lasting impact on the environment and human health. This effort will focus initially on mercury.
- Adopting rules for labeling mercury-containing thermostats to help homeowners and building contractors dispose of thermostats correctly.

3. Why isn't DEQ banning or phasing out PBT discharges ("zero discharge")?

It is appropriate to set a long-term goal to eliminate the release of PBTs. DEQ is committed to working collaboratively with industries, government agencies, citizens and environmental organizations to identify Oregon's biggest toxics problems, and develop cost-effective solutions.

DEQ's toxics work is being carried out under existing authorities such as the Federal Clean Air Act, Federal Clean Water Act and Oregon's Toxics Use Reduction Law. DEQ's current emphasis is to develop and implement a range of approaches to significantly cut toxic releases. As we outline the range of approaches that might be undertaken in Oregon to identify, track and eliminate the release of PBTs into the environment by the year 2020, we may identify the need for additional statutory authorities and additional resources, for DEQ or for other agencies or entities.

DEQ 2003 Legislative Concepts

DEQ is discussing ideas for legislation with interested and affected parties. DEQ's goal is to work with interested and affected parties to reach agreement before the 2003 Legislative Session.

For more information, contact Lauri Aunan at (503) 229-5327, or the contact listed under each concept below.

Help finance landowner projects to protect salmon and water quality

The Oregon Plan for Salmon and Watersheds calls on DEQ to revise the Clean Water State Revolving Fund (CWSRF) to enable more nonpoint source pollution control projects to be eligible for funding. The CWSRF currently provides direct loans to public entities for sewage treatment and stormwater control improvements as well as nonpoint pollution projects. This concept will create a mechanism for providing low-interest loans to private landowners for non-point source pollution control projects.

This concept supports DEQ's Strategic Direction to Protect Oregon's Water.

Contacts:

Karen Tarnow, (503) 229-5988
Mike Llewelyn, (503) 229-5324

Methane at old landfills

DEQ has limited authority under existing statutes and rules to require investigation and, if necessary, management of methane generated by old solid waste landfills. During our involvement with two of these sites

(Cobbs Quarry and Bethel-Danebo), we realized that there are gaps in existing DEQ authority, making it hard for DEQ to require methane at old landfills to be managed safely. Lack of effective regulatory authority could result in potential fire or explosive hazards to residents and workers in the vicinity of these sites, and poor customer service to neighbors and developers. We are working with a stakeholder group and with DEQ's environmental cleanup and solid waste advisory committees to determine the best long-term solutions. *This concept supports DEQ's Strategic Direction to Protect Human Health and the Environment from Toxics*

Contact:

Bob Danko, (503) 229-6266

Cleanup of abandoned and inactive mines

This concept would improve Oregon's ability to clean up contamination from abandoned and inactive mine sites that are a high risk to people's health or the environment. The concept provides flexibility in the use of funds in the Orphan Site Account, to allow more efficient and effective use of available funds, and encourage cooperative approaches to cleaning up pollution from abandoned mines.

This concept supports DEQ's Strategic Directions to Protect Oregon's Water and Protect Human Health and the Environment from Toxics

Contact:

Bob Danko, (503) 229-6266



State of Oregon
Department of
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Quality

811 SW 6th Avenue
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Placeholder for Hazardous Waste Work and Fee Modifications

The 2003-2005 revenue supporting DEQ's hazardous waste work is projected to be substantially less than what is needed to maintain existing services. Revenues may be from \$1.5 to \$3 million short. The Director has appointed a work group of key stakeholders to discuss what hazardous waste work the Department must or should continue to do, and how to pay for that work. The work group has met once, is engaged, and will shape its recommendations over the next few months. From there, a budget package and a legislative concept, if needed, can be finalized.

This concept supports DEQ's Strategic Direction to Protect Human Health and the Environment from Toxics

Contact:

Bob Danko, (503) 229-6266

Clean Air Councils

This concept would authorize the Environmental Quality Commission to establish local Clean Air Councils at the request of local government or stakeholders. A Council would be dedicated to seeking funds (from foundations, federal grants and other sources) for local work such as technical studies and incentive programs to address local clean air needs. Council membership would be balanced to include large and small businesses, citizens, environmental groups, and local governments.

This concept supports DEQ's Strategic Directions to Protect Human Health and the Environment from Toxics and Involve Oregonians in Solving Environmental Problems

Contacts:

Greg Aldrich, (503) 229-5687

Andy Ginsburg, (503) 229-5397



State of Oregon
Department of
Environmental
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State of Oregon
Department of Environmental Quality

Memorandum

Date: April 8, 2002
To: Environmental Quality Commission
From: Stephanie Hallock, Director *S. Hallock*
Subject: Agenda Item E, Information Item: Status Update on DEQ Approval for the Start of Umatilla Chemical Agent Disposal Facility (UMCDF) Surrogate Operations

April 25, 2002 EQC Meeting

Attached is a copy of the "Compliance Assessment For Start Of Surrogate Operations" prepared by the Department's Chemical Demilitarization Program. The Compliance Assessment is the first step of the process the Department is using to implement the permit modification approved by the Commission on March 8, 2002. Chair Eden signed the "Findings and Conclusions of the Commission and Order," for the Permit Modification ("Approval Process for UMCDF Operations") on March 28.

This document, and any public comments received, will all become part of the decision-making process that the Department is using to determine whether to approve the start of surrogate operations at UMCDF (scheduled for May 25, 2002). A public comment period will be open from April 8 to May 8, 2002. A Request for Comment and Notice of Public Meeting was sent to the Umatilla mailing list on March 28, 2002. A public meeting is scheduled for May 1, 2002, in Hermiston. The Compliance Assessment will be revised and updated after the completion of the public comment period and review of public comments.

**COMPLIANCE ASSESSMENT
FOR START OF SURROGATE OPERATIONS**

**UMATILLA CHEMICAL AGENT DISPOSAL FACILITY
HAZARDOUS WASTE STORAGE AND TREATMENT
PERMIT NO. ORQ 000 009 431**



Prepared By

**Oregon Department of Environmental Quality
Chemical Demilitarization Program
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APRIL 3, 2002

**COMPLIANCE ASSESSMENT
FOR START OF SURROGATE OPERATIONS**

UMATILLA CHEMICAL AGENT DISPOSAL FACILITY
HAZARDOUS WASTE STORAGE AND TREATMENT
PERMIT NO. ORQ 000 009 431

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LIST OF ACRONYMS

ACAMS	Automatic Continuous Air Monitoring System
ACS	Agent Collection System
AWFCO	Automatic Waste Feed Cut-Off
CAIRA	Chemical Accident/Incident Response and Assistance
CFR	Code of Federal Regulations
CHB	Container Handling Building
CMP	Comprehensive Monitoring Program
CSEPP	Chemical Stockpile Emergency Preparedness Program
DEQ	Oregon Department of Environmental Quality
DFS	Deactivation Furnace System
EOC	Emergency Operations Center
EQC	Oregon Environmental Quality Commission
FCC	Facility Construction Certification
HVC	Heating, Ventilation, and Cooling
IQRPE	Independent Qualified Registered Professional Engineer
LIC	Liquid Incinerator
LQCP	Laboratory Quality Control Plan
MDB	Munitions Demilitarization Building
MPF	Metal Parts Furnace
PAS	Pollution Abatement System
PMCD	U.S. Army Program Manager for Chemical Demilitarization
PMCDSD	U.S. Army Project Manager for Chemical Stockpile Disposal
PMN	Perimeter Monitoring Network
PMR	Permit Modification Request
RCRA	Resource Conservation and Recovery Act (regulations governing hazardous waste)
SDS	Spent Decontamination System
UMCD	Umatilla Chemical Depot
UMCDF	Umatilla Chemical Agent Disposal Facility

1. INTRODUCTION

On March 28, 2002 the Environmental Quality Commission (EQC) signed the "Findings and Conclusions of the Commission and Order," approving Permit Modification UMCDF-01-028-MISC(EQC), "Approval Process for UMCDF Operations." The Commission Order modified the Umatilla Chemical Agent Disposal Facility (UMCDF) Hazardous Waste Storage and Treatment Permit (HW Permit) to add requirements related to the start of operations at UMCDF (in addition to existing requirements). One of the new requirements imposed upon the UMCDF Permittees requires the written approval of the Oregon Department of Environmental Quality (DEQ) before commencement of "surrogate"¹ operations. (See Appendix A for the complete text of the new attachment to the HW Permit: "Requirements for the Commencement of Unit and Facility Operations.")

This document, and any public comments received, will all become part of the decision-making process that the DEQ is using to determine whether to approve the start of surrogate operations at UMCDF. Surrogate operations are currently scheduled to begin May 25, 2002. A public comment period was opened on April 8, 2002 and will be held open until close of business on May 8, 2002. A Request for Comment and Notice of Public Meeting ("Notice") was sent to the Umatilla mailing list on March 28, 2002. A public meeting is scheduled for May 1, 2002 in Hermiston, Oregon (see Appendix B for a copy of the Notice that includes instructions on sending comments and information about the May 1 meeting.). This document will be revised and updated after the completion of the public comment period and review of public comments.

This document ("Compliance Assessment for Start of Surrogate Operations") was placed in the information repositories (listed on the Notice) on April 8, 2002.

The public is encouraged to provide oral comments to the DEQ at the public meeting in Hermiston on May 1, 2002. Written comments (mail, e-mail, or fax) must be received by 5:00 p.m. on May 8, 2002.

(See Appendix B for information on the meeting and how to send comments.)

A brief background of UMCDF and the HW Permit is presented below. Section 2 includes a Summary of Results and DEQ's overall assessment of UMCDF's compliance status as of April 3, 2002. Appendix C ("Current Status of Applicable Requirements") includes three tables listing requirements that are applicable not only to the start of surrogate operations, but also to the start of the first incinerator (Liquid Incinerator #1). The tables include a column indicating whether the requirement has been completed or is up-to-date.

¹ Because of the extreme toxicity of chemical warfare agents, UMCDF is required to first test each of the incineration systems with surrogate waste feeds (chemicals not as toxic as the chemical warfare agents, but more difficult to burn) prior to beginning operations with actual chemical warfare agents.

Background

The Umatilla Chemical Agent Disposal Facility (UMCDF) is located in northeastern Oregon at the Umatilla Chemical Depot (UMCD), about seven miles west of Hermiston, Oregon (about 175 miles east of Portland, Oregon). The address is 78072 Ordnance Road, Hermiston, OR 97838-9544. The UMCDF is a hazardous waste treatment facility that will use four incinerators/furnaces to destroy the stockpile of chemical warfare agents that has been stored at UMCD since 1962. The chemical agents stored at UMCD include nerve agents and blister ("mustard") agents in liquid form. Nerve agents ("GB" and "VX") are contained in munitions, such as rockets, projectiles, and land mines, and in large containers, such as spray tanks, bombs, and "ton containers." Mustard agent is stored only in ton containers.

The HW Permit to build and operate UMCDF was issued to the United States Army² by the EQC and DEQ in February 1997. Construction was completed in August 2001 and UMCDF is currently in a "systemization" phase prior to the start of actual hazardous waste treatment operations. Systemization is a pre-operational testing phase that involves testing components, instruments, and associated equipment using non-hazardous materials and waste feeds (such as simulated munitions filled with ethylene glycol to test conveyors, controls, and feed mechanisms).

UMCDF includes two liquid injection incinerators to destroy liquid nerve and blister agents, and two other high temperature furnaces that will thermally treat metal parts and destroy any explosives and propellants (the "Metal Parts Furnace" and the "Deactivation Furnace System"). All container handling, munitions disassembly, and incinerator loading will be conducted within an enclosed building called the "Munitions Demilitarization Building" (MDB). All air emissions from the building and the incinerators will be filtered before being released to the atmosphere. Computer controls will shut down waste feed to the incinerators if proper operating conditions are not maintained or if chemical agent is detected in the exhaust from any of the four incinerators.

² There are three "Permittees" named on the UMCDF HW Permit. The U.S. Army Umatilla Chemical Depot and the U.S. Army Project Manager for Chemical Stockpile Disposal (PMCS D) are named as Owner and Operator of UMCDF. Washington Demilitarization Company (the Army's construction and operations contractor) was added to the HW Permit as a co-operator of UMCDF after being awarded the contract to build and operate UMCDF.

2. SUMMARY OF RESULTS

Appendix C contains three tables listing the various requirements identified by the DEQ that UMCDF must meet prior to starting surrogate operations. Of the 55 requirements listed in Table 1 of Appendix C (those related to HW Permit Conditions), 31 have been met satisfactorily (56%). Of the 24 remaining requirements listed in Table 1, 12 are related in some way to certifying that construction of various UMCDF Hazardous Waste Management Units was in accordance with the permitted design. The Department expects that submittal of construction certifications will continue through the end of May. The remaining 12 requirements in Table 1 include requirements to submit certain Permit Modification Requests (many of which are related to "secondary process wastes"), installation of equipment at DEQ's office, and obtaining notification from the Governor's office that the Chemical Stockpile Emergency Preparedness Program is adequate and operational.

Table 2 in Appendix C lists 31 requirements that were imposed as conditions of approval for Permit Modification Requests (PMR) processed from 1997 through March 2002. 24 of the 31 PMR-related requirements have been met (77%). Of the remaining seven requirements, three are on hold pending resolution of the Permittees' appeal of certain approval conditions related to PMR UMCDF-01-017-WAST(2), which established the concentrations below which a waste could be determined to be "agent-free" and eligible for off-site shipment to a permitted disposal facility. Table 3 lists requirements specific to the Brine Reduction Area and reflects commitments made by the UMCDF Permittees to the Department that each of the requirements listed would be met prior to the start of surrogate operations. Only one of the nine requirements listed in Table 3 has been met to date.

UMCDF has maintained a satisfactory level of compliance with the requirements of the HW Permit since it was issued in February 1997. The requirements listed here are those that must be met prior to beginning surrogate operations. The fact that a requirement has not yet been completed does not mean that UMCDF is "out of compliance." The Department will update this document as the scheduled date for surrogate operations (May 25, 2002) at UMCDF draws closer.

3. REFERENCES

- Staff Report for the September 21, 2001 meeting of the Environmental Quality Commission, "Agenda Item H: Approval Process for Umatilla Chemical Agent Disposal Facility Operation," dated August 31, 2001. [DEQ Item No. 01-1103]
- Staff Report for the March 8, 2002 meeting of the Environmental Quality Commission, Agenda Item E: Decision on Modification of the Umatilla Chemical Agent Disposal Facility (UMCDF) Hazardous Waste Permit to Incorporate Start-up Approval Conditions," dated February 15, 2002. [DEQ Item No. 02-0259]
- "Findings and Conclusions of the Commission and Order," Permit Modification UMCDF-01-028-MISC(EQC), "Approval Process for UMCDF Operations," dated March 28, 2002. [DEQ Item No. 02-0448]

APPENDIX A

“Requirements For Commencement Of Unit And Facility Operations”

**(Attachment 6 to the UMCDF Hazardous Waste
Storage and Treatment Permit)**

ATTACHMENT 6

Requirements For Commencement Of Unit And Facility Operations

Introduction

In accordance with Permit Condition II.A.5., the Permittee shall not introduce hazardous waste into any permitted hazardous waste treatment or storage unit until the requirements of this Attachment have been met. It is the purpose of this Attachment to clarify specific requirements that must be met prior to the commencement of Shakedown Period I (Surrogate Shakedown) and Shakedown Period II (Agent Shakedown) for the first incinerator to commence Shakedown Period I or II. This Attachment also includes requirements for commencement of Shakedown Period I or II on each individual incinerator, and requirements to be met prior to introducing hazardous waste into other permitted treatment and storage units.

Requirements for Commencement of Operations of Permitted Hazardous Waste Treatment Or Storage Units

Prior to introducing hazardous waste into any permitted treatment or storage unit, or commencing a Shakedown Period I or II for the Liquid Incinerators (LICs) 1 or 2, Deactivation Furnace System (DFS), or Metal Parts Furnace (MPF), the Permittee must:

- B.1. Be in compliance with all HW Permit Conditions applicable to the permitted treatment or storage unit;
- B.2. Be in compliance with applicable conditions located elsewhere in this Attachment; and
- B.3. Be in compliance with all applicable Permit Modification Request approval conditions imposed by the Department.

Requirements for Commencement of Shakedown Period I (Surrogate) on the First Incinerator

Prior to commencing a Shakedown Period I (Surrogate) for the first incinerator, the Permittee must complete all of the following:

- C.1. No less than 30 days, nor more than 90 days, prior to the beginning of the first Shakedown Period I, the Permittee must notify the Department in writing that each of the UMCDF drawings in Volume V of the HW Permit Application, and the specifications contained in Volumes IV, VI, and VII, have been certified by a qualified Professional Engineer licensed in Oregon within the preceding 12 months, or that the Permittee has reviewed the specification(s) or drawing(s) and determined that no update is needed;
- C.2. The Permittee must submit Permit Modification Request(s) to the Department to add secondary wastes expected to be generated by UMCDF operations to the list of permitted waste feed streams to the Liquid Incinerators, Deactivation Furnace System and/or the Metal Parts Furnace;
- C.3. The Permittee must submit Permit Modification Request(s) to the Department to modify the Metal Parts Furnace (design and permitted waste feed streams) as necessary to treat personal protective equipment and other halogenated and non-halogenated plastics;
- C.4. The Permittee and the Department must have reached agreement on the procedure to ensure that specified Department staff will have adequate 24-hour access, without undue delay, to the Department's on-site work spaces both outside the double-fence area of UMCDF, and within UMCDF; and
- C.5. The Permittee must have written notification from the Department authorizing the start of surrogate shakedown operations.

Requirements for Commencement of Shakedown Period II (Agent) on the First Incinerator

Prior to commencing a Shakedown Period II (Agent) for the first incinerator, or by the date specified, the Permittee must complete all of the following:

- D.1. The Permittee must implement a waste/munitions tracking procedure and system approved by the Department;
- D.2. The Permittee must obtain approval of the Class 3 Permit Modification Request UMCDF-00-004-WAST(3), "Permitted Storage in J-Block" providing additional permitted storage for secondary wastes generated by UMCDF operations. Any required physical and/or procedural changes necessary for the storage of secondary wastes must be implemented by UMCDF;
- D.3. No less than 30 days, nor more than 90 days, prior to the beginning of the first Shakedown Period II, the Permittee must notify the Department in writing that each of the UMCDF drawings in Volume V of the HW Permit Application, and the specifications contained in Volumes IV, VI, and VII, have been certified by a qualified Professional Engineer licensed in Oregon within the preceding 12 months, or that the Permittee has reviewed the specification(s) or drawing(s) and determined that no update is needed;
- D.4. The Permittee must complete the characterization and/or segregation of UMCD wastes and obtain Department approval of Permit Modification Request(s) to add all UMCD wastes to the list of permitted waste feed streams to the Liquid Incinerators, Deactivation Furnace System and/or the Metal Parts Furnace;
- D.5. No later than September 1, 2002, the Permittee must notify the Department in writing that a technical decision has been reached on the treatment method that will be utilized for agent-contaminated carbon. The notification must include supporting information concerning the basis for the decision;
- D.6. No less than 45 days, nor more than 90 days, prior to the beginning of the first Shakedown Period II, the Permittee must submit a progress report to the Department concerning the status of the design and implementation of the carbon treatment technology identified per Permit Condition D.5. of this Attachment;
- D.7. The Permittee must provide to the Department copies of any Pre-Operational Survey(s) and/or Operational Readiness Evaluation(s) conducted in accordance

with the Program Manager for Chemical Demilitarization's (PMCD) Policy Statement No. 28 governing the conduct of such surveys or evaluations at demilitarization facilities;

- D.8. The Permittee must provide to the Department a verification statement that all nonconformances/observations designated as "Category 1" from Pre-Operational Surveys and/or Operational Readiness Evaluations have been resolved in accordance with PMCD's Policy Statement No. 28;
- D.9. The Permittee must provide to the Department the schedule for resolution of items identified in Pre-Operational Surveys and/or Operational Readiness Evaluations that were designated as "Category 2," in accordance with PMCD's Policy Statement No. 28;
- D.10. The Permittee must provide to the Department a copy of the PMCD authorization to start chemical agent operations; and
- D.11. The Permittee must have written notification from the Environmental Quality Commission authorizing the start of agent shakedown operations.

APPENDIX B

Request for Comment and Notice of Public Meeting

**(“Compliance Assessment for Start of Surrogate Operations,”
Umatilla Chemical Agent Disposal Facility)**

Public Notice: Request for Comments and Notice of Public Meeting

Compliance Assessment for Start of Surrogate Operations Umatilla Chemical Agent Disposal Facility (UMCDF) (Hazardous Waste Storage and Treatment Permit No. ORQ 000 009 431)

Notice issued: March 28, 2002

Public Comment Period:
April 8, 2002 through May 8, 2002.

Written comments due:
No later than 5:00 p.m., May 8, 2002

Public Meeting:
6:30 p.m., May 1, 2002. Hermiston National Guard Armory, 900 S.E. Columbia Drive, Hermiston, Oregon. DEQ staff will give a presentation from 6:30-7:00 p.m. The presentation will be followed by an informal question and answer session. The public is encouraged to attend and ask questions or provide comment after the presentation.

What is this meeting about?
The meeting on May 1 is being held to present to the public the initial results of a permit compliance assessment that the DEQ is conducting prior to the beginning of hazardous waste operations at UMCDF. The DEQ also wants to hear from the public any comments you might have about UMCDF's readiness to begin testing the incineration facility with "surrogate" material before chemical agent disposal operations begin in 2003.

What kind of facility is UMCDF?
The UMCDF is a hazardous waste storage and treatment facility that will use four incinerators to destroy a stockpile of chemical warfare agents that has been stored at the Umatilla Chemical Depot (UMCD) since 1962. The chemical agent stockpile at UMCD includes about 3,717 tons of nerve agents ("VX" and "GB") and blister ("mustard") agents in liquid form.

Nerve agents are contained in munitions, such as rockets, projectiles and land mines, and in large containers, such as spray tanks, bombs, and "ton containers." Mustard agent is stored only in ton containers. All of the chemical warfare agents are highly toxic.

What is a "compliance assessment"?

The compliance assessment is a process the DEQ is using to review requirements in the UMCDF Hazardous Waste Storage and Treatment Permit (HW Permit) before the beginning of surrogate operations. The DEQ would also like to hear from the public any concerns, comments, or questions you might have before UMCDF begins surrogate testing. DEQ will consider your comments before determining whether UMCDF has achieved compliance with each permit requirement that applies to surrogate operations.

What is "surrogate" material?

Because chemical warfare agents are so toxic, UMCDF is required to first test each incinerator and pollution control system by burning less toxic "surrogate" chemicals. Surrogate operations include extensive test burns and must be successfully completed before live chemical agent operations can begin.

Why is the DEQ conducting a compliance assessment?

The Environmental Quality Commission (EQC) recently approved a HW Permit modification that requires UMCDF to obtain written approval from DEQ before beginning surrogate operations. The DEQ has decided to use an open public process to conduct the compliance assessment before authorizing the start of surrogate operations.

Where is UMCDF located?

The UMCDF is located in northeastern Oregon at the Umatilla Chemical Depot, about seven miles west of Hermiston, Oregon (about 175 miles east of Portland, Oregon). The address is 78072 Ordnance Road, Hermiston, OR 97838-9544.

Who is affected?

Residents in the Mid-Columbia Basin.

What are DEQ's responsibilities?

The DEQ is the state agency that helps protect Oregon's environment. One of DEQ's responsibilities is to oversee the management of hazardous wastes in Oregon by issuing and enforcing hazardous waste permits.



State of Oregon
Department of
Environmental
Quality

**Office of the
Director
Chemical
Demilitarization
Program**
256 E. Hurlburt
Hermiston, OR 97838
Phone: (541) 567-829
(800) 452-401
Fax: (541) 567-474
Contact: Sue Oliver
DEQ Item No. 02-040

www.deq.state.or.us

UMCDF was issued its Hazardous Waste Storage and Treatment Permit (HW Permit) by the DEQ and the EQC in February 1997. It is DEQ's responsibility, under the direction of the EQC, to ensure that UMCDF complies with all of the conditions of the HW Permit. DEQ maintains an office in Hermiston that houses the DEQ's Chemical Demilitarization Program (CDP). DEQ's CDP staff oversees activities related to the storage and disposal of chemical warfare agents at the Umatilla Chemical Depot.

Who are the UMCDF Permittees?

There are three Permittees named on the UMCDF HW Permit. The U.S. Army Umatilla Chemical Depot and the U.S. Army Project Manager for Chemical Stockpile Disposal (PMCSO) are named as Owner and Operator of UMCDF. Washington Demilitarization Company (the Army's construction and operations contractor) is named as a co-operator of UMCDF.

How can I review documents?

You can review documents related to the Umatilla Chemical Agent Disposal Facility (UMCDF) at the Hermiston DEQ office (please call ahead for an appointment) or at one of the following information repositories:

Hermiston Public Library
235 E. Gladys Avenue
Hermiston, OR 97838
(541) 567-2882

Mid Columbia Library (Kennewick Branch)
1620 S. Union St.
Kennewick, WA 99336
(509) 586-3156

Pendleton Public Library
502 S.W. Dorion Avenue
Pendleton, OR 97801
(541) 966-0210

Portland State University Library
951 S.W. Hall, Fifth Floor
Portland, OR 97204
(503) 725-4617

Where can I get more information?

Each of the Information Repositories has information about UMCDF. You can also call, write, or e-mail the DEQ Office in Hermiston (oliver.sue@deq.state.or.us) to request a copy of the compliance assessment.

The compliance assessment information package will be available on or about April 4, 2002. It will include a list of each HW Permit requirement that applies to the beginning of surrogate operations and the DEQ's assessment of UMCDF's compliance status.

How can I send comments?

DEQ will accept oral comments at the meeting on May 1, or by mail, fax and e-mail any time during the comment period.

Contact Name: Sue Oliver, Chemical Demilitarization Program, Hermiston DEQ.

Phone: 541-567-8297 (ext. 26) or toll free in Oregon (800) 452-4011.

Mailing address: DEQ Chemical Demilitarization Program, 256 E. Hurlburt, Suite 105, Hermiston, OR 97838

Fax: 541-567-4741

E-mail: oliver.sue@deq.state.or.us
(Please include "Public Comment" in the subject line. E-mail comments will be acknowledged as soon as possible. The DEQ is not responsible for delays between servers that result in missed comment deadlines.)

What happens next?

After the completion of the public comment period the DEQ will review and consider all oral and written comments received during the comment period. DEQ staff will prepare an update to the compliance assessment by re-assessing progress made by UMCDF during the public comment period. The DEQ will then determine whether UMCDF is in compliance with applicable HW Permit requirements. If UMCDF is deemed in compliance, a letter will be issued approving the start of surrogate testing operations.

Accessibility information

DEQ is committed to accommodating people with disabilities at our hearings. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact Sue Oliver at (541) 567-8297 (ext. 26) or toll free in Oregon at (800) 452-4011.

People with hearing impairments may call DEQ's TTY number, (503) 229-6993.

APPENDIX C

STATUS OF REQUIREMENTS APPLICABLE TO START OF SURROGATE OPERATIONS

STATUS OF REQUIREMENTS APPLICABLE TO START OF SURROGATE OPERATIONS

The tables below list each of the requirements that the Department has identified that must be met before UMCDF may commence surrogate operations. Requirements are listed not only for the start of surrogate operations in general, but also for the start of Liquid Incinerator #1, the first incinerator that will undergo testing with surrogate materials. Table 1 includes those requirements specifically called out in the HW Permit. Table 2 lists requirements that were imposed as conditions when the Department approved certain Permit Modification Requests.

Table 3 lists requirements specific to the Brine Reduction Area and reflects commitments made by the UMCDF Permittees to the Department that each of the requirements listed would be met prior to the start of surrogate operations. It must be noted, however, that in accordance with the HW Permit, these requirements technically apply only to the commencement of operations of the Brine Reduction Area. UMCDF will not be considered out of compliance if the Brine Reduction Area is not operated during surrogate operations.

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-1	Provide all necessary equipment to the Department for installation and maintenance of a remote computer monitoring station to provide unrestricted 24-hr access to key UMCDF operating and monitoring data.	I.N.1.v. and Attachment 6, Condition B.1	No equipment has yet been installed at the DEQ Chemical Demilitarization Program office in Hermiston, Oregon.	NO
1-2	Submit a certification of construction that has been signed by the Permittee and an IQRPE stating that the Container Handling Building (CHB) has been constructed in compliance with the HW Permit and applicable regulations.	I.R.1. and Attachment 6, Condition B.1	The CHB FCC package was accepted by DEQ on December 12, 2001.	YES
1-3	Submit, and obtain DEQ acceptance of, a Certification of Construction for the Agent Collection Tank System (ACS).	I.R.1. and Attachment 6, Condition B.1	The FCC package for the ACS was submitted on February 12, 2002. DEQ has not yet accepted this FCC package.	NO
1-4	Submit, and obtain DEQ acceptance of, a Certification of Construction for Liquid Incinerator #1 (LIC1).	I.R.1. and Attachment 6, Condition B.1	The FCC package for LIC1 was submitted on March 14, 2002. DEQ has not yet accepted this FCC package.	NO

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-5	Submit, and obtain DEQ acceptance of, a Certification of Construction for the Liquid Incinerator #1 (LIC1) Pollution Abatement System (PAS).	I.R.1. and Attachment 6, Condition B.1	The LIC1 PAS FCC package has not yet been submitted to the DEQ.	NO
1-6	Submit, and obtain DEQ acceptance of, a Certification of Construction for Munitions Demilitarization Building (MDB) .	I.R.1. and Attachment 6, Condition B.1	The MDB FCC package has not yet been submitted to the DEQ.	NO
1-7	Submit, and obtain DEQ acceptance of, a Certification of Construction for the Munitions Demilitarization Building (MDB) Heating, Ventilation, and Cooling (HVC) system.	I.R.1. and Attachment 6, Condition B.1	The MDB HVC FCC package has not yet been submitted to the DEQ	NO
1-8	Submit, and obtain DEQ acceptance of, a Certification of Construction for the Spent Decontamination Holding Tank System (SDS).	I.R.1. and Attachment 6, Condition B.1	The SDS FCC package has not yet been submitted to the DEQ.	NO
1-9	Provide required written narratives and updated as-built drawings identifying minor changes and deviations (with rationale) from approved designs or specifications.	II.A.2. and Attachment 6, Condition B.1	Written narratives and updated drawings have not yet been submitted to the DEQ.	NO

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-10	Submit a Class 2 Permit Modification Request identifying the standard operating procedures for handling, transporting, and treating munitions during inclement weather or adverse wind conditions.	II.A.3. and Attachment 6, Condition B.1	A Class 2 Permit Modification Request [UMCDF-97-003-MISC(2)] was approved by DEQ on November 24, 1998.	YES
1-11	Submit a copy of Umatilla Chemical Depot and UMCDF standard operating procedures related to operational limitations during adverse weather conditions.	II.A.3.i. and Attachment 6, Condition B.1	Operating procedures were submitted on November 28, 2001 and accepted by DEQ on January 28, 2002.	YES
1-12	Submit a Comprehensive Monitoring Program (CMP) Workplan to implement a program that will confirm results of the Pre-Trial-Burn Health and Ecological Risk Assessment.	II.A.4.i. and Attachment 6, Condition B.1	The CMP Workplan was approved on September 18, 1998.	YES
1-13	Submit a Permit Modification Request to implement the CMP Workplan.	II.A.4.ii. and Attachment 6, Condition B.1	A Class 2 Permit Modification Request [UMCDF-98-018-CMP(2)] was approved by DEQ on April 30, 1999.	YES
1-14	Initiate CMP baseline monitoring of environmental media in Zones 1, 2 and 3.	II.A.4.ii. and Attachment 6, Condition B.1	Baseline sampling and monitoring was initiated in April, 1999.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-15	Activate the Perimeter Monitoring Network (PMN) for CMP baseline air monitoring at least one calendar year prior to start of UMCDF thermal operations.	II.A.4.iii. and Attachment 6, Condition B.1	The PMN was activated on May 10, 2000.	YES
1-16	Submit quarterly Comprehensive Monitoring Program (CMP) Reports (within 90 days of completion of sampling event) and place a copy of each quarterly report in the Hermiston Public Library.	II.A.4.iv. and Attachment 6, Condition B.1	The most recent CMP Quarterly Report was received on January 10, 2002.	YES
1-17	Submit an annual CMP report that summarizes the sampling results from the previous four quarters and place a copy of the report in the Hermiston Public Library.	II.A.4.iv. and Attachment 6, Condition B.1	The most recent CMP Annual Report was received on May 16, 2001.	YES
1-18	Obtain Department approval of an update to the UMCDF Contingency Plan at least 90 days prior to the activation of the PMN for baseline air monitoring.	II.A.4.vi. and Attachment 6, Condition B.1	A Class 1 Permit Modification Request [UMCDF-99-022-CONT(1R)] was approved on September 10, 1999.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-19	Submit an updated Waste Analysis Plan as a Permit Modification to address agent purity/waste characterization database.	II.C.5. and Attachment 6, Condition B.1	A Class 1 Permit Modification Request [[UMCDF-98-003-WAP(1R)] was approved on April 23, 1998.	YES
1-20	Submit a written program that describes the independent oversight process for the demilitarization construction activities, health and safety operations, and chemical agent process/handling operations at the UMCDF site.	II.E.5. and Attachment 6, Condition B.1	DEQ accepted the UMCDF independent oversight program in June, 2000.	YES
1-21	Submit a Class 1 Permit Modification Request to modify the Training Plan to describe how UMCDF will develop and implement new training when instances of non-compliance (or potential) are identified.	II.F.2 and Attachment 6, Condition B.1	A Class 1 Permit Modification Request [UMCDF-99-010-MISC(1R)] was approved on August 27, 1999.	YES
1-22	Maintain the most current revision of the UMCD Chemical Accident/Incident Response and Assistance (CAIRA) Plan on file at the UMCD Emergency Operations Center (EOC) and provide a copy to the DEQ for review.	II.H.1.i. and Attachment 6, Condition B.1	A revised CAIRA Plan (Change 2) was submitted to the Department in October, 2001 and is still the current version in use.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-23	Submit semi-annual written progress reports on the status of the Chemical Stockpile Emergency Preparedness Program (CSEPP).	II.H.4 and Attachment 6, Condition B.1	The most recent CSEPP report was received January, 2002.	YES
1-24	Obtain written notification from the Governor of the State of Oregon that an adequate emergency response program is in place and fully operational [Chemical Stockpile Emergency Preparedness Program (CSEPP)]	II.H.4.i. and Attachment 6, Condition B.1	The Governor's Executive Review Panel continues to meet regularly. A recommendation to the Governor's office concerning CSEPP readiness will be made on May 14, 2002.	NO
1-25	Establish a "positive-pressurized" Emergency Operations Center (EOC) within 300 days of the effective date of the HW Permit.	II.H.5. and Attachment 6, Condition B.1	EOC pressurization was demonstrated on December 12, 1997 (DEQ observed) and accepted on January 11, 1998.	YES
1-26	Within 90 days of the effective date of the HW Permit, adequately staff the EOC 24 hours a day, 7 days a week.	II.H.5. and Attachment 6, Condition B.1	24-hour staffing was initiated on May 12, 1997 and accepted on October 21, 1997. DEQ performed an unannounced inspection to verify staffing on October 16, 1999.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-27	Submit an annual statement (by March 31 of each calendar year) certifying that a program is in place to reduce the volume and toxicity of hazardous waste generated during the preceding calendar year (i.e. Pollution Prevention Certification).	II.I.1.ii. and Attachment 6, Condition B.1	Last certification statement received March 19, 2002.	YES
1-28	Submit an annual report covering the activities of each permitted Hazardous Waste Management Unit for the preceding calendar year.	II.I.1.iii. and Attachment 6, Condition B.1	Last annual report received March 1, 2002.	YES
1-29	Submit an insurance policy compendium by February 12 of each year with a description of each applicable policy and the definition of "insured" for each policy. The compendium must include a signed statement attesting that the compendium represents liability coverage equal to, or in excess of, the amounts submitted to the EQC on July 11, 1997.	II.M. and Attachment 6, Condition B.1	The most recent insurance compendium and signed statement was submitted on January 28, 2002 and verified to be in compliance by DEQ	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-30	Submit executive summaries of trial burn reports (for trial burns conducted after issuance of the UMCDF HW Permit) for all other Chemical Stockpile Disposal Program facilities within 60 days of issuing the report to the applicable state or federal regulatory agency.	II.N.1.i. and Attachment 6, Condition B.1	UMCDF has provided trial burn reports as required (from both the Johnston Atoll Chemical Agent Disposal System and the Tooele Chemical Agent Disposal Facility).	YES
1-31	Provide an annual inventory (by June 30 of each calendar year) of all Chemical Demilitarization Program Toxicity reports issued by the Army or its contractors pertaining to agents GB, VX and HD.	II.N.1.ii. and Attachment 6, Condition B.1	The most recent toxicity report index was provided on June 21, 2001 (revised on July 10, 2001).	YES
1-32	Submit a report and appropriate Permit Modification Request(s) for the installation and monitoring of secondary containment structures for the carbon filter systems on the Munitions Demilitarization Building (MDB), Laboratory, and Pollution Abatement Systems.	II.O.10. and Attachment 6, Condition B.1	A Class 1 Permit Modification Request [UMCDF-98-001-HVC(1R)] was approved on March 5, 1998. A Class 2 Permit Modification Request [UMCDF-98-009-HVC(2)] was approved on February 16, 1999.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-33	Modify the UMCDF HW Permit as necessary to demonstrate compliance with 40 CFR 264 Subpart BB ("Air Emission Standards for Equipment Leaks").	II.P.2.ii. and Attachment 6, Condition B.1	A Class 3 Permit Modification Request [UMCDF-00-022-MISC(3)] is under review by the DEQ and EPA.	NO
1-34	Modify the UMCDF HW Permit as necessary to demonstrate compliance with 40 CFR 264 Subpart CC ("Air Emission Standards for Tanks, Surface Impoundments, and Containers").	II.P.2.iv. and Attachment 6, Condition B.1	A Class 3 Permit Modification Request [UMCDF-00-022-MISC(3)] is under review by the DEQ and EPA.	NO
1-35	Obtain and submit a written certification from an IQRPE attesting that proper installation procedures were used for the Primary Containment Sumps.	IV.C.4 and Attachment 6, Condition B.1	No Primary Containment Sump installation certification has been submitted to DEQ.	NO
1-36	Obtain and submit a written certification from an Independent Qualified Registered Professional Engineer (IQRPE) attesting that proper installation procedures were used for the Agent Collection Tank System (ACS).	IV.C.4. and Attachment 6, Condition B.1	No ACS Tank System installation certification has been submitted to DEQ.	NO

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-37	Obtain and submit a written certification from an IQRPE attesting that proper installation procedures were used for the Spent Decontamination Holding Tank System (SDS).	IV.C.4. and Attachment 6, Condition B.1	No SDS Tank System installation certification has been submitted to DEQ.	NO
1-38	Obtain and submit a written certification from an IQRPE attesting that the Spent Decontamination Tank System has sufficient structural integrity and is suitable for handling the intended hazardous waste.	IV.C.5 and Attachment 6, Condition B.1	No SDS Tank System structural integrity/suitability certification statement has been submitted to DEQ.	NO
1-39	Obtain and submit a written certification from an IQRPE attesting that the Agent Collection Tank System has sufficient structural integrity and is suitable for handling the intended hazardous waste.	IV.C.5. and Attachment 6, Condition B.1	No ACS Tank System structural integrity/suitability certification statement has been submitted to DEQ.	NO
1-40	Obtain and submit a written certification from an IQRPE attesting that the Primary Containment System Sumps have sufficient structural integrity and are suitable for handling the intended hazardous waste.	IV.C.7. and Attachment 6, Condition B.1	No Primary Containment Sump System structural integrity/suitability certification statement has been submitted to DEQ.	NO

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-41	Submit documentation that demonstrates the surrogate material used for the liquid incinerator shakedown and trial burns is not "ignitable."	IV.N.1. and Attachment 6, Condition B.1	An information package was received from UMCDF on March 7, 2001 and approved by DEQ on August 31, 2001.	YES
1-42	Submit a quarterly report (within 30 days of the end of each calendar quarter) containing operating information for each incinerator (operating time, malfunctions, waste feed cut-offs, etc.).	VI.A.4.iii. and Attachment 6, Condition B.1	The most recent quarterly report was received January 10, 2002.	YES
1-43	Resubmit the Liquid Incinerator(s) surrogate trial burn plan(s) as a Permit Modification at least 180 days prior to the start date of shakedown period I (surrogate operations) for the Liquid Incinerators.	VI.A.5.ii. and Attachment 6, Condition B.1	A Class 2 Permit Modification Request [UMCDF-01-026-LIC(2)] was received on August 28, 2001 and is currently undergoing the review process.	YES
1-44	Resubmit the Deactivation Furnace System (DFS) surrogate trial burn plan as a Permit Modification at least 180 days prior to the start date of shakedown period I (surrogate operations) for the DFS.	VI.A.5.ii. and Attachment 6, Condition B.1	A Class 2 Permit Modification Request [UMCDF-01-027-DFS(2)] was received on October 16, 2001 and is currently undergoing the review process.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-45	Resubmit the Metal Parts Furnace (MPF) surrogate trial burn plan(s) as a Permit Modification at least 180 days prior to the start date of shakedown period I (surrogate operations) for the MPF.	VI.A.5.ii. and Attachment 6, Condition B.1	A Class 2 Permit Modification Request [UMCDF-01-030-MPF(2)] was received on December 4, 2001 and is currently undergoing the review process.	YES
1-46	Obtain DEQ approval of the Liquid Incinerator #1 Surrogate Trial Burn Plan.	VI.A.5.iii.d. and Attachment 6, Condition B.1	The Liquid Incinerator #1 Surrogate Trial Burn Plan was submitted to the Department on August 28, 2001 as a Class 2 Permit Modification Request [UMCDF-01-026-LIC(2)] and is currently undergoing the review process.	NO
1-47	Submit an engineering design and a work plan implementation schedule (or Permit Modification) to incorporate "staggered" Automatic Continuous Air Monitoring System (ACAMS) monitoring at the common stack for the LIC, MPF, and DFS.	VI.F.5.i. and Attachment 6, Condition B.1	A Class 1 Permit Modification Request [UMCDF-97-006-MON(1R)] was approved on May 4, 1999.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-48	Submit annual report (by February 1 of each year) summarizing quality control problems experienced with stack gas monitors, chemical agent ventilation system monitors, and ambient air chemical agent monitors during the previous calendar year.	VII.A.5.i. and Attachment 6, Condition B.1	The most recent annual report was received January 10, 2002.	YES
1-49	No less than 30 days, nor more than 90 days, prior to the beginning of the first Shakedown Period I (surrogate operations), notify the Department in writing that each of the UMCDF drawings and specifications in the Permit Application have been certified by a Professional Engineer within the preceding 12 months, or that a review of the specification(s) or drawing(s) determined that no update is needed	Attachment 6, Condition C.1.	No written notification has yet been received by the Department.	NO
1-50	Submit a Permit Modification Request to the Department to add secondary wastes expected to be generated by UMCDF operations to the list of permitted waste feed streams to the Liquid Incinerators.	Attachment 6, Condition C.2.	No Permit Modification Request has been received by the Department related to adding secondary waste feed streams to the Liquid Incinerators.	NO

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-51	Submit a Permit Modification Request to the Department to add secondary wastes expected to be generated by UMCDF operations to the list of permitted waste feed streams to the Deactivation Furnace System.	Attachment 6, Condition C.2.	No Permit Modification Request has been received by the Department related to adding secondary waste feed streams to the Deactivation Furnace System.	NO
1-52	Submit a Permit Modification Request to the Department to add secondary wastes expected to be generated by UMCDF operations to the list of permitted waste feed streams to the Metal Parts Furnace.	Attachment 6, Condition C.2.	No Permit Modification Request has been received by the Department related to adding secondary waste feed streams to the Metal Parts Furnace.	NO
1-53	Submit a Permit Modification Request to the Department to modify the Metal Parts Furnace (design and permitted waste feed streams) as necessary to treat personal protective equipment and other halogenated and non-halogenated plastics	Attachment 6, Condition C.3.	No Permit Modification Request has been received by the Department related to adding secondary waste feed streams to, or modifying, the Metal Parts Furnace.	NO

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-54	The Permittee and the Department must reach agreement on the procedure to ensure that specified Department staff will have adequate 24-hour access, without undue delay, to the Department's on-site work spaces both outside the double-fence area of UMCDF, and within UMCDF.	Attachment 6, Condition C.4.	The Department and the Permittees continue to discuss the resolution of issues concerning access and security concerns.	NO
1-55	Obtain written notification from the Department authorizing the start of surrogate shakedown operations.	Attachment 6, Condition C.5	Department review of compliance status is ongoing.	NO

Table 2. Requirements for Start of Surrogate Operations (from Department PMR Approval Conditions).

	REQUIREMENT	RELATED PERMIT MODIFICATION REQUEST (PMR) NO.	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
2-1	Submit a Permit Modification Request (PMR) with an updated and certified version of Specification Section 15987 "PAS Filter Units."	PMR UMCDF-00-015-CONS(1R)	PMR UMCDF-01-023-CONS(1R) was submitted on July 31, 2001.	YES
2-2	Submit a PMR incorporating a list of all Operations, Maintenance, and Laboratory procedures into the Part B Permit Application.	PMR UMCDF-01-010-CONT(2)	PMR UMCDF-02-004-MISC(1R) was submitted on February 5, 2002	YES
2-3	Submit a PMR updating and completing the list of Emergency Coordinators found in Section G-2, Table G-2-1, of the Contingency Plan.	PMR UMCDF-01-010-CONT(2)	No PMR to update the Contingency Plan has yet been submitted to the DEQ.	NO
2-4	If Laboratory or MDB ventilation testing indicates that revisions to the Contingency Plan are necessary, the Permittees must submit a PMR and obtain approval for such revisions.	PMR UMCDF-01-010-CONT(2)	No PMR to revise the Contingency Plan has been submitted to the DEQ.	NO

Table 2. Requirements for Start of Surrogate Operations (from Department PMR Approval Conditions).

	REQUIREMENT	RELATED PERMIT MODIFICATION REQUEST (PMR) NO.	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
2-5	Submit a PMR incorporating a list of all Operations, Maintenance, and Laboratory procedures into the Part B Permit Application.	PMR UMCDF-01-015-INSP(2)	PMR UMCDF-02-004-MISC(1R) was submitted on February 5, 2002	YES
2-6	By May 6, 2002 submit a revised Standard Operating Procedure (SOP) UM-000-M-559 for Department review and subsequent inclusion in the HW Permit	PMR UMCDF-01-017-WAST(2)	Permittees have appealed this Condition imposed by the Department upon approval of PMR UMCDF-01-017-WAST(2). This requirement is currently on hold.	(on hold pending resolution)
2-7	Additional language must be added to the SOP and Laboratory Quality Control Plan (LQCP) regarding the quarterly verification checks of the Method Detection Limit.	PMR UMCDF-01-017-WAST(2)	Permittees have appealed this Condition imposed by the Department upon approval of PMR UMCDF-01-017-WAST(2). This requirement is currently on hold.	(on hold pending resolution)
2-8	Analytical results from "agent-free" verification testing must be reported as concentrations	PMR UMCDF-01-017-WAST(2)	Permittees have appealed this Condition imposed by the Department upon approval of PMR UMCDF-01-017-WAST(2). This requirement is currently on hold.	(on hold pending resolution)

Table 2. Requirements for Start of Surrogate Operations (from Department PMR Approval Conditions).

	REQUIREMENT	RELATED PERMIT MODIFICATION REQUEST (PMR) NO.	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
2-9	By June 3, 2002, submit a PMR to address the sampling and management of the wood pallet/wood dunnage waste stream.	PMR UMCDF-01-017-WAST(2)	No Permit Modification Request has been received.	NO
2-10	Submit a Permit Modification Request incorporating a list of all Operations, Maintenance, and Laboratory procedures into the Part B Permit Application.	PMR UMCDF-01-019-MISC(1R)	PMR UMCDF-02-004-MISC(1R) was submitted on February 5, 2002	YES
2-11	Submit a revised certified Tank Assessment that removes references to the Dunnage Incinerator.	PMR UMCDF-01-022-MISC(1R)	This issue was resolved on December 7, 2001 to the Department's satisfaction.	YES
2-12	Surrogate Trial Burn Plans must include items related to stack sampling locations and PFS bypass conditions that were included as part of the Response to Notice of Deficiency.	PMR UMCDF-97-005-PAS(2TA)	These issues are being addressed through the PMRs submitted for the Surrogate Trial Burn Plans for each of the incinerators. [PMRs UMCDF-01-026-LIC(2), UMCDF-01-027-DFS(2), and UMCDF-01-030-MPF(2)]	NO

Table 2. Requirements for Start of Surrogate Operations (from Department PMR Approval Conditions).

	REQUIREMENT	RELATED PERMIT MODIFICATION REQUEST (PMR) NO.	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
2-13	Surrogate Trial Burn Plans should include information concerning total organic carbon sampling, Hexavalent Chrome sampling, and the use of separate sampling trains for semivolatiles and dioxins/PCBs.	PMR UMCDF-97-005-PAS(2TA)	These issues are being addressed through the PMRs submitted for the Surrogate Trial Burn Plans for each of the incinerators. [PMRs UMCDF-01-026-LIC(2), UMCDF-01-027-DFS(2), and UMCDF-01-030-MPF(2)]	NO
2-14	Submit revised Automatic Waste Feed Cut Off (AWFCO) tables.	PMR UMCDF-97-005-PAS(2TA)	Revised AWFCO tables were submitted on December 29, 1998.	YES
2-15	Update the permit instrument and process tables to accurately reflect the devices to be used for measuring and reporting moisture.	PMR UMCDF-97-005-PAS(2TA)	Revised tables were provided on December 17, 1998	YES
2-16	Submit a PMR to resolve outstanding issues on the RCRA Tank Assessment.	PMR UMCDF-97-005-PAS(2TA)	PMR UMCDF-99-006-MISC(1R) was submitted on February 15, 1999.	YES
2-17	Submit a PMR to update Specification 13202.	PMR UMCDF-97-005-PAS(2TA)	PMR UMCDF-99-001-CONS(1R) was submitted on January 14, 1999	YES
2-18	Submit a certified copy of Specification Section 13201.	PMR UMCDF-98-017-CONS(1R)	Received on July 8, 1999.	YES

Table 2. Requirements for Start of Surrogate Operations (from Department PMR Approval Conditions).

	REQUIREMENT	RELATED PERMIT MODIFICATION REQUEST (PMR) NO.	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
2-19	Submit and obtain approval of a PMR to address implementation of the new dual simplex strainer design revision.	PMR UMCDF-98-021-PAS(1R)	PMR UMCDF-01-025-PAS(1R) was Received on January 24, 2002	YES
2-20	Submit a certified copy of Specification Section 13202.	PMR UMCDF-99-001-CONS(1R)	Received on July 8, 1999.	YES
2-21	Provide certified copies of drawings affected by this PMR.	PMR UMCDF-99-002-BRA(2R)	Received on August 30, 1999	YES
2-22	Submit a certified copy of Specification Section 16641.	PMR UMCDF-99-003-CONS(1R)	Received on May 26, 1999	YES
2-23	Submit a certified copy of Specification Section 13215.	PMR UMCDF-99-004-CONS(1R)	Received on May 27, 1999	YES
2-24	Submit a certified copy of Specification Section 15160.	PMR UMCDF-99-005-CONS(1R)	Received on May 27, 1999	YES
2-25	Submit a certified copy of Specification Section 05500.	PMR UMCDF-99-007-CONS(1R)	Received on July 18, 1999	YES
2-26	Submit a certified copy of Specification Section 02556.	PMR UMCDF-99-008-CONS(1R)	Received on May 27, 1999	YES

Table 2. Requirements for Start of Surrogate Operations (from Department PMR Approval Conditions).

	REQUIREMENT	RELATED PERMIT MODIFICATION REQUEST (PMR) NO.	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
2-27	Submit a certified copy of Specification Section 02512	PMR UMCDF-99-013-CONS(1R)	Received on May 27, 1999	YES
2-28	Submit a certified copy of Specification Section 02511.	PMR UMCDF-99-014-CONS(1R)	Received on May 27, 1999	YES
2-29	Submit a certified copy of Specification Section 02210.	PMR UMCDF-99-015-CONS91R)	Received on May 27, 1999	YES
2-30	A signed final copy of the revised UMCDF Part A Permit Application must be submitted to the Department.	PMR UMCDF-99-021-WAP(2)	Received on January 7, 2000	YES
2-31	Submit a PMR to revise the UMCDF Laboratory Quality Control Plan (UM-PL-017).	PMR UMCDF-99-021-WAP(2)	Received PMR UMCDF-00-017-WAP(1R) on August 25, 2000	YES

Table 3. HW Permit Requirements Related to the Brine Reduction Area.				
	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
3-1	Submit a Certification of Construction for the Brine Storage Area (BRA) Tank System to the DEQ for acceptance.	I.R.1.	The BRA Tank System FCC package was accepted by the DEQ on February 22, 2002.	YES
3-2	Submit, and obtain DEQ acceptance of, a Certification of Construction for the Brine Reduction Area (BRA) Miscellaneous Treatment Units ("Subpart X" Units).	I.R.1.	The Facility Construction Certification (FCC) package for the BRA Miscellaneous Treatment Units was submitted on February 11, 2002. DEQ has not yet accepted this FCC package.	NO
3-3	Submit, and obtain DEQ acceptance of, a Certification of Construction for the BRA Pollution Abatement System (PAS).	I.R.1.	The FCC package for the BRA PAS was submitted on February 11, 2002. DEQ has not yet accepted this FCC package.	NO
3-4	Obtain and submit a written certification from an IQRPE attesting that proper installation procedures were used for the Brine Surge Tank System.	IV.C.4.	No Brine Surge Tank System installation certification has yet been submitted to DEQ.	NO
3-5	Obtain and submit a written certification from an IQRPE attesting that the Brine Surge Tank System has sufficient structural integrity and is suitable for handling the intended hazardous waste.	IV.C.6.	No Brine Surge Tank System structural integrity/suitability certification statement has yet been submitted to DEQ.	NO

Table 3. HW Permit Requirements Related to the Brine Reduction Area.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 3, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
3-6	Obtain and submit a written construction certification from an IQRPE attesting that proper installation procedures were used for the Brine Reduction Area (BRA) Drum Dryers.	V.A.3.iv	No BRA Drum Dryer installation certification has yet been submitted to DEQ.	NO
3-7	Obtain and submit a written construction certification from an IQRPE attesting that proper installation procedures were used for the BRA Evaporator Packages.	V.A.3.iv.	No BRA Evaporator Package installation certification has yet been submitted to DEQ.	NO
3-8	Obtain and submit a written certification from an IQRPE attesting that the BRA Drum Dryers have sufficient structural integrity and are suitable for handling the intended hazardous waste.	V.A.3.v.	No BRA Drum Dryer structural integrity/suitability certification statement has yet been submitted to DEQ.	NO
3-9	Obtain and submit a written certification from an IQRPE attesting that the BRA Evaporator Packages have sufficient structural integrity and are suitable for handling the intended hazardous waste.	V.A.3.v.	No BRA Evaporator Package structural integrity/suitability certification statement has yet been submitted to DEQ.	NO

Item E Handout, April 25, 2002, EQC Meeting Wayne Thomas

STATUS OF REQUIREMENTS APPLICABLE TO START OF SURROGATE OPERATIONS

April 23, 2002

**An update of "Appendix C" to the
"Compliance Assessment for Start of Surrogate Operations"
Umatilla Chemical Agent Disposal Facility**



**Oregon Department of Environmental Quality
Chemical Demilitarization Program
256 E. Hurlburt Ave.
Hermiston, Oregon 97838
(541) 567-8297**

(Prepared as an interim update to the Environmental Quality Commission)

STATUS OF REQUIREMENTS APPLICABLE TO START OF SURROGATE OPERATIONS

The tables below list each of the requirements that the Department has identified that must be met before the Umatilla Chemical Agent Disposal Facility (UMCDF) may commence surrogate operations. Requirements are listed not only for the start of surrogate operations in general, but also for the start of Liquid Incinerator #1, the first incinerator that will undergo testing with surrogate materials. Table 1 includes those requirements specifically called out in the UMCDF Hazardous Waste Storage and Treatment Permit ("HW Permit"). (Thirty-one of the 55 requirements listed in Table 1 have been completed.) Table 2 lists requirements that were imposed as conditions when the Department approved certain Permit Modification Requests. (Twenty-three of the 31 requirements listed in Table 2 have been completed.)

Table 3 lists requirements specific to the Brine Reduction Area and reflects commitments made by the UMCDF Permittees to the Department that each of the requirements listed would be met prior to the start of surrogate operations. It must be noted, however, that in accordance with the HW Permit, these requirements technically apply only to the commencement of operations of the Brine Reduction Area. UMCDF will not be considered out of compliance if the Brine Reduction Area is not operated during surrogate operations. Three of the nine requirements related to the Brine Reduction Area have been met.

Table 1. HW Permit Requirements for Start of Surrogate Operations.				
	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-1	Provide all necessary equipment to the Department for installation and maintenance of a remote computer monitoring station to provide unrestricted 24-hr access to key UMCDF operating and monitoring data.	I.N.I.v. and Attachment 6, Condition B.1	No equipment has yet been installed at the DEQ Chemical Demilitarization Program office in Hermiston, Oregon. (Permittees have informed the Department that their "target date" is May 17, 2002)	NO
1-2	Submit a certification of construction that has been signed by the Permittee and an IQRPE stating that the Container Handling Building (CHB) has been constructed in compliance with the HW Permit and applicable regulations.	I.R.1. and Attachment 6, Condition B.1	The CHB FCC package was accepted by DEQ on December 12, 2001.	YES
1-3	Submit, and obtain DEQ acceptance of, a Certification of Construction for the Agent Collection Tank System (ACS).	I.R.1. and Attachment 6, Condition B.1	The FCC package for the ACS was submitted on February 12, 2002 and accepted by the Department on April 19, 2002.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-4	Submit, and obtain DEQ acceptance of, a Certification of Construction for Liquid Incinerator #1 (LIC1).	I.R.1. and Attachment 6, Condition B.1	The FCC package for LIC1 was submitted on March 14, 2002. DEQ has not yet accepted this FCC package.	NO
1-5	Submit, and obtain DEQ acceptance of, a Certification of Construction for the Liquid Incinerator #1 (LIC1) Pollution Abatement System (PAS).	I.R.1. and Attachment 6, Condition B.1	The LIC1 PAS FCC package was submitted to the Department on April 15, 2002.	NO
1-6	Submit, and obtain DEQ acceptance of, a Certification of Construction for Munitions Demilitarization Building (MDB).	I.R.1. and Attachment 6, Condition B.1	The MDB FCC package has not yet been submitted to the Department. (Permittees have informed the Department that their target date is April 24, 2002)	NO
1-7	Submit, and obtain DEQ acceptance of, a Certification of Construction for the Munitions Demilitarization Building (MDB) Heating, Ventilation, and Cooling (HVC) system.	I.R.1. and Attachment 6, Condition B.1	The MDB HVC FCC package has not yet been submitted to the DEQ. (Permittees have informed the Department that their target date is April 26, 2002)	NO

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-8	Submit, and obtain DEQ acceptance of, a Certification of Construction for the Spent Decontamination Holding Tank System (SDS).	I.R.1. and Attachment 6, Condition B.1	The SDS FCC package was submitted to the Department on April 4, 2002.	NO
1-9	Provide required written narratives and updated as-built drawings identifying minor changes and deviations (with rationale) from approved designs or specifications.	II.A.2. and Attachment 6, Condition B.1	Written narratives and updated drawings have not yet been submitted to the DEQ.	NO
1-10	Submit a Class 2 Permit Modification Request identifying the standard operating procedures for handling, transporting, and treating munitions during inclement weather or adverse wind conditions.	II.A.3. and Attachment 6, Condition B.1	A Class 2 Permit Modification Request [UMCDF-97-003-MISC(2)] was approved by DEQ on November 24, 1998.	YES
1-11	Submit a copy of Umatilla Chemical Depot and UMCDF standard operating procedures related to operational limitations during adverse weather conditions.	II.A.3.i. and Attachment 6, Condition B.1	Operating procedures were submitted on November 28, 2001 and accepted by DEQ on January 28, 2002.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-12	Submit a Comprehensive Monitoring Program (CMP) Workplan to implement a program that will confirm results of the Pre-Trial-Burn Health and Ecological Risk Assessment.	II.A.4.i. and Attachment 6, Condition B.1	The CMP Workplan was approved on September 18, 1998.	YES
1-13	Submit a Permit Modification Request to implement the CMP Workplan.	II.A.4.ii. and Attachment 6, Condition B.1	A Class 2 Permit Modification Request [UMCDF-98-018-CMP(2)] was approved by DEQ on April 30, 1999.	YES
1-14	Initiate CMP baseline monitoring of environmental media in Zones 1, 2 and 3.	II.A.4.ii. and Attachment 6, Condition B.1	Baseline sampling and monitoring was initiated in April, 1999.	YES
1-15	Activate the Perimeter Monitoring Network (PMN) for CMP baseline air monitoring at least one calendar year prior to start of UMCDF thermal operations.	II.A.4.iii. and Attachment 6, Condition B.1	The PMN was activated on May 10, 2000.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-16	Submit quarterly Comprehensive Monitoring Program (CMP) Reports (within 90 days of completion of sampling event) and place a copy of each quarterly report in the Hermiston Public Library.	II.A.4.iv. and Attachment 6, Condition B.1	The most recent CMP Quarterly Report was received on January 10, 2002.	YES
1-17	Submit an annual CMP report that summarizes the sampling results from the previous four quarters and place a copy of the report in the Hermiston Public Library.	II.A.4.iv. and Attachment 6, Condition B.1	The most recent CMP Annual Report was received on May 16, 2001.	YES
1-18	Obtain Department approval of an update to the UMCDF Contingency Plan at least 90 days prior to the activation of the PMN for baseline air monitoring.	II.A.4.vi. and Attachment 6, Condition B.1	A Class 1 Permit Modification Request [UMCDF-99-022-CONT(1R)] was approved on September 10, 1999.	YES
1-19	Submit an updated Waste Analysis Plan as a Permit Modification to address agent purity/waste characterization database.	II.C.5. and Attachment 6, Condition B.1	A Class 1 Permit Modification Request [[UMCDF-98-003-WAP(1R)] was approved on April 23, 1998.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-20	Submit a written program that describes the independent oversight process for the demilitarization construction activities, health and safety operations, and chemical agent process/handling operations at the UMCDF site.	II.E.5. and Attachment 6, Condition B.1	DEQ accepted the UMCDF independent oversight program in June, 2000.	YES
1-21	Submit a Class 1 Permit Modification Request to modify the Training Plan to describe how UMCDF will develop and implement new training when instances of non-compliance (or potential) are identified.	II.F.2 and Attachment 6, Condition B.1	A Class 1 Permit Modification Request [UMCDF-99-010-MISC(1R)] was approved on August 27, 1999.	YES
1-22	Maintain the most current revision of the UMCD Chemical Accident/Incident Response and Assistance (CAIRA) Plan on file at the UMCD Emergency Operations Center (EOC) and provide a copy to the DEQ for review.	II.H.1.i. and Attachment 6, Condition B.1	A revised CAIRA Plan (Change 2) was submitted to the Department in October, 2001 and is still the current version in use.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-23	Submit semi-annual written progress reports on the status of the Chemical Stockpile Emergency Preparedness Program (CSEPP).	II.H.4 and Attachment 6, Condition B.1	The most recent CSEPP report was received January, 2002.	YES
1-24	Obtain written notification from the Governor of the State of Oregon that an adequate emergency response program is in place and fully operational [Chemical Stockpile Emergency Preparedness Program (CSEPP)]	II.H.4.i. and Attachment 6, Condition B.1	The Governor's Executive Review Panel continues to meet regularly. A recommendation to the Governor's office concerning CSEPP readiness will be made on May 14, 2002.	NO
1-25	Establish a "positive-pressurized" Emergency Operations Center (EOC) within 300 days of the effective date of the HW Permit.	II.H.5. and Attachment 6, Condition B.1	EOC pressurization was demonstrated on December 12, 1997 (DEQ observed) and accepted on January 11, 1998.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-26	Within 90 days of the effective date of the HW Permit, adequately staff the EOC 24 hours a day, 7 days a week.	II.H.5. and Attachment 6, Condition B.1	24-hour staffing was initiated on May 12, 1997 and accepted on October 21, 1997. DEQ performed an unannounced inspection to verify staffing on October 16, 1999.	YES
1-27	Submit an annual statement (by March 31 of each calendar year) certifying that a program is in place to reduce the volume and toxicity of hazardous waste generated during the preceding calendar year (i.e. Pollution Prevention Certification).	II.I.1.ii. and Attachment 6, Condition B.1	Last certification statement received March 19, 2002.	YES
1-28	Submit an annual report covering the activities of each permitted Hazardous Waste Management Unit for the preceding calendar year.	II.I.1.iii. and Attachment 6, Condition B.1	Last annual report received March 1, 2002.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-29	Submit an insurance policy compendium by February 12 of each year with a description of each applicable policy and the definition of "insured" for each policy. The compendium must include a signed statement attesting that the compendium represents liability coverage equal to, or in excess of, the amounts submitted to the EQC on July 11, 1997.	II.M. and Attachment 6, Condition B.1	The most recent insurance compendium and signed statement was submitted on January 28, 2002 and verified to be in compliance by DEQ	YES
1-30	Submit executive summaries of trial burn reports (for trial burns conducted after issuance of the UMCDF HW Permit) for all other Chemical Stockpile Disposal Program facilities within 60 days of issuing the report to the applicable state or federal regulatory agency.	II.N.1.i. and Attachment 6, Condition B.1	UMCDF has provided trial burn reports as required (from both the Johnston Atoll Chemical Agent Disposal System and the Tooele Chemical Agent Disposal Facility).	YES
1-31	Provide an annual inventory (by June 30 of each calendar year) of all Chemical Demilitarization Program Toxicity reports issued by the Army or its contractors pertaining to agents GB, VX and HD.	II.N.1.ii. and Attachment 6, Condition B.1	The most recent toxicity report index was provided on April 11, 2002.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-32	Submit a report and appropriate Permit Modification Request(s) for the installation and monitoring of secondary containment structures for the carbon filter systems on the Munitions Demilitarization Building (MDB), Laboratory, and Pollution Abatement Systems.	II.O.10. and Attachment 6, Condition B.1	A Class 1 Permit Modification Request [UMCDF-98-001-HVC(1R)] was approved on March 5, 1998. A Class 2 Permit Modification Request [UMCDF-98-009-HVC(2)] was approved on February 16, 1999.	YES
1-33	Modify the UMCDF HW Permit as necessary to demonstrate compliance with 40 CFR 264 Subpart BB ("Air Emission Standards for Equipment Leaks").	II.P.2.ii. and Attachment 6, Condition B.1	A Class 3 Permit Modification Request [UMCDF-00-022-MISC(3)] is under review by the DEQ and EPA.	NO
1-34	Modify the UMCDF HW Permit as necessary to demonstrate compliance with 40 CFR 264 Subpart CC ("Air Emission Standards for Tanks, Surface Impoundments, and Containers").	II.P.2.iv. and Attachment 6, Condition B.1	A Class 3 Permit Modification Request [UMCDF-00-022-MISC(3)] is under review by the DEQ and EPA.	NO

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-35	Obtain and submit a written certification from an IQRPE attesting that proper installation procedures were used for the Primary Containment Sumps.	IV.C.4 and Attachment 6, Condition B.1	No Primary Containment Sump installation certification has been submitted to DEQ.	NO
1-36	Obtain and submit a written certification from an Independent Qualified Registered Professional Engineer (IQRPE) attesting that proper installation procedures were used for the Agent Collection Tank System (ACS).	IV.C.4. and Attachment 6, Condition B.1	No ACS Tank System installation certification has been submitted to DEQ.	NO
1-37	Obtain and submit a written certification from an IQRPE attesting that proper installation procedures were used for the Spent Decontamination Holding Tank System (SDS).	IV.C.4. and Attachment 6, Condition B.1	No SDS Tank System installation certification has been submitted to DEQ.	NO
1-38	Obtain and submit a written certification from an IQRPE attesting that the Spent Decontamination Tank System has sufficient structural integrity and is suitable for handling the intended hazardous waste.	IV.C.5 and Attachment 6, Condition B.1	No SDS Tank System structural integrity/suitability certification statement has been submitted to DEQ.	NO

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-39	Obtain and submit a written certification from an IQRPE attesting that the Agent Collection Tank System has sufficient structural integrity and is suitable for handling the intended hazardous waste.	IV.C.5. and Attachment 6, Condition B.1	No ACS Tank System structural integrity/suitability certification statement has been submitted to DEQ.	NO
1-40	Obtain and submit a written certification from an IQRPE attesting that the Primary Containment System Sumps have sufficient structural integrity and are suitable for handling the intended hazardous waste.	IV.C.7. and Attachment 6, Condition B.1	No Primary Containment Sump System structural integrity/suitability certification statement has been submitted to DEQ.	NO
1-41	Submit documentation that demonstrates the surrogate material used for the liquid incinerator shakedown and trial burns is not "ignitable."	IV.N.1. and Attachment 6, Condition B.1	An information package was received from UMCDF on March 7, 2001 and approved by DEQ on August 31, 2001.	YES
1-42	Submit a quarterly report (within 30 days of the end of each calendar quarter) containing operating information for each incinerator (operating time, malfunctions, waste feed cut-offs, etc.).	VI.A.4.iii. and Attachment 6, Condition B.1	The most recent quarterly report was received April 9, 2002.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-43	Resubmit the Liquid Incinerator(s) surrogate trial burn plan(s) as a Permit Modification at least 180 days prior to the start date of shakedown period I (surrogate operations) for the Liquid Incinerators.	VI.A.5.ii. and Attachment 6, Condition B.1	A Class 2 Permit Modification Request [UMCDF-01-026-LIC(2)] was received on August 28, 2001 and is currently undergoing the review process.	YES
1-44	Resubmit the Deactivation Furnace System (DFS) surrogate trial burn plan as a Permit Modification at least 180 days prior to the start date of shakedown period I (surrogate operations) for the DFS.	VI.A.5.ii. and Attachment 6, Condition B.1	A Class 2 Permit Modification Request [UMCDF-01-027-DFS(2)] was received on October 16, 2001 and is currently undergoing the review process.	YES
1-45	Resubmit the Metal Parts Furnace (MPF) surrogate trial burn plan(s) as a Permit Modification at least 180 days prior to the start date of shakedown period I (surrogate operations) for the MPF.	VI.A.5.ii. and Attachment 6, Condition B.1	A Class 2 Permit Modification Request [UMCDF-01-030-MPF(2)] was received on December 4, 2001 and is currently undergoing the review process.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-46	Obtain DEQ approval of the Liquid Incinerator #1 Surrogate Trial Burn Plan.	VI.A.5.iii.d. and Attachment 6, Condition B.1	The Liquid Incinerator #1 Surrogate Trial Burn Plan was submitted to the Department on August 28, 2001 as a Class 2 Permit Modification Request [UMCDF-01-026-LIC(2)] and is currently undergoing the review process.	NO
1-47	Submit an engineering design and a work plan implementation schedule (or Permit Modification) to incorporate "staggered" Automatic Continuous Air Monitoring System (ACAMS) monitoring at the common stack for the LIC, MPF, and DFS.	VI.F.5.i. and Attachment 6, Condition B.1	A Class 1 Permit Modification Request [UMCDF-97-006-MON(1R)] was approved on May 4, 1999.	YES
1-48	Submit annual report (by February 1 of each year) summarizing quality control problems experienced with stack gas monitors, chemical agent ventilation system monitors, and ambient air chemical agent monitors during the previous calendar year.	VII.A.5.i. and Attachment 6, Condition B.1	The most recent annual report was received January 10, 2002.	YES

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-49	No less than 30 days, nor more than 90 days, prior to the beginning of the first Shakedown Period I (surrogate operations), notify the Department in writing that each of the UMCDF drawings and specifications in the Permit Application have been certified by a Professional Engineer within the preceding 12 months, or that a review of the specification(s) or drawing(s) determined that no update is needed	Attachment 6, Condition C.1.	No written notification has yet been received by the Department.	NO
1-50	Submit a Permit Modification Request to the Department to add secondary wastes expected to be generated by UMCDF operations to the list of permitted waste feed streams to the Liquid Incinerators.	Attachment 6, Condition C.2.	No Permit Modification Request (PMR) has been received by the Department related to adding secondary waste feed streams to the Liquid Incinerators. (On April 17 the Permittees informed the Department that this PMR is still draft and waiting for final P.E. Certified-design.	NO

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-51	Submit a Permit Modification Request to the Department to add secondary wastes expected to be generated by UMCDF operations to the list of permitted waste feed streams to the Deactivation Furnace System.	Attachment 6, Condition C.2.	No Permit Modification Request has been received by the Department related to adding secondary waste feed streams to the Deactivation Furnace System. (On April 17 the Permittees informed the Department that the engineering evaluation to support the PMR is not yet complete.)	NO
1-52	Submit a Permit Modification Request to the Department to add secondary wastes expected to be generated by UMCDF operations to the list of permitted waste feed streams to the Metal Parts Furnace.	Attachment 6, Condition C.2.	No Permit Modification Request has been received by the Department related to adding secondary waste feed streams to the Metal Parts Furnace. (On April 17 the Permittees informed the Department that the engineering evaluation to support the PMR is not yet complete. Target date for this PMR is May 21.)	NO

Table 1. HW Permit Requirements for Start of Surrogate Operations.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (As of April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
1-53	Submit a Permit Modification Request to the Department to modify the Metal Parts Furnace (design and permitted waste feed streams) as necessary to treat personal protective equipment and other halogenated and non-halogenated plastics	Attachment 6, Condition C.3.	No Permit Modification Request has been received by the Department related to adding secondary waste feed streams to, or modifying, the Metal Parts Furnace. (On April 17 the Permittees informed the Department that the engineering evaluation to support the PMR is not yet complete. Target date for this PMR is May 21.)	NO
1-54	The Permittee and the Department must reach agreement on the procedure to ensure that specified Department staff will have adequate 24-hour access, without undue delay, to the Department's on-site work spaces both outside the double-fence area of UMCDF, and within UMCDF.	Attachment 6, Condition C.4.	The Department and the Permittees continue to discuss the resolution of issues concerning access and security concerns. (The Department and the Permittees have initiated discussions regarding Department staff access.)	NO
1-55	Obtain written notification from the Department authorizing the start of surrogate shakedown operations.	Attachment 6, Condition C.5	Department review of compliance status is ongoing.	NO

Table 2. Requirements for Start of Surrogate Operations (from Department PMR Approval Conditions).

	REQUIREMENT	RELATED PERMIT MODIFICATION REQUEST (PMR) NO.	STATUS (April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
2-1	Submit a Permit Modification Request (PMR) with an updated and certified version of Specification Section 15987 "PAS Filter Units."	PMR UMCDF-00-015-CONS(1R)	PMR UMCDF-01-023-CONS(1R) was submitted on July 31, 2001.	YES
2-2	Submit a PMR incorporating a list of all Operations, Maintenance, and Laboratory procedures into the Part B Permit Application.	PMR UMCDF-01-010-CONT(2)	PMR UMCDF-02-004-MISC(1R) was submitted on February 5, 2002	YES
2-3	Submit a PMR updating and completing the list of Emergency Coordinators found in Section G-2, Table G-2-1, of the Contingency Plan.	PMR UMCDF-01-010-CONT(2)	No PMR to update the Contingency Plan has yet been submitted to the DEQ. (On April 17 the Permittees informed the Department that this PMR would be submitted by April 26, 2002.)	NO

Table 2. Requirements for Start of Surrogate Operations (from Department PMR Approval Conditions).

	REQUIREMENT	RELATED PERMIT MODIFICATION REQUEST (PMR) NO.	STATUS (April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
2-4	If Laboratory or MDB ventilation testing indicates that revisions to the Contingency Plan are necessary, the Permittees must submit a PMR and obtain approval for such revisions.	PMR UMCDF-01-010-CONT(2)	No PMR to revise the Contingency Plan has been submitted to the DEQ. (On April 17 the Permittees informed the Department that the lab testing was completed. The testing of the MDB ventilation system has not yet been scheduled.	NO
2-5	Submit a PMR incorporating a list of all Operations, Maintenance, and Laboratory procedures into the Part B Permit Application.	PMR UMCDF-01-015-INSP(2)	PMR UMCDF-02-004-MISC(1R) was submitted on February 5, 2002	YES
2-6	By May 6, 2002 submit a revised Standard Operating Procedure (SOP) UM-000-M-559 for Department review and subsequent inclusion in the HW Permit	PMR UMCDF-01-017-WAST(2)	Permittees have appealed this Condition imposed by the Department upon approval of PMR UMCDF-01-017-WAST(2). This requirement is currently on hold.	(On hold pending resolution of Permittee's appeal.)
2-7	Additional language must be added to the SOP and Laboratory Quality Control Plan (LQCP) regarding the quarterly verification checks of the Method Detection Limit.	PMR UMCDF-01-017-WAST(2)	Permittees have appealed this Condition imposed by the Department upon approval of PMR UMCDF-01-017-WAST(2). This requirement is currently on hold.	(On hold pending resolution of Permittee's appeal.)

Table 2. Requirements for Start of Surrogate Operations (from Department PMR Approval Conditions).				
	REQUIREMENT	RELATED PERMIT MODIFICATION REQUEST (PMR) NO.	STATUS (April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
2-8	Analytical results from "agent-free" verification testing must be reported as concentrations	PMR UMCDF-01-017-WAST(2)	Permittees have appealed this Condition imposed by the Department upon approval of PMR UMCDF-01-017-WAST(2). This requirement is currently on hold.	(On hold pending resolution of Permittee's appeal.)
2-9	By June 3, 2002, submit a PMR to address the sampling and management of the wood pallet/wood dunnage waste stream.	PMR UMCDF-01-017-WAST(2)	No Permit Modification Request has been received.	NO
2-10	Submit a Permit Modification Request incorporating a list of all Operations, Maintenance, and Laboratory procedures into the Part B Permit Application.	PMR UMCDF-01-019-MISC(1R)	PMR UMCDF-02-004-MISC(1R) was submitted on February 5, 2002	YES
2-11	Submit a revised certified Tank Assessment that removes references to the Dunnage Incinerator.	PMR UMCDF-01-022-MISC(1R)	This issue was resolved on December 7, 2001 to the Department's satisfaction.	YES

Table 2. Requirements for Start of Surrogate Operations (from Department PMR Approval Conditions).

	REQUIREMENT	RELATED PERMIT MODIFICATION REQUEST (PMR) NO.	STATUS (April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
2-12	Surrogate Trial Burn Plans must include items related to stack sampling locations and PFS bypass conditions that were included as part of the Response to Notice of Deficiency.	PMR UMCDF-97-005-PAS(2TA)	These issues are being addressed through the PMRs submitted for the Surrogate Trial Burn Plans for each of the incinerators. [PMRs UMCDF-01-026-LIC(2), UMCDF-01-027-DFS(2), and UMCDF-01-030-MPF(2)]	NO
2-13	Surrogate Trial Burn Plans should include information concerning total organic carbon sampling, Hexavalent Chrome sampling, and the use of separate sampling trains for semivolatiles and dioxins/PCBs.	PMR UMCDF-97-005-PAS(2TA)	These issues are being addressed through the PMRs submitted for the Surrogate Trial Burn Plans for each of the incinerators. [PMRs UMCDF-01-026-LIC(2), UMCDF-01-027-DFS(2), and UMCDF-01-030-MPF(2)]	NO
2-14	Submit revised Automatic Waste Feed Cut Off (AWFCO) tables.	PMR UMCDF-97-005-PAS(2TA)	Revised AWFCO tables were submitted on December 29, 1998.	YES
2-15	Update the permit instrument and process tables to accurately reflect the devices to be used for measuring and reporting moisture.	PMR UMCDF-97-005-PAS(2TA)	Revised tables were provided on December 17, 1998	YES
2-16	Submit a PMR to resolve outstanding issues on the RCRA Tank Assessment.	PMR UMCDF-97-005-PAS(2TA)	PMR UMCDF-99-006-MISC(1R) was submitted on February 15, 1999.	YES

Table 2. Requirements for Start of Surrogate Operations (from Department PMR Approval Conditions).

	REQUIREMENT	RELATED PERMIT MODIFICATION REQUEST (PMR) NO.	STATUS (April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
2-17	Submit a PMR to update Specification 13202.	PMR UMCDF-97-005-PAS(2TA)	PMR UMCDF-99-001-CONS(1R) was submitted on January 14, 1999	YES
2-18	Submit a certified copy of Specification Section 13201.	PMR UMCDF-98-017-CONS(1R)	Received on July 8, 1999.	YES
2-19	Submit and obtain approval of a PMR to address implementation of the new dual simplex strainer design revision.	PMR UMCDF-98-021-PAS(1R)	PMR UMCDF-01-025-PAS(1R) was Received on January 24, 2002	YES
2-20	Submit a certified copy of Specification Section 13202.	PMR UMCDF-99-001-CONS(1R)	Received on July 8, 1999.	YES
2-21	Provide certified copies of drawings affected by this PMR.	PMR UMCDF-99-002-BRA(2R)	Received on August 30, 1999	YES
2-22	Submit a certified copy of Specification Section 16641.	PMR UMCDF-99-003-CONS(1R)	Received on May 26, 1999	YES
2-23	Submit a certified copy of Specification Section 13215.	PMR UMCDF-99-004-CONS(1R)	Received on May 27, 1999	YES
2-24	Submit a certified copy of Specification Section 15160.	PMR UMCDF-99-005-CONS(1R)	Received on May 27, 1999	YES

Table 2. Requirements for Start of Surrogate Operations (from Department PMR Approval Conditions).

	REQUIREMENT	RELATED PERMIT MODIFICATION REQUEST (PMR) NO.	STATUS (April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
2-25	Submit a certified copy of Specification Section 05500.	PMR UMCDF-99-007-CONS(1R)	Received on July 18, 1999	YES
2-26	Submit a certified copy of Specification Section 02556.	PMR UMCDF-99-008-CONS(1R)	Received on May 27, 1999	YES
2-27	Submit a certified copy of Specification Section 02512	PMR UMCDF-99-013-CONS(1R)	Received on May 27, 1999	YES
2-28	Submit a certified copy of Specification Section 02511.	PMR UMCDF-99-014-CONS(1R)	Received on May 27, 1999	YES
2-29	Submit a certified copy of Specification Section 02210.	PMR UMCDF-99-015-CONS(1R)	Received on May 27, 1999	YES
2-30	A signed final copy of the revised UMCDF Part A Permit Application must be submitted to the Department.	PMR UMCDF-99-021-WAP(2)	Received on January 7, 2000	YES
2-31	Submit a PMR to revise the UMCDF Laboratory Quality Control Plan (UM-PL-017).	PMR UMCDF-99-021-WAP(2)	Received PMR UMCDF-00-017-WAP(1R) on August 25, 2000	YES

Table 3. HW Permit Requirements Related to the Brine Reduction Area.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
3-1	Submit a Certification of Construction for the Brine Storage Area (BRA) Tank System to the DEQ for acceptance.	I.R.1.	The BRA Tank System FCC package was accepted by the DEQ on February 22, 2002.	YES
3-2	Submit, and obtain DEQ acceptance of, a Certification of Construction for the Brine Reduction Area (BRA) Miscellaneous Treatment Units ("Subpart X" Units).	I.R.1.	The Facility Construction Certification (FCC) package for the BRA Miscellaneous Treatment Units was submitted on February 11, 2002 and accepted by the Department on April 19, 2002.	YES
3-3	Submit, and obtain DEQ acceptance of, a Certification of Construction for the BRA Pollution Abatement System (PAS).	I.R.1.	The FCC package for the BRA PAS was submitted on February 11, 2002 and accepted by the Department on April 19, 2002.	YES
3-4	Obtain and submit a written certification from an IQRPE attesting that proper installation procedures were used for the Brine Surge Tank System.	IV.C.4.	No Brine Surge Tank System installation certification has yet been submitted to DEQ.	NO

Table 3. HW Permit Requirements Related to the Brine Reduction Area.				
	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
3-5	Obtain and submit a written certification from an IQRPE attesting that the Brine Surge Tank System has sufficient structural integrity and is suitable for handling the intended hazardous waste.	IV.C.6.	No Brine Surge Tank System structural integrity/suitability certification statement has yet been submitted to DEQ.	NO
3-6	Obtain and submit a written construction certification from an IQRPE attesting that proper installation procedures were used for the Brine Reduction Area (BRA) Drum Dryers.	V.A.3.iv	No BRA Drum Dryer installation certification has yet been submitted to DEQ.	NO
3-7	Obtain and submit a written construction certification from an IQRPE attesting that proper installation procedures were used for the BRA Evaporator Packages.	V.A.3.iv.	No BRA Evaporator Package installation certification has yet been submitted to DEQ.	NO
3-8	Obtain and submit a written certification from an IQRPE attesting that the BRA Drum Dryers have sufficient structural integrity and are suitable for handling the intended hazardous waste.	V.A.3.v.	No BRA Drum Dryer structural integrity/suitability certification statement has yet been submitted to DEQ.	NO

Table 3. HW Permit Requirements Related to the Brine Reduction Area.

	REQUIREMENT	HW PERMIT CONDITION	STATUS (April 23, 2002)	IS REQUIREMENT COMPLETE AND/OR CURRENT?
3-9	Obtain and submit a written certification from an IQRPE attesting that the BRA Evaporator Packages have sufficient structural integrity and are suitable for handling the intended hazardous waste.	V.A.3.v.	No BRA Evaporator Package structural integrity/suitability certification statement has yet been submitted to DEQ.	NO

State of Oregon
Department of Environmental Quality

Memorandum

Date: April 6, 2002
To: Environmental Quality Commission
From: Stephanie Hallock, Director *S. Hallock*
Subject: Agenda Item F, Rule Adoption: Mercury Thermostat Labeling
April 25, 2002 EQC Meeting

Department Recommendation The Department recommends the Commission adopt proposed rules to require labeling of mercury-containing thermostats as presented in Attachment A.

Need for Rulemaking ORS 459.045 was amended in 2001 to require the Commission to adopt rules to carry out ORS 646.608(1)(y). ORS 646.608(1)(y) prohibits the sale of mercury-containing thermostats unless the thermostat is labeled to indicate that it contains mercury. Labels must also state that mercury-containing thermostats may not be disposed of until the mercury is removed, reused or otherwise managed to ensure it does not become part of the wastewater or solid waste stream.

Effect of Rule This rule will establish labeling standards for mercury-containing thermostats sold in the state of Oregon after July 1, 2002.

Commission Authority The Commission has authority to take this action under ORS 459.045.

Stakeholder Involvement The Department met with a workgroup comprised of a representative for the three major manufacturers of thermostats sold in the United States (National Electronics Manufacturers Association), a representative from Honeywell Corporation and a representative from the Oregon Environmental Council to discuss the proposed rules. DEQ consulted with representatives from the states of Vermont, Maine and Minnesota, which have similar labeling rules. DEQ also discussed the proposed rules with the DEQ Solid Waste Advisory Committee at the November 30, 2001, meeting. (Refer to Advisory Committee Membership and Report in Attachment C.)

Public Comment A public comment period extended from December 15, 2001, to January 22, 2002, and included a public hearing in Portland. Results of public input are provided in Attachment B. The two concerns raised during the comment period related to the implementation date of the statute and consistency with

other states' labeling requirements.

Key Issues

Key issues were:

- Consistency with other states. The proposed rule is consistent with the labeling requirements of other states. Two other states currently have thermostat labeling requirements. Vermont approves thermostat labeling language submitted by manufacturers on a case-by-case basis. Maine approves language approved in any other state with thermostat labeling requirements. Both states will accept DEQ's language.
- Statute implementation date. During the public comment period, a request was made to require labeling for all mercury-containing thermostats *manufactured* after July 1, 2002, as opposed to those sold in Oregon after that date, as stated in the statute. The Attorney General's office advised DEQ that we do not have the authority to change this statutory requirement.
- Enforcement. The Attorney General and county prosecuting attorneys will have primary responsibility for enforcing the mercury labeling rule because it relates to unlawful trade practices. The proposed rule incorporates comments from the Attorney General's office, which is aware of its enforcement responsibilities. The statute authorizes the Attorney General, county prosecuting attorneys, or injured private parties to bring civil actions to stop unlawful acts and recover damage.

Next Steps

The rule must be adopted and filed with the Secretary of State by July 1, 2002, to comply with the effective date of the law. DEQ Solid Waste Program staff will develop fact sheets and will notify mercury-containing thermostat manufacturers, distributors, and retailers of the rule requirements. DEQ staff will be informed of end-of-life mercury thermostat management options. Retailers may choose to address existing stock issues by affixing an adhesive label with the appropriate warnings on the thermostat and thermostat packaging for items that would otherwise have to be removed from the shelf. In some cases thermostats can be moved to other states without labeling laws. Announcements will be posted in the Oregon District Attorney Association newsletter to advise them of the rule adoption and their enforcement responsibilities. The Rule Implementation Plan is available upon request.

- Attachments**
- A. Proposed Rule Language
 - B. Public Input and Department's Response
 - C. Advisory Committee Membership and Report
 - D. Presiding Officer's Report on Public Hearings
 - E. Relationship to Federal Requirements
 - F. Fiscal and Economic Impact Statement
 - G. Land Use Evaluation Statement

- Available Upon Request**
- 1. Cover Memorandum from Public Notice
 - 2. Rule Implementation Plan

Approved:

Section:

Mary Sue Gilliland

Division:

Shel A Monroe for DAVE ROZELL

Report Prepared By: Maggie Conley
Phone (503)229-5106

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
For
Mercury Thermostat Labeling

Rule Language

OAR 340-090-0510

Mercury Thermostat Labeling

The following administrative rule establishes standards for the labeling of mercury-containing thermostats as required by ORS 459.045(3)(b) relating to the implementation of ORS 646.608(1)(y). The purpose of this rule is to provide sufficient information to purchasers of thermostats to ensure that the mercury contained in the thermostats does not become part of the solid waste stream or wastewater.

- (1) As used in this rule, “thermostat” and “mercury-containing thermostat” mean a device commonly used to sense and, through electrical communication with heating, cooling, or ventilation equipment, control room temperature.
- (2) All mercury-containing thermostats sold in Oregon must meet the following labeling requirements:
 - (a) The mercury-containing thermostat must have a label that contains the following information:
 - (A) The wording “Contains Mercury. Manage Properly”
 - (B) An icon containing the symbol of a person dropping an object into a trashcan with a circle and slash overprinted on the image, indicating “Do not dispose in trash”.
 - (b) The label must be affixed to the product so that the label is clearly visible and legible. The font size for print on the label must be no smaller than 10 point.
 - (c) The label affixed to the product must be printed, mounted, molded, engraved or otherwise affixed, using materials that are sufficiently durable to remain legible for the useful life of the product.
 - (d) If the product is sold in packaging that obscures the label on the product, then the packaging also must have a label meeting the same standards as the product label. If, prior to the sale, a retailer re-packages the product, then the retailer must label the new packaging in accordance with this rule.
- (3) Failure to meet the provisions of this rule may result in enforcement under the provisions of the Unlawful Trade Practices Act, ORS 646.605 to 625.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
For
Mercury Thermostat Labeling

Public Input and Department's Response

This attachment summarizes public comment received on the Department's Mercury Thermostat Labeling Rules and the subsequent Department's response.

1. Consistency with other state's labeling requirements

Comment: From National Electronics Manufacturers Association (NEMA) They would like to ensure that the labeling requirements proposed by Oregon are acceptable in other states that have labeling requirements, such as Vermont. They would like to see written approval from Vermont of Oregon's requirement in order to ensure that Oregon's requirements are not inconsistent with Vermont's.

Response: DEQ has received e-mails from Vermont indicating that Oregon's labeling requirements would meet with approval in Vermont. A formal letter regarding this matter has been requested from Vermont.

2. Concern with the effective date of the labeling requirements

Comment: From National Electronics Manufacturers Association (NEMA) Change the labeling requirements to apply to mercury-containing thermostats manufactured rather than sold after July 1, 2002.

Response: DEQ asked the Attorney General's office about this issue. The statute clearly states that as of July 1, 2002 mercury-containing thermostats cannot be sold unless they are labeled in accordance with statutory requirements. It is, therefore, not possible to adopt rules which change the requirement to apply to thermostats manufactured after July 1, 2002 since this is inconsistent with the statute.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Mercury Thermostat Labeling
Advisory Committee Membership and Report

A committee of interested parties and stakeholders met with Department management and staff in October 2001 to discuss the labeling requirements for mercury-containing thermostats. The workgroup was comprised six members representing thermostat manufacturers, the thermostat manufacturer's trade association, and environmental advocates. Department solid waste program staff was also involved in the development of the labeling rules. The three main issues discussed at the meeting included the content of the label language, the size of the font for the label and the label location.

DEQ asked that the language on the label read "Contains Mercury. Manage properly" and that the accompanying symbol be a person throwing objects into a trashcan that has a circle with a slash over the image. The stakeholders representing thermostat manufacturers and the thermostat manufacturer's trade association agreed that the labeling was acceptable as long as Vermont approved it. (Vermont has subsequently provided a notice of approval to the Department.) The advisory committee also approved the 10-point font size for the language on the label and agreed to the location of the label on the thermostat and thermostat packaging.

Mercury-containing Thermostat Labeling Workgroup

Brian Boe, Honeywell Corporation

Ric Erdheim, NEMA (representing GE Corporation, Honeywell Corporation, White-Rodgers Corporation and other thermostat manufacturers in America)

Laura Weiss, Oregon Environmental Council

Chris Taylor, DEQ Solid Waste Manager

Bob Danko, DEQ Senior Analyst

Maggie Conley, DEQ Staff

The mercury thermostat labeling rule package was also reviewed by the DEQ Solid Waste Advisory Committee at its November 30, 2001 meeting. The rule language met with the approval of SWAC.

**State of Oregon
Department of Environmental Quality**

Memorandum

Date: January 22, 2002

To: Environmental Quality Commission

From: Jan Whitworth, Presiding Officer

Subject: Presiding Officer's Report for Rulemaking Hearing
Hearing Date and Time: January 22, 2002 1:30PM
Hearing Location: Dept. of Environmental Quality Room 10, 811 SW Sixth
Avenue, Portland, Oregon
Title of Proposal: Mercury Thermostat Labeling Requirements

The rulemaking hearing on the above titled proposal was convened at 1:30 PM on January 22, 2001. The hearing was closed at 2:00 PM. No one attended the hearing.

The following report provides a listing of written comments received. The Department's response to each comment will be summarized in the Department's Evaluation of Public Comment, which is attached to the Agenda Item presented to the Commission.

Written comments received in response to the Department's Public Hearing on Mercury Thermostate Labeling:

1. Comments dated January 18, 2002 received from Ric Erdheim, Senior Manager for National Electrical Manufacturers Association (NEMA).
 - Would like national consistency in labeling. Manufacturers have already received approval for a specific label from the State of Vermont. Would like Oregon to accept the Vermont label.
 - Full implementation of the labeling requirements by July 1, 2002 will be an unnecessary burden on manufacturers. Of particular concern is the ability to label existing inventory. Commenter requests that rule require new labeling on products manufactured after the July 1, 2002 implementation date. Vermont has taken this approach.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking proposal
For
Mercury Thermostat Labeling

**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 requirements for mercury thermostat labeling.

- 2. Are the applicable federal requirements performance based, technology based, or both with the most stringent controlling?**

Not applicable – no federal requirements

- 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?**

The absence of any federal requirements for mercury thermostat labeling is of concern in Oregon. It was the finding of the 71st Oregon Legislative Assembly that mercury is a potent neurotoxin that can cause long-lasting health problems. Therefore, in order to reduce the amount of mercury entering the environment from the solid waste stream, the Oregon Legislature passed a law requiring manufacturers of mercury-containing thermostats to label those thermostats in a manner to inform the purchaser that mercury is present in the thermostat and that the thermostat may not be disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the mercury does not become part of the solid waste stream or wastewater.

- 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?**

By requiring manufacturers to identify mercury-containing thermostats on the label, the rule is expected to reduce municipal waste management costs by making it easier to identify thermostats containing mercury so they can be separated from the waste stream.

5. Is there a timing issue which might justify changing the time frame for implementation of federal requirements?

Not applicable – no federal requirements

6. Will the proposed requirement assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth?

Not applicable -- no federal requirements

7. Does the proposed requirement establish or maintain reasonable equity in the requirements for various sources? (level the playing field)

Similar laws or requirements already exist in the states of Vermont and Maine. The language adopted by Oregon in this requirement is consistent with the language adopted by these other states.

8. Would others face increased costs if a more stringent rule is not enacted?

It is expected that enactment of the requirement could reduce municipal waste management costs by facilitating separation of mercury thermostats from the waste stream and increasing consumer demand for mercury-free thermostats.

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?

Since there are no federal requirements for labeling mercury-containing thermostats, the proposed requirement does include procedural requirements that are different from federal requirements. By requiring manufacturers to identify mercury-containing thermostats on the label, the requirement is expected to reduce municipal waste management costs by making it easier to identify thermostats containing mercury so they can be separated from the waste stream.

10. Is demonstrated technology available to comply with the proposed requirement?

Labeling technology is available to comply with the proposed requirement.

11. Will the proposed requirement contribute to the prevention of pollution or address a potential problem and represent a more cost effective environmental gain?

It is believed that the proposed requirement will contribute to the prevention of pollution and reduce waste management costs by facilitating the removal of mercury-containing thermostats from the solid waste stream. Informative labeling may also cause consumers to choose to purchase alternative thermostats that do not contain mercury and thus lessen their potential for exposure to accidental mercury releases.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Mercury Thermostat Labeling

Fiscal and Economic Impact Statement

Introduction

The proposed rule requires all mercury-containing thermostats to be labeled to ensure that the mercury contained in the thermostats does not become part of the solid waste stream or wastewater.

This rule shifts some mercury pollution prevention costs from municipalities to manufacturers of mercury thermostats. By requiring manufacturers to identify mercury-containing thermostats on the label, the rule is expected to reduce municipal waste management costs by making it easier to identify thermostats containing mercury so they can be separated from the waste stream. The Department does not believe that this cost shift to manufacturers will have a significant fiscal or economic impact on the manufacturers. Due to similar laws in Vermont and Maine, thermostat manufacturers are already required to label their mercury thermostats and most of the cost of retooling for labeling has already been realized. The language that DEQ has chosen "Contains mercury. Manage properly" with a symbol of a person throwing objects into a trashcan that has a circle with a slash over the images is acceptable to Vermont and Maine. Therefore, the manufacturers are not required to label mercury thermostats with language that is unique to Oregon.

General Public

Individuals who use mercury thermostats will benefit from product labeling because they will be able to more safely handle and source separate their mercury thermostats from their solid waste. However, access to this information about the thermostat may come with a minor increase in product cost due to the required changes in product labels. The department does not believe that this will be a significant cost shift and will amount to less than \$.50 per thermostat based on 1% - 2% of cost of manufacturing. The consumers may also choose to purchase alternative thermostats that do not contain mercury and thus lessen their potential for exposure to accidental mercury releases.

Small Business

Distributors of mercury thermostats are comprised of a mix of small in-state and out-of-state businesses. The cost these firms incur will depend largely on thermostat manufacturers' marketing strategies, but may be passed on to the retailers. The Department does not believe that this will result in a significant addition to the thermostat cost. The proposed rule considers small business in Oregon by placing the responsibility for thermostat labeling on the manufacturers. These firms are almost exclusively large corporations.

Retailers and distributors of mercury thermostats will likely incur some one-time costs associated with removing mercury thermostats without required labeling out of their inventories as of July 1, 2002. The cost of removing thermostats without required labeling could be significant. The Department has asked the National Electronics Manufacturing Association (NEMA) to estimate this cost. However, their cost estimates are not currently available. The Department estimates the cost of removing non-labeled thermostats from the shelves as of July 1, 2002 could be in the range of \$0 to \$225,000 for all retailers and distributors in the state. The Department believes that the cost estimate referenced above will probably be at the lower end of the range if retailers and distributors are able to affix an adhesive label with the appropriate warnings to the thermostat and thermostat packaging for items that would otherwise have to be removed from the shelf or if those thermostats can be moved to other states without labeling laws.

Large Business

The large businesses affected by this rule are the manufacturers of the mercury thermostats. The Department does not believe that they will incur significant costs associated with labeling their thermostats because they are already required to label their thermostats as a result of laws in Vermont and Maine and have already had to modify their production lines. There may be a slight added expense to be incurred by the manufacturers to accommodate the minor language change required by the Department. The Department has asked NEMA to estimate what that cost might be.

Local Governments

This rule would have the same impact on local governments that purchase mercury thermostats as it does on the general public. On the other hand, the rule could reduce municipal waste management costs if, as expected, it facilitates separation of mercury thermostats from the waste stream and increases consumer demand for mercury-free thermostats.

State Agencies

- DEQ The Department will not have to devote significant increased efforts to implement this rule. The Solid Waste Program will develop fact sheets that will answer potential inquiries into

proper end-of-life management practices for mercury thermostats. In addition, they will notify thermostat manufacturers, distributors and retailers of the rule requirements.

- FTE's The above Department actions will be absorbed without additional staff requirements.
- Revenues There will be no impact to Department revenues.
- Expenses There will be minimal impact to Department expenses. Mailing costs and the cost of purchasing addresses for notification of thermostat manufacturers, distributors and retailers are estimated to be \$2,000 - \$3,000.

- Other Agencies The enforcement of the proposed rules will be administered by the Attorney General and local district attorneys. This could result in significant fiscal impact to these agencies. Other agencies may be affected only to the extent that they are purchasers of mercury thermostats.

Assumptions

- Increased manufacturing costs associated with retooling production lines, should not exceed \$.25 to \$.50 per unit.
- Increased costs associated with removing unlabeled mercury-containing thermostats from wholesale/retail inventories as of July 1, 2002 is based on inventories of 10 units per distributor/retailer valued at \$35 per unit.
- Approximately 650 thermostat distributors and retailers sell mercury-containing thermostats in Oregon.
- The costs associated with the one-time removal of unlabeled thermostats may be avoidable.
- Mercury-containing thermostats represent just 15% of a thermostat distributor's business.

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
Mercury Thermostat Labeling

Land Use Evaluation Statement

1. **Explain the purpose of the proposed rules.** ORS 459.045 was amended by the 2001 Oregon Legislature to require the EQC to adopt rules to carry out ORS 646.608(1)(y). ORS 646.608(1)(y) prohibits the sale of mercury-containing thermostats unless the thermostat is labeled to identify that mercury is present in the thermostat and that the thermostat may not be disposed of until the mercury is removed, reused, or otherwise managed to ensure that the mercury does not become part of the wastewater or solid waste stream. The purpose of this rule is to establish the labeling requirements for mercury-containing thermostats.
2. **Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?**

Yes ___ No **XX**

a. **If yes, identify existing program/rule/activity:**

b. **If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?**

Yes ___ No ___ (if no, explain):

c. **If no, apply the following criteria to the proposed rules.**

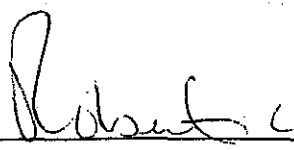
In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.

Mercury-containing thermostat labeling is not considered a program or activity that affects land use in Oregon. Therefore, the proposed rule adoption is not considered to affect land use.

1. They are not specifically referenced in statewide planning goals, and
2. They do not 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.

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.

Land Quality
Division


Intergovernmental Coord.

12-07-01
Date

State of Oregon
Department of Environmental Quality

Memorandum

Date: April 8, 2002
To: Environmental Quality Commission
From: Stephanie Hallock, Director *S. Hallock*
Subject: Agenda Item G, Rule Adoption: Amendments to the Oregon Visibility Protection Plan. April 25, 2002 EQC Meeting

Department Recommendation The Department recommends the Commission adopt the proposed amendments to the Oregon Visibility Protection Plan, presented in Attachment A-1, as a revision to the State Implementation Plan (SIP).

Need for Rulemaking These proposed amendments are needed to make improvements to the Oregon Visibility Protection Plan, and are the result of a required review conducted by the Department. Overall, the Department found the Plan has been effective in protecting visibility. The amendments were proposed after consultation with the Oregon Visibility Advisory Committee (see Attachment B, page 8, for membership).

The Committee provided the Department with ten recommendations, seven of which are proposed as plan amendments. The remaining three involve separate actions not requiring rulemaking.

Effect of Rule The proposed amendments consist of revisions to the visibility strategies in the Oregon Visibility Protection Plan. The EQC adopted the plan in 1986 to protect visibility in Oregon's scenic "Class I" areas. These areas are Crater Lake National Park and 11 wilderness areas: Mt. Hood, Mt. Jefferson, Mt. Washington, Three Sisters, Diamond Peak, Mountain Lakes, Gearheart Mountain, Kalmiopsis, Strawberry Mountain, Eagle Cap and Hells Canyon. Oregon's twelve Class I areas are part of 156 areas in the country designated by Congress as "areas of great scenic importance," where special visibility protection is needed.

The proposed amendments mostly reflect work the Department intends to conduct over the next three years. How much of this work can be accomplished will depend on obtaining outside funding (see amendment #1 below) and the ability of Department staff to accommodate additional workload (see amendments #2 through #4).

Seven Committee recommendations proposed as plan amendments:

1. Expand the current visibility monitoring network.

Since the early 1980's, the Department has conducted visibility monitoring near three Class I areas in the Oregon Cascade Mountain Range: the Mt. Hood Wilderness Area, Crater Lake National Park, and the Mt. Washington Wilderness Area. These monitors (nephelometers) measure particulate matter in the air on a "real-time" basis (as it occurs), which helps identify short-term smoke impacts from sources such as forestry and agricultural burning, to determine visibility impacts and trends. The Visibility Advisory Committee identified expansion of this monitoring network as a high priority. In the past, expansion has been hindered by lack of funding and resources. The Department intends to seek funding from EPA and other sources to expand the network. (See Attachment A-1, section 5.6, page 10.)

2. Improve smoke management coordination between agricultural open burning and forestry burning programs.

Four smoke management programs currently operating in Oregon help protect visibility in nearby Class I areas during the summer months. These programs control open field burning of grass straw residue in different parts of the state, and forestry burning in most of Oregon. The Oregon Department of Forestry, Oregon Department of Agriculture, and two counties operate these programs. The Committee recommended improving coordination of these programs to avoid cumulative visibility impacts in Oregon Class I areas. The Department will contact each program manager, in addition to managers of similar programs in Washington, Idaho, and Northern California, to determine if improvements in the daily coordination of burning can provide greater visibility protection. Much of this work is already part of current staff duties. (See Attachment A-1, section 5.8.1.1, page 13.)

3. Increase the use of non-burning alternatives in agricultural open burning and forestry burning programs.

Major reductions in Willamette Valley open field burning have taken place in the last ten years as the result of a legislatively mandated reduction in acres burned. This has resulted in significant visibility benefits and increases in the use of non-burning alternatives, such as straw marketing and less-than-annual burning. In other areas of the state, there remains the potential for increasing

the use of non-burning alternatives for agricultural and forestry burning. Major increases in forestry burning are being planned in the national forests in Central and Eastern Oregon, which may lead to increased visibility impacts. The Department will work with federal land managers to evaluate the potential for increasing the use of alternatives in these parts of the state. In addition, the Department is working with the Western Regional Air Partnership on non-burning alternative projects for agricultural and forestry burning related to the new federal Regional Haze Rule, and the results from these projects could have significant visibility benefits for Oregon Class I areas. (Use of alternatives is described in Attachment A-1, sections 5.8.2.3 and 5.8.2.4, pages 21 and 22.)

4. Improve fire emission inventory and tracking of burning.

Smoke management program managers in Oregon track their own burning and prepare annual reports that are submitted to the Department. Burning information is collected and submitted to the Department in various formats, however. The Committee recommended the Department develop a coordinated approach to obtaining accurate emissions data from these programs so that annual emission trends can be effectively tracked and evaluated, and then provided to the Committee when conducting the periodic plan review. The Department will contact each program in the state (as part of #2 above) to determine if these improvements can be made. In addition, the Department will survey other areas of the state where significant burning occurs and develop new ways to track these emissions where possible. The additional workload associated with this effort is not expected to be significant. (See Attachment A-1, section 5.7.2, page 12.)

5. Change the required periodic plan review from five to three years.

The Oregon Visibility Plan requires a periodic review and assessment of the effectiveness of the visibility strategies. The timing of this periodic review has been every five years, based on the need for several years of monitoring to identify significant visibility trends. Federal visibility rules 40 CFR 51.306, however, require these periodic reviews every three years. The Department is making this change to comply with federal rules, which will require more frequent data analysis, report and meeting preparation, presentations, and other work associated with plan review. This is expected to have a significant but short-term periodic impact on staff workload. (See Attachment A-1, section 5.7.2, page 11.)

6. Remove the summer prohibition on forestry burning in Northwest Oregon on a trial basis.

Prior to adoption of the Visibility Plan in 1986, forestry burning in Northwest Oregon during the summer months impaired visibility in several Cascade Class I areas. The Plan prohibited burning between July 1 and September 15, with certain exemptions. One exemption allowed burning on days when "natural" visibility impairment exists (i.e., clouds, fog and precipitation). Another allowed for a "hardship" exemption at the beginning of the summer if poor weather conditions and other factors significantly hindered burning in the spring.

Over the last fifteen years, most forestry burning has been intentionally shifted to spring and fall months. The remaining burning has decreased significantly due to an overall decline in timber harvesting in Western Oregon. In reviewing the forestry burning strategies in the Plan, the Committee could no longer see any advantages to the summer prohibition and exemptions for forestry burning in Northwest Oregon. The Committee recommended removing these provisions and relying primarily on the Oregon Department of Forestry Smoke Management Program to protect summer visibility. (See Attachment A-1, section 5.8.1.5, page 15.)

To ensure visibility protection, the Committee proposed making this change on a trial basis, and requested the Department report back at the next periodic review on the effectiveness of the smoke management program in protecting these areas. The Department proposes to amend the Plan accordingly. Over the next three years, the Department will track summer visibility conditions in Cascade Class I areas, and report back to the Committee at the next required plan review.

7. Establish annual Visibility Advisory Committee meetings.

Under the Visibility Plan, the Committee is required to convene only for the periodic plan review. In order to keep better informed of visibility trends and conditions, the Committee recommended holding an annual meeting, in addition to the periodic review meetings. This annual meeting, like all Visibility Advisory Committee meetings, will be open to the general public. (See Attachment A-1, section 5.7.1, page 11.)

Numerous miscellaneous changes proposed by the Department:

In addition, the Department proposes a number of non-substantive changes to update and clarify the Plan. These proposed changes include: (1) more background information on visibility and Oregon Class I areas; (2) expanding the definitions section in the Plan; (3) greater description of key visibility strategies; (4) adding clarifying language where appropriate; and (5) reformatting and rearranging sections where appropriate.

Three Committee recommendations not proposed as Plan amendments:

1. Evaluate changing to year-round visibility protection for open burning.

Currently under the Visibility Plan, the strategies for forestry and open field burning only focus on protecting visibility during the summer months (July 1 to September 15), when approximately 85 percent of the visitation occurs in Oregon Class I areas. The Committee recommended the Department evaluate areas of the state where forest, rangeland, residential, or any other burning activity may be causing year-round visibility impairment in Class I areas. Two committee members did not support this recommendation, believing this was not needed. The Department will conduct this evaluation over the next three years and submit a report to the Committee at the next scheduled plan review.

2. Accelerate Regional Haze Rule implementation where possible.

EPA's "Regional Haze" rules, adopted in 1999, address visibility impairment from multiple sources located over wide geographic areas (e.g., motor vehicles, road dust, woodstoves, and all sources of outdoor burning). The Committee encouraged the Department to take steps to accelerate the implementation of the Regional Haze rule in Oregon where possible, beginning with an evaluation of regional haze sources. The Department noted that budget constraints and timelines for working with other states may prohibit accelerating this process. The evaluation of sources contributing to regional haze is already occurring, however, through work being conducted by the Western Regional Air Partnership (WRAP), an organization of states and tribes in the West working on implementation and coordination of the rule. The Department is participating in this effort, which is expected to provide essential information on strategies to address regional haze in Oregon in upcoming years.

3. Expand the counting period for "daylight hour" impacts.

Since visibility monitoring in Class I areas began in the early 1980's, the Department has counted only impacts that occur during the day between 9 a.m. and 9 p.m.. This emphasis on daylight hours corresponds to the viewing experience of the visitor. The Committee recommended changing the daylight counting hours to 6 a.m. to 9 p.m., and the Department agrees. Since this counting period was not referenced in the original Visibility Plan, this change is not proposed as a plan amendment.

Commission Authority	The Commission has authority to adopt these proposed amendments under ORS 468.015, 468.020, 468.035, and 468A.035.
Stakeholder Involvement	The Department relied upon recommendations from the Oregon Visibility Advisory Committee, which met from June 2000 to June 2001. Members of the committee include state and federal land managers, environmental organizations, agricultural and industrial interests groups, and the public-at-large (see Attachment B, page 8).
Public Comment	The public comment period for this proposal was from December 16, 2001, through January 30, 2002. Public hearings took place in Bend on January 24, and Portland, Medford, and La Grande on January 25. A total of thirteen persons attended the hearings, but no oral testimony was provided. The Department received six written comments prior to the comment deadline. A copy of these comments and the Presiding Officer's Report on Public Hearings are provided in Attachment C. A summary of the Department's response to comments is provided in Attachment D.

There were no adverse comments on the proposed amendments. General support was expressed in the six comments. Four were from management agencies represented on the Visibility Advisory Committee, and two were from the general public.

The two comments from the general public were from residents in Central Oregon who expressed concern about air quality and visibility impacts from a new power plant being proposed near Madras (Cogentrix Grizzly Power Plant). The Department's New Source Review (NSR) rules protect visibility in Class I areas from new major sources that locate in Oregon. These rules will deny an air quality permit if a significant visibility impact is projected in any Oregon Class I area. No changes were proposed to the NSR rules as part of these Plan

amendments. In regards to the Cogentrix application, the Department is currently reviewing this application under its NSR rules to ensure this proposed facility complies with the visibility protection provisions.

No changes were made to the seven proposed amendments summarized above. The Department did make some minor corrections and clarifications related to the comments on other parts of the Visibility Plan. Attachment A-2 highlights these changes. These are considered non-substantive changes.

Next Steps This proposal will be filed with the Secretary of State and submitted to EPA as a SIP amendment as soon as possible after adoption by the Commission. The Rule Implementation Plan is available upon request for more information.

Attachments

- A. Proposed Rule Revisions
 - 1. Redline/strikeout version of proposed amendments
 - 2. "Clean" version of proposed amendments with revisions incorporated, and changes in response to public comments highlighted.
- B. Advisory Committee Recommendations and Membership
- C. Presiding Officer's Report on Public Hearings
- D. Department's Response to Comments
- E. Relationship to Federal Requirements
- F. Fiscal and Economic Impact Statement
- G. Land Use Evaluation Statement

Available Upon Request

- 1. Visibility Plan Reasonable Progress Report to EPA
- 2. Legal Notice of Hearing
- 3. Cover Memorandum from Public Notice
- 4. Written Comments Received
- 5. Implementation Plan for Proposed Amendments

Approved:

Section:

Brian Finneran for Annette Liebe

Division:

Patricia Kern for Andy Ginsburg

Report Prepared by: Brian Finneran
Phone: (503) 229-6278

Attachment A-1

Redline/Strikeout Version of all changes to Plan

VISIBILITY PROTECTION PLAN FOR CLASS I AREAS (OAR ~~340-200-0040~~ ~~340-20-047~~, Section 5.2)

5.2 What Is Visibility?

5.3 Introduction

5.3.1 Definitions

5.4 Mandatory Class I Areas

5.4.1 Areas Redesignated to Class I

5.5 History of Visibility Impairment in Oregon Class I Areas

~~5.2 Visibility Protection for Class I Areas~~

~~5.2.1 Definitions~~

~~5.2.2 Introduction~~

~~5.2.2.1 Assessment of Visibility Impairment~~

5.6 Visibility Monitoring Network

5.7 Procedures For Review, Coordination and Consultation

5.7.1 Annual Visibility Advisory Committee Meetings

5.7.2 Periodic Plan Review and Assessment

5.7.3 Other Meetings

~~5.2.3 Visibility Monitoring~~

~~5.2.4 Procedures For Review, Coordination and Consultation~~

~~5.2.4.1 Annual Meetings~~

~~5.2.4.2 Strategy and Reasonable Further Progress Review~~

~~5.2.4.3 Other Meetings~~

5.8 Control Strategies

5.8.1 Short-Term Strategy

5.8.1.1 Overview

5.8.1.2 Willamette Valley Open Field Burning

Reduction in Acreage Allowed to be Burned

Restrictions on Weekend Burning

Encourage Early Season Burning (July)

Smoke Management Improvement

Improve Burning Methods

5.8.1.3 Jefferson County Open Field Burning

5.8.1.4 Union County Open Field Burning

5.8.1.5 Prescribed Burning

Smoke Sensitive Areas

Encourage Spring and Fall Burning
Naturally-ignited Prescribed Fire

5.8.2 Long-Term Strategy

5.8.2.1 Overview

5.8.2.2 New Source Review Visibility Protection

5.8.2.3 Willamette Valley Open Field Burning

5.8.2.4 Prescribed Burning

5.8.2.5 Emission Reductions Due to On-Going Control Programs

5.8.2.6 Maintenance of Control Equipment

5.9 Protection of Integral Vistas

5.10 Best Available Retrofit Technology

5.11 Interstate Visibility Protection

~~**5.2.5 Control Strategies**~~

~~5.2.5.1 Strategy Elements as Related To The National Goal~~

~~5.2.5.1 (A) Short Term Strategy for Visibility Protection~~

~~-Strategy Overview Willamette Valley Field Burning~~

~~-Jefferson & Union County Field Burning~~

~~-Exemptions to Restrictions~~

~~----- Prescribed Burning~~

~~----- Exemptions to Prohibition~~

~~----- Prescribed Burning Emergency Clauses 5.2.5.1~~

~~----- (B) Long Term Strategy for Visibility Protection~~

~~-Strategy Overview~~

~~-Field Burning Element~~

~~-Prescribed Burning Element~~

~~5.2.5.2 Protection of Integral Vistas~~

~~5.2.5.3 Best Available Retrofit Technology~~

~~5.2.5.4 New Source Review & Prevention of Significant Deterioration~~

~~5.2.5.5 Maintenance of Control Equipment~~

~~5.2.5.6 Interstate Visibility Protection~~

~~5.2.5.6 (A) Field Burning Element~~

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~~5.2.5.7 Emission Reductions Due To On-Going Control Programs~~

Tables

~~1. Wilderness and National Park Lands Protected Under the Plan~~

~~2. Field Burning Long Term Strategy~~

~~3. Prescribed Burning Long Term Strategy~~

Appendices

A. Oregon Department of Agriculture Field Burning Rules (OAR 603-077) Smoke Management Plan

B. Prescribed Burning Smoke Management Directive 1-4-1-601 Plan

C. New Source Review Rules (OAR 340 Division 224)

D. Jefferson County Ordinance

E. Union County Ordinance

(Note: Appendices A through E are available upon request)

5.2 What is "Visibility"?

Although the term "visibility" has a simple meaning, it is a difficult phenomenon to measure in scientific terms. Visibility relates to human perception of the environment and includes color, the contrast of viewed objects against the background sky, the clarity of the atmosphere, and psychological interpretation of the person viewing the scene. Visibility impairment is caused by the presence of particles and gases in the air which either absorb or scatter light. Even under the best conditions, there is some "natural" light scattering that occurs that limits visibility. The degree to which absorption and scattering affects visibility is referred as "light extinction". Light extinction can vary as a function of sun angle and cloud cover, and can be affected by relative humidity. In addition, natural impairment of visibility is caused by clouds, fog, rain and snow.

5.35.2 Introduction ~~Visibility Protection for Class I Areas~~

Sections 169A and 169B of the Clean Air Act contain requirements for states to protect and improve visibility in national parks and wilderness areas in the country. In 1977 Congress designated certain national parks and wilderness areas as "mandatory Class I federal areas", where visibility was identified as an important value. Currently in the United States there are 156 of these Class I areas, including 47 national parks, 108 wilderness areas, and one international park.

Oregon has 12 Class I areas, including Crater Lake National Park and 11 wilderness areas. These areas are listed in Table I. The importance and value of Oregon's Class I areas lie not only in the intrinsic value of their beauty but also in their importance to tourism in Oregon. They are also valuable as a recreational resource for Oregon residents.

The 1977 Clean Air Act Amendments set forth a national goal for visibility that called for "the prevention of any future, and the remedying of any existing impairment of visibility in mandatory class I federal areas which impairment results from man-made air pollution". The Act mandated that the U.S. Environmental Protection Agency (EPA) develop regulations to ensure that meaningful progress is made towards achieving this goal. These regulations took two forms – the first addressed visibility impairment that is "reasonably attributable" to one or a small group of man-made sources generally located in close proximity to a specific Class I area – the second addressed "regional haze", which is visibility impairment caused by a multitude of sources and activities located across a broad geographic area. In 1980, EPA adopted Phase I rules to address reasonably attributable visibility impairment. These rules required States to conduct visibility monitoring in Class I areas and revise their State Implementation Plans (SIPs) to establish long-term strategies for making reasonable progress toward the national goal, apply if necessary Best Available Retrofit Technology (BART) to existing stationary sources impairing visibility, and evaluate visibility impacts of new or modified major stationary sources. In 1990, Amendments to the Clean Air Act focused attention on developing better technical tools and increasing scientific understanding of regional haze, and called for EPA to move forward with a national program for addressing this problem. EPA adopted Phase II rules on regional haze in July 1999.

In response to EPA's Phase I visibility rules, the Department adopted the Oregon Visibility Protection Plan in October 1986, as a revision to the Oregon SIP. This section

of the Oregon State Implementation Plan describes the Department Environmental Quality's Visibility Protection Plan for the states Class I wilderness and national park lands. Referred to herein as the Plan, it represents this document describes Oregon's commitment to addressing reasonably attributable impairment in the state's Class I areas through visibility monitoring, control strategies to remedy existing impairment and ensure future visibility protection, periodic plan review, coordination and consultation. The Plan was has been developed in consultation with the Federal Land Managers, the Oregon Visibility Advisory Committee, the Oregon Department of Forestry, the Oregon Seed Council and other groups. The Plan represents a further step toward remedying existing impairment and protecting future visibility conditions within Oregon's Class I areas.

Theis Plan provides for the protection of the mandatory federal Class I areas based on rules promulgated by EPA the U.S. Environmental Protection Agency (EPA) on November 30, 1979 and incorporated in OAR 340-204-0050. 340-31-120, as well as lands redesignated to Class I by the State of Oregon. The Plan has been developed in response to the requirements of Section 169 (A)(a)(4) of the Clean Air Act of 1990.

The intent of the Oregon Visibility Protection Plan is to insure significant reasonable further progress toward achievement of the National Visibility Goal of "the prevention of any future and the remedying of any existing impairment in Mandatory Federal Class I areas which impairment results from manmade air pollution". The Department has adopted this same goal for areas redesignated to Class I by the State of Oregon.

The Plan is directed at the (a) the protection of visibility within Oregon's Class I areas, (b) the mitigation of visibility impairment within the Mt. Hood and Central Oregon Cascade wilderness areas through short and long-term control strategies for forest prescribed burning and Willamette Valley agricultural field burning and (c) mitigation of impairment in the Eagle Cap Wilderness and Central Oregon Cascades resulting from agricultural field burning. Visibility protection for all of Oregon's Class I areas is administered under the provisions of a diversity of numerous regulations including the Prevention of Significant Deterioration, New Source Review rules and the USDA Forest Service forest planning process.

The objective of this Plan is to assure compliance with the requirements of the Clean Air Act and US EPA Phase I program requirements. These requirements specify the adoption of strategies directed toward the control of existing stationary sources impairing visibility the evaluation of visibility impacts of new stationary sources, the control of other existing sources not meeting the more stringent source size requirements for existing stationary facilities and, finally, the adoption of control strategies designed to achieve reasonable progress toward meeting the National Visibility Goal. Future phases of the EPA regulations will extend the program by addressing more complex problems such as regional haze.

The Department believes that the Oregon Visibility Protection Plan not only meets the requirements of the EPA Phase I requirements but will make substantial progress in reducing impairment caused by regional haze.

5.3.15.2.1 Definitions

Definitions applicable to this section of the SIP are listed below:

"Best Available Technology (BAT)" means an emission reduction technique which will provide the maximum degree of reduction in air contaminant emissions, taking into account energy, environmental and economic impacts, compatibility with other Federal Land Manager practices and other costs, as determined on a case-by-case basis. BAT technologies applicable to prescribed burning include, but are not limited to, accelerated mopup, rapid ignition techniques, burning during optimum emission-reduction fuel moisture conditions, utilization of residues in lieu of burning and the reduction of emissions in lieu of broadcast or pile burning.

"Best Available Retrofit Technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established on a case-by-case basis, taking into consideration the technology available, the cost of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

"Class I Areas" are those mandatory federal Class I areas and any state redesignated Class I areas designated by the Department within which visibility has been identified as an important resource. ~~Oregon's 12 Class I areas are those listed under OAR 340-31-120.~~

"Integral Vistas" means a view perceived from within the mandatory federal Class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I area.

~~"July 1 to September 15th" means the period of time between July 1 and September 15th, inclusive, during which restrictions to agricultural and forestry burning apply for purposes of visibility protection. This period is also referred to as the "visibility protection period".~~

"Federal Land Manager (FLM)" means the Secretary of the Department with authority over a given Federal Class I area. The FLM for the Department of the Interior is the Assistant Secretary for Fish and Wildlife and Parks; the FLM for the Department of Agriculture is the Forest Service, through the Regional Forester or individual Forest Supervisor.

"Mandatory Federal Class I Area" means certain national parks and wilderness areas over 6,000 acres and 5,000 acres respectively, established by Congress, where visibility has been determined to be an important value. These areas are subject to the visibility protection requirements identified in Section 169 of the Clean Air Act. Oregon's mandatory federal Class I areas are listed in 340-204-0050.

"Manmade Air Pollution" is pollution ~~that~~ which results directly or indirectly from human activities.

"Meteorological Impairment" occurs during time periods in which hydrometeors (e.g., fog,

rain, clouds, snow or sleet) impair visibility within a Class I areas.

"Natural Conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast or coloration. These phenomenon include fog, clouds, wind blown dust, rain, sand, naturally ignited wildfires and natural aerosols.

"Naturally-ignited Prescribed-Natural Fire" means fire ignited by natural sources (lightning, volcanoes, etc.) within any federally managed lands which are permitted to burn within predetermined conditions outlined in the Land Manager's fire management plan.

"New Source Review (NSR)" is a regulatory procedure for reviewing the air quality and visibility impacts from a new stationary (industrial) source or a modification of an existing stationary source where the new emissions are "significant" (see definition of "significant emission rate" under OAR 340-200-0020). Included in the NSR regulations is a requirement that no new major source or major modification cause or contribute to significant impairment of visibility in any Class I area. See definition of "significant impairment" below.

"Plume Blight" means visibility impairment caused by a distinct and coherent plume.

"Prescribed Burning" means the controlled application of fire to wildland fuels in either their natural or modified state, under such conditions of weather, fuel and soil moisture, as allows the fire to be confined to a predetermined area while producing the intensity of heat and rate of fire spread required to meet planned objectives including silviculture, wildlife habitat management, grazing and fire hazard reduction.

"Reasonably Attributable" means visibility impairment in a Class I area caused by emissions from one or a small group of sources generally located in close proximity to the Class I area. ~~attributable by visual observation or any other technique the Department deems appropriate.~~

"Regional Haze" means visibility impairment in one or several Class I areas caused by emissions from numerous sources located over a wide geographic area.

"Significant Impairment" occurs when, in the judgement of the Department, visibility impairment interferes with the management, protection, preservation or enjoyment of a visitor's visual experience within a Class I area. See OAR 340-225-0700 for visibility requirements for new and modified major stationary sources. The determination must be made on a case-by-case basis considering the recommendations of the Federal Land Manager, the geographic extent, intensity, duration, frequency and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I areas and the frequency and the occurrence of natural conditions that reduce visibility.

"Smoke Sensitive Area" means, for purposes of visibility protection, certain Class I areas that are protected from summertime smoke impacts caused by prescribed burning under the Oregon Department of Forestry Smoke Management Program.

~~"Substantial Impairment"~~ means the percent of daylight hours, during the period of July 1 to September 15, which equals or exceeds 0.8×10^{-4} per meter, hourly average light

scattering coefficient excluding periods of natural visibility impairment measured at an ambient air monitoring site representative of a Class I area. Evaluation of the frequency and cause of impairment will be made annually in consultation with the Federal Land Managers.

"Visibility Advisory Committee" means a group of State and Federal Land Managers, forestry, agricultural, environmental, tourism and public-at-large representatives, appointed by the Director of the Department.

"Visibility Impairment" means any humanly perceptible change in visibility (visual range, contrast or coloration) from that which would have existed under natural conditions.

"Visibility Impairment" means any humanly perceptible change in visibility (visual range, contrast or coloration) from that which would have existed under natural conditions.

"Visibility Protection Period" means the period between July 1 to September 15, during which restrictions on agricultural and forestry burning apply for purposes of visibility protection.

5.2.2 Introduction

— Legislation to protect our nation's wilderness heritage began with the National Park Service Organic Act of 1916 and the Wilderness Act of 1964. These Acts set aside areas to be preserved in their natural state, unimpaired by human activities. The protection of the pristine nature of these areas was again addressed in the Clean Air Act Amendments of 1977 and 1990. The Amendments recognized the importance of "preserving, protecting and enhancing" the air quality, within the nation's Class I areas. In Oregon, eleven of the state's wilderness areas and Crater Lake National Park were designated by Congress as mandatory federal Class I areas. An additional twenty three areas were designated as wilderness lands under The Oregon Wilderness Act of 1984. These lands have not been designated as Class I areas by Congress.

— The importance and value of these lands to Oregon lie not only in the intrinsic value of their beauty but also in their importance to tourism in Oregon. These areas are also a valuable recreational resource for Oregon residents. The Clean Air Act Amendments recognize the importance of air quality related values, including visibility, and set forth as a national goal:

— "The prevention of any future and the remedying of any existing impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution".

— The Amendments instructed EPA to promulgate regulations to assure reasonable further progress toward attainment of the national visibility goal. The principal effect of the EPA visibility regulations is to require states to (a) revise their State Implementation Plans (SIPs) to establish long range goals, (b) commit to a planning process to protect visibility and (c) to implement procedures requiring visibility protection for mandatory Class I Federal areas. This revision of the SIP describes the visibility protection plan that Oregon will follow to comply with the requirements of the Clean Air Act.

5.4 Mandatory Federal Class I Federal Areas

As mentioned above, Oregon has 12 Class I areas. These areas Wilderness and one National Park lands included within the scope of the Visibility Protection Plan are listed in Table I. These lands were have been designated in whole or in part as federal mandatory federal Class I Areas in 1977, under the Clean Air Act, Public Law 95-95. Visibility Protection for the Mandatory Federal Class I Areas, defined in Section 5.2.1 below, is required by the Clean Air Act Amendments of 1990. At that time, Congress designated all wilderness areas over 5,000 acres and all national parks over 6,000 acres as mandatory federal Class I areas, subject to the visibility protection requirements in the Clean Air Act. All other wilderness areas, national monuments, scenic areas, etc. are designated as Class II areas. The acreages for the Class I areas listed below include expansions that have occurred since 1977, pursuant to the 1990 Clean Air Act Amendments.

**Table I
Wilderness and National Park Lands
Protected Under the Visibility Protection Plan**

<u>Class I Area Manager</u>	<u>Acreage</u>	<u>Public Law Establishing</u>	<u>Federal Land</u>
Crater Lake	183,315	57-121	USDI-NPS ¹
Diamond Peak Wild.	52,337	88-577	USDA-FS ²
Eagle Cap Wild.	360,275	88-577	USDA-FS
Gearhart Mtn. Wild	22,809	88-577	USDA-FS
Hells Canyon Wild.	131,033	94-199	USDA-FS
Mountain Lakes Wild.	23,071	88-577	USDA-FS
Mt. Hood Wild.	47,160	88-577	USDA-FS
Mt. Jefferson Wild.	107,008	90-548	USDA-FS
Mt. Washington Wild.	52,516	88-577	USDA-FS
Strawberry Mtn. Wild.	69,350	88-577	USDA-FS
Three Sisters Wild.	285,202	88-577	USDA-FS
Kalmiopsis Wild.	179,700	88-577	USDA-FS

Notes: ¹ U.S. Department of Interior, National Park Service. 22,410 acres of Park additions were set aside as Class I lands by the Clean Air Act Amendments of 1990.

² U.S. Department of Agriculture, Forest Service

5.4.1 Areas Redesignated to Class I

Class II areas can be Lands redesignated by the state to Class I under OAR 340-204-0060 340-31-120 through 130 to Class I status will be included in future Plan revisions if the Department, in consultation with the Federal Land Manager, determines that visibility within these areas lands is important to the visitor's experience. Upon completion of this determination, the redesignated Class I area will be included within the Plan. Redesignation to Class I does not subject the redesignated area to the same visibility protection requirements in the Clean Air Act as mandatory federal class I areas

established by Congress in 1977. State redesignated Class I areas receive visibility protection under the Prevention of Significant Deterioration (PSD), New Source Review (NSR) rules, and the USDA Forest Service forest planning process. Revision of the Restrictions on Area Classifications Section of the Standard for Air Purity and Quality Rule (OAR 340-31-120 (1)), Revision of the Department's list of Class I areas in OAR 340-204-0050 will also be made to assure that the Rule incorporates all Class I areas.

5.5 5-2-2-1 History of Assessment of Visibility Impairment in Oregon Class I Areas

An assessment of visibility monitoring impairment in Oregon's Class I areas began in 1982, focusing primarily on visibility conditions in the Oregon Cascade Class I areas. This early monitoring showed that during the summer months in the northern and central Cascades, is prepared by the Department each year. These reports present results from visibility monitoring conducted during the summers of 1982-1984 and concluded that (a) visibility was frequently impaired by uniform haze and, to a lesser extent, ground based layered haze, within several of Oregon's Class I areas and that (b) this haze was mostly can often be attributed to a known sources including smoke from dispersed Willamette Valley agricultural open field burning, forest prescribed burning, and wildfire activity.

Monitoring conducted since implementation of the Oregon Visibility Protection Plan indicates that the frequency of substantial impairment (relative to the 1982-84 period) within the Mt. Hood and Central Cascade wilderness areas has decreased by 63% and 82%, respectively, during the period 1986-1990. This is within the 60% to 90% frequency of impairment reduction goal recommended by the Oregon Visibility Advisory Committee in 1985.

In the mid-1980's the Department determined that in Eastern Oregon New monitoring results for the summers of 1984 to 1989 suggest that from 23 % to 31 % of the there was summer visibility impairment cases documented within the Eagle Cap Class I area Wilderness are caused by Union County agricultural open field burning in the Grande Ronde Valley. At the same time the The Department has also found identified Jefferson County agricultural open field burning as a was contributing to source of visibility impairment within the Central Oregon Cascade Class I Wilderness areas.

Based on the studies referenced above, tThe Department determined finds that specific short-term and long-term visibility control strategies were needed for (A) significant impairment exists within the Mt. Hood, Mt. Jefferson, Mt. Washington, Eagle Cap and Three Sisters Wilderness areas; (B) control strategies to remedy existing visibility impairment are required to correct existing impairment within these wilderness areas; (C) the control strategy should be directed toward mitigation to protect against of impacts from Willamette Valley, Jefferson County and Union County open field burning and as well as forest prescribed burning during the visibility protection period; (D) and that long-term control strategies were needed to ensure future visibility visibility protection of in all Class I areas in the state. are required and (E) an interstate visibility protection program coordinated with the State of Washington is essential to assure the protection of visibility within Oregon's Class I areas.

5.6 5-2-3-Visibility Monitoring Network

Visibility monitoring is essential to the evaluation of visibility impairment and trends, as a means of assessing the effectiveness of visibility control strategies and for identifying the major contributing sources. To meet these objectives, the monitoring network must document visibility within Class I areas on a long-term basis. In addition, the monitoring strategy must strive to meet the needs of, and be a cooperative effort with, the Federal Land Manager.

The Oregon Department of Environmental Quality has established and will continue to operate a real-time monitoring network system to identify the degree, if any, of visibility impairment in Cascade Class I areas, and help identify the sources of the pollutants causing the impairment. This network is operated annually, at a minimum, from July through September, the period of heaviest Class I area visitation. To the extent practicable, the visibility monitoring network will be expanded program will extend statewide with the intent of documenting and evaluating visibility within all Oregon Class I areas of the State of Oregon. Expansion of this network will be subject to the Department being able to secure the necessary funding.

~~In addition to the Department's The monitoring network, system will be operated in cooperation with the USDI National Park Service and the USDA Forest Service operate a monitoring network of IMPROVE (Interagency Monitoring of Protected Visual Environments) sites around the state. These IMPROVE sites are designed for monitoring regional visibility under EPA's Phase II Regional Haze Rules, and are limited in their ability to identify "reasonably attributable" Phase I impairment from sources located near Class I areas. However, the Department does review IMPROVE data as part of its overall effort to assess visibility conditions and trends. — A visibility monitoring strategy is essential to the evaluation of visibility impairment trends, as a means of differentiating manmade and natural visibility reduction, to assess the effectiveness of visibility control strategy programs and to identify the major contributing sources. To meet these objectives, the monitoring program will document visibility within Class I areas on a long-term basis. In addition, the monitoring plan will strive to meet the needs of, and be a cooperative effort with, the Federal Land Managers.~~

~~— The monitoring network will be operated annually, at minimum, from July through September, the period of the heaviest Class I area visitation. A major effort will be made each year to begin the monitoring program as soon as spring weather and snow pack conditions permit and to continue the program as late into the fall as weather permit. Measurements to be included in the program are:~~

- ~~- Visual observations of impairment phenomena, meteorological conditions and visual range.~~
- ~~- A standardized photographic and standard visual range monitoring program to record actual visibility and target contrast.~~
- ~~- A network of integrating nephelometers to measure extinction due to light scattering caused by fine particles.~~
- ~~- A meteorological network consisting of relative humidity, wind speed and wind direction.~~

- A fine particle sampling network to identify source impacts on visibility and fine particle mass using receptor models.
- Other monitoring and analytical methods that may be appropriate to achieve the objective of the monitoring plan.

5.7. 5.2.4 Procedures for Review, Coordination and Consultation

The Department has made and will continue a commitment to a strong State and Federal Land Manager (Land Manager) coordination program. This section of the Plan explains procedures for maintaining coordination between involved agencies for rulemaking, New Source Review, periodic program reviews and revision of the SIP. For purposes of these reviews, the Department will maintain a mailing list of interested parties which that will be advised of the following meetings described below.:

5.7.1 5.2.4.1 Annual Visibility Advisory Committee Meetings

The Visibility Advisory Committee will hold an annual meeting no later than May of each year to review monitoring data and discuss visibility plan effectiveness. All state and federal agencies involved in the Plan will be invited to an annual meeting, to be held no later than April of each year, to review the Visibility Protection Plan. The meeting will be open to the public, participation and input with meeting notification sent to members of the Visibility Advisory Committee, the news media, and interested persons included on a Department mailing list.

Topics Issues to be addressed at this meeting will include (a) assessment of the effectiveness of the control strategies; (b) a review of the monitoring data, an assessment of visibility trends and sources contributing to visibility impairment, and discussion of reasonable progress toward achievement of the national visibility goal. program design; (c) progress toward achievement of long term control strategy plan elements (d) discussion of reasonable progress toward achievement of the national visibility goal and (e) review of reports describing findings of the State Forester and the Director of the Department of Environmental Quality relative to enactment of the prescribed burning restriction emergency clause described in Section 5.2.5.1 (A) of this Plan. A report summarizing the proceedings of these this meeting will be prepared and distributed to the Federal Land Managers, EPA, the Oregon Visibility Advisory Committee and other interested parties. These reports will serve as form an important element in the periodic Pplan review process.

5.7.2 5.2.4.2 Periodic Plan Review and Assessment Strategy and Reasonable Further Progress Review

Every On three five-years intervals beginning in 1997, the Department will conduct a formal meeting to review of the Visibility Protection Plan, providing an opportunity for the Land Managers to consult with the Department on all matters involving the development of the Visibility Protection Plan. The meeting will provide an opportunity for affected State and Federal Land Managers, the Oregon Visibility Advisory Committee, the Oregon Seed Council, other affected parties and the public to provide the Department with feedback on the effectiveness of the Plan. Specifically, the periodic review process

~~will address: present their (a) assessment of visibility trends and impairment; (b) review of annual emissions trends; (bc) recommendations regarding the effectiveness of visibility development of long-term control strategies; (ed) assessment of whether and consultation of visibility impairment trends as related to the Reasonable Further Progress is being made provisions of the Plan; and (de) periodic review of the monitoring program and findings developed therefrom; (e) additional measures which may be needed to assure reasonable further progress; (f) review of proposed integral vistas and/or new wilderness lands to be included within the Plan; (g) assessment of proposed and/or actual impacts from major new or modified point sources and (h) a review of progress made in decreasing impacts from field and prescribed burning including rescheduling, utilization and emission reduction programs.~~

All available monitoring and emission data applicable to Class I visibility impact assessment will be summarized and provided for use during the periodic plan review of the Plan. A report summarizing the periodic plan review will be prepared and distributed to available data and proceedings of these meeting will be distributed to the State and Federal Land Managers, EPA and other interested parties.

5.7.35-2.4.3 Other Meetings

Meetings may be called by any interested party at any time to discuss the Plan with the Department.

5.8 5.2.5 Control Strategies

~~————The protection of visibility in Oregon's Class I areas requires both correction of existing visibility impairment within the Mt. Hood, Eagle Cap and Central Cascade Wilderness areas and protection of all Class I areas from future impairment.~~

The Oregon Visibility Protection Plan incorporates both short-term and long-term strategies to make reasonable progress toward remedying impairment caused by Willamette Valley, Jefferson and Union County agricultural field burning, and -as well as forest prescribed burning. The Plan also includes provisions for the protection of all Class I areas from future impairment through the visibility impacts assessment requirements of the New Source Review rule. This section of the SIP describes the major elements of the Plan. The principal elements of the control strategy are described below.

5.2.5.1 Strategy Elements as Related to the National Goal

~~The principal elements of the control strategy as they relate to the national visibility goal are described in this section. These elements of the Plan include (a) short-term goals to be accomplished over a 5-year period to mitigate existing visibility impairment; (b) long-range goals to reduce fine-particle emissions from agricultural field burning and forest prescribed burning and (c) on-going visibility protection afforded through the New Source Review permitting process and emission reductions achieved as a result of in place control strategies. Each of these Plan elements is discussed below:~~

5.8.1 5.2.5.1 (A) Short-Term Strategies For Visibility Protection

5.8.1.1 Strategy Overview

The short-term control strategies are directed at remedying visibility impairment during the ~~Visibility Protection Period~~ (July 1 through September 15, inclusive) caused by ~~plume blight distinct and dispersed plume impacts~~, from agricultural field burning and forest prescribed burning. The Department will make efforts to ensure on an on-going basis that good coordination is achieved between the smoke management programs described below, in order to avoid unwanted impacts on visibility. The strategy will also reduce regional haze impairment caused by these sources and assure the prevention of impairment associated with emission growth and new source construction through elements A-H of the long-term strategy.

5.8.1.2 Willamette Valley Open Field Burning

Under state law (ORS 468A.590) the Oregon Department of Agriculture is required to conduct a smoke management program for open field burning in the Willamette Valley. The short-term strategies for reducing visibility impairment caused by Willamette Valley open field burning are listed below have been incorporated into this smoke management program. in Table IIa and subject to the emergency provisions described below. These strategies are based mainly on smoke management; however, strategies 1 and 4 listed on Table IIa will result in someand emissions reductions, and are designed to protect primarily those Class I areas to the east of the Willamette Valley, or the northern and central Cascade Class I areas, during the Visibility Protection Period. Since all Willamette Valley field burning occurs during July through October, these short term strategies are automatically directed at remedying impairment during the summer peak visitation period. Strategy 2 below provides additional visibility protection. Further attention to weekend visitation periods, is provided by Strategy 5 which is expected to reduce field burning related visibility impairment on most visibility important weekend days.

- 1. Reduction in Acreage Allowed to be Burned.** The Oregon State Legislature revised Legislature revised state law (ORS 468A.610) to reduce the amount of Willamette Valley open field burning, starting in 1991, from 180,000 acres to 40,000 acres in 1998 and thereafter. An additional 25,000 acres can be burned as specified in OAR 603-077-0113 (b) in certain steep terrain areas of the Valley, making the actual acreage allowed by law to be 65,000 acres.
- 2. Restrictions on Weekend Burning.** During the Visibility Protection Period, weekend field burning is not allowed upwind of Class I areas in the Cascade Range. Exemptions to this restriction are (1) if on a given weekend day there is existing meteorological impairment resulting in more than 50% cloud cover in these Class I areas, and (2) if the Willamette Valley Field Burning Emergency Clause is enacted. This emergency clause requires a joint finding by the Directors of Agriculture and Environmental Quality that adverse economic impacts on the grass seed industry may be likely because of unusual weather or burning conditions. The finding will be based on a review, by August 10th or periodically thereafter, of burning accomplished to date to determine if weekend burning restrictions should be modified or suspended. A report describing the findings of the Directors shall be prepared for review during the Annual Visibility Advisory Committee meetings (Section 5.7.1.) if the emergency clause is enacted.

3. **Encourage Early Season Burning (July).** This is an on-going effort to reduce impacts and emissions by burning early in the summer for certain early maturing grass types. Benefits of early season burning are (1) fields are in optimum burning condition for burning, and will burn hotter with less emissions than fields burned later in the summer, and (2) better ventilation conditions often occur in early summer as compared to later in the summer. The ability to conduct early season burning is dependent on the frequency of favorable conditions for burning.
4. **Smoke Management Improvement.** This is an on-going effort to improve forecasting capabilities using the latest technology and equipment. Since 1986, new meteorological tools have been incorporated into the smoke management program. Improvements will continue to be made as new tools become available.
5. **Improve Burning Methods.** This is an on-going effort to improve burning through use of rapid-ignition techniques and better field preparation (e.g., mechanical fluffing). Oregon Department of Agriculture open field burning rules (603-077-0110) require "every reasonable effort to expedite and promote efficient burning and prevent excessive emissions". As a result, most field burning now involves rapid-ignition burning (where safe) and significant field preparation.

These short-term strategies have been incorporated into the Oregon Department of Agriculture Open Field Burning Rules, OAR 607-077 (Attachment A). Willamette Valley field burning smoke management program (OAR 340, Division 26). Specifics of the Willamette Valley Field Burning Smoke Management Plan is included in Appendix A.

5.8.1.3 Jefferson County Open Field Burning

Agricultural open field burning in Jefferson County has been found to impair visibility within the Central Cascade Wilderness central Cascade Class I areas. The short-term strategy to mitigate this the impairment of visibility caused by Jefferson County agricultural field burning is through a mandatory county smoke management program described and enforced through Jefferson County Ordinance 0-38-91 (Attachment D). The ordinance requires that all burning be conducted so such that smoke is will not be transported into a Class I areas at any time. The enforcement provisions of the ordinance are sufficiently stringent to assure that smoke management instructions issued by the smoke management coordinator are followed. Since most of the burning is accomplished occurs during the summer months during the visibility protection period and burning is prohibited on weekends, the benefits of this strategy coincide with the period of heaviest wilderness visitor use. will occur during the peak visitor use period within the wilderness areas.

5.8.1.4 Union County Open Field Burning

Agricultural open field burning in Union County has been found to impair visibility within the Eagle Cap Wilderness. The short-term strategy to mitigate the impairment of visibility caused by agricultural field burning is through a mandatory county smoke management program enforced through a Union County Ordinance 1991-6 (Attachment E). The ordinance requires that Union County growers implement an enforceable smoke management program with sufficient technical merit to assure that smoke from field

burning is not transported into the Eagle Cap Wilderness at any time. Since most of the burning is accomplished occurs during the summer months and early fall, the benefits of this program coincide with the period of heaviest wilderness visitor use.

Field Burning Restriction Emergency Clause [section moved]

~~_____ This section provides for the modification of field burning restrictions in the event of a joint finding by the Directors of Agriculture and Environmental Quality that undue, adverse economic impacts on the grass seed industry may be likely because of unusual weather or burning conditions. The finding will be based on a review, by August 10th or periodically thereafter, of burning accomplished to date to determine if burning restrictions should be modified or suspended. A report, describing the findings of the Directors shall be prepared for review during the Annual meetings (Section 5.2.4.1) in the event of enactment of the Emergency Clause.~~

5.8.1.5 Prescribed Burning

The prescribed burning short-term strategy applies to ~~is directed at~~ the controlled application of fire to wildland fuels for silvicultural, wildlife habitat, fuels management or ecosystem purposes, and includes both intention, man ignited fires and naturally ignited fires. This strategy is directed at reducing visibility impairment within the northern and central Cascade Class I areas during the Visibility Protection Period.

1. Smoke Sensitive Areas. The ODF Smoke Management Plan (OAR 629-043-0043) will consider the following Class I areas as "smoke sensitive areas" and protect accordingly during the Visibility Protection Period: Mt. Hood, Mt. Jefferson, Mt. Washington, Three Sisters and Diamond Peak wilderness areas, and Crater Lake National Park.
2. Encourage Spring and Fall burning. Efforts will be made under the ODF Smoke Management Program to conduct all prescribed burning in Western Oregon during the spring and fall months, when Class I area visitation is much lower. In addition, during these months ventilation conditions for burning generally are better, and higher fuel moisture can result in fewer emissions being generated. Western Oregon is defined here as Lane, Linn, Marion, Clackamas, Multnomah, Hood River, Columbia, Clatsop, Tillamook, Yamhill, Polk, Benton, Lincoln and Washington counties.

Prescribed Natural Fire

3. Naturally-ignited Prescribed Fire. Prescribed ~~n~~Natural fires that are ignited by lightning ignited fires and then managed like a prescribed burn which contribute to the management of natural areas and are one way means through which Federal Land Managers can achieve certain resource management objectives, in Class I areas. Prescribed natural fire programs are approved by the Federal Land Managers for Class I areas when an approved Fire Management Plan has been adopted by the agency and which includes consideration of smoke impacts. The Oregon Department of Environmental Quality and the Oregon Department of Forestry will participate in the development and be provided an opportunity to comment on draft fire management plans developed by the Federal Land Managers that include provisions for naturally-ignited prescribed fire and whether

smoke impacts on visibility are being considered.

~~Prescribed Burning Other Than Natural Fires~~

~~————The prescribed burning short-term strategy includes a reduction in substantial visibility impairment within the Mt. Hood, Mt. Jefferson, Mt. Washington and Three Sisters Wilderness Areas by restricting summer prescribed burning and setting aside these Class I lands as protected areas under the Smoke Management Plan. The estimated goal of the short-term strategy is a 60-90% reduction in substantial visibility impairment from the 1982 to 1984 monitoring baseline. This program should not result in additional impacts in other designated areas at any time during the year, nor should it result in additional summertime impairment within other Class I areas within Oregon or Washington.~~

~~————The prescribed burning short-term strategy applies to Western Oregon (Lane, Linn, Marion, Clackamas, Multnomah, Hood River, Columbia, Clatsop, Tillamook, Yamhill, Polk, Benton, Lincoln and Washington counties).~~

~~The following strategy elements apply to non-meteorologically impaired periods within the Mt. Hood, Mt. Jefferson, Mt. Washington and Three Sisters Wilderness Areas during the July 1 to September 15 period. A general prohibition on prescribed burning will apply within the above counties, except as noted below. The intent of the strategy is to shift burning that would be accomplished during the July-mid-September period to the Spring and Fall months of lesser Class I area visitation and higher fuel moisture and not reduced acreage burned.~~

~~————To encourage Spring and Fall burning while maintaining protection of areas designated under the Smoke Management Plan, improvements in the Plan have been made to accommodate the additional burning activity.~~

~~————It is expected that the visibility improvements accomplished by these short-term strategies can be achieved without significantly reducing annual acreage burned by prescription below historical levels.~~

~~————For purposes of visibility protection, the Mt. Hood, Mt. Jefferson, Mt. Washington, Three Sisters and Diamond Peak Wilderness areas and Crater Lake National Park as well as all State of Washington Class I areas have been set aside under the Department of Forestry's Smoke Management Plan as "Smoke Sensitive" areas during the July 1 to September 15 period to be protected from visibility impairment.~~

~~————Visibility within all Oregon Class I Areas will be protected during the Day July 1-September 15 period under the smoke management provisions of the U.S.D.A Forest Service National Forest Management Plans.~~

~~Exemptions To Prohibition~~

~~(1) Coastal Burning~~

~~Coastal conifer and hardwood conversion burning impacts on Class I area visibility will be minimized by management of emissions through the Department of Forestry Smoke Management Plan. The intent of the Plan is~~

to prevent visibility impairment from coastal burning by considering upper level wind trajectories and likely transport winds over the next 2 day period. In issuing burning instructions, the Department of Forestry may require application of BAT as necessary to accomplish the visibility protection and enhancement goals of this strategy.

~~(A) — Research & Hardwood Conversion Burning. Research fires and hardwood conversion burning are exempt from summer burning restrictions. The burning of these units will, however, be conducted in accordance with the Smoke Management Plan under which the Northern and Central Cascade Wilderness Areas will be treated as "Smoke Sensitive" areas. Research and hardwood conversion burning permitted under this exemption are not expected to exceed 600 acres during the July 1-September 15th period. Best Available Technology may be required by the Department of Forestry if greater than 600 acres is burned annually, as necessary to accomplish the visibility improvement and protection goals of this Plan. A report of acres burned and likely impacts on Class I areas visibility will be prepared by the Department of Forestry for inclusion in the annual Smoke Management Report.~~

~~— All reasonable attempts will be made to accomplish burning permitted under this exemption on meteorologically impaired days. Western Oregon Cascade burning includes the East Lane, Linn and Clackamas Marion Forest Protection Districts as well as Mt. Hood and Willamette National Forest lands west of the crest of the Cascade Range.~~

~~(B) — Willamette National Forest Burning. Burning is allowed at elevations above 5000 feet during the July 1-September 15th period, with Class I areas treated as "Smoke Sensitive" areas.~~

Prescribed Burning Restriction-Emergency Clause

~~— This section provides for the modification of burning prohibitions in the event of a joint finding by the State Forester and the Director of the Department of Environmental Quality that undue, adverse economic impacts on the forestry industry may be likely because of unusual weather conditions. A joint report, describing the findings of the State Forester and the Director of the Department of Environmental Quality shall be prepared for review during the annual meetings (Section 5.2.4.1) in the event of enactment of the Emergency Clause.~~

~~— The finding will be based on periodic reviews by the State Forester of burning accomplished to date to determine if burning prohibitions should be modified or suspended. Upon concurrence by the Director of the Department of Environmental Quality, burning restrictions will be modified or suspended to the extent necessary to accomplish burning of the required acreage. The Department of Forestry shall manage the burning under the Smoke Management Plan to issue the protection of designated areas identified in the Smoke Management Plan. All summer weekend burning accomplished under this clause will be conducted under the Class I area "Smoke Sensitive" provisions of the Smoke Management Plan.~~

~~The Department of Forestry shall manage the burning to insure the protection of the Designated Areas. The specifics of the prescribed burning short-term strategy will be contained in the Smoke Management Plan, Appendix B.~~

5.8.2 5.2.5.1 (B) Long-Term Strategy for Visibility Protection

5.8.2.1 Overview

~~The long-term strategies are directed at making reasonable progress toward the national visibility goal over the next 10-15 year period, in accordance with Section 51.306(a) of EPA regulations. The long-term control strategies are primarily directed at mitigation of visibility impacts, emission reductions, and preventing plume impairment caused by open field and prescribed burning, and from new and modified large industrial sources. During In the development of the long-term strategies, several factors have been were considered in accordance with Section 51.306(e) and (f) of EPA regulations:- These include (a) emission reductions due to ongoing control programs; (b) additional emission limitations and schedules for compliance; (c) measures to mitigate the impacts of construction activities; (d) the enforceability of emission limitations and control measures; (e) visibility impairment associated with new industrial sources; (f) smoke management techniques for agricultural and forest management purposes including the current field and prescribed burning smoke management plans and (g) source retirement and replacement:~~

- ~~(1a) Emission reductions due to on-going programs, as are discussed in sSection 5.8.2.5 of the Plan.5.2.5.7, below.~~
- ~~(2b) Additional emission limitations and schedules for compliance for stationary sources. These were not considered necessary for the long-term strategy at this time, since there is no monitoring data to support a finding that any industrial point source is contributing directly to visibility impairment. based on the BART assessment provided in Section 5. of the. important to the long range strategy since monitoring program results support the finding that industrial point sources are not a contributing cause of visibility impairment.~~
- ~~(3c) Measures to mitigate impacts from construction activities. Visibility impacts from related stationary to point sources are administered through the Air Contaminant Discharge Permitting and the PSD rule process, while soil dust entrained as a result of construction activities is controlled under the A-95 review process, State and Federal Forest Practices Acts and permitting processes.~~
- ~~(4d) Enforceability of emission limitations. This was not considered important to the long-term strategy because of the reasons outlined in (2b); above.~~
- ~~(5e) Smoke Management Techniques for agricultural and forestry management. These are essential elements of the strategy, as discussed in the Plan, below.~~
- ~~(6f) Source Retirement and Replacement, was considered. However, because visibility impairment from individual point sources has not been found to be significant, source retirement has not been viewed as beneficial. On-going stationary source emission reductions may, however, reduce impairment~~

associated with urban plume impacts on Class I areas in the future.

~~As noted above, the long-term strategy focuses on mitigation of field and prescribed burning visibility impacts, emission reductions and the avoidance of plume impairment caused by future industrial sources.~~

Long-Term Strategy Overview

~~———— This section of the Plan outlines the long-term strategy for making reasonable progress toward the national visibility goal over the next 10-15 year period. Provisions A-D of the long-term strategy apply to all Class I areas within Oregon while all provisions of the long-term strategy apply to visibility impaired Class I areas (Mt. Hood, Mt. Jefferson, Mt. Washington, Eagle Cap and Three Sisters Wilderness areas):~~

- ~~(A) — New Source Review~~
- ~~(B) — Intergovernmental Review (A-95) Process~~
- ~~(C) — Emission reductions due to ongoing programs~~
- ~~(D) — Prevention of Significant Deterioration Rule~~
- ~~(E) — Development of new crops not requiring field burning~~
- ~~(F) — Development of grass straw utilization technology~~
- ~~(G) — Grass seed industry research and development efforts to seek, develop and promote viable alternative to burning~~
- ~~(H) — A goal of reducing annual forest prescribed burning emissions within Western Oregon by 22%, relative to 1984 emissions, through BAT application without further deterioration of visibility within other Class I areas of the state.~~

~~The elements of the long-term strategy are listed below. As with the short-term control strategies, those related to Willamette Valley open field burning are designed to protect visibility primarily in the northern and central Cascade Class I areas during the Visibility Protection Period. have been coordinated with existing plans and goals, including those provided by the Federal Land Managers, which may affect visibility impairment within the Class I areas. Future coordination will be accomplished through the annual and 5-year Plan review process specified in Section 5.2.4.~~

5.8.2.2 New Source Review Visibility Protection Element of the Long-Term Strategy

~~———— The visibility impact protection provisions of the New Source Review Rule (OAR 340-20-220 through 276) assure that major new or modified industrial sources will not impair Class I area visibility (see Section 5.2.5.4). This provision of the long-term strategy applies to all Class I areas, statewide.~~

~~In accordance with federal requirements in CFR 51.307, the Department's Major New Source Review (NSR) rule and Air Quality Analysis rules (OAR 340-224 and 225, respectively) 340-20-220 through 276) contains requirements for visibility impact assessment and mitigation associated with emissions from major new and modified major stationary sources. Specifically, OAR 340-225-0070 references the need for protection of "Air Quality Related Values" (AQRV), which are specific scenic and environmentally related resources that may be adversely affected by a change in air quality. One of these AQRVs is visibility. The primary responsibility of the Department under these rules is visibility~~

protection. Protection of all AORVs (including visibility) is the primary responsibility of the Federal Land Manager. OAR 340-225-0070 The rule describes mechanisms for visibility impact assessment and review by the Department and Land Managers; Land Manager-Department coordination procedures, as well as impact modeling methods and requirements, the result of which is a demonstration of "no significant impairment of visibility in any Class I area".

The Department's NSR visibility requirements apply to "federal major sources". Under the Clean Air Act these are new or modified existing sources that emit 100 tons or more per year of a regulated pollutant for certain categories of sources, or 250 tons or more per year if not in these source categories. Under the Department's NSR rules, smaller sources than this can be called "major" and subject to NSR requirements. The distinction is that the visibility requirements in 340-225-0070 only apply to the larger federal major sources. However, potential visibility impacts from non-federal major sources are assessed on a case-by-case basis by the Department, with the objective to meet the same requirements as federal major sources. Compliance with this voluntary effort has been excellent.

In conducting these reviews, the Department will ensure that new source emissions do not impair visibility within any Class I areas throughout the entire year, rather than just during the visibility protection period. thereby providing an important element of the control strategy; that of assuring that future visibility impairment caused by new stationary sources is mitigated prior to facility construction. Any new major source or major modification found through modeling to cause significant visibility impairment will not be issued an air quality permit by the Department unless the impact is mitigated. This modeling is conducted for sources typically out to 200 kilometers from a Class I area. For larger sources this distance can be out to 300 kilometers. The New Source Review Rule is attached as Appendix C.

Since the adoption of the Visibility Plan in 1986, major improvements have been made in modeling visibility impacts, and in understanding the processes that contribute to visibility impairment. Both direct plume impacts and regional haze cumulative impacts are now included in the analysis. This has resulted in greater protection being provided to Oregon's Class I areas from new source emissions than 15 years ago.

The improvements in modeling tools provide greater accuracy in predicting visibility impacts. Early visibility modeling involved assessing plume impacts using the VISCREEN and PLUVUE II dispersion models, which worked well in estimating visibility impacts within 50 kilometers of the source, but beyond this distance were less accurate. Due to the lack of other models, these models continued to be used. In the late 1990's, a new and more accurate dispersion model became available for estimating long distance impacts. This model is known as the CALPUFF model, and it can be used in the 50-200 kilometer range.

In addition to modeling improvements, new visibility impact criteria are now being used which are very protective in terms of what constitutes "significant impairment" in a Class I area. The 2000 FLAG (Federal Land Managers' Air Quality Related Values Workgroup) Report defined "significant" for a single source as an increase in visibility impairment above natural background of 5% (expressed as visibility extinction). There are other significance levels for multiple sources. These FLAG significance levels are

currently being used by the Department. These criteria represent levels that are based on a strong scientific foundation and are more comprehensive in protecting visibility for distant sources than the plume visibility criteria which were formerly used.

The ambient air increment provisions in the Department's of the Prevention of Significant Deterioration Rules (OAR 340-31-100 through 115) limit Class I pollutant concentration increases to specific increments above baseline air quality levels, thereby assuring that visibility impairment associated with increased particulate and nitrogen dioxide concentrations will not exceed that allowed by the increment.

5.8.2.3 Willamette Valley Open Field Burning Element of the Long-Term Strategy

The Long-term strategies for Willamette Valley field burning consists of are listed in Table IIB. When fully implemented, these will result in a 40% reduction in the maximum annual emissions and a 45% reduction in average emissions from the 1982-84 baseline period. The long-term strategies are being developed through an ongoing Research and Development Program investigating alternatives to open field burning. Under state law (ORS 468A.550, 468A.585, and 468A.590) the Oregon Department of Agriculture is required to conduct an on-going research and development program (subject to available funding) to seek, develop and promote viable alternatives to open field burning. These alternatives include straw utilization, minimum tillage, less-than-annual burning, and alternate crops not requiring open burning. To date the program has been successful in finding viable alternatives, given the significant reduction in acres burned in the Willamette Valley as described under the short-term strategy. As a result, there has been a major increase in the use of alternatives, which is expected to continue into the future. The Department of Environmental Quality shall encourage the continuation of the use of alternatives through its coordination with the Oregon Department of Agriculture. established under ORS 468A in 1977. Additional funding can be expected through the Oregon New Crops Development Board, from Oregon Lottery Commission funds (ORS 814) and from the federal Critical Agricultural Materials Program.

Progressive implementation of these strategies will occur as they are developed to the point of economic feasibility. The three-year review process provides the opportunity to adopt and incorporate strategies as appropriate. Further, the Oregon Environmental Quality Commission has the authority under ORS 468 to reduce the maximum acreage that can be open-burned each year if it finds that reasonable and economically feasible alternatives to the practice of open field burning have been developed.

These strategies are reasonable and adequate because (1) they will result in a substantial reduction in impairment from the 1982-84 base period, (2) ongoing research programs are in place to provide for continued progress in their development, and (3) progressive implementation is provided for through the 5-year review process and by existing statutory authority vested in the Environmental Quality Commission.

5.8.2.4 Prescribed Burning Element of the Long-Term Strategy

The long-term objective of this portion of the Plan is to meet the objectives established in the Clean Air Act as referenced in sSection 51.300 (a) of the EPA Regulations. In light of current technology, the Department believes that an additional

~~22% emission reduction in Western Oregon prescribed forest burning emissions from that which occurred during 1982-1984 period is achievable.~~

~~———— Emission reductions to be achieved under this provision of the long-term strategy will be implemented in a reasonably linear manner throughout the 15-year period of this strategy.~~

~~———— Implementation of this strategy is expected to result in an additional 4% reduction in summer visibility impairment in addition to the 60-90% reduction in substantial impairment afforded by the short-term strategy.~~

~~———— The Departments of Environmental Quality and Forestry, in consultation with the Federal Land Managers and private land owners, shall through the Oregon Smoke Management Plan, implement a long-term strategy to further remedy existing and prevent future impairment through development and application of the Best Available Technology (BAT) elements listed in Table III, attached.~~

~~———— Research programs to implement these strategy elements will be encouraged and supported by the USDA Forest Service, Bureau of Land Management, National Park Service and others, to the extent possible within available budgets.~~

This long-term strategy consists of on-going research and development of non-burning alternatives to prescribed burning of forest debris. This strategy applies throughout the state of Oregon. The Department of Forestry encourages private forest landowners to burn only those units that must be burned to achieve the landowners' objectives. The Oregon Department of Forestry, through the Oregon Smoke Management Program (OAR 629-043-0043), and in cooperation with state and federal land managers and private land owners, is required to develop and apply Best Available Technology (BAT) related to prescribed burning. BAT elements include research to improve wood residue utilization and marketing, mechanical site preparation, techniques to reduce fuel loading such as chipping and yarding, and incentives for fuel removal such as tax credits. The Forest Practices Act also encourages utilization of residue, fuel reduction measures, low emission-producing burning methods and alternate treatment practices that are consistent with the purposes of the Act. Research programs to implement this strategy will be encouraged and supported by the USDA Forest Service, Bureau of Land Management, National Park Service and others, to the extent possible within available budgets.

Provisions for the annual Visibility Advisory Committee meeting and 53-year Plan review of the Plan (Section 5.2.2) will provide a forum to review progress toward achieving these long-term emission reduction goals. In addition, new technologies will be reviewed to determine the advisability of increasing the 22% emission reduction goal.

5.2.5-75.8.2.5 Emission Reductions Due To On-Going Control Programs

The Oregon Revised Statutes (ORS) Chapter 468A authorize the Oregon Environmental Quality Commission to adopt programs necessary to meet and maintain state and federal ambient air quality standards. The mechanisms for implementing these programs are the Oregon Administrative Rules (OAR).

A summary of provisions of the OAR which ~~assure~~ensure emission reductions benefiting Class I visibility are noted below. Emission growth limits within urban areas, the Department's Stationary Source Plant Site Emission Limitation (OAR 340-20-300340 Division 222), ~~rule~~ and other provisions of the State of Oregon Clean Air Act Implementation Plan (SIP) are intended to ~~insure~~ensure that air pollutant concentrations within Oregon are managed so as to ~~assure that~~meet National Ambient Air Quality Standards, ~~are not violated~~. Further, the growth of air pollutant emissions is managed under the provisions of the SIP in a manner consistent with Clean Air Act requirements and the best interests of the people of Oregon. Each of these elements of the SIP ~~insures~~ensures that visibility impairment associated with the transport of urban haze into the Class I areas does not exacerbate visibility improvement to be achieved under the provisions of the Plan.

In addition, the provisions of the Intergovernmental Review (A-95) Process, charged the Department with the responsibility of ~~insuring~~ensuring that environmental (e.g. visibility) impacts projected as a result of federally funded projects are reviewed and approved prior to implementation. USDA Forest Service Forest Management Plans and Bureau of Land Management Environmental Impact Statements are reviewed by the Department to insure that such plans are consistent with the requirements of the Clean Air Act and State of Oregon SIP. ~~Air quality impacts associated with prescribed burning are reviewed within this process in relation to Prevention of Significant Deterioration Class I increments and conformance to this Plan.~~

~~5.2.5.5.8.2.6~~ Maintenance of Control Equipment

Theis Plan requires, through the Air Contaminant Discharge Permit provisions of the SIP (OAR 340-20-140 ~~through 185340~~Division 216), the maintenance and proper operation of emission control equipment in use at industrial point sources throughout Oregon. These requirements will apply to all new sources for which Air Contaminant Discharge Permits are issued.

~~5.2.5.2.5.9~~ Protection of Integral Vistas

The EPA regulations of ~~December 2, 1980~~ require protection of those integral vistas designated by the Federal Land Managers on or before December 31, 1985 as important to the visitor's visual enjoyment of the area. Integral vistas are certain viewpoints within the mandatory Class I Federal area of a specific landmark or panorama located outside the boundary of the Class I area. ~~Such vistas could be identified by the Land Managers prior to December 1985 in accordance with criteria developed by the designating agency following reasonable notice and opportunity for public comment. The Department need not consider any integral vistas which have not been designated by the Federal Land Manager identified in accordance with these criteria. Should the Department disagree with the Land Manager regarding integral vista designation, the Department will provide opportunity for the Land Manager to discuss the identification with the Governor. In addition, the Department may, under its own authority, identify integral vistas to be afforded protection under this Plan.~~

~~As n~~No integral vistas have been designated by the Federal Land Managers or by the Department, ~~Therefore,~~ integral vista protection afforded under the Plan is limited to that associated with the control strategies included herein. ~~Given that the Plan~~

represents a strong commitment by the State of Oregon to achieve significant improvements in Class I area visibility, benefits of the Plan are expected to extend to potential integral vistas within Oregon.

5.2.5.3-5.10 Best Available Retrofit Technology

Section 51.302 (c) of the EPA regulations describes the general requirements for Best Available Retrofit Technology (BART) of the SIP. Under these regulations, if the Federal Land Manager certifies to the State that there exists visibility impairment in any mandatory Class I Federal Area, require that the States must identify and analyze for Best Available Retrofit Technology (BART) for each existing stationary facility which may reasonably be anticipated to cause or contribute to impairment of visibility within Class I areas within which the impairment can reasonably be attributable to the source (51.302(c)(2)(iii)).

As noted in Section 5.2.2.1 of this document, Based on results from the visibility monitoring program and other analysis, the Department has have not identified, nor has the Federal Land Manager certified any visibility impairment conditions which can reasonably be attributed to stationary source emissions within Oregon's Class I areas. Since the conditions described in Section 51.302 of the EPA regulations do not apply, BART Best Available Retrofit Technology rules have not been included in the Plan.

5.2.5.4 New Source Review & Prevention of Significant Deterioration [moved to section 5.8.2.2]

———— The New Source Review rule (OAR 340-20-220 through 276) contains requirements for visibility impact assessment and mitigation associated with emissions from major new and modified stationary sources. The rule describes mechanisms for visibility impact assessment and review by the Department and Land Managers; Land Manager — Department coordination procedures, impact modeling methods and requirements.

———— In conducting these reviews, the Department will ensure that new source emissions do not impair visibility within Class I areas, thereby providing an important element of the control strategy; that of assuring that future visibility impairment caused by new stationary sources is mitigated prior to facility construction. The New Source Review Rule is attached as Appendix C.

———— The ambient air increment provisions of the Prevention of Significant Deterioration Rule (OAR 340-31-100 through 115) limit Class I pollutant concentration increases to specific increments above baseline air quality levels, thereby assuring that visibility impairment associated with increased particulate and nitrogen dioxide concentrations will not exceed that allowed by the increment.

5.2.5.5. Maintenance of Control Equipment [moved to 5.8.2.6]

———— This Plan requires, through the Air Contaminant Discharge Permit provisions of the SIP (OAR 340-20-140 through 185), the maintenance and proper operation of emission control equipment in use at industrial point sources throughout Oregon. These requirements will apply to all new sources for which Air Contaminant Discharge Permits

are issued.

5.2.5.65.11 Interstate Visibility Protection

In recognition of the importance of interstate transport of pollutants which can impair visibility within Oregon's Class I areas, the Department will continue to work with neighboring States to coordinate visibility protection plans as required under Section 126 of the Clean Air Act. This coordination will attempt to ensure that economic and social effects of controls are administered fairly and as uniformly as possible. Affected Federal Land Managers and state agencies within the State of Washington, the State of California and other states, as necessary, will be invited to participate in the periodic Plan reviews consulted where necessary to address any interstate visibility issues that are identified.

To assure that the State of Washington Visibility Protection Plan provides a comparable level of visibility protection to that afforded under this Plan, the Department will work with the Washington Department of Ecology to improve the current Washington Interstate Protection Plan which is only directed toward summer weekend protection. Prescribed burning conducted under the ODF Smoke Management Program will be conducted in such a manner as to avoid contributing to visibility impairment in Washington Class I areas. The Department will work with the State of California Air Resource Board if necessary to address any impacts on visibility in Oregon Class I areas from prescribed burning activity in northern California, to ensure that the Oregon and California Visibility Protection Plans are compatible.

~~———— The Oregon Visibility Protection Plan Control Strategy, Sections 5.2.5.8 and 5.2.5.9 describing the Agricultural Field Burning and Forest Prescribed Burning Smoke Management Plans contain provisions designed to minimize impacts on Washington Class I areas during periods of peak visitor use.~~

~~———— The principal elements of the Interstate Visibility Protection Plan include: Field Burning Element A reduction in weekend burning upwind of Washington Class I areas during the July 1 to September 15 period on "visibility important", clear weather days will result in a potential reduction in burning of 15,000 — 35,000 acres.~~

~~———— Although it is unlikely that Willamette Valley field burning is a major contributor to visibility impairment within Washington's Class I areas, this element of the Oregon strategy may be beneficial.~~

Prescribed Burning Elements

~~———— The summer prohibition on Western Oregon Cascade prescribed burning will result in an 1,800-ton TSP emission reduction during the July 1 — September 15th period. In addition, prescribed burning conducted on the coast range will be managed such that Class I areas in Washington will be protected as "Smoke Sensitive Areas" under the Smoke Management Plan. Combined emission reduction and smoke management elements provided under this Plan should provide a significant benefits to Washington Class I area visibility.~~

5.2.5.7 Emission Reductions Due To On-Going Control Programs [moved to

Section 5.8.2.5]

~~————The Oregon Revised Statutes (ORS) Chapter 468A authorize the Oregon Environmental Quality Commission to adopt programs necessary to meet and maintain state and federal ambient air quality standards. The mechanisms for implementing these programs are the Oregon Administrative Rules (OAR):~~

~~————A summary of provisions of the OAR which assure emission reduction benefiting Class I visibility are noted below. Emission growth limits within urban areas, the Department's Plant Site Emission Limitation (OAR 340 20 300) rule and other provisions of the State of Oregon Clean Air Act Implementation Plan (SIP) are intended to insure that air pollutant concentrations within Oregon are managed so as to assure that National Ambient Air Quality Standards are not violated. Further, the growth of air pollutant emissions is managed under the provisions of the SIP in a manner consistent with Clean Air Act requirements and the best interests of the people of Oregon. Each of these elements of the SIP insures that visibility impairment associated with the transport of urban haze into the Class I areas does not exacerbate visibility improvement to be achieved under the provisions of the Plan.~~

~~————In addition, the provisions of the Intergovernmental Review (A-95) Process, charged the Department with the responsibility of insuring that environmental (e.g. visibility) impacts projected as a result of federally funded projects are reviewed and approved prior to implementation. USDA Forest Service Forest Management Plans and Bureau of Land Management Environmental Impact Statements are reviewed by the Department to insure that such plans are consistent with the requirements of the Clean Air Act and State of Oregon SIP. Air quality impacts associated with prescribed burning are reviewed within this process in relation to Prevention of Significant Deterioration Class I increments and conformance to this Plan.~~

Table II(a)

Willamette Valley Field Burning Visibility Protection Strategies

<u>SHORT-TERM STRATEGY (1-5)</u>	<u>VISIBILITY BENEFITS</u>	<u>LIMITATIONS OR NEGATIVES</u>	<u>CONTROL COST</u>	<u>IMPACT REDUCTION</u>
<u>Encourage Early Season (July)</u> ; Potential for additional 10-15,000 acres, depending on weather. Requires grower education.	Significantly reduced emissions from early maturing smokey varieties for less overload on mid to late season burn days. Better utilize early season days with better ventilation. Makes required weekend burning more feasible.	Increases fire escape and liability risks. Fields need 7-10 days drying after harvest	Potential cost from delays and conflicts with harvest operations. Saving from less late-season field prep (fluffing, cutting, etc.).	Class I and urban areas (especially in August/September)
<u>Smoke Management Improvement (on-going)</u> ; Better forecasting and decision making especially under marginal or risky conditions.	Reduced frequency, intensity and duration of intrusions by reduced overload on high-risk days.	Concentrates more burning during low-risk periods. May increase Class I impacts on good ventilation days.	Potential cost for more farm personnel and equipment because of increased response to fewer opportunities.	Class I and urban areas (especially east Valley).
<u>Improve Burning Methods (general)</u> ; Rapid-ignition, lighting equipment, fluffers, etc. Requires grower education.	Reduced ground level emissions and impacts.	None.	Some investment costs for equipment	Class I and urban areas.
<u>Evening Burning Program (currently experimental)</u> ; Potential additional 15,000 acres. Requires grower certification and coordination by industry.	Reduced ground level impacts by removing high-risk acreage from Westerly flow burn regimes. Makes reduced weekend burning more feasible.	Requires strict grower compliance and increased administrative burden. Precise limits and effects on Class I areas not fully known.	Some costs for equipment and crews to qualify.	Class I and urban areas.
<u>Reduced Weekend Burning Upwind of Class I Areas on "Visibility Important" Days (July 1 - Sept 15th)</u> ; Potential loss of 15,000 - 35,000 acres. a) Develop/implement practical and flexible criteria. b) Phase-in 3 years.	Reduced impacts during high use "Visibility Important" periods.	Critically dependent on advance forecasts. Possible resultant increased burning and risk on good ventilation weekdays.	Requires equipment and crews to burn more in less time on weekdays (same as #2). Some savings from less stand-by time on weekends.	Class I, urban, and rural east Valley residential/recreation areas.

[incorporated into Section 5.8.1.2]

Willamette Valley Field Burning Visibility Protection Strategies

<u>SHORT-TERM STRATEGY (1-5)</u>	<u>VISIBILITY BENEFITS</u>	<u>LIMITATIONS OR NEGATIVES</u>	<u>CONTROL COST</u>	<u>IMPACT REDUCTION</u>
<u>Develop New Crops Not Requiring Burning (Meadowfoam, Rapeseed, etc.);</u> Potential for replacing up to 50,000 or more acres in long-term.	Reduced acres burned.	None, except long-term commitment needed for all parties.	Substantial funding required for market and agronomic development (long-term)	Class I and urban areas.
<u>Straw Utilization Development (i.e., fuel)</u> Potential for up to 50,000 acres in long-term.	Reduced acres burned.	Long-term economic and technical limits difficult to control and predict.	Substantial cost of straw removal/storage/processing must be off-set by value of available.	Class I and urban areas. straw. Tax credit offsets
<u>Research and Development Program (on-going) and Feasibility Study:</u> Continue to seek, develop, and promote viable alternatives. Do Feasibility Studies to define the cost/benefits and program goals. Potential for Significant acreage reduction.	Reduced acres burned.	None, except long-term rate of progress difficult to control and predict	Potential for substantial costs for employing some alternatives Tax credits offsets available.	Class I and urban areas.

[incorporated into Section 5.8.2.3

Table III

PRESCRIBED BURNING CONTROL STRATEGIES

LONG-TERM AIR QUALITY BENEFITS	COST FACTORS	IMPACT REDUCTIONS	
A. Research to improve wood residue utilization	Breakthrough to make forest residue more valuable as a by-product, therefore reducing emissions.	Research funding marketing costs; Increased residue utilization may impact soil productivity	Less TSP
1. Encourage high volume residue utilization for energy co-generation			
2. Process to separate bark from small pieces			
3. Long-term chip storage			
4. Test, evaluate, & implement smoke dispersion computer models to improve smoke	More accurate forecast and unit approval/disapproval process; less chance of risk on marginal days	More manpower, high-tech equipment needs; Training for smoke management personnel.	Virtually eliminate significant impairment of visibility
B. Test & verify emission reduction ignition methods including hardwood conversion burning			
C. Look for incentives for fuel removal			
1. Reduced transportation costs			
2. Tax credits			
3. Incentive for co-generation			

[incorporated into Section 5.8.2.4]

PRESCRIBED BURNING CONTROL STRATEGIES

LONG-TERM AIR QUALITY BENEFITS		COST FACTORS	IMPACT REDUCTIONS
D. Reduce fuel loading	Reduce emissions through reduction of residues burned	Combination of economic and environmental cost; Increase in brush and weed control needs; Not all feasible; Certain wildlife habitat sacrificed; less soil protection from big chunks left on ground; Delayed Reforestation due to brush competition	Less TSP
1. Firewood cutting recreation use periods	Less emissions during high		Visibility improvement through achievement of significant reductions achieved
2. Whole tree yarding	Fewer units needing to be burned		
3. Maximum recovery through felling & bucking procedures	Fewer units needing to be burned		Few smoke plumes
4. Chipping	Reduced residue to be		Increased fire hazard and re-resulting burned costs; Reduced net timber sale receipts due to high logging cost
5. YUM yarding	Piles can be burned during more favorable weather conditions		
E. Fuel management	Reduce acres burned and thereby reduce emissions	Substantial cost in dollars and time	Improve overall visibility and reduce intrusions
1. Chemicals			
2. Use of explosives		Note potential increase in problems from rodents, insects, and forest pathogens	
3. Mechanical site preparation		Increase fire hazard & suppression	
F. Based on the preceding strategies becoming feasible and practical, establish emission reduction goal of 50% from the 1976-1979 baseline by the year 2000			

[incorporated into Section 5.8.2.4]

Attachment A-2

Final version of Plan Amendments

- ✓ *With all revisions incorporated*
- ✓ *Changes made in response to public comment (underlined for additions/crossed-out for deletions)*

VISIBILITY PROTECTION PLAN FOR CLASS I AREAS (OAR 340-200-0040 , Section 5.2)

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5.3.1 Definitions

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Encourage Early Season Burning (July)

Smoke Management Improvement

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5.8.1.5 Prescribed Burning

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5.8.2.1 Overview

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- 5.8.2.4 Prescribed Burning
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5.9 Protection of Integral Vistas

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Tables

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Appendices

- A. Oregon Department of Agriculture Field Burning Rules (OAR 603-077)
- B. Prescribed Burning Smoke Management Directive 1-4-1-601
- C. New Source Review Rules (OAR 340 Division 224)
- D. Jefferson County Ordinance
- E. Union County Ordinance

(Note: Appendices A thru E are available upon request)

5.2 What is "Visibility"?

Although the term "visibility" has a simple meaning, it is a difficult phenomenon to measure in scientific terms. Visibility relates to human perception of the environment and includes color, the contrast of viewed objects against the background sky, the clarity of the atmosphere, and psychological interpretation of the person viewing the scene. Visibility impairment is caused by the presence of particles and gases in the air which either absorb or scatter light. Even under the best conditions, there is some "natural" light scattering that occurs that limits visibility. The degree to which absorption and scattering affects visibility is referred to as "light extinction". Light extinction can vary as a function of sun angle and cloud cover, and can be affected by relative humidity. In addition, natural impairment of visibility is caused by clouds, fog, rain and snow.

5.3 Introduction

Sections 169A and 169B of the Clean Air Act contain requirements for states to protect and improve visibility in national parks and wilderness areas in the country. In 1977 Congress designated certain national parks and wilderness areas as "mandatory Class I federal areas", where visibility was identified as an important value. Currently in the United States there are 156 of these Class I areas, including 47 national parks, 108 wilderness areas, and one international park.

Oregon has 12 Class I areas, including Crater Lake National Park and 11 wilderness areas. These areas are listed in Table I. The importance and value of Oregon's Class I areas lie not only in the intrinsic value of their beauty but also in their importance to tourism in Oregon. They are also valuable as a recreational resource for Oregon residents.

The 1977 Clean Air Act Amendments set forth a national goal for visibility that called for "the prevention of any future, and the remedying of any existing impairment of visibility in mandatory class I federal areas which impairment results from man-made air pollution". The Act mandated that the U.S. Environmental Protection Agency (EPA) develop regulations to ensure that meaningful progress is made towards achieving this goal. These regulations took two forms – the first addressed visibility impairment that is "reasonably attributable" to one or a small group of man-made sources generally located in close proximity to a specific Class I area – the second addressed "regional haze", which is visibility impairment caused by a multitude of sources and activities located across a broad geographic area. In 1980, EPA adopted Phase I rules to address reasonably attributable visibility impairment. These rules required States to conduct visibility monitoring in Class I areas and revise their State Implementation Plans (SIPs) to establish long-term strategies for making reasonable progress toward the national goal, apply if necessary Best Available Retrofit Technology (BART) to existing stationary sources impairing visibility, and evaluate visibility impacts of new or modified major stationary sources. In 1990, Amendments to the Clean Air Act focused attention on developing better technical tools and increasing scientific understanding of regional haze, and called for EPA to move forward with a national program for addressing this problem. EPA adopted Phase II rules on regional haze in July 1999.

In response to EPA's Phase I visibility rules, the Department adopted the Oregon Visibility Protection Plan in October 1986, as a revision to the Oregon SIP. Referred to

herein as the Plan, it represents Oregon's commitment to addressing reasonably attributable impairment in the state's Class I areas through visibility monitoring, control strategies to remedy existing impairment and ensure future visibility protection, periodic plan review, coordination and consultation. The Plan was developed in consultation with Federal Land Managers, the Oregon Visibility Advisory Committee, the Oregon Department of Forestry, the Oregon Seed Council and other groups.

The Plan provides for the protection of the mandatory federal Class I areas based on rules promulgated by EPA on November 30, 1979 and incorporated in OAR 340-204-0050. The Plan has been developed in response to the requirements of Section 169 (A)(a)(4) of the Clean Air Act of 1990.

The Plan is directed at (a) the protection of visibility within Oregon's Class I areas, (b) the mitigation of visibility impairment within the Mt. Hood and Central Oregon Cascade wilderness areas through short and long-term control strategies for forest prescribed burning and Willamette Valley agricultural field burning and (c) mitigation of impairment in the Eagle Cap Wilderness and Central Oregon Cascades resulting from agricultural field burning. Visibility protection for all of Oregon's Class I areas is administered under the provisions of numerous regulations including the Prevention of Significant Deterioration, New Source Review rules and the USDA Forest Service forest planning process.

5.3.1 Definitions

Definitions applicable to this section of the SIP are listed below:

"Best Available Technology (BAT)" means an emission reduction technique which will provide the maximum degree of reduction in air contaminant emissions, taking into account energy, environmental and economic impacts, compatibility with other Federal Land Manager practices and other costs, as determined on a case-by-case basis. BAT technologies applicable to prescribed burning include, but are not limited to, accelerated mopup, rapid ignition techniques, burning during optimum emission-reduction fuel moisture conditions, utilization of residues in lieu of burning and the reduction of emissions in lieu of broadcast or pile burning.

"Best Available Retrofit Technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established on a case-by-case basis, taking into consideration the technology available, the cost of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

"Class I Areas" are those mandatory federal Class I areas and any state redesignated Class I areas within which visibility has been identified as an important resource.

"Integral Vistas" means a view perceived from within the mandatory federal Class I area of a specific landmark or panorama located outside the boundary of the mandatory Class I area.

"Federal Land Manager (FLM)" means the Secretary of the Department with authority over a given Federal Class I area. The FLM for the Department of the Interior is the Assistant Secretary for Fish and Wildlife and Parks; the FLM for the Department of Agriculture is the Forest Service, through the Regional Forester or individual Forest Supervisor.

"Mandatory Federal Class I Area" means certain national parks and wilderness areas over 6,000 acres and 5,000 acres respectively, established by Congress, where visibility has been determined to be an important value. These areas are subject to the visibility protection requirements identified in Section 169 of the Clean Air Act. Oregon's mandatory federal Class I areas are listed in 340-204-0050.

"Manmade Air Pollution" is pollution that results directly or indirectly from human activities.

"Meteorological Impairment" occurs during time periods in which hydrometeors (e.g., fog, rain, clouds, snow or sleet) impair visibility within a Class I area.

"Natural Conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast or coloration. These phenomenon include fog, clouds, wind blown dust, rain, sand, naturally ignited wildfires and natural aerosols.

"Naturally-ignited Prescribed Fire" means fire ignited by natural sources (lightning, volcanoes, etc.) within any federally managed lands which are permitted to burn within predetermined conditions outlined in the Land Manager's fire management plan.

"New Source Review (NSR)" is a regulatory procedure for reviewing the air quality and visibility impacts from a new stationary (industrial) source or a modification of an existing stationary source where the new emissions are "significant" (see definition of "significant emission rate" under OAR 340-200-0020). Included in the NSR regulations is a requirement that no new major source or major modification cause or contribute to significant impairment of visibility in any Class I area. See definition of "significant impairment" below.

"Plume Blight" means visibility impairment caused by a distinct and coherent plume.

"Prescribed Burning" means the controlled application of fire to wildland fuels in either their natural or modified state, under such conditions of weather, fuel and soil moisture, as allows the fire to be confined to a predetermined area while producing the intensity of heat and rate of fire spread required to meet planned objectives including silviculture, wildlife habitat management, grazing and fire hazard reduction.

"Reasonably Attributable" means visibility impairment in a Class I area caused by emissions from one or a small group of sources generally located in close proximity to the Class I area.

"Regional Haze" means visibility impairment in one or several Class I areas caused by emissions from numerous sources located over a wide geographic area.

"Significant Impairment" occurs when, in the judgement of the Department, visibility impairment interferes with the management, protection, preservation or enjoyment of a visitor's visual experience within a Class I area. See OAR 340-225-0700 for visibility requirements for new and modified major stationary sources. The determination must be made on a case-by-case basis considering the recommendations of the Federal Land Manager, the geographic extent, intensity, duration, frequency and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I areas and the frequency and the occurrence of natural conditions that reduce visibility.

"Smoke Sensitive Area" means, for purposes of visibility protection, certain Class I areas that are protected from summertime smoke impacts caused by prescribed burning under the Oregon Department of Forestry Smoke Management Program.

"Visibility Advisory Committee" means a group of State and Federal Land Managers, forestry, agricultural, environmental, tourism and public-at-large representatives, appointed by the Director of the Department.

"Visibility Impairment" means any humanly perceptible change in visibility (visual range, contrast or coloration) from that which would have existed under natural conditions.

"Visibility Protection Period" means the period between July 1 to September 15, during which restrictions on agricultural and forestry burning apply for purposes of visibility protection.

5.4 Mandatory Federal Class I Areas

As mentioned above, Oregon has 12 Class I areas. These areas are listed in Table I. These lands were designated as mandatory federal Class I Areas in 1977. At that time, Congress designated all wilderness areas over 5,000 acres and all national parks over 6,000 acres as mandatory federal Class I areas, subject to the visibility protection requirements in the Clean Air Act. All other wilderness areas, national monuments, scenic areas, etc., are designated as Class II areas. The acreages for the Class I areas listed below include expansions that have occurred since 1977, pursuant to the 1990 Clean Air Act Amendments.

**Table I
Wilderness and National Park Lands
Protected Under the Visibility Protection Plan**

<u>Class I Area</u>	<u>Acreage</u>	<u>Federal Land Manager</u>
Crater Lake	183,315	USDI-NPS ¹
Diamond Peak Wild.	52,337	USDA-FS ²
Eagle Cap Wild.	360,275	USDA-FS
Gearhart Mtn. Wild	22,809	USDA-FS
Hells Canyon Wild.	131,033	USDA-FS
Mountain Lakes Wild.	23,071	USDA-FS
Mt. Hood Wild.	47,160	USDA-FS
Mt. Jefferson Wild.	107,008	USDA-FS
Mt. Washington Wild.	52,516	USDA-FS
Strawberry Mtn. Wild.	69,350	USDA-FS
Three Sisters Wild.	285,202	USDA-FS
Kalmiopsis Wild.	179,700	USDA-FS

Notes: ¹ U.S. Department of Interior, National Park Service.
² U.S. Department of Agriculture, Forest Service

5.4.1 Areas Redesignated to Class I

Class II areas can be redesignated by the state to Class I under OAR 340-204-0060 if the Department, in consultation with the Federal Land Manager, determines that visibility within these areas is important to the visitor's experience. Upon completion of this determination, the redesignated Class I area will be included within the Plan. Redesignation to Class I does not subject the redesignated area to the same visibility protection requirements in the Clean Air Act as mandatory federal class I areas established by Congress in 1977. State redesignated Class I areas receive visibility protection under the Prevention of Significant Deterioration (PSD), New Source Review (NSR) rules, and the USDA Forest Service forest planning process. Revision of the Department's list of Class I areas in OAR 340-204-0050 will also be made to assure that the Rule incorporates all Class I areas.

5.5 History of Visibility Impairment in Oregon Class I Areas

Visibility monitoring in Oregon's Class I areas began in 1982, focusing primarily on visibility conditions in the Oregon Cascade Class I areas. This early monitoring showed that during the summer months in the northern and central Cascades, visibility was frequently impaired by uniform haze and, to a lesser extent, ground based layered haze, and that this haze was mostly smoke from dispersed Willamette Valley agricultural open field burning, forest prescribed burning, and wildfire activity.

In the mid-1980's the Department determined that in Eastern Oregon there was summer visibility impairment in the Eagle Cap Class I area caused by Union County agricultural open field burning. At the same time the Department also found Jefferson County agricultural open field burning was contributing to visibility impairment in the

central Oregon Cascade Class I areas.

The Department determined that specific short-term and long-term visibility control strategies were needed for in the Mt. Hood, Mt. Jefferson, Mt. Washington, Eagle Cap and Three Sisters Wilderness areas to protect against impacts from Willamette Valley, Jefferson County and Union County open field burning and prescribed burning during the visibility protection period, and that long-term control strategies were needed to ensure future visibility protection in all Class I areas in the state.

5.6 Visibility Monitoring Network

Visibility monitoring is essential to the evaluation of visibility impairment and trends, as a means of assessing the effectiveness of visibility control strategies and for identifying the major contributing sources. To meet these objectives, the monitoring network must document visibility within Class I areas on a long-term basis. In addition, the monitoring strategy must strive to meet the needs of, and be a cooperative effort with, the Federal Land Manager.

The Oregon Department of Environmental Quality operates a real-time monitoring network to identify the degree of visibility impairment in Cascade Class I areas, and help identify the sources causing the impairment. This network is operated annually, at a minimum, from July through September, the period of heaviest Class I area visitation. To the extent practicable, the visibility monitoring network will be expanded statewide with the intent of documenting and evaluating visibility within all Oregon Class I areas. Expansion of this network will be subject to the Department being able to secure the necessary funding.

In addition to the Department's monitoring network, the USDI National Park Service and the USDA Forest Service operate a monitoring network of IMPROVE (Interagency Monitoring of Protected Visual Environments) sites around the state. These IMPROVE sites are designed for monitoring regional visibility under EPA's Phase II Regional Haze Rules, and are limited in their ability to identify "reasonably attributable" Phase I impairment from sources located near Class I areas. However, the Department does review IMPROVE data as part of its overall effort to assess visibility conditions and trends.

5.7. Procedures for Review, Coordination and Consultation

The Department has made and will continue a commitment to a strong State and Federal Land Manager coordination program. This section of the Plan explains procedures for maintaining coordination between involved agencies for rulemaking, New Source Review, periodic program reviews and revision of the SIP. For purposes of these reviews, the Department will maintain a mailing list of interested parties that will be advised of the meetings described below.

5.7.1 Annual Visibility Advisory Committee Meetings

The Visibility Advisory Committee will hold an annual meeting no later than May of each year to review monitoring data and discuss visibility plan effectiveness. The meeting will be open to the public, the news media, and interested persons included on a

Department mailing list.

Topics to be addressed at this meeting will include a review of the monitoring data, an assessment of visibility trends and sources contributing to visibility impairment, and discussion of reasonable progress toward achievement of the national visibility goal. A report summarizing this meeting will be prepared and distributed to the Federal Land Manager, EPA, and other interested parties. This report will serve as an important element in the periodic plan review process.

5.7.2 Periodic Plan Review and Assessment

Every three years the Department will conduct a formal review of the Visibility Protection Plan. The meeting will provide an opportunity for affected State and Federal Land Managers, the Oregon Visibility Advisory Committee, the Oregon Seed Council, other affected parties and the public to provide the Department with feedback on the effectiveness of the Plan. Specifically, the periodic review process will address: (a) assessment of visibility trends and impairment; (b) review of annual emissions trends; (c) recommendations regarding the effectiveness of visibility control strategies; (d) assessment of whether Reasonable Progress is being made; and (e) additional measures which may be needed to assure reasonable progress.

All available monitoring and emission data applicable to Class I visibility impact assessment will be summarized and provided for use during the periodic plan review. A report summarizing the periodic plan review will be prepared and distributed to State and Federal Land Managers, EPA and other interested parties.

5.7.3 Other Meetings

Meetings may be called by any interested party at any time to discuss the Plan with the Department.

5.8 Control Strategies

The Oregon Visibility Protection Plan incorporates both short-term and long-term strategies to make reasonable progress toward remedying impairment caused by Willamette Valley, Jefferson and Union County agricultural field burning, and forest prescribed burning. The Plan includes provisions for the protection of all Class I areas from future impairment through the visibility impact assessment requirements of the New Source Review rule. The principal elements of the control strategy are described below.

5.8.1 Short-Term Strategy

5.8.1.1 Overview

The short-term control strategies are directed at remedying visibility impairment during the Visibility Protection Period (July 1 through September 15, inclusive) caused by plume blight from agricultural field burning and forest prescribed burning. The Department will make efforts to ensure on an on-going basis that good coordination is achieved between the smoke management programs described below, in order to avoid unwanted impacts on visibility.

5.8.1.2 Willamette Valley Open Field Burning

Under state law (ORS 468A.590) the Oregon Department of Agriculture is required to conduct a smoke management program for open field burning in the Willamette Valley. The short-term strategies for reducing visibility impairment caused by Willamette Valley open field burning listed below have been incorporated into this smoke management program. These strategies are based on smoke management and emission reductions, and are designed to protect primarily those Class I areas to the east of the Willamette Valley, or the northern and central Cascade Class I areas, during the Visibility Protection Period. Strategy 2 below provides additional visibility protection to weekend visitation periods.

1. **Reduction in Acreage Allowed to be Burned.** The Oregon State Legislature revised state law (ORS 468A.610) to reduce the amount of Willamette Valley open field burning, starting in 1991, from 180,000 acres to 40,000 acres in 1998 and thereafter. An additional 25,000 acres can be burned as specified in OAR 603-077-0113 (b), ~~in certain steep terrain areas of the Valley,~~ making the actual acreage allowed by law to be 65,000 acres.
2. **Restrictions on Weekend Burning.** During the Visibility Protection Period, weekend field burning is not allowed upwind of Class I areas in the Cascade Range. Exemptions to this restriction are (1) if on a given weekend day there is existing meteorological impairment resulting in more than 50% cloud cover in these Class I areas, and (2) if the Willamette Valley Field Burning Emergency Clause is enacted. This emergency clause requires a joint finding by the Directors of Agriculture and Environmental Quality that adverse economic impacts on the grass seed industry may be likely because of unusual weather or burning conditions. The finding will be based on a review, by August 10th or periodically thereafter, of burning accomplished to date to determine if weekend burning restrictions should be modified or suspended. A report describing the findings of the Directors shall be prepared for review during the Annual Visibility Advisory Committee meetings (Section 5.7.1.) if the emergency clause is enacted.
3. **Encourage Early Season Burning (July).** This is an on-going effort to reduce impacts and emissions by burning early in the summer for certain early maturing grass types. Benefits of early season burning are (1) fields are in optimum ~~burning~~ burned condition for burning, and will burn hotter with less emissions than fields burned later in the summer, and (2) better ventilation conditions often occur in early summer as compared to later in the summer. The ability to conduct early season burning is dependent on the frequency of favorable conditions for burning.
4. **Smoke Management Improvement.** This is an on-going effort to improve forecasting capabilities using the latest technology and equipment. Since 1986, new meteorological tools have been incorporated into the smoke management program. Improvements will continue to be made as new tools become available.
5. **Improve Burning Methods.** This is an on-going effort to improve burning through use of rapid-ignition techniques and better field preparation (e.g., mechanical fluffing). Oregon Department of Agriculture open field burning rules (603-077-0110) require "every reasonable effort to expedite and promote efficient

burning and prevent excessive emissions". As a result, most field burning now involves rapid-ignition burning (where safe) and significant field preparation.

These short-term strategies have been incorporated into the Oregon Department of Agriculture Open Field Burning Rules, OAR 607-077 (Attachment A).

5.8.1.3 Jefferson County Open Field Burning

Agricultural open field burning in Jefferson County has been found to impair visibility in the central Cascade Class I areas. The short-term strategy to mitigate this impairment is through a mandatory county smoke management program described and enforced through Jefferson County Ordinance (Attachment D). The ordinance requires that all burning be conducted so that smoke is not transported into a Class I area at any time. The enforcement provisions of the ordinance are sufficiently stringent to assure that smoke management instructions issued by the smoke management coordinator are followed. Since most of the burning occurs during the summer months, the benefits of this strategy coincide with the period of heaviest wilderness visitor use.

5.8.1.4 Union County Open Field Burning

Agricultural open field burning in Union County has been found to impair visibility in the Eagle Cap Wilderness. The short-term strategy to mitigate the impairment of visibility caused by agricultural field burning is through a mandatory county smoke management program enforced through Union County Ordinance (Attachment E). The ordinance requires that Union County smoke from field burning is not transported into the Eagle Cap Wilderness at any time. Since most of the burning occurs during the summer months, the benefits of this program coincide with the period of heaviest wilderness visitor use.

5.8.1.5 Prescribed Burning

The prescribed burning short-term strategy applies to the controlled application of fire to wildland fuels for silvicultural, wildlife habitat, fuels management or ecosystem purposes. This strategy is directed at reducing visibility impairment within the northern and central Cascade Class I areas during the Visibility Protection Period.

1. **Smoke Sensitive Areas.** The ODF Smoke Management Plan (OAR 629-043-0043) will consider the following Class I areas as "smoke sensitive areas" and protect accordingly during the Visibility Protection Period: Mt. Hood, Mt. Jefferson, Mt. Washington, Three Sisters and Diamond Peak wilderness areas, and Crater Lake National Park.
2. **Encourage Spring and Fall burning.** Efforts will be made under the ODF Smoke Management Program to conduct all prescribed burning in Western Oregon during the spring and fall months, when Class I area visitation is much lower. In addition, during these months ventilation conditions for burning generally are better, and higher fuel moisture can result in fewer emissions being generated. Western Oregon is defined here as Lane, Linn, Marion, Clackamas, Multnomah, Hood River, Columbia, Clatsop, Tillamook, Yamhill, Polk, Benton, Lincoln and Washington counties.

3. **Naturally-ignited Prescribed Fire.** Natural fires that are ignited by lightning and then managed like a prescribed burn are one way Federal Land Managers can achieve certain resource management objectives. The Oregon Department of Environmental Quality and the Oregon Department of Forestry will participate in the development and be provided an opportunity to comment on draft fire management plans developed by the Federal Land Managers that include provisions for naturally-ignited prescribed fire and whether smoke impacts on visibility are being considered.

5.8.2 Long-Term Strategy

5.8.2.1 Overview

The long-term strategies are directed at making reasonable progress toward the national visibility goal over the next 10-15 year period, in accordance with Section 51.306(a) of EPA regulations. The long-term control strategies are primarily directed at mitigation of visibility impacts, emission reductions, and preventing plume impairment caused by open field and prescribed burning, and from new and modified large industrial sources. In the development of the long-term strategies, several factors were considered in accordance with Section 51.306(e) and (f) of EPA regulations:

- (a) Emission reductions due to on-going programs, as discussed in Section 5.8.2.5 of the Plan.
- (b) Additional emission limitations and schedules for compliance for stationary sources. These were not considered necessary for the long-term strategy at this time, since there is no monitoring data to support a finding that any industrial point source is contributing directly to visibility impairment. ~~based on the BART assessment provided in Section 5.10 of the Plan.~~
- (c) Measures to mitigate impacts from construction activities. Visibility impacts from stationary sources are administered through the Air Contaminant Discharge Permitting and the PSD rule process, while soil dust entrained as a result of construction activities is controlled under the A-95 review process, State and Federal Forest Practices Acts and permitting processes.
- (d) Enforceability of emission limitations. This was not considered important to the long-term strategy because of the reasons outlined in (b) above.
- (e) Smoke Management Techniques for agricultural and forestry management. These are essential elements of the strategy, as discussed in the Plan.
- (f) Source Retirement and Replacement. On-going stationary source emission reductions may reduce impairment associated with urban plume impacts on Class I areas in the future.

The elements of the long-term strategy are listed below. As with the short-term control strategies, those related to Willamette Valley open field burning are designed to protect visibility primarily in the northern and central Cascade Class I areas during the

Visibility Protection Period.

5.8.2.2 New Source Review Visibility Protection

In accordance with federal requirements in CFR 51.307, the Department's Major New Source Review (NSR) and Air Quality Analysis rules (OAR 340-224 and 225, respectively) contain requirements for visibility impact assessment and mitigation associated with emissions from new and modified major stationary sources. Specifically, OAR 340-225-0070 references the need for protection of "Air Quality Related Values" (AQRV), which are specific scenic and environmentally related resources that may be adversely affected by a change in air quality. One of these AQRVs is visibility. The primary responsibility of the Department under these rules is visibility protection. Protection of all AQRVs (including visibility) is the primary responsibility of the Federal Land Manager. OAR 340-225-0070 describes mechanisms for visibility impact assessment and review by the Department as well as impact modeling methods and requirements, the result of which is a demonstration of "no significant impairment of visibility in any Class I area".

The Department's NSR visibility requirements apply to "federal major sources". Under the Clean Air Act these are new or modified existing sources that emit 100 tons or more per year of a regulated pollutant for certain categories of sources, or 250 tons or more per year if not in these source categories. Under the Department's NSR rules, smaller sources than this can be called "major" and subject to NSR requirements. The distinction is that the visibility requirements in 340-225-0070 only apply to the larger federal major sources. However, potential visibility impacts from non-federal major sources are assessed on a case-by-case basis by the Department, with the objective to meet the same requirements as federal major sources. Compliance with this voluntary effort has been excellent.

In conducting these reviews, the Department ensures that new source emissions do not impair visibility within any Class I area throughout the entire year, rather than just during the visibility protection period. Any new major source or major modification found through modeling to cause significant visibility impairment will not be issued an air quality permit by the Department unless the impact is mitigated. This modeling is conducted for sources typically out to ~~150~~200 kilometers from a Class I area. For larger sources this distance can be out to 300 kilometers. ~~Beyond that distance it is unlikely any visibility impact will occur.~~

Since the adoption of the Visibility Plan in 1986, major improvements have been made in modeling visibility impacts, and in understanding the processes that contribute to visibility impairment. Both direct plume impacts and regional haze cumulative impacts are now included in the analysis. This has resulted in greater protection being provided to Oregon's Class I areas from new source emissions than 15 years ago.

The improvements in modeling tools provide greater accuracy in predicting visibility impacts. Early visibility modeling involved assessing plume impacts using the VISCREEN and PLUVUE II dispersion models, which worked well in estimating visibility impacts within 50 kilometers of the source, but beyond this distance were less accurate. Due to the lack of other models, these models continued to be used. In the late 1990's, a

new and more accurate dispersion model became available for estimating long distance impacts. This model is known as the CALPUFF model, and it can be used in the 50-200 kilometer range.

In addition to modeling improvements, new visibility impact criteria are now being used which are very protective in terms of what constitutes "significant impairment" in a Class I area. The 2000 FLAG (Federal Land Managers' Air Quality Related Values Workgroup) Report defined "significant" for a single source as an increase in visibility impairment above natural background of 5% (expressed as visibility extinction). There are other significance levels for multiple sources. These FLAG significance levels are currently being used by the Department. These criteria represent levels that are based on a strong scientific foundation and are more comprehensive in protecting visibility for distant sources than the plume visibility criteria which were formerly used.

The ambient air increment provisions in the Department's Prevention of Significant Deterioration rules limit Class I pollutant concentration increases to specific increments above baseline air quality levels, thereby assuring that visibility impairment associated with increased particulate and nitrogen dioxide concentrations will not exceed that allowed by the increment.

5.8.2.3 Willamette Valley Field Open Burning

The long-term strategy for Willamette Valley field burning consists of an ongoing Research and Development Program investigating alternatives to open field burning. Under state law (ORS 468A.550, 468A.585, and 468A.590) the Oregon Department of Agriculture is required to conduct an on-going research and development program (subject to available funding) to seek, develop and promote viable alternatives to open field burning. These alternatives include straw utilization, minimum tillage, less-than-annual burning, and alternate crops not requiring open burning. To date the program has been successful in finding viable alternatives, given the significant reduction in acres burned in the Willamette Valley as described under the short-term strategy. As a result, there has been a major increase in the use of alternatives, which is expected to continue into the future. The Department of Environmental Quality shall encourage the continuation of the use of alternatives through its coordination with the Oregon Department of Agriculture.

5.8.2.4 Prescribed Burning

This long-term strategy consists of on-going research and development of non-burning alternatives to prescribed burning of forest debris. This strategy applies throughout the state of Oregon. The Department of Forestry encourages private forest landowners to burn only those units that must be burned to achieve the landowners' objectives. The Oregon Department of Forestry, through the Oregon Smoke Management Program (OAR 629-043-0043), and in cooperation with state and federal land managers and private land owners, is required to develop and apply Best Available Technology (BAT) related to prescribed burning. BAT elements include research to improve wood residue utilization and marketing, mechanical site preparation, techniques to reduce fuel loading such as chipping and yarding, and incentives for fuel removal such as tax credits. The Forest Practices Act also encourages utilization of residue, fuel reduction measures, low emission-producing burning methods and alternate treatment

practices that are consistent with the purposes of the Act. Research programs to implement this strategy will be encouraged and supported by the USDA Forest Service, Bureau of Land Management, National Park Service and others, to the extent possible within available budgets.

Provisions for the annual Visibility Advisory Committee meeting and 3-year Plan review will provide a forum to review progress toward achieving these long-term emission reduction goals.

5.8.2.5 Emission Reductions Due To On-Going Control Programs

The Oregon Revised Statutes (ORS) Chapter 468A authorize the Oregon Environmental Quality Commission to adopt programs necessary to meet and maintain state and federal ambient air quality standards. The mechanisms for implementing these programs are the Oregon Administrative Rules (OAR).

A summary of provisions of the OAR which ensure emission reductions benefiting Class I visibility are noted below. Emission growth limits within urban areas, the Department's Stationary Source Plant Site Emission Limits (OAR 340 Division 222), and other provisions of the State of Oregon Clean Air Act Implementation Plan (SIP) are intended to ensure that air pollutant concentrations within Oregon are managed so as to meet National Ambient Air Quality Standards. Further, the growth of air pollutant emissions is managed under the provisions of the SIP in a manner consistent with Clean Air Act requirements and the best interests of the people of Oregon. Each of these elements of the SIP ensures that visibility impairment associated with the transport of urban haze into the Class I areas does not exacerbate visibility improvement to be achieved under the provisions of the Plan.

In addition, the provisions of the Intergovernmental Review (A-95) Process, charge the Department with the responsibility of ensuring that environmental (e.g. visibility) impacts projected as a result of federally funded projects are reviewed and approved prior to implementation. USDA Forest Service Forest Management Plans and Bureau of Land Management Environmental Impact Statements are reviewed by the Department to insure that such plans are consistent with the requirements of the Clean Air Act and State of Oregon SIP.

5.8.2.6 Maintenance of Control Equipment

The Plan requires, through the Air Contaminant Discharge Permit provisions of the SIP (OAR 340 Division 216), the maintenance and proper operation of emission control equipment in use at industrial point sources throughout Oregon. These requirements will apply to all new sources for which Air Contaminant Discharge Permits are issued.

5.9 Protection of Integral Vistas

The EPA regulations require protection of those integral vistas designated by the Federal Land Manager on or before December 31, 1985. Integral vistas are certain viewpoints within the mandatory Class I Federal area of a specific landmark or panorama located outside the boundary of the Class I area. The Department need not consider any integral vistas which have not been designated by the Federal Land Manager. The

Department may, under its own authority, identify integral vistas to be afforded protection under this Plan.

No integral vistas have been designated by the Federal Land Manager or by the Department. Therefore, integral vista protection afforded under the Plan is limited to that associated with the control strategies included herein.

5.10 Best Available Retrofit Technology

Section 51.302 (c) of EPA regulations describes the general requirements for Best Available Retrofit Technology (BART). Under these regulations, if the Federal Land Manager certifies to the State that there exists visibility impairment in any mandatory Class I Federal Area, the State must identify and analyze BART for each existing stationary facility which may reasonably be anticipated to cause or contribute to impairment of visibility within Class I areas (51.302(c)(2)(iii)).

Based on visibility monitoring and other analysis, the Department has not identified, nor has the Federal Land Manager certified any visibility impairment conditions which can reasonably be attributed to stationary source emissions within Oregon's Class I areas. Since the conditions described in Section 51.302 of the EPA regulations do not apply, BART rules have not been included in the Plan.

5.11 Interstate Visibility Protection

In recognition of the importance of interstate transport of pollutants which can impair visibility within Oregon's Class I areas, the Department will continue to work with neighboring States to coordinate visibility protection plans as required under Section 126 of the Clean Air Act. This coordination will attempt to ensure that economic and social effects of controls are administered fairly and as uniformly as possible. Affected Federal Land Managers and state agencies within the State of Washington, the State of California and other states will be consulted where necessary to address any interstate visibility issues that are identified.

To assure that the State of Washington Visibility Protection Plan provides a comparable level of visibility protection to that afforded under this Plan, the Department will work with the Washington Department of Ecology to improve the current Washington Interstate Protection Plan which is only directed toward summer weekend protection. Prescribed burning conducted under the ODF Smoke Management Program will be conducted in such a manner as to avoid contributing to visibility impairment in Washington Class I areas. The Department will work with the State of California Air Resource Board if necessary to address any impacts on visibility in Oregon Class I areas from prescribed burning activity in northern California.

Attachment B
Advisory Committee Recommendations

**Recommendations for Improvements to the
Oregon Visibility Protection Plan**

**Oregon Visibility Advisory Committee
July 2001**

Overview

The Oregon Visibility Protection Plan was adopted in 1986 to protect Crater Lake National Park and 11 national wilderness areas in Oregon from air pollution that degrades the visual experience in these scenic Class I areas. The Plan was developed to comply with the Environmental Protection Agency's Phase I visibility program addressing human-caused sources that can be identified as causing direct impacts (i.e., reasonably attributable) in Class I areas. The current Plan contains both seasonal and annual control strategies to reduce and prevent visibility impairment in Oregon's Class I areas. The primary components of the Plan include: (1) a seasonal strategy focused on large area sources such as forest slash burning and agricultural field burning during the summer Visibility Protection Period when the vast majority of Class I area visitation occurs; (2) a year-round strategy which includes preventing significant visibility impacts in Class I areas from new and modified major stationary sources using the State's New Source Review permitting program, and reliance on other measures such as controls on existing industrial sources, residential woodstoves, and motor vehicles to reduce pollution in populated areas; and (3) a visibility monitoring strategy that includes utilizing data from State and Federal agencies' monitoring sites in or adjacent to Oregon's Class I areas.

One of the requirements in the Plan calls for a periodic review of the effectiveness of the visibility protection strategies, to be conducted by the Oregon Visibility Advisory Committee.¹ The Committee convened on June 7, 2000 to begin this periodic review, holding monthly meetings that concluded on June 21, 2001. As a result of these meetings, there was agreement that while the Visibility Plan has been successful in controlling Phase I sources and reducing "man-made visibility impairment", improvements are needed to ensure reasonable progress continues to be made.

Committee Recommendations

The Oregon Visibility Advisory Committee identified 10 recommendations for improvements to the Visibility Protection Plan, which are described below. Full consensus was reached on all recommendations except #8, which two committee members did not support.² In addition, one

¹ Committee members are identified on the Signature Page attached to these recommendations.

² Opposing Recommendation 8 were Tim Wigley, Oregon Forest Industries Council, and Dave Nelson, Oregon Seed Council.

committee member favored developing a new emission reduction goal for Western Oregon; a recommendation not supported by the rest of the committee.³

1. Temporarily suspend the summer prohibition on prescribed burning in NW Oregon.

Recommendation: *The Oregon Visibility Advisory Committee recommends that the current prohibition on prescribed burning in NW Oregon during the visibility protection period be suspended temporarily and re-evaluated in three years, relying instead on the current Oregon Smoke Management Program administered by the Oregon Department of Forestry to protect visibility in Cascade Class I areas.*

One of the primary elements in the Oregon Visibility Protection Plan is a strategy to protect visibility during the Visibility Protection Period, which is from July 1 to September 15, when peak visitation occurs in Cascade Class I areas. During this period, prescribed burning is prohibited in the central and northern Cascades.⁴ This visibility protection strategy applies only to northwestern Oregon, and is designed to protect the 5 Class I areas in the central and northern Cascades.⁵

The Visibility Advisory Committee recommends dropping this strategy and instead relying on the current Oregon Department of Forestry (ODF) Smoke Management Program to protect visibility during this period. Prescribed burning has been declining steadily in Western Oregon over the last 20 years, and very little burning now occurs during this period. The Committee believes this prohibition may no longer be needed and that the current smoke management program is capable of protecting visibility. However, before permanently eliminating this prohibition, the Committee recommends proceeding on a trial basis for three years, during which time smoke management protection will be relied upon and visibility monitoring data reviewed. A joint evaluation will be made by DEQ and ODF of the effectiveness of this approach and examined at the next Visibility Plan periodic review.⁶ In addition, an update on the effectiveness of this approach shall be provided to the Visibility Advisory Committee at the annual meeting specified in Recommendation #10.

2. Improve smoke management coordination statewide and expand where needed.

Recommendation: *The Oregon Visibility Advisory Committee recommends DEQ work with state and federal agencies to improve coordination between existing smoke management programs in the state, as well as explore the possibility of expanding smoke management controls elsewhere in the state where needed to protect visibility.*

There are currently several smoke management programs that operate in Oregon. Summer open field burning is controlled through smoke management programs in the Willamette Valley, Union County, and Jefferson County. Annual prescribed burning is controlled through the

³ Supporting a new emission reduction goal was Bob Palzer, Oregon Chapter Sierra Club. Brian Mitchell, National Park Service, abstained from voting on this recommendation.

⁴ Prohibited except when "natural visibility impairment" exists, such as fog, clouds, rain, etc.

⁵ Mt. Hood, Mt. Jefferson, Mt. Washington, Three Sisters, and Diamond Peak Class I areas.

⁶ In 2004, assuming the periodic plan review is changed from 5 to 3 years, as recommended by the Visibility Advisory Committee under #6.

ODF Smoke Management Program. Seasonal open burning in Umatilla County is controlled through a local county ordinance. These programs operate independently of each other, with minimal overlaps and limited coordination between them. There is coordination between the Oregon Department of Agriculture (ODA) and Oregon Department of Forestry related to Willamette Valley open field burning and western Oregon prescribed burning.

The Visibility Advisory Committee believes better coordination is needed between these programs to avoid causing or contributing to smoke impacts in Class I areas, and recommends DEQ assume a leadership role and work with ODF and ODA to establish a formal process for evaluating and improving coordination. It is envisioned that this coordination would take the form of sharing information on (1) planned and current burning activity, (2) current meteorological data and forecasts to make better burn decisions, and (3) observed and/or monitored smoke impacts, including wildfire. Such coordination will also serve to test systems and procedures that could be used as Oregon and other States begin to develop and adopt regional haze control programs in the upcoming years.

Additionally, in order to provide more comprehensive visibility protection in Oregon Class I areas, the Committee recommends that DEQ identify other areas of the state where significant open burning is occurring during the visibility protection period (July 1-September 15), such as rangeland burning in Central Oregon, and where smoke management controls or improvements are needed to protect visibility.

3. Expand the Visibility Monitoring Network.

Recommendation: *The Oregon Visibility Advisory Committee recommends the current visibility monitoring network be expanded beyond the Oregon Cascades, and where possible efforts be made to conduct monitoring on a year-round basis. It is also recommended that monitoring should include nephelometer and aerosol composition data gathering above and beyond the existing and planned IMPROVE network.*

Historically, visibility monitoring in Oregon has consisted of three DEQ-operated nephelometers located in the Oregon Cascades.⁷ Two IMPROVE monitors operated by the USFS and National Park Service have also been used for visibility monitoring, also located in the Cascades.⁸ Recently, four new IMPROVE sites were established in Oregon: one at Mt. Hood, one in the southern Coast Range near the Kalmiopsis Wilderness Area, and two in eastern Oregon near the Eagle Cap, Strawberry Mountain, and Hells Canyon wilderness areas.

Monitoring data from the DEQ nephelometer sites has been essential for evaluating visibility conditions in Cascade Class I areas. These nephelometers operate every day during the summer months and provide “real-time” data for identifying short-term smoke impacts and daily fluctuations that occur in visibility conditions. Conversely, monitoring data from the IMPROVE sites has been of limited value, due to the fact that the samplers do not operate every day and do not provide real-time data. Although IMPROVE sites are run year-round, they are

⁷ Mt Hood Wilderness Area (Multnorpor), Central Cascades (Big Lake), and Crater Lake National Park (Rim Village).

⁸ Three Sisters Wilderness Area, Crater Lake National Park, respectively.

more suitable for regional haze monitoring; that is, identifying cumulative impacts and long-range transport from multiple sources, as opposed to identifying direct plume impacts from nearby individual sources, which is the current focus of the Visibility Protection Plan.⁹

The Visibility Advisory Committee believes there is a need to expand visibility monitoring in the state, especially near Class I areas in eastern and southwestern Oregon.¹⁰ This monitoring should continue to use nephelometers, but should also include some aerosol monitoring where possible to identify different contributing sources. In addition to expanding the monitoring network, efforts should be made to pursue year-round monitoring in order to determine visibility trends during other times of year in addition to the summer. If year-round monitoring is not possible, the first priority should be summer, followed by spring and fall, and then winter. Funding for monitoring expansion should not rely exclusively on DEQ, but instead be a collaborative effort involving other agencies and organizations.

4. Expand the counting period for “daylight hour” impacts.

Recommendation: *The Oregon Visibility Advisory Committee recommends that the current counting period for measuring “daylight” visibility impacts be changed from 9 a.m.-9 p.m. to 6 a.m.-9 p.m. to better reflect actual daylight hours.*

Current summertime visibility impairment as measured by nephelometers only counts daylight hour impacts. Nephelometer monitoring, as described above, provides “real-time” data that allows impacts to be tracked in hourly averages. The counting period for daylight impacts during the summer months has historically been 9 a.m. to 9 p.m.¹¹ This counting period excludes approximately 3 hours of daylight in the early morning.

The Visibility Advisory Committee believes that since visitors to Class I areas would be able to see any visibility impairment during this time, it is important to count these hours, and recommends changing the counting hours to 6 a.m. to 9 p.m. Should visibility protection be extended to a year-round effort, per Recommendation #8, this counting period will have to be revised to reflect actual daylight hours during other times of year.

5. Develop and implement an Emissions Tracking System.

Recommendation: *The Oregon Visibility Advisory Committee recommends that an Emissions Tracking System be developed and implemented for all major open burning sources in the state.*

The Visibility Advisory Committee believes it is important when evaluating visibility trends to have both current monitoring data and current emissions data. This is especially beneficial

⁹ The Oregon Visibility Plan is based on EPA’s “Phase I” visibility rules, and will be revised in upcoming years to incorporate EPA’s “Phase II” rules on regional haze.

¹⁰ In eastern Oregon, the Strawberry Mountain, Eagle Cap, Hells Canyon Class I areas; and in southwestern Oregon, the Kalmiopsis Class I area.

¹¹ An “official” visibility impact is any hourly average nephelometer reading over .60 Bscat. A reading of .60 Bscat is considered the lowest level of what is humanly perceptible.

when conducting the periodic review of the Visibility Plan. However, for sources like agricultural, forest, and rangeland burning, there is no coordinated system in place for tracking all of these emissions. The open field burning and prescribed burning smoke management programs track their own burning and prepare annual reports that include burn data, with submittal of these reports to DEQ. There are differences between these programs in terms of those required by statute to calculate and track emissions (ODF and ODA) and those programs required by ordinance (Jefferson and Union County).

The Oregon Visibility Advisory Committee recommends that DEQ should work with ODF, ODA, federal land managers, grass seed growers associations and others to determine specific data needs, reporting periods, format, and timing for coordinated submittal of this information to DEQ. In addition to obtaining emissions data from existing smoke management programs, DEQ should survey other areas of the state where significant open burning may be occurring, such as rangeland burning, and develop ways to track emissions in these areas.

6. Change the periodic plan review from 5 to 3 years.

Recommendation: *The Oregon Visibility Advisory Committee recommends that the periodic plan review provision in the Visibility Protection Plan be changed from five years to three years in order to be consistent with federal requirements.*

The Visibility Protection Plan contains a requirement for conducting a periodic plan review every 5 years to assess the effectiveness of the visibility protection strategies. EPA's visibility rules require periodic reviews take place every 3 years.¹² The Visibility Advisory Committee recommends the periodic plan review be changed to 3 years to be consistent with federal requirements. While changing the review period is recommended, the Committee also recognizes that trends need to be established over periods longer than three years.

7. Encourage alternatives to burning.

Recommendation: *The Oregon Visibility Advisory Committee recommends the maximum effort be made to increase use of non-burning alternatives as a means of improving visibility in Oregon Class I areas, to the extent possible consistent with fire protection and prevention programs applicable on forest land.*

The Oregon Visibility Advisory Committee strongly supports finding new ways to increase the use of non-burning alternatives for all types of open burning. As major increases in prescribed burning on federal land are expected in many areas of the state in the near future, increasing the use of non-burning alternatives is essential. Efforts should be made to identify grants or subsidies available for utilization projects, and research into potential new biomass markets.

The Visibility Advisory Committee also recommends that the Oregon Department of Forestry make this a high priority in its upcoming review of the Oregon Smoke Management Program. In addition to prescribed burning, alternatives to agricultural open field burning throughout the state should continue to be actively pursued.

¹² 40 CFR 51.306(c)

8. Evaluate changing to year-round visibility protection from open burning.

Recommendation: *The Oregon Visibility Advisory Committee recommends DEQ evaluate year-round visibility protection from open burning for all Oregon Class I areas, and that this evaluation be reviewed at the next Visibility Plan periodic review.*

Currently under the Visibility Plan, prescribed burning is prohibited during the Visibility Protection Period (July 1 to September 15) in the central and northern Cascades. Outside of this summer period, the Plan does not impose any restrictions on any open burning.

There was much discussion by the committee on whether to change the focus in the Visibility Plan from protecting visibility during the summer to year-round visibility protection. Such a change would primarily effect prescribed burning, but also rangeland burning and general open burning in certain areas of the state.¹³ Year-round protection would make the Oregon Visibility Plan more consistent with the new Regional Haze Rule. High priority would need to be given to expanding the state visibility monitoring network, as identified in Recommendation #3, in order to determine where open burning is causing visibility impacts and protection is needed.

Changing to year-round visibility protection for all Class I areas in the state could have a significant effect on the way open burning is currently managed in Oregon.¹⁴ It could require major revisions to the ODF Smoke Management Program in terms of adding special criteria for burning. There could be increased costs associated with additional forecasting and staff to do this work. This change could also reduce the number of prescribed burning opportunities in many areas of the state.

In evaluating the need for year-round visibility protection, the Visibility Advisory Committee believes it is important to first ascertain whether prescribed burning is causing or likely to cause visibility impairment in Oregon Class I areas on a year-round basis. In order to make this assessment, expanding the visibility monitoring network is needed (Recommendation #3), as well as up-to-date information on emissions trends (Recommendation #5). The Visibility Advisory Committee recommends that DEQ, ODF and Oregon Department of Agriculture prepare an evaluation of areas of the state where prescribed burning, rangeland burning, residential burning, or any other burning activity may be causing visibility impairment, based on available monitoring and emissions data, as well as areas where significant increases in burning are expected. The Visibility Advisory Committee will review this evaluation as it considers the need for year-round visibility protection at the next periodic plan review.

9. Take steps to address Phase II sources.

Recommendation: *The Oregon Visibility Advisory Committee recommends that implementation of Regional Haze Rule in Oregon be accelerated where possible to address*

¹³ Since open field burning is essentially a summertime activity, and other agricultural burning is exempt by state statute from regulation, these sources would not be effected by year-round visibility protection.

¹⁴ The Visibility Advisory Committee recognizes that there is a statutory exemption for regulating agricultural burning in the state.

visibility impacts caused by “Phase II sources”; i.e., sources that contribute to regional haze not currently addressed under the Visibility Protection Plan.

The current Visibility Protection Plan addresses “Phase I” sources, which are mostly single sources like a prescribed burn, open field burn, or a new industrial facility that can directly impact visibility in a Class I area. “Phase II” sources tend to be smaller sources or sources more distant from Class I areas, which as a group collectively contribute to “regional haze” over a broad geographic area. Examples of Phase II sources are motor vehicles, woodstoves, and general open burning (such as domestic burning). When EPA adopted its Regional Haze rules in 1999, they allowed considerable lead-time for implementation due to the coordination needed between states, and the comprehensive nature of these strategies. Some of the first Phase II regional haze strategies need to be adopted by states in 2003, with the majority of strategies not needed until 2008.

The Visibility Advisory Committee is aware that visibility impairment in Oregon Class I areas is currently caused by both Phase I and Phase II sources. However, in conducting its review of the Visibility Protection Plan, the Committee evaluated Phase I visibility strategies without the benefit of knowing the contribution of Phase II sources to visibility impairment. The current expansion of IMPROVE monitoring network in Oregon will help identify regional haze impacts and Phase II source contributions. DEQ is also actively involved in the Western Regional Air Partnership, which is coordinating regional haze rule implementation for all western states. Where appropriate DEQ should take steps to accelerate the adoption of Phase II controls in Oregon. This effort should begin with a phase in to evaluate and address regional haze sources and issues. DEQ needs to become proactive in addressing open burning issues and other sources creating programs that are equitable with controls and programs required of field burning and prescribed burning.

10. Require annual Visibility Advisory Committee meetings.

Recommendation: The Oregon Visibility Advisory Committee recommends that the Committee meet on an annual basis each year to review visibility trends and discuss the effectiveness of visibility strategies.

Under the Visibility Protection Plan, the Visibility Advisory Committee is required to meet every 5 years for the periodic plan review. Under recommendation #6 the Committee supports changing this to 3 years. Even with this change, it would be helpful for the Committee to have one regularly scheduled meeting each year. This would allow the Committee to review visibility trends, discuss the effectiveness of visibility strategies, and be better prepared for the periodic plan review process.

SIGNATURE PAGE

Final Recommendations on Improvements to the Oregon Visibility Protection Plan

Oregon Visibility Advisory Committee
June 2000 to June 2001

Jim Russell 6/21/01
Jim Russell date
Bureau of Land Management Representative

Dave Nelson 6-21-01
Dave Nelson date
Oregon Seed Council Representative

Mike Ziolko 6/21/01
Mike Ziolko date
Oregon Department of Forestry
Representative

Brian Mitchell 6/21/01
Brian Mitchell date
National Park Service Representative

Richard Pugh 6-21-01
Richard Pugh date
The Mazamas Representative

Bob Palzer 6/21/01
Bob Palzer date
Sierra Club Representative

Chip Ettinger 6/21/01
Chip Ettinger date
La Grande Public-at-large Representative

Greg McClaren 21 June 01
Greg McClaren date
Bend Public-at-large Representative

Ken Snell 6/21/01
Ken Snell date
U.S. Forest Service Representative

Tim Wigley 6/21/01
Tim Wigley date
Oregon Forest Industries Council
Representative

John Hamblin 6/21/01
John Hamblin date
Oregon Department of Agriculture
Representative

ATTACHMENT C

State of Oregon
Department of Environmental Quality

Memorandum

Date: February 1, 2002

To: Environmental Quality Commission
From: Brian Finneran, Air Quality Division
Subject: Presiding Officer's Report for Rulemaking Hearing

Hearing Date and Time: January 24, 2002, 4 p.m.
Hearing Location: Bend
DEQ Eastern Region
2146 NE 4th Ave. #104
Main Conference Room

Hearing Date and Time: January 25, 2001, 3 p.m.
Hearing Locations: Medford
City of Medford
Annex, Conf Room 151/157
411 W. 8th Street

Portland
DEQ Headquarters Office
811 SW 6th Ave.
Conf. Room 3A (3rd floor)

La Grande
Eastern Oregon State College
One University Blvd.
Hoke Hall, Room 201/202

Title of Proposal: Amendments to the Oregon Visibility Protection Plan

The rulemaking public hearings on the above titled proposal were convened at the times and locations listed above. DEQ staff members serving as hearings officers were Annette Liebe (Bend), Tom Peterson (Medford), Brian Finneran (Portland), and Scott Fairley (La Grande). Attendees were asked to sign registration forms if they wished to present comments. People were also advised that the hearing was being recorded. At total of 13 persons attended the hearings: Bend – 5 persons, Medford – 3 persons, Portland – none, and La Grande – 5 persons.

No oral testimony was provided at any of the hearings. However, 6 written comments were submitted prior to the January 30th comment period deadline.

Summary of the Oral Testimony

No oral testimony was provided at these hearings.

Summary of the Written Testimony

The following written comments were submitted prior to the close of the public comment period on January 30, 2002, and are attached to this report:

1. John Bunyak, Chief, Policy, Planning and Permit Review Branch, USDI National Park Service, Denver, Colorado.

Mr. Bunyak with the National Park Service expressed general support for the proposed amendments. He mentioned his agency was familiar with the proposed amendments, given that a representative of his agency served as a member of the Oregon Visibility Advisory Committee during the review of Plan. He stated that “the steps taken by the State to remedy existing impairment appear to be working well, but future improvements may prove more difficult to attain”. He added that “we believe that the DEQ’s adoption and implementation of the proposed plan amendments, revised in accordance with these comments, will ensure continued reasonable progress in this regard.”

Mr. Bunyan provided a list of mostly minor changes and clarifications to the Plan. Some of the more substantive comments are described below. He also provided comments on Attachment F - Oregon Visibility Protection Plan Reasonable Progress Report, which are not summarized here as they are not comments on actual Plan amendments.

The following is a summary of the more substantive comments:

- Although in agreement with the proposal to temporarily suspend the summer prohibition on prescribed burning in NW Oregon, Mr. Bunyak suggested indicating in the Plan a “time-dated suspension” rather than eliminating the provision from the plan;
- He recommended that DEQ employ “more sophisticated techniques” in the future for identifying more distant sources that contribute to visibility impairment in Oregon’s Class I areas, such as modeling and source apportionment;
- He disagrees with statements in the Visibility Plan that limit the use of IMPROVE monitoring data to primarily Phase II regional haze monitoring and limited value for Phase I

visibility monitoring, encouraging DEQ to use IMPROVE data for assessing both types of visibility impairment; and

- He questioned a statement in the Visibility Plan on the distance criterion of 150 kilometers used for visibility impact modeling under DEQ's New Source Review rules, saying that current federal guidance indicates that for large sources, up to 300 kilometers from Class I areas is the appropriate distance.

2. Mary Zemke, Private Citizen, Madras, Oregon.

Ms. Zemke expressed general support for the proposed amendments, commenting that "the changes being proposed will facilitate greater understanding of the process and requirements involved in setting guidelines, and forward the work of improving visibility in regard to Class I areas." While she had no specific comments on the proposed amendments, she said she was concerned about the possibility of cumulative visibility impacts from agricultural field burning and emissions from new power plants being proposed in central Oregon, particularly the proposed Cogentrix Grizzly Power Plant in Jefferson County. She stated that the long-term strategy in the Visibility Plan should have "additional emission limitations and schedules for compliance for stationary sources". She supports the current BART (Best Available Retrofit Technology) requirements in the Visibility Plan, which apply to existing stationary sources if they are certified to cause visibility impairment in any Class I area. She recommended the Department review stationary source emissions "on a 3 to 5 year basis, and enforcement of decreased emissions over time as technology improves".

3. Tammy Devine, Private Citizen, Madras, Oregon.

Ms. Devine indicated she supported the plan amendments that would increase visibility monitoring in Oregon's Class I areas. She mentioned that in her area there are "unavoidable rangeland and forest fires every summer, as well as field burning". She also expressed her concern about the proposed Cogentrix Grizzly Power Plant, in terms of the impact of emissions on both visibility and public health. She had no comments on other proposed plan amendments, but did support general protection of air quality in Central Oregon.

4. Mike Dykzeul, Director, Forest Protection, Oregon Forest Industries Council, Salem, Oregon.

Mr. Dykzeul was a member of the Oregon Visibility Advisory Committee that provided recommendations to DEQ on changes to the Visibility Plan. He expressed his support for all the proposed Plan amendments. He commented on three Committee recommendations that were not included in the proposed amendments. One was for DEQ to study the need for year-round visibility protection. He said he would not support this if it further restricted burning opportunities. Another recommendation was for DEQ to accelerate adoption of the regional haze

rule in Oregon, which he supports providing the Oregon Visibility Advisory Committee approves and there is an opportunity for public comment. The third recommendation involved changing the “counting period” for daytime visibility impacts, which both he and DEQ supports. However, DEQ did not believe this change needed to be a Plan amendment, while Mr. Dykzeul supports adding this change to the Plan.

5. Charlie Stone, Assistant State Forester, Oregon Department of Forestry, Salem, Oregon.

Mr. Stone expressed support for all the proposed Plan amendments. He added that the proposed expansion to the DEQ visibility monitoring network should include some aerosol characterization monitoring, in order to better identify the “cause and effect relationships between prescribed burning and visibility impacts”.

6. Patti Gentiluomo, Coordinator, Natural Resources Division, Oregon Department of Agriculture, Salem, Oregon.

Ms. Gentiluomo offered two written comments on the proposed Plan amendments. Both were minor clarifications to the sections in the Plan regarding Willamette Valley open field burning. One clarified the current annual 65,000 acreage limitation, which includes 25,000 acres that can be burned of “identified species with final consideration given to steep terrain”. The other clarified language regarding research and development of alternatives to field burning, related to House Bill 2154 approved in April 2001, which describes the different types of projects that are considered “alternatives to field burning”.

Attachment D

Department's Response To Comments

Amendments to the Oregon Visibility Protection Plan

Public hearings for the proposed amendments took place in Bend on January 24th, and Portland, Medford, and La Grande on January 25th. A total of 13 persons attended the hearings, but no oral testimony was provided. Six written comments were received by the Department prior to the comment deadline of January 30th. A copy of these comments and the Presiding Officer's Report on Public Hearings are in Attachment D.

The following represents a summary of comments received, followed by the Department's response in underlined text. Note that not every comment received is listed here; but rather only those considered relevant to the proposed amendments, including those which could result in a substantive change being made to the proposed amendments. Any changes made in response to a comment are noted as well.

1. John Bunyak, Chief, Policy, Planning and Permit Review Branch, USDI National Park Service, Denver, Colorado.

- (a) With regard to the temporary suspension of the summertime prescribed burning prohibition, as proposed in the amendments, the Plan should contain a "time-dated suspension" of the affected provisions, as opposed to simply deleting the provisions from the Plan.

Both the Department and the Visibility Advisory Committee supported removing this prohibition in the Plan on a trial basis. The language has been deleted from the Plan but can be re-inserted in 3 years if needed, after review by the Committee on the effectiveness of this change.

- (b) DEQ should employ more sophisticated techniques for identifying more distant sources that contribute to visibility impairment in Oregon's Class I areas, such as modeling and source apportionment.

The Department agrees, but has not had the resources to perform this work. The Department intends to seek funding for expansion of the current visibility monitoring network, as identified in the proposed plan amendments. This will be the first priority. If additional funds can be found for using more sophisticated techniques, the Department will pursue this. The Department is aware of visibility modeling work being conducted by the Western Regional Air Partnership for the regional haze rule. This work will provide source apportionment information that can be used to better characterize visibility impairment from regional haze in Oregon and other states. The Department intends to make use of this data and information.

- (c) Disagrees with statements in Section 5.6 of the Visibility Plan that indicate IMPROVE monitoring data is only useful for Phase II regional haze monitoring and has limited value for Phase I visibility monitoring.

The context of these statements in Section 5.6 is tied to the Department's reliance on "real-time" monitoring data to identify episodic visibility impacts from smoke sources such as prescribed fire. This reliance is why the Department uses nephelometer monitors for the Phase I monitoring network, which operate every day, as opposed to IMPROVE monitors which operate every third or fourth day, and do not provide real-time data. Nevertheless, it should be pointed out that the Department still sees benefit in using IMPROVE monitoring data, and did make use of this data along with nephelometer data in our review of the Plan.

- (d) The 150 kilometer distance criterion (from Class I areas) used for modeling visibility impacts from new major sources as mentioned in the Plan is not consistent with national policy or guidance, which recommends modeling out to 300 kilometers for large new stationary sources.

The Department was trying to describe the general distance for most new source modeling under the Department's New Source Review rules. In practice, 200 kilometers is often the typical distance, rather than 150 kilometers. However, the Department has discretion to go out beyond 200 kilometers for modeling if there is reason to believe there could be visibility impact. Therefore, Department has revised this section to indicate that 200 kilometers is typical, but that for larger sources 300 kilometers may be needed.

- (e) Section 5.8.1.5 of the Plan should identify all Class I areas as "smoke sensitive areas", not just those in the northern and central Cascades.

This section in the Plan on "smoke sensitive areas" is in reference to the Smoke Management Plan (OAR 629-043-0043) operated by the Oregon Department of Forestry (ODF), which protects certain Class I areas in the northern and central Cascades from prescribed burning smoke in the summer. The Department cannot make such a change to the Visibility Plan without first having the Smoke Management Plan amended by ODF. Although this issue was not raised by the Visibility Advisory Committee during its review of the Visibility Plan, the Department does intend to discuss with ODF the benefit of identifying all Class I areas as smoke sensitive areas when ODF conducts its review of the Smoke Management Plan later this year.

- (f) EPA's visibility regulations allow states to control sources not covered by BART (Best Available Retrofit Technology). Section 5.8.2.1 of the Plan should be changed to reflect this.

The language in Section 5.8.2.1(b) of the Plan regarding additional controls on existing stationary sources indicates that the Department does not believe these are necessary. This language refers to BART as the only possible controls that could be considered for existing stationary sources. This reference to BART was added for clarification. However, it is correct that EPA's visibility regulations do allow states to control other stationary sources besides those subject to BART. Therefore, the Department changed the language in Section

5.8.2.1(b) back to the original language, slightly reworded to read: “Additional emission limitations and schedules for compliance for stationary sources. These were not considered necessary for the long-term strategy at this time, since there is no monitoring data to support a finding that any industrial point source is contributing directly to visibility impairment”.

2. Mary Zemke, Private Citizen, Madras, Oregon.

- (a) Concerned about cumulative visibility impacts from agricultural field burning and emissions from new power plants being proposed in central Oregon, particularly the proposed Cogentrix Grizzly Power Plant in Jefferson County.

Visibility impacts in Oregon’s Class I areas from new major sources such as power plants are evaluated under the Department’s New Source Review (NSR) rules, which are referenced in the Section 5.8.2.2 of the Plan. These NSR rules are one of the primary strategies relied upon in the Plan for protecting visibility. These rules will deny an air quality permit to any major source or major modified source if “significant impairment” is projected in any Oregon Class I area. No changes were proposed to the NSR rules as part of these Plan amendments. However, considerable revisions were made to the language in Section 5.8.2.2 in order to clarify how the NSR rules work in terms of protecting visibility. Much information was added on the modeling process, especially recent improvements in the use of more accurate dispersion models, and new federal guidance that contains more protective visibility impact criteria. The Department believes the current NSR rules combined with these recent improvements will prevent new power plants and any other new major sources from causing adverse visibility impacts in Oregon Class I areas. In terms of the Cogentrix application, the Department is currently reviewing this application to ensure the facility complies with the NSR visibility protection provisions. These provisions contain criteria for triggering a cumulative impact analysis; however it is unknown at this time whether this will be required or not.

- (b) The long-term strategy in the Visibility Plan should have “additional emission limitations and schedules for compliance for stationary sources”.

The Department does not believe these measures are needed for stationary sources at this time. The long-term strategy in the Visibility Plan was developed in accordance with federal visibility regulations, which focus on reducing “reasonably attributable” visibility impairment caused by one or a small group of sources. This type of visibility impairment involves demonstrating that a particular source is directly impacting a Class I area. A prescribed burn taking place near a Class I area is an example of a source causing reasonably attributable impairment. The Department has not found any cases of an existing stationary source causing such an impact. Most of these stationary sources had to conduct visibility modeling when applying for an air quality permit under the Department’s NSR rules. It should be noted that Section 5.10 of the Plan does allow for the applicable of Best Available Retrofit Technology to existing stationary sources, in cases where the Federal Land Manager identifies impairment in a Class I area. Under these provisions, controls would be required if impairment can be reasonably attributed to the source. So far no such cases have occurred in Oregon. In terms of the contribution of stationary sources to regional haze, the new federal

Regional Haze regulations recognize this, and contain new BART requirements that will require emission reductions from large stationary sources.

- (c) DEQ should review stationary source emissions “on a 3 to 5 year basis, and enforcement of decreased emissions over time as technology improves”.

See the Department’s response to (b) above.

3. Tammy Devine, Private Citizen, Madras, Oregon.

- (a) Also expressed concern about the proposed Cogentrix Grizzly Power Plant, in terms of the impact of emissions on both visibility and public health.

See the Department’s response above in 2(a) (b) and (c).

4. Mike Dykzeul, Director, Forest Protection, Oregon Forest Industries Council, Salem, Oregon.

- (a) The change in the “counting period” for daytime visibility impacts, as recommended by the Visibility Advisory Committee, should be reflected in the Plan.

Under the Department’s visibility monitoring program, visibility impacts that occur between 9 a.m. and 9 p.m. are counted as official impacts. This emphasis on daylight hours corresponds to the viewing experience of the visitor. The Visibility Advisory Committee recommended changing the daylight counting hours to 6 a.m. to 9 p.m. The Department agreed to add these 3 hours to the counting period. The Committee did not advocate inserting this information into the Plan. The Plan currently does not specify this counting period, and the Department does not think it needs to be inserted, as any reports prepared by the Department will use the new counting period and define what constitutes a daylight hour impact.

5. Charlie Stone, Assistant State Forester, Oregon Department of Forestry, Salem, Oregon.

- (a) The DEQ visibility monitoring network should include some aerosol characterization monitoring to better identify the “cause and effect relationships between prescribed burning and visibility impacts”.

See Department’s response to 1(b) and (c) above. Limits on resources in the past have prevented the Department from employing the type of monitoring equipment that can provide aerosol characterization. However, the new IMPROVE monitors, as described above in 1(c) do have this capability, and the Department intends to make use of this data and information.

6. Patti Gentiluomo, Coordinator, Natural Resources Division, Oregon Department of Agriculture, Salem, Oregon.

- (a) In Section 5.8.1.2 of the Plan, it needs to clarify that out of the current annual 65,000 acreage limitation, 25,000 acres are “set aside for open field burning of identified species, with final consideration given to steep terrain.”

This is a minor clarification to the language in Section 5.8.1.2. Since OAR 603-077-0113 (b) identifies what qualifies for this 25,000 acre limitation, the Department added a reference to this regulation, instead of the suggested language, which is just a partial description.

- (b) In Section 5.8.2.3 of the Plan, the description of research and development into alternatives for Willamette Valley open field burning should follow the statutory language in House Bill 2154.

The language in this section indicates that the Oregon Department of Agriculture is required under state law to conduct a research and development program, and gives examples of types of alternatives to open field burning. It is not necessary to cite actual statutory language here. However, the Department agrees to add references to ORS 468A.550 and 468A.585, in order to identify all relevant statutes.

Prepared by Brian Finneran
March 5, 2002

Attachment E

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal for Amendments to the Oregon Visibility Protection Plan

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?**

The Clean Air Act requires the protection and improvement of visibility in all mandatory federal Class I areas. EPA requires states to adopt visibility plans that are consistent with federal visibility rules. These federal rules require states to conduct a periodic review and assessment of the effectiveness of the state visibility plan. These proposed amendments are in response to this requirement.

- 2. Are the applicable federal requirements performance based, technology based, or both with the most stringent controlling?**

Performance based.

- 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

- 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?

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?

The proposed amendments are intended to improve visibility in Class I areas. Some of the improvements are expected to result from the use of non-burning alternatives to prescribed forestry burning and agricultural open field burning. These alternatives are a form of pollution prevention.

Attachment F

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal for Amendments to the Oregon Visibility Protection Plan Fiscal and Economic Impact Statement

Introduction

The Department of Environmental Quality is proposing to revise its Visibility Protection Plan in order to provide greater protection from air pollution that degrades the visual experience in Oregon's 12 Class I areas (Crater Lake National Park and eleven national wilderness areas). These revisions are being proposed based on a requirement in the Visibility Plan for the Department to conduct a periodic review and assessment of the effectiveness of the visibility strategies. These strategies were adopted in 1986 in accordance with Clean Air Act requirements to protect visibility in 156 national parks and national wilderness areas across the country.

The proposed amendments to the Visibility Plan are to the non-rule elements of the plan, or the visibility control strategies. The following commitments will be added to the visibility strategies if this proposal is adopted: (1) expand the visibility monitoring network if funding is available; (2) improve smoke management coordination; (3) increase the use of non-burning alternatives; (4) improve fire emission inventory and tracking of burning; (5) change the plan review period from 5 to 3 years; (6) temporarily suspend the summer prohibition on prescribed burning, and (7) hold annual meetings of the Visibility Advisory Committee.

The overall economic impact of these proposed plan amendments is expected to be minor.

General Public

None.

Small Business

None.

Large Business

None.

Local Governments

None.

State Agencies

The Department of Environmental Quality: Expansion of the Department's visibility monitoring network is dependent upon securing outside federal funding. If funding is found, there would be some impact on the Department's Laboratory Division, in terms of increased workload to set up and operate new monitoring equipment. Depending on the amount of funding obtained, there could be a need for increased staff to do this work, but this impact cannot be fully assessed at this time until the amount of funding available is known. Improving smoke management coordination and fire emissions inventory/tracking will have some impact on Department workload, but is expected to be minor. Changing the plan review period from 5 to 3 years will require more frequent data analysis, report preparation, committee and meeting coordination, and other substantial work associated with this review process. The Department believes it can accommodate this increased workload with existing staff. The remaining changes are not expected to have any economic impacts.

Other state agencies: Some of these proposed amendments will require the Department to work closely with the Oregon Department of Forestry and Oregon Department of Agriculture. This may result in some increased workload for those agencies, however it is not expected to be significant. Representatives from these agencies, through involvement on an advisory committee, have expressed support for these proposed amendments, and are aware of the possible workload implications.

Assumptions

Not applicable.

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 G

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Amendments to the Oregon Visibility Protection Plan

Land Use Evaluation Statement

1. Explain the purpose of the proposed rules.

The Department of Environmental Quality is proposing to revise its Visibility Protection Plan in order to provide greater protection from air pollution that degrades the visual experience in Oregon's 12 Class I areas (Crater Lake National Park and eleven national wilderness areas). These revisions are being proposed based on a requirement in the Visibility Plan for the Department to conduct a review and assessment of the effectiveness of the visibility strategies.

2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?

Yes ___ No X

a. If yes, identify existing program/rule/activity:

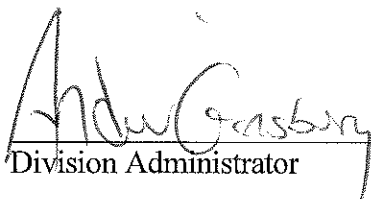
b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?

Yes ___ No ___ (if no, explain):

The proposed amendments do not affect any land use programs that are specifically referenced in statewide planning goals. Nor do are they reasonably expected to have significant effects on resources, objectives or areas identified in the statewide planning goals, or present or future land uses identified in acknowledged comprehensive plans.

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.

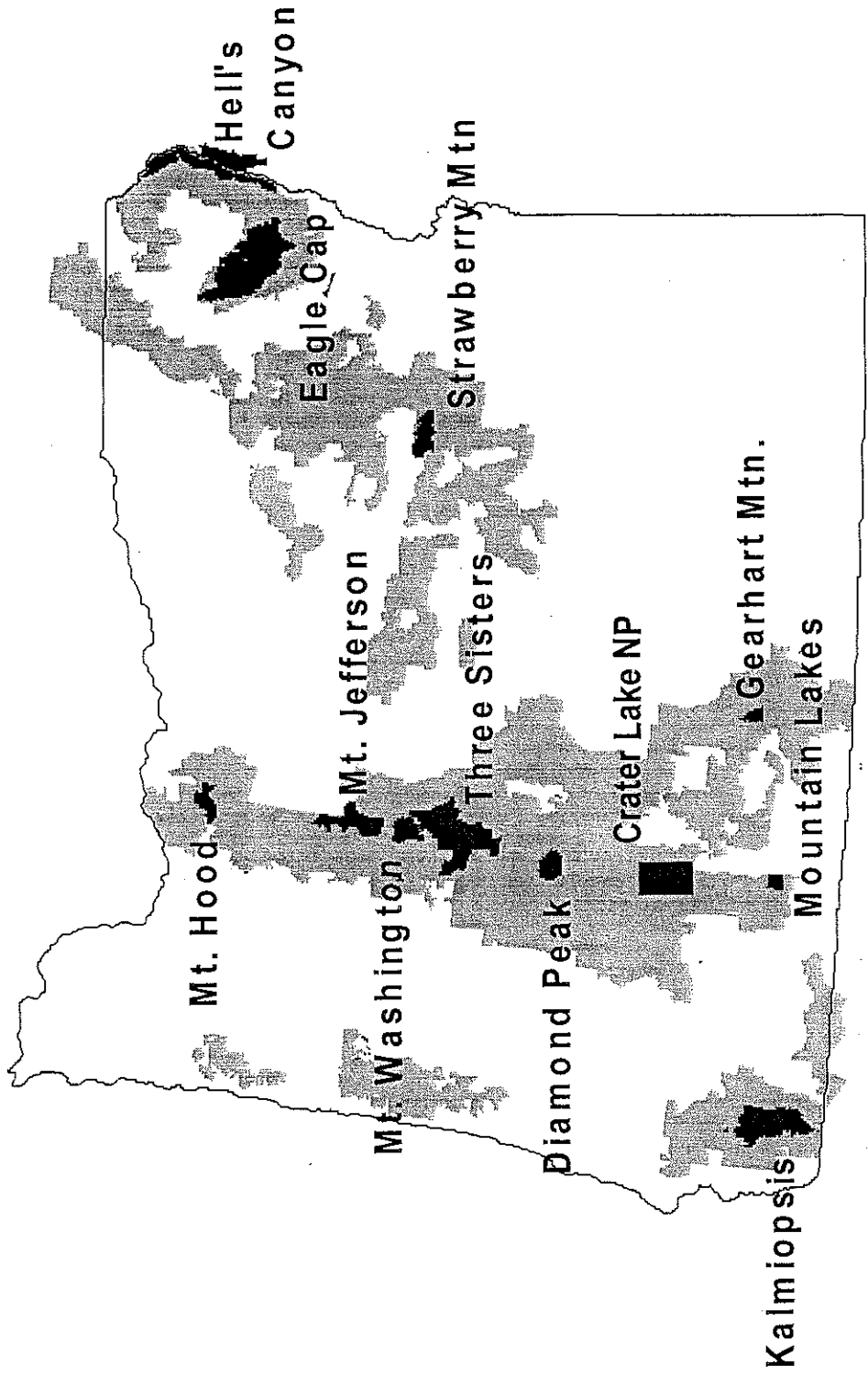
Not applicable.


Division Administrator


Intergovernmental Coordinator.

12-11-01
Date

Oregon Class I Areas



Strategic Planning

- DEQ Strategic Directions
 - four key priorities
- EPA Strategic Plan
 - 10 strategic goals, 6 regional priorities
- Working toward a focus on outcomes

PPA Aligned with Strategic Directions

- Priority 1: Enforcement rules review
- Priority 2: Water Quality watershed approach, TMDLs
- Priority 3: Air Toxics program
- Priority 4: Hazardous Waste compliance assistance and outreach

PPA Highlights

- Air Quality:
 - process improvements such as State Implementation Plan approvals
 - flexibility to address air toxics and visibility
- Water Quality:
 - shared approach to implement underground injection control program
 - EPA review of wastewater permitting program

PPA Highlights (cont'd)

- Hazardous Waste:
 - significant revenue shortfalls will affect program activities and commitments; external workgroup providing recommendations
- Compliance/Enforcement:
 - process improvements
 - review enforcement rules
- Cross-Program Priorities
 - Laboratory capacity

DEQ/EPA Collaboration

- Air Quality State Implementation Plan process improvements
- Water Quality Underground Injection Control Program dialogue
- Hazardous Waste Work Group dialogue
- Green Permits/National Performance Track program implementation
- Compliance/Enforcement improvements

Next Steps

- Comments from EQC, Tribes, public through 5/10/02
- Draft grant application due 4/30
- Final grant application due 5/31
- Periodic check-ins, progress reports
 - following 2003 legislative session
 - as needed to revise budgets and commitments

DEQ-EPA Performance Partnership Agreement

Marianne Fitzgerald
Oregon Department of Environmental Quality
Cross-Program Coordinator
811 SW Sixth Avenue
Portland, OR 97204
(503) 229-5946
fitzgerald.marianne@deq.state.or.us
April, 2002

PPA--What It Is

- Intended to describe how EPA and state environmental agencies will work together to protect the environment
- EPA Base Grant for Air Quality, Water Quality and Hazardous Waste programs
- Workplans typically include both federally funded and state-funded activities
- Program-by-program approach in Oregon

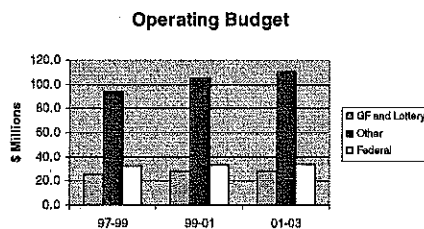
PPA--What It Isn't

- Federal base grant does not fully fund delegated program activities
- EPA-ECOS Goal of Joint Strategic Planning has not been realized yet
- Coordinated approach difficult to achieve due to program-by-program negotiations

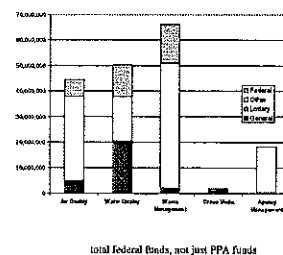
Resource Issues

- DEQ 01-03 budget recently cut (\$2.4 million general funds)
- Federal funding has not increased
 - Additional funding has generally come with additional workload expectations
- Future Uncertainties:
 - higher laboratory costs
 - homeland security protection
 - inflation and other cost increases

Federal Funding Remains Stable



Federal Portion of Program Budgets Varies



PERFORMANCE PARTNERSHIP AGREEMENT
between the
OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY
and the
U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 10
for
July 1, 2002 - June 30, 2004

The Environmental Performance Partnership Agreement process offers a profound opportunity for cultural change in the relationship between the Oregon Department of Environmental Quality (DEQ) and the U.S. Environmental Protection Agency - Region 10 (EPA). The direction of this change toward a greater focus on environmental outcomes will be best supported by an equal practicing partnership negotiated in good faith between federal and state agencies. Partnerships of this type depend on adherence to the principles of the agreements which are created between the partners. Therefore, we commit ourselves and our staff to the following Guiding Principles.

- | | |
|---------------------|---|
| Partnership | We will work together as equal partners respecting the contributions of both agencies. Neither partner will attempt to dominate or undermine the other. We will recognize the need for compromise in creating a partnership between Oregon DEQ and EPA. |
| Coordination | We will create up-front, joint planning processes to coordinate environmental priorities which maximize both agencies' resources, avoid duplication of efforts, eliminate surprises, and institutionalize communication. |
| Outcomes | We will align program implementation efforts, focus on environmental goals, and drive toward outcomes and environmental indicators rather than outputs to measure progress. |
| Integration | We will further integrate pollution prevention, cross-media coordination, place-based environmental initiatives, a balance among compliance, technical assistance and outreach strategies, and continuous improvement in program implementation. |
| Barriers | We will work together to change agency roles and policies and state and federal statutes that conflict with or detract from environmental goals, objectives, strategies and measures as agreed upon in the PPA. |
| Changes | We will negotiate changes (e.g. priorities, roles, resources, etc.) which may affect the other party prior to implementing those changes. |
| Uniqueness | We will create our agreements based on conditions specific to Oregon, as well as fundamental national environmental concerns. We recognize and respect the different and complementary roles of EPA and DEQ as defined in this agreement. |

- Accountability** We will work to ensure that DEQ and EPA staff at all levels are aware and held accountable for realizing these principles and for meeting the deliverable aspects of this agreement in timely manner.
- Resolution** We will follow processes as defined in this agreement to point out and address requests or actions which appear to violate the principles and/or expectations of this agreement.
- Review** We will establish and follow a review process, contained in this agreement, to assess our progress in implementing the agreement.
- Commitment** We will clearly state in the agreement what each partner will do to meet the priorities as defined.
- Clarity** We will use plain language to clearly state our priorities, activities, and commitments to our publics and to each other.

This Agreement is intended to be a "living," iterative document. Though DEQ and EPA have developed this PPA based on current and projected information, as new information becomes available or situations change, either partner may initiate discussions toward revising this Agreement. Any amendments to this Agreement must be consistent with the previously stated Guiding Principles.

We expect that in many instances, negotiating these changes will be a fluid process that both agencies can adapt to readily, or that we will interpret these changes to lie within the scope of the existing agreement. Where changes desired by one agency are distinct from the existing agreement, and where we have the discretion to do so, we will defer the change until the next review process, when both agencies can evaluate the impact of the proposed change within the context of the whole program. Each of the three program partners will determine the schedule of their own review cycle. When in the view of the Director/Administrator of each agency, changes cannot be deferred until the next review, both agencies will re-open the Performance Partnership Agreement under their direction.

The DEQ and EPA are fully committed to facilitating communications and trust to avoid conflicts; however, both partners recognize that disputes arise as a normal part of any partnership. Therefore, the undersigned empower and expect their staffs to resolve disputes whenever possible. When resolution is not feasible or successful, there must be timely elevation to managers responsible for the program area in question. If a conflict still cannot be resolved, the undersigned will be the final level of appeal.

It is our belief that this Performance Partnership Agreement will continue progress toward protection of Oregon's environmental resources. In addition, we hope this Agreement communicates to local communities, tribal governments and citizens our mutual priorities and commitments.

Stephanie Hallock, Director
Oregon Department of Environmental
Quality

Signature Date

John Iani,
Regional Administrator
Environmental Protection Agency, Region
10

Signature Date

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NEED MORE INFORMATION? HAVE QUESTIONS OR COMMENTS?

The Oregon Department of Environmental Quality (DEQ) and the U.S. Environmental Protection Agency, Region 10 (EPA) are committed to listening and responding to any questions or concerns about their partnership to protect Oregon's environmental resources.

Public participation in developing the 2002-2004 PPA was solicited through an informational report to the Environmental Quality Commission, postings to DEQ's website, and through mailings to tribes and other stakeholders. DEQ and EPA will seek opportunities to expand involvement in subsequent PPAs. The contacts identified on this page look forward to receiving suggestions to promote public participation in subsequent PPA processes.

PUBLIC INFORMATION CENTER

This document and referenced documents can be obtained by contacting:

EPA Region 10
Public Information Center
1200 Sixth Ave, EXA-142
Seattle, WA 98101
Phone: 206-553-4973

Oregon DEQ
Office of the Director
811 S.W. Sixth Ave
Portland, OR 97204
Phone: 503-229-5946

INTERNET

This document and other related information will be available on the Oregon Department of Environmental Quality Web Page located at:

<http://www.deq.state.or.us/about/index.htm>

STAFF CONTACTS

In many parts of this document, staff contacts are identified. These people are available to assist with questions or comments about specific parts of the 2002-2004 PPA.

For general assistance regarding the PPA process or suggestions for the next PPA, please contact Marianne Fitzgerald, DEQ at 503-229-5946 (email fitzgerald.marianne@deq.state.or.us) or Dan Opalski, EPA at 503-326-3250 (email opalski.dan@epa.gov). For specific questions on the topics below, please contact the following DEQ staff:

Air Quality:	Greg Aldrich, (503) 229-5687
Water Quality:	Karen Tarnow, (503) 229-5988
Hazardous Waste:	Karen Whisler, (503) 229-5082
Compliance & Enforcement:	Anne Price, (503) 229-6585
Cross-Program Activities	Marianne Fitzgerald, (503) 229-5946

EXECUTIVE SUMMARY

Oregon's Performance Partnership Agreement serves as the workplan for many of the federal grants that support the air quality, water quality and hazardous waste programs. The PPA is considered the base grant for operating Oregon's federally delegated programs, and federal funds represent approximately 19 percent of DEQ's operating budget. The term of the PPA covers two state fiscal years (July 1, 2002-June 30, 2004), and is staggered with the state's biennial budget cycle.

The PPA workplan describes many of DEQ's core functions that are essential to protect the environment: rule development; permit issuance; ambient monitoring; and compliance, enforcement and technical assistance activities. DEQ's *Strategic Directions 2002* are reflected in various ways throughout the PPA, such as in key initiatives to address water quality and toxics. Key issues in this year's negotiations include factoring DEQ's increases in operating costs into our budget estimates, and being realistic about additional workload commitments if they are not accompanied by new federal resources.

The PPA is organized by program area – air quality, water quality and hazardous waste – to reflect the three base grant applications that will be submitted to EPA. The PPA also includes information on DEQ's compliance and enforcement efforts as well as agencywide efforts that affect multiple programs. The following sections describe some of the key areas and issues outlined in the PPA.

Air Quality

Key priorities in Oregon's Air Quality program include ongoing program commitments to ensure that all Oregonians breathe clean air. Commitments include statewide ambient air quality monitoring and efforts to reduce air emissions through planning, permitting, technical assistance, compliance and enforcement. Emerging programs are a state-led air toxics program, and addressing visibility issues in the Columbia Gorge and Class I wilderness areas. Notable issues that DEQ and EPA are focusing on include:

- 1) Adequate funding for air programs in Oregon that includes flexibility to address air toxics and visibility issues.
- 2) Continuing process improvements such as the new State Implementation Plan (SIP) streamlining efforts. This work fosters a close working relationship between EPA and DEQ, reduces duplication of efforts, and expedites processing of SIP amendments. Results include minimizing delays in SIP approvals (such as when winter fuel requirements are dropped) and speeding up EPA approvals of rules adopted by the EQC.

Water Quality

DEQ's Water Quality Program protects the beneficial uses of Oregon's surface and ground water by developing water quality standards, monitoring water quality, issuing permits for wastewater discharges to water and land, and providing technical assistance. A top priority for the Water Quality Program is the development and implementation of Total Maximum Daily Loads and Water Quality Management Plans, which will lead to water quality improvements in streams where water quality standards are not being met. Some notable issues under discussion during this PPA cycle include:

- 1) Working with EPA on a "shared approach" to implementing the underground injection control program that will enable DEQ to maintain program delegation despite very limited state resources for this program; and
- 2) Working with EPA to plan for a review of DEQ's wastewater permitting program. This will have implications for the PPA agreement and beyond, as the findings from this review may identify ways in which DEQ is not fulfilling EPA's expectations and may dictate actions DEQ will need to take to resolve those issues.

Hazardous Waste

DEQ's Hazardous Waste program has two primary goals: (1) ensure that hazardous wastes are managed safely, in a manner that protects human health and the environment, and (2) encourage reduction in the quantity of toxic chemicals used and hazardous wastes generated in the state. DEQ has convened a Hazardous Waste Workgroup to enlist stakeholder input on how to maintain an effective and viable program to implement these goals. As a result of significant revenue shortfalls, the scope of some program activities, the allocation of resources within the program, and the specific program commitments in the PPA may change to reflect Workgroup recommendations.

Compliance and Enforcement

DEQ's Office of Compliance and Enforcement (OCE) and EPA Region 10 are working together to enhance the effectiveness of compliance and enforcement strategies. In addition to internal process improvements, OCE has begun a review of Oregon's Division 12 enforcement rules to ensure a consistent, understandable and equitable program that encourages compliance and issues civil penalties that appropriately reflect the severity of the violation.

Cross-Program

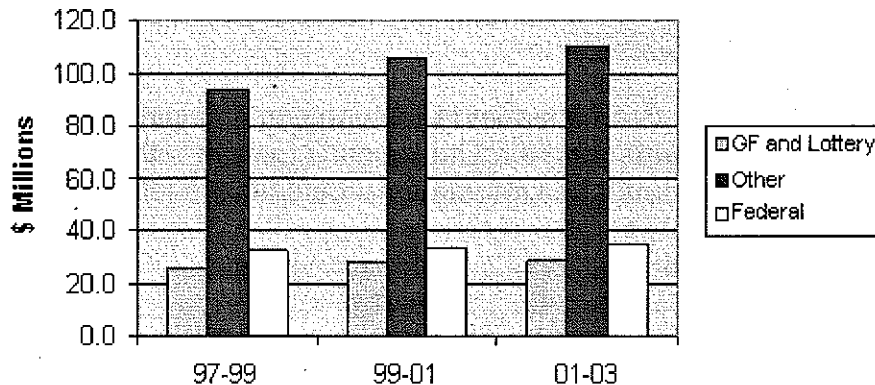
Cross-program activities identified in the PPA include working cooperatively on programs that encourage innovation and excellence, such as Oregon's Green Permits program and EPA's National Environmental Performance Track program. The PPA also describes Oregon's approach and directions regarding information management and data systems, laboratory needs, tribal relations and environmental justice.

PURPOSE, SCOPE & REVIEW

The purpose of the PPA is to serve as a single planning process to establish joint priorities and work commitments for EPA and DEQ. This document, inclusive with its appendices, serves as the work plan for much (but not all) of the federal funding of DEQ programs. DEQ operations are approximately 20% funded by federal funds. All of the activities planned to be undertaken to promote environmental protection in the areas of air quality, water quality, and hazardous waste relative to this PPA are contained in this document and appendices.

Over the past three biennia, DEQ's federal funding has remained relatively flat. Despite inflationary costs and increasing volume and complexity of work, the amount of actual dollars allocated to the agency has increased an average of only 1% per year since 1997. New money allocated by EPA is generally expected to pay for new work. While brand new federal programs often provide funding to cover actual costs, the lack of increases for base funding mean that less work can be done for the same federal allocation.

Operating Budget



Note: this chart includes all federal funds, not just PPA funds.

In addition, Oregon, like many states in the nation, faces significant budget shortfalls due to the economic downturn. During the special sessions held in 2002, DEQ's General Fund budget for the current biennium was cut by \$2.4M. DEQ also expects significant increases in laboratory costs beginning in the 2003-2005 biennium, as it relocates its laboratory. The existing laboratory lease is being terminated by the landlord; DEQ's new lab will expand to relieve overcrowding and to respond to new homeland security issues.

DEQ's budget situation and the amount of work that existing federal funding could support were key topics during the DEQ-EPA PPA negotiations. While both agencies recognize constraints in state and federal budgeting procedures, these factors are

considered as the agencies form agreements about what work will be completed under the PPA. Since the agreement falls across two budget cycles, a mid-course review will be needed in the summer of 2003 after the Oregon Legislature approves DEQ's 2003-2005 budget.

This PPA has been negotiated on a program-by-program basis and the reader may note several differences in the program approaches. During the term of this PPA, managers from each agency within each program may periodically meet to review progress under the PPA and determine if adjustments are needed. Any changes to the PPA that result from these discussions will be agreed to by both agencies and captured in writing.

This check-in review should satisfy or support all grant-reporting requirements. Any other reporting expected by either agency should be identified as an activity in this agreement, along with any applicable deadlines. Such other reports will be submitted through regular communication channels, and will not become part of the check-in.

Since EPA and DEQ are engaged with other state, local, federal, and tribal governments to deliver environmental programs, this PPA attempts to identify these vital relationships in Appendices C and E.

STRATEGIC PLANNING

DEQ STRATEGIC DIRECTIONS

Oregon DEQ's mission is to be a leader in restoring, maintaining and enhancing the quality of Oregon's land water and air. Our vision is to work with all Oregonians for a healthy, sustainable environment. Our values encompass the following areas:

- Environmental Results
- Customer Service
- Partnership
- Teamwork
- Excellence and Integrity
- Employee Growth
- Diversity

Four overarching priorities guide Oregon DEQ's development of this PPA:

1. Deliver Excellence in Performance and Product
2. Protect Oregon's Water
3. Protect Human Health and the Environment from Toxics
4. Involve Oregonians in Solving Environmental Problems

The Agency's *Strategic Directions 2002* outlines several key actions that will be developed under each of these priorities, along with checkpoints for measuring our

progress. This document identifies agency-wide priorities, and is not intended to represent all of the work that DEQ does. Program planning efforts and the PPA serve to link these priorities and the broader scope of work of Oregon DEQ. These priorities also form the basis of budget requests, grant applications, employee workplans, and environmental reporting.

State Performance Measurement

Executive measures are being developed that provide information to answer the Strategic Direction's checkpoint questions, and to report the status and success of our implementation efforts for the key actions. These executive measures complement existing Benchmarks, which are developed in collaboration with the Oregon Progress Board, and program measures.

EPA STRATEGIC PLAN

EPA's Goals and Priorities – A National and Regional Perspective

National goals and priorities are established in EPA Headquarters with substantial input by a wide variety of stakeholders. EPA Region 10 plays a role both in helping to inform this setting of national goals and priorities and in translating these national goals and priorities into areas for focus within the Region 10 states of Oregon, Washington, Idaho, and Alaska.

MISSION

The mission of the U.S. Environmental Protection Agency is to protect human health and to safeguard the natural environment—air, water, and land—upon which life depends.

EPA's purpose is to ensure that:

All Americans are protected from significant risks to human health and the environment where they live, learn and work.

National efforts to reduce environmental risk are based on the best available scientific information.

Federal laws protecting human health and the environment are enforced fairly and effectively.

Environmental protection is an integral consideration in U.S. policies concerning natural resources, human health, economic growth, energy, transportation, agriculture, industry, and international trade; and these factors are similarly considered in establishing environmental policy.

All parts of society—communities, individuals, business, state and local governments, tribal governments—have access to accurate information sufficient to effectively participate in managing human health and environmental risks.

Environmental protection contributes to making our communities and ecosystems diverse, sustainable and economically productive.

The United States plays a leadership role in working with other nations to protect the global environment.

EPA STRATEGIC GOALS

1. Clean Air – The air in every American community will be safe and healthy to breathe.
2. Clean and Safe Water -- All Americans will have drinking water that is clean and safe to drink.
3. Safe Food – The foods Americans eat will be free from unsafe pesticide residues.
4. Preventing Pollution and Reducing Risk in Communities, Homes, Workplaces, and Ecosystems – Pollution prevention and risk management strategies aimed at eliminating, reducing, or minimizing emissions and contamination will result in cleaner and safer environments in which all Americans can reside, work, and enjoy life.
5. Better Waste Management, Restoration of Contaminated Waste Sites, and Emergency Response – America’s wastes will be stored, treated, and disposed of in ways that prevent harm to people and the natural environment.
6. Reduction of Global and Cross-Border Environmental Risks – The United States will lead other nations in successful, multilateral efforts to reduce significant risks to human health and ecosystems from climate change, stratospheric ozone depletion, and other hazards of international concern.
7. Expansion of Americans’ Right-to-Know About Their Environment – The public and decision makers at all levels will have access to information about environmental conditions and human health to inform decision making and help assess the general environmental health of communities.
8. Sound Science, Improved Understanding of Environmental Risk, and Greater Innovation to Address Environmental Problems – EPA will develop and apply the best available science for addressing current and future environmental hazards as well as new approaches toward improving environmental protection.

9. A Credible Deterrent to Pollution and Greater Compliance with the Law – EPA will ensure full compliance with laws intended to protect human health and the environment.
10. Effective Management – EPA will maintain the highest quality standards for environmental leadership and for effective internal management and fiscal responsibility by managing for results.

CURRENT ENVIRONMENTAL PRIORITIES FOR EPA REGION 10

EPA Region 10's most important work is the day-to-day work in all Offices. Examples include permitting, grants management, inspections and enforcement, emergency planning and response, scientific analyses, and assistance to citizens. This work may be routine because we do a lot of it day after day, but it is absolutely critical. It is the foundation of the environmental work of the region. There are a "pyramid" of folks, critters, and places dependent on this core work.

In addition, Region 10 has identified a list of priority environmental problems demanding extra attention and a special push:

1. The Coeur d'Alene Basin – EPA will continue our longstanding efforts to protect health and restore water quality;
2. The Columbia Basin -- where problems of water quality, salmon, dams, and other environmental issues combine to create a critical geographic focal area for EPA;
3. Oil and gas in Alaska -- there are several new projects on the way that will create a major workload for us in permitting and EIS review, so EPA needs to be ready to deal with the questions these projects will raise;
4. Contaminated Sites Clean-up -- whether it's contaminated sediments in rivers and harbors, old mining sites, hazardous waste facilities, leaking gasoline tanks, or Hanford, our region still has a large number of critical cleanup projects underway, so this continues to be one of EPA's top problem areas;
5. Support for Tribes -- working more effectively with Tribes on their environmental problems will continue to be a priority, as it has been in Region 10 for several years; and
6. Vehicle emissions and smoke -- we all breathe the air, so reducing these threats is critical.

AIR QUALITY PROGRAM

GOAL

The ultimate goal of DEQ's Air Quality Program is to keep Oregon's air healthy to breathe and ensure visibility is clear.

ENVIRONMENTAL INDICATORS

To measure how well Oregon's air quality goal is being achieved, the following indicators are utilized:

- Percent of time that the air is healthy to breathe for all Oregonians. (Oregon Benchmark – criteria air pollutants only)
- Trends in emissions of toxic air pollutants. (EPA/ECOS Core Performance Measures)
- Trends in criteria air pollutants (EPA/ECOS Core Performance Measures)

CURRENT CONDITIONS AND CHALLENGES

Oregon's air is considered healthy since all areas of the state are within existing criteria pollutant health-based standards. However, Oregon's population is growing rapidly and new criteria pollutant health standards are under development. Also, public interest and concern regarding potential health impacts from toxic air pollutants is increasing. Further, in some areas of Oregon, the quality of life is hampered by a continued decline in visibility and by nuisances (impacts from odors, particle fallout, and smoke). These pose great challenges to maintaining clean and healthy air in Oregon. The information contained within the "strategies" and "objectives" sections describe DEQ's methods and commitments to meet these challenges.

In keeping with DEQ's over-arching short-term strategic direction, a high emphasis is being placed on protecting people's health from harmful toxics. DEQ has convened a broad-based stakeholder group called the Hazardous Air Pollutant Consensus Group which has recommended a state air toxics program to improve DEQ's information base and reduce health risks from exposure to air toxics. The program will be built on a foundation of good science, utilizing the expertise of an impartial Science Advisory Panel. The program will provide critical information through a comprehensive inventory of toxic chemical emissions, advanced modeling techniques to estimate potential exposure, and neighborhood monitoring to validate model predictions. This will be followed by identification of communities where people may be exposed to harmful levels of air toxics as well as assistance to these communities in designing their own plans to reduce health risks. A final element of the program will address localized health concerns that are missed by other parts of the program. A key element of the Oregon program is collaboration with scientific experts, federal, state and local agencies and local business and community representatives.

DEQ STRATEGIES

To meet Oregon's air quality goal, the program strives to reduce emissions of criteria and hazardous air pollutants through the following strategies. Similar strategies are employed across all programs within DEQ:

- **Planning and Program Development.** This strategy includes activities such as SIP development, rules and guidance, citizen, industry, local government and interagency coordination.
- **Compliance Assurance.** This strategy includes activities such as complaint response, inspections, vehicle exhaust testing, and enforcement actions.
- **Permitting & Licensing.** This strategy includes activities such as writing permits, conducting public hearings, and licensing/certifying asbestos contractors/trainers.
- **Education, Outreach and Technical Assistance:** This strategy includes activities such as regulatory technical assistance, assistance to local governments and communities, coordination with other public education programs, and small business assistance.
- **Monitoring and Data Collection:** This strategy includes activities such as modeling, emission inventory, meteorological and pollutant monitoring, laboratory analysis, and information systems management.
- **Infrastructure:** This strategy includes activities such as professional development, efficiency improvement, pollution prevention/cross-media coordination, Community Solutions Teams, legislative coordination, EPA coordination, strategic planning and performance measurement.

Note that the Lane Regional Air Pollution Authority (LRAPA) conducts the air pollution control program in Lane County. Under current legislation adopted in 1967, members of the authority are Lane County and the cities of Eugene, Springfield, and Cottage Grove. As authorized, LRAPA exercises the functions otherwise vested in the Department of Environmental Quality with respect to: 1) powers and duties; 2) standards of quality and purity; and 3) rules and regulations and enforcement.

JOINT EVALUATION PROCESS

To insure that EPA and DEQ maintain open communications during this PPA, the two air quality programs have agreed to a series of meetings, check-ins, and a report. This evaluation process will also insure that the necessary grant monitoring requirements will be met. Check-ins may be conducted via e-mail or telephone or both. The proposed evaluation points are:

- March 2003 – check-in
- July or August 2003 – meeting
- September or October 2003 – check-in
- February or March 2004 – meeting, including discussion on 04-06 PPA
- August 2004 – check-in
- September or October 2004 – written report

DEQ AQ STAFFING

This PPA is intended to provide an overview of the entire Air Quality Program. In addition, it provides specific information that will suffice as the work plan for the Section 105 base grant which will start on October 1, 2002 and end on September 30, 2004. DEQ staffing levels are shown for each of the five air quality objectives that follow. The first number presents the total program staffing, including positions funded through Section 105 base grant, Section 105 priority projects, federal PM 2.5 monitoring funds, state General Fund, Title V fees, Air Contaminant Discharge Permit fees, vehicle inspection fees, and other miscellaneous revenue sources. The second number represents the staffing level supported specifically by the Section 105 base grant. For this two-year PPA and Section 105 grant period, the estimated Section 105 base grant FTE is 16. The total Air Quality Program FTE is 292.

DEQ OBJECTIVES

Meeting the following five objectives will help Oregon achieve its goal of healthy and clean air.

OBJECTIVE 1: Prevent public exposure to criteria pollutants by keeping all areas of the state meeting and beating health-based air quality standards as measured by the percent of time that air is healthy to breathe for all Oregonians. (57 FTE; 8 FTE related to 105 grant)

OUTCOME MEASURES

- Assure that public health is protected while eliminating nonattainment designations and associated growth impediments in Grants Pass (PM 10), Klamath Falls (PM10) and Medford (PM10).
- Achieve consistent state and federal air quality regulations as a result of federally approved State Implementation Plan (SIP) submittals.

OUTPUTS

- DEQ and EPA will implement the SIP process improvements agreed upon in the Region 10 SIP Process.
- DEQ will complete Environmental Quality Commission adoption and submittal to EPA of the following plans (including redesignation requests and emission inventories):
 - Grants Pass PM10 maintenance plan by October 2002.
 - Medford PM10 attainment and maintenance plan by spring 2003.
 - Klamath Falls PM 10 maintenance plan by fall 2002.
- EPA will review and approve SIP's submitted for Grants Pass, Medford and Klamath Falls.

- DEQ and EPA will negotiate SIP Development Plan for each SIP revision and provide the resources and meet the timelines agreed upon.
- DEQ and EPA will process SIP revisions as minor amendments whenever possible to use resources most efficiently.
- DEQ and EPA will share cumulative workload information on all Oregon SIP packages under development and pending EPA final action at least annually during the second quarter to improve efficiency.
- DEQ and EPA will negotiate a work plan in letter format for each attainment and maintenance plan, including specific target dates. (e.g., dates for IPP, Q/A, modeling protocol, and other such submittals and approvals etc.).
- EPA will acknowledge receipt of final submittals within six months of receipt, and take final action on final submittals within 18 months of receipt.
- DEQ will conduct monitoring network assessment under National strategy by 12/02.
- EPA will work with tribes to protect air quality in Oregon. DEQ will provide assistance as resources allow.
- DEQ will complete Portland CO inventory by January 2004.
- DEQ will complete Portland ozone emission inventory and modeling by January 2004.
- DEQ will submit PM10 NSR for maintenance areas by fall 2002.
- EPA will approve Medford CO maintenance plan by 11/02.

ONGOING ACTIVITIES

- DEQ will operate and maintain the monitoring network plan according to 40 CFR Part 58 requirements and EPA approved Q/A plans.
- DEQ will maintain existing control strategies required in attainment and maintenance plans.
- DEQ will provide emission inventory preparation plans, modeling protocols (as appropriate) and prepare emission inventories.
- DEQ will notify EPA of exceedance events, evaluate exceedance events and implement appropriate action as needed.
- DEQ will participate in national and regional monitoring quality assurance.

REPORTING

- DEQ will submit PM10 Reasonable Further Progress reports for areas that have not been designated to attainment, if requested by EPA. The RFP reports will evaluate the implementation status of the attainment strategies and trends in ambient air quality.
- DEQ will report ambient air quality data to AIRS quarterly, as required by 40 CFR Part 58.
- DEQ will report on emissions for all source categories as defined in the CFR.
- DEQ will report point source annual emissions (except LRAPA) as defined by 40CFR Part 51.
- EPA will inform DEQ of SIP submittal status quarterly.

OBJECTIVE 2: Implement ongoing air quality improvement strategies (180 FTE; 2 FTE related to 105 Grant)

OUTCOME MEASURES

- Provide an increasingly effective service to reduce criteria air pollutants in Oregon.

OUTPUTS

- DEQ and EPA will update the Title V Implementation Agreement by December each year.
- DEQ will submit a delegation request in April of each year for all adopted NSPS.
- DEQ will undertake modeling-related rule making. Specifically being improved is 340-222-0060(d) and offset requirements in 34-225-0090. These recommended rule changes will be combined with the entire AQ programs rule-making efforts.
- EPA will issue a delegation notice for NSPS within 3 months of receiving a delegation request from DEQ.
- DEQ will assist EPA as EPA develops a regional strategy to examine air quality and human health issues associated with burning of agricultural residues in the northwest.
- DEQ will participate in interagency and multi-jurisdictional efforts to better characterize, manage, and minimize the impacts (health, visibility, and nuisance smoke) of prescribed burning activities, including agricultural and forestry practices.
- DEQ will participate in the interagency review and development of the BlueSky-RAINS project, a web-based prescribed burning information system.
- EPA will periodically convene meetings with local, state, federal and tribal agencies in the Northwest with and interest in prescribed fire, smoke, and air quality issues.

ONGOING ACTIVITIES

- DEQ will implement permitting process streamlining strategies, and partner with EPA to continually improve both regulatory processes.
- DEQ will implement the Title V Permitting Program.
- DEQ will implement the ACDP Permitting Program.
- DEQ will implement the NSPS Program through the ACDP and Title V programs.
- DEQ will implement Maintenance and Attainment Plan commitments.
- DEQ will implement the VIP I&M program.
- EPA will partner with DEQ to further develop implementation strategies for NSPS and NESHAP Programs, and clarify roles affected by delegation issues.
- DEQ will work to implement the diesel retrofit program.
- Implement SIP PIP for rule revisions to existing strategies.
- EPA and DEQ will continue to participate in and/or track progress and products of the WRAP's Fire Emission Joint Forum.

REPORTING

- DEQ will submit to EPA: NSR/PSD applications, incomplete application letters, updated application information, technical analysis, draft permits, and final permits.
- DEQ will enter RACT/BACT/LAER determinations into Clearinghouse database.
- DEQ will prioritize submittals quarterly, communicate the priorities to EPA and inform EPA about future submittals.
- DEQ will submit to EPA: Title V draft permits, permits and permit renewal applications.
- EPA will conduct expedited T5 reviews (5 day) for most T5 permit submittals and utilize the 45 review timeframe for only those permits with significant issues.
- EPA will respond to NSR/PSD submittals in a timely manner.
- EPA and DEQ will work to improve the PSD permitting process including communication, coordination and notification between DEQ, EPA and the federal land manager.

OBJECTIVE 3: Reduce public exposure to toxic air pollution (10.75 FTE; 0 FTE related to 105 Grant)

OUTCOME MEASURES

- Compliance with federal hazardous air pollutant program is high.
- Monitoring results are recorded and available for the public (based on information collected from the monitor in Portland and other monitors sited with additional funding).
- The National Toxics Inventory (NTI) results will show a decrease in emissions over time.

OUTPUTS

- *NESHAP Program*
 - DEQ will submit a NESHAP delegation request to EPA annually in April of each year. The request will be for all NESHAPS adopted by EPA and in the CFR published July 1 of the same year.
 - EPA will process NESHAP delegation requests within three months after they are received.
 - DEQ and EPA will work to eliminate the applicability determination backlog by December 2003.
- *Air Toxics Assessment*
 - DEQ and EPA will work together to obtain permanent funding for a permanent air toxics monitor.
 - Once permanent funding is obtained, DEQ will establish, operate and maintain a permanent air toxics monitor in Portland.
 - Contingent upon continued funding, by 6/1/04 DEQ will report on 2002 HAP emissions for all source categories.
- *State Program Development*

- DEQ will complete development of the air toxics program rules.
- EPA will assist DEQ as needed in development of Oregon's toxic air pollutant program rules.
- *MACT Hammer*
 - DEQ will perform MACT hammer application completeness reviews within 30 days of receipt.
 - EPA will provide guidance and assistance conducting application reviews, process and decision making.

ONGOING ACTIVITIES

- *NESHAPS Program*
 - DEQ will carry out the asbestos NESHAP: certification, accreditation, notification, inspections, compliance and enforcement.
 - DEQ will submit delegation request to EPA for all adopted NESHAPS annually in April of each year for the NESHAPS published in the CFR in July of the preceding year.
 - DEQ will implement NESHAP rules: incorporate into permits, provide technical assistance, inspections, compliance and enforcement.
 - EPA will process NESHAP delegation requests within three months after they are received.
 - EPA will consult with DEQ on applicability determinations, compliance determinations, and other case-by-case issues where EPA needs to make final decisions.
- *State program development*
 - DEQ will develop rules.
 - DEQ will seek resources for the program.
 - DEQ will create a Science Advisory Panel.
 - DEQ will collect information and begin prioritizing areas of concern for geographic approaches.
 - DEQ will develop the scientific foundation for the state program as resources become available (EI, monitoring, modeling, risk assessment).
 - Special projects addressing local toxic air pollutant concerns.
 - DEQ will operate and maintain the air toxics monitor in Portland.

REPORTING

- DEQ will submit information on asbestos demolition and renovation notification, inspections, and administrative and judicial enforcement activity to the NARS database.
- DEQ will input data to AIRS.
- EPA will complete applicability determinations in a timely fashion.

OBJECTIVE 4: Improve visibility in federal Class I Areas, and work to protect visibility in Columbia River Gorge Scenic Area (5.25 FTE; 0 FTE related to 105 Grant)

OUTCOME MEASURES

- Better assess regional haze in Oregon's federal Class I areas.
- Improved visibility in the Columbia Gorge National Scenic Area (NSA).
- Improved visibility in Class I areas.

OUTPUTS

- During this PPA, Oregon may develop and submit a Regional Haze 308 Commitment SIP. Timing is dependent on when EPA makes its final determination on PM 2.5 attainment status designations in Oregon. This SIP would be due 12 months after these designations are made. EPA may take action by July 2003.
- As funding allows, expand current state visibility monitoring network.

ONGOING ACTIVITIES

- DEQ will participate with EPA Region 10, WRAP Modeling Committee, and the Regional Technical Center in the development of Models 3 for Regional Haze rule.
- DEQ will participate in IOC meetings and conference calls.
- Contingent upon funding, DEQ will continue visibility monitoring in the Columbia Gorge NSA in partnership with Washington Dept. of Ecology and conduct data analysis to determine sources contributing to visibility impairment.
- DEQ will continue to operate existing visibility monitoring network.
- DEQ will work to secure funding to implement the Gorge air quality work plan.
- EPA will work with the tribes and participate in the Gorge Advisory committee.
- EPA will coordinate with neighboring regions when reviewing regional haze SIP submittals.

REPORTING

- Visibility analysis and reporting occurs on a 3-year cycle. The next report is due in 2005.

OBJECTIVE 5: Maintain an effective compliance assurance program that contributes to prevention and reduction of pollution and protection of public health (39 FTE; 6 FTE related to 105 Grant)

OUTCOME MEASURES

- High rates of compliance with regulations and permits.
- Maintain a credible deterrent to non-compliance.
- Regulated sources utilize self-policing and self-reporting.

OUTPUTS

- DEQ and EPA will periodically review and discuss compliance and enforcement program trends using data from national and state databases and will use such information in adjusting program activities.
- DEQ and EPA will participate in an annual compliance planning meeting. Discussion topics for the meeting will include:
 - work share opportunities,
 - roles and responsibilities,
 - national, regional and state priorities,
 - changes in national guidance,
 - joint compliance and enforcement activities, and
 - planned inspection activities (i.e. mentoring, oversight, joint).
- Violations detected at major sources will be resolved by DEQ in accordance with the EPA "Timely and Appropriate Enforcement Response Guidance for High Priority Violations."
- EPA will be responsible for conducting compliance assistance and enforcement activities in Indian Country.
- The compliance component of the air program will be conducted in accordance with the compliance assurance agreement dated October 1999.
- DEQ and EPA will collaborate to identify the type of PSD/NSR compliance work DEQ will undertake during the course of the PPA at the annual compliance meeting.
- EPA will increase its level of oversight of the Title V annual certification program to include both general oversight of how the state's program is carried out and by reviewing certifications received in accordance with the region's MOA commitment to OECA.
- EPA will work with DEQ on revisions to DEQ Division 12 Rules.
- EPA will lead, and DEQ will participate in an initiative to develop policy and guidance related to cumulative impact increment analysis.
- DEQ and EPA will work to define priorities and respective roles relative to MACT implementation and MACT hammer provisions in accordance with the requirements at Section 112(j)(2).

REPORTING

- DEQ will review and/or revise the compliance monitoring plan by December 30th of each year.
- DEQ will report the number and status of sources subject to high priority violation policy.
- DEQ will upload information on compliance, inspection and enforcement to the EPA AFS database monthly.
- DEQ and EPA will participate in a quarterly conference call to discuss high priority violations, as well as policy and strategy issues.

WATER QUALITY PROGRAM

DEQ's Water Quality Program is the state agency responsible for protecting Oregon's surface and ground waters for a wide range of uses. DEQ sets water quality standards to protect "beneficial uses" such as recreation, fish habitat, drinking water supplies, and aesthetics. DEQ monitors water quality with regular sampling of more than 50 rivers and streams in the 18 designated river basins found in Oregon.

DEQ regulates approximately 1062 wastewater sewage treatment facilities and 234 industrial dischargers through individual permits that set limits on pollutants discharged. In addition, approximately 1048 facilities have general permits that limit discharges and 1701 facilities are covered by storm water general permits. DEQ also permits injection systems and inspects septic system installations. The department offers low cost loans to public agencies to help fund improvements to water quality.

DEQ is also responsible for addressing nonpoint sources of pollution which are diffuse or unconfined sources of pollution where wastes or contaminants can be conveyed to surface or ground water. DEQ maintains a Nonpoint Source Plan under Section 319 of the Clean Water Act that describes how the state plans to manage nonpoint sources to protect and restore water quality.

For Water Quality, federal grants account for approximately 17% of the program's budget. Most of this comes in the form of "base grants," which are reissued year after year provided that Congress continues to appropriate money for them. Generally speaking, there are two "truths" about these grants:

- Increases to base grants come with expectations for new work—for example, a supplemental increment in 2001 allowed DEQ to add 6 FTE to work on TMDL implementation.
- Base grants do not increase to cover inflation.

This means that DEQ has to secure increases in General or Other funds to cover inflationary costs, find other ways to reduce costs, or negotiate with EPA about the expectations for what will be accomplished.

During this current PPA cycle, DEQ is negotiating with EPA about two water quality programs where resource limitations are affecting program outcomes. In the Underground Injection Control program, EPA has agreed to "share" the responsibility for certain program activities in order to ensure that an adequate program can be implemented. In the wastewater permitting program, where DEQ has a backlog of expired permits due to a 12 FTE shortfall (as determined by an EPA workload model), DEQ is pushing back on EPA's expectations for reducing the backlog.

GOOD NEWS FOR OREGON'S RIVERS AND STREAMS

- The Oregon Water Quality Index indicates that water quality is improving at 47% of the 140 sites located throughout the state, and only 1% of those sites show decreasing water quality. Of the 12 monitoring sites located in basins where TMDLs are being implemented, 11 are showing water quality improvements.
- DEQ has completed and received EPA approval on 263 Total Maximum Daily Loads since January 1, 2000. This puts us on track to be ahead of the Federal District Court's Consent Order to have 310 TMDLs completed by 2004.
- An increase in federal resources has allowed DEQ to maintain a presence in watersheds where TMDLs have been completed. This will help ensure that water quality improvements are achieved.
- DEQ has recently begun synchronizing the update of wastewater permits on a watershed basis. By addressing all permits within a watershed at the same time, agency resources for data gathering and analysis, public notification and technical assistance will stretch farther. Additional benefits of this approach include enhanced opportunities for public awareness and involvement, greater consistency between permits, and improved environmental decision-making.
- DEQ will be proposing to add or revise more than 100 water quality standards over the next year. The number of revisions is high because we are doing a major update of the toxic pollutants criteria (Table 20). With the adoption of these standards, DEQ will be able to better protect fish and other aquatic species and the health of Oregonians.

CHALLENGES

- Oregon has over 51,000 miles of perennial rivers and streams. Oregonians expect these rivers to be clean and healthy for people and fish. DEQ has reviewed water quality data for 38 percent of Oregon's perennial rivers and streams and of those we've reviewed, about 70 percent, over 13,000 miles of rivers and streams, don't meet clean water standards.
- Poor water quality contributes to many of our native salmon being threatened with extinction and formally listed under the Endangered Species Act. Some water, like the Willamette, has fish consumption advisories posted because of contamination with hazardous chemicals like mercury. Oregon's waters have problems with temperature, bacteria, sedimentation, dissolved oxygen, growth of aquatic weeds, toxic chemicals, and habitat and flow modifications.
- The requirements of the Endangered Species Act often overlap with Clean Water Act requirements, which may result in confusion and burdensome reporting requirements for the regulated community.

- According to EPA's workload model, DEQ's wastewater permitting program continues to operate at a level well below that which is needed to handle the permit load. This has caused DEQ to reduce the resources available for technical assistance and compliance efforts, and has resulted in a backlog of expired permits.
- Some complex environmental problems require the focused attention of more than one Division within DEQ and require cross-program coordination. For example, contaminated sediments and mercury-laden runoff from abandoned mines are issues that span the regulatory responsibilities of both the Water Quality and Land Quality Divisions.

DEQ PROPOSED SOLUTIONS

To address the challenges mentioned above and other high priority objectives, DEQ's Water Quality Division will:

- Continue to prioritize TMDL work in order to stay on track with the agreed upon schedule with EPA.
- Continue to work with other natural resource agencies to implement the Oregon Plan for Salmon and Watersheds. This coordinated effort has increased the attention and efforts of state agencies and other partners on the water quality needs of salmonids as well as overall watershed health.
- Work closely with EPA and other federal partners to coordinate on ESA activities. This includes collaborating on setting priorities and ensuring early/frequent communication on policy and rule development activities.
- Propose to augment the wastewater permitting program by adding two permit writers to the wastewater permitting program for the 03-05 biennium to focus on incorporating TMDL Waste Load Allocations into Willamette Basin permits.
- Work with EPA in 2002 to formally undertake a review of the wastewater permitting program to assess its strengths and weaknesses and chart a course for its future.
- Work with other DEQ Divisions to undertake cross-program initiatives on complex environmental issues such as toxics, abandoned mines, and contaminated sediments.

WATER QUALITY PRIORITIES

TMDLs

Oregon's TMDL schedule is aggressive. Under the Oregon Plan, DEQ is directed to complete TMDLs for all 91 sub-basin in a systematic fashion by the end of 2007. DEQ staff are presently involved in about half of Oregon's 91 sub-basins developing TMDLs and helping implement watershed projects that will clean up hundreds of miles of waterbodies through the hard work of local communities and private parties in those watersheds.

To support this watershed based restoration effort, DEQ is moving away from producing TMDLs through intensive studies of a single water quality parameter on a single water body to more sweeping efforts to address all of the important water quality issues in whole watersheds and it is paying off. We are learning that comprehensive watershed based approaches that involve forestry, agriculture, municipal, and industrial sectors provide the best mechanism to equitably address the pollution problems in a watershed. With the additional federal funding that allowed the creation of 6 TMDL Implementation positions, DEQ will be actively engaged in sub-basins that have completed TMDLs ensuring Load Allocations and Wasteload Allocations are being implemented.

Incorporating Waste Load Allocations into Wastewater Permits

[to be completed]

Stormwater

[to be completed]

Municipal Wet-Weather Pilot

DEQ will develop and pilot test of a comprehensive watershed-based approach for addressing municipal wet weather issues.

Groundwater

[to be completed]

Safe Drinking Water

[to be updated] The 1996 Safe Drinking Water Act Amendments mandated that states conduct "source water assessments" for all public water systems. Assessments include identifying the geographic source areas for all groundwater and surface water- supplied public water systems and determining how susceptible the systems are to potential contamination. There are 2656 public water systems in Oregon that will be addressed by this program which ends in 2003. Each public water system will receive a summary report with a map of their source area or watershed. The primary objective of the assessment is to identify for the community the most vulnerable natural areas within the watershed or groundwater well recharge area.

State Revolving Loan Fund

DEQ is undertaking a rulemaking in 2002-2003 to ensure that nonpoint source pollution control projects are eligible for funding under its Clean Water State Revolving Loan Fund (CWSRF). In addition, DEQ is working with a county government in 2002 to establish Oregon's first "local revolving fund" under the CWSRF. This effort will allow the county to make low interest loans to homeowners needing to repair or replace failing septic systems and potentially address other nonpoint pollution control projects.

Water Quality Standards

As part of its responsibilities under the federal Clean Water Act, the DEQ is required to review Oregon's water quality standards at least once every three years. This review process helps to assure that water quality standards keep abreast of current technology and reflect the most recently available information. Because the review process typically takes the full three years, the process of reviewing the State's water quality standards is continuous. Due to limited resources, DEQ focuses on specific standards determined to be a high priority for review by the Department with input from EPA. The standards currently under review include: temperature, biocriteria, designated beneficial uses, toxic pollutants, an antidegradation implementation plan, and outstanding resource waters. Additional standards work currently underway includes preparation to develop nutrient criteria, a policy on the application of water quality standards to reservoirs and permit compliance schedules.

ENVIRONMENTAL INDICATORS TO MEASURE PROGRESS

In order to determine whether environmental objectives are being met, DEQ's Laboratory Division is developing methods for measuring environmental results. The chief indicator of trends in water quality is the Oregon Water Quality Index.

The Oregon Water Quality Index (OWQI) is a single number that expresses water quality by integrating measurements of eight water quality parameters (temperature, dissolved oxygen, biochemical oxygen demand, pH, ammonia+nitrate nitrogen, total phosphates, total solids, and fecal coliform). Its purpose is to provide a simple and concise method for expressing ambient water quality. The index relies on data generated from routine ambient monitoring and can be used to analyze trends in water quality over long time periods. Oregon's ambient water quality monitoring network is designed to measure cumulative impacts from point and non-point sources of pollution in a variety of conditions.

Other measures of environmental condition being developed include an index of biological health for macroinvertebrate assemblages. This index utilizes a multivariate assessment model that compares the expected macroinvertebrate assemblage at a site with that actually observed. Expected conditions are based on regional reference sites. Oregon DEQ has been developing this index as part of the State's Oregon Plan for Salmon and Watershed plan and through EPA grants such as EMAP. The index is also being incorporated into numeric biological criteria.

HAZARDOUS WASTE PROGRAM

INTRODUCTION

The Oregon Department of Environmental Quality implements the State Resource Conservation and Recovery Act (RCRA) program as authorized by EPA, as well as the

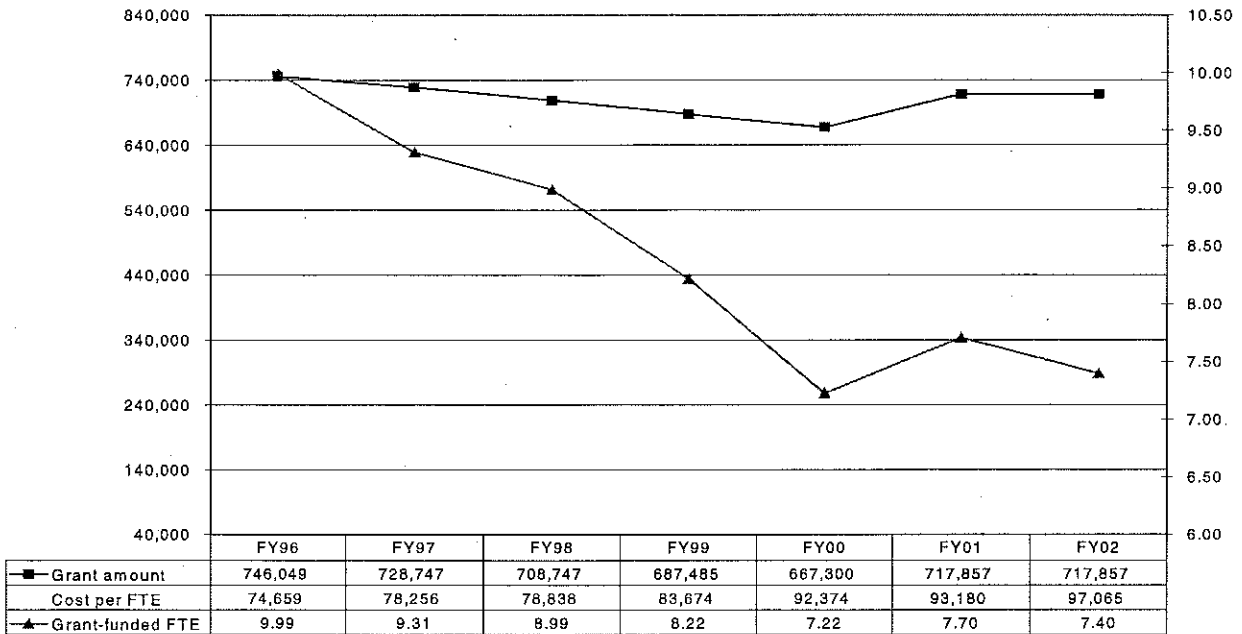
State hazardous waste regulations. This section of the Performance Partnership Agreement (PPA) describes:

- ❖ The goals of Oregon's Hazardous Waste Program.
- ❖ The environmental and programmatic objectives of each agency that are related to these goals.
- ❖ The priorities and strategies that will guide program activities for the term of this PPA.
- ❖ The measures we will use to evaluate our success.

Implementation of this agreement is the responsibility of DEQ's Land Quality Division, EPA's Region 10 Office of Waste Chemicals Management, and the DEQ and EPA Regional Enforcement Sections. This is a two-year agreement for State Fiscal Years 2003 and 2004 (July 1, 2002 – July 30, 2004). This agreement is supplemented by the agencies' joint agreements for dispute resolution (Appendix B-2), corrective action communication (Appendix B-3) and the RCRA Info Memorandum of Agreement (MOA). Activity and resource commitments under the PPA are included for the first year in the FY 2003 Operating Plan table (Appendix B-1). Each agency agrees to track and report the activities and commitments under this agreement, to review our progress at the end of the first year and revise, as needed, our activities and resources in a work plan for FY 2004. A final report documenting our accomplishments will be prepared by each agency within 60 days of completion of the PPA.

Negotiations of priorities for implementation of the Hazardous Waste Program have emphasized the critical financial situation faced by the program as it approaches the FY 03-05 biennium, and it is expected that both EPA and DEQ will continue to work together to make the difficult decisions of how to maintain a viable program in Oregon in the face of funding shortages. This may involve the identification of work that will not be completed, increased assistance from EPA to the State, and/or a reduction of efforts in certain program areas in order to dedicate sufficient resources in others. Thus this PPA in particular is one that will be evolving over the course of the next two years, and the agencies will update the Operating Plan to reflect decisions on resource allocations.

Hazardous Waste Grant History



The federal grant currently pays for about 17% of total Hazardous Waste Program costs, excluding program costs associated with implementation of State requirements such as Oregon's Toxic Use Reduction program. This graph shows that the federal grant has reduced over time, from an annual allocation of \$746,049 in 1996 to \$667,300 in 2000. The additional grant moneys received in FY01 and FY02 of approximately \$50,000 will continue into this biennium, but are to be dedicated to implementing corrective action in the State in support of EPA's national 2005 environmental indicator goals. The graph also shows that due to inflation the number of FTE supported by grant dollars has declined, such that in 1996 the grant supported 10 FTE. In FY01 grant moneys now support 6.9 FTE to implement the delegated program in Oregon (again outside of the additional moneys received to be used for corrective action).

ENVIRONMENTAL GOALS AND PROGRAM OBJECTIVES

DEQ and EPA share the primary goals of the State's Hazardous Waste Program:

- ❖ Safe waste management.
- ❖ Waste minimization.
- ❖ Cleanup of hazardous waste contamination.

Within this context, each agency has also developed its own environmental program objectives, and has identified strategies to achieve these objectives that form the basis of this FY 2003-2004 PPA. The specific activities to be undertaken by each agency in implementing these strategies during the first PPA year are documented in Appendix B-1. The key program objectives, which constitute the current priorities for program work,

are described in detail below. This includes Federal and State program sub-objectives and strategies related to each priority, and the outcome measures we have identified to evaluate our progress. Implementation of certain measures identified for State objectives will require new data collection or tracking that may not be available until completion of the new field data tracking database (specific measures requiring additional implementation work are identified). Each agency maintains responsibility for reporting and tracking their respective program objectives and measures.

OBJECTIVE 1. Reduce the threat of exposure to hazardous waste through safe management utilizing the program's compliance monitoring and assistance, enforcement and permitting tools and through the remediation efforts of DEQ's Cleanup Program.

A key priority of the HW Program is to ensure that hazardous wastes generated are managed such that the threat of exposure and the impacts of exposure to Oregonians and our environment are reduced. DEQ allocates program resources and tools, and prioritizes the efforts of our compliance monitoring, technical assistance, permitting, and enforcement, to achieve safe management of hazardous wastes.

The following sub-objectives further detail this priority as it relates to program efforts:

- ❖ Maintain a strong site presence with compliance inspections and TUWRAP site visits to ensure RCRA compliance.
[DEQ Sub-objective 1A]
- ❖ Ensure proper tools are in place to promote safe management.
[DEQ Sub-objective 1B]
- ❖ Prevent human exposures and control groundwater releases at high-priority GPRA corrective action sites.
[DEQ Sub-objective 1C]
- ❖ Improve the environment and protect human health by increasing compliance with environmental laws through a strong enforcement presence.
[EPA Sub-objective 90102]
- ❖ Promote the regulated communities' compliance with environmental requirements through voluntary compliance incentives and assistance programs.
[EPA Sub-objectives 90201 and 90202]
- ❖ By 2005, ensure that 90 percent of existing treatment storage, and disposal facilities have approved controls in place, to prevent releases to the environment (using the universe base line from 1996).
[EPA Sub-objective 50204]

- ❖ By 2005, control human exposure to toxins and groundwater releases at 95 percent and 70 percent respectively, of all high-priority correction action sites on the baseline reported to Congress for the Government Performance and Results Act.

[EPA Sub-objective 50105]

Strategies

- ➔ Adopt Federal and State rules and develop State policies that promote safe management.
- ➔ Conduct compliance monitoring inspections according to regional priorities.
- ➔ Conduct training to educate regulated community.
- ➔ Provide technical assistance through TUWRAP site visits, publication of program guidance and fact sheets, etc.
- ➔ Explore additional waste streams that may be more safely managed through the universal waste program.
- ➔ Maintain a meaningful role for EPA in Oregon's compliance enforcement program [EPA].
- ➔ Transfer RCRA sites to DEQ's Cleanup Program for corrective action implementation.
- ➔ Conduct permitting and ensure that approved controls are in place at TSD facilities, to prevent releases to the environment.

Measures

- ✓ As a result of site inspection or TUWRAP visits, the annual quantity of hazardous waste not managed in compliance with regulations, diverted to safe and compliant management. ¹
- ✓ Number of generators that have been inspected. ²
- ✓ Number of generators that received a TUWRAP visit.

¹ Availability of statewide data for this measure is dependent on OHWIME development schedule. This could also measure used oil, universal waste, as well as the specific activity fostering the change, and could also be reported through documentation of success stories.

² "Generator" could also include used oil processing facilities or universal waste handlers, for purposes of measuring safe management.

- ✓ Number of complaint response investigations.
- ✓ Number of RCRA sites transferred to the Cleanup Program annually.
- ✓ Number of high-priority corrective action sites meeting human exposure and groundwater control indicators. [EPA]
- ✓ Number of TSDFs with approved controls in place. [EPA]

OBJECTIVE 2. Encourage reduction in the use of toxic materials and hazardous waste generation utilizing the program's technical assistance, education, and outreach, compliance and enforcement tools.

The most effective means of eliminating the risks associated with hazardous waste is to not generate them in the first place. While it is unlikely that we will achieve zero waste generation, DEQ seeks to encourage business and individuals to reduce the use of toxic chemicals, and to minimize the wastes they generate through the efforts of the TURWRAP program and public outreach and education.

Sub-objectives that serve to foster and promote hazardous waste and toxics use reduction include the following:

- ❖ Maintain presence of TUWRAP program at facilities in the State.
[DEQ Sub-objective 2A]
- ❖ Reduce toxics use by promoting chemical substitution, recycling efficiency, or other toxics reduction strategies.
[DEQ Sub-objective 2B]
- ❖ Assist businesses in identifying waste minimization opportunities.
[DEQ Sub-objective 2C]
- ❖ Reduce the most persistent, bio-accumulative, and toxic compounds in hazardous waste streams by 50 percent from 1991 to 2005, to achieve a 25 percent increase in the amount of hazardous waste safely recycled, relative to the amount of safely-recycled materials in 1993.
[EPA Sub-objective 40601]

Strategies

- ➔ Work with stakeholders to maximize benefits of TUWRAP.
- ➔ Use training, program policies, public outreach and educational materials to promote reduction in toxics use and hazardous waste generation.

- Identify waste minimization opportunities in compliance monitoring and enforcement.
- Conduct TUWRAP efforts according to regional priorities.

Measures

- ✓ The quantity of hazardous waste or toxic chemical products reduced annually as a result of DEQ activities³.
- ✓ Number of people attending DEQ hazardous waste training sessions.
- ✓ Number of TUWRAP site visits.

OBJECTIVE 3. **Seek opportunities to reduce the threat of exposure to hazardous waste through safe management by enhancing program scope.**

RCRA has been in place for over two decades, and since 1986 DEQ has been authorized to implement the program in Oregon, to ensure compliance by generators and waste management facilities. In addition, DEQ's TUWRAP program, which was initiated in 1989, has worked to encourage safe management practices at facilities, that are conditionally exempt from hazardous waste regulations. As we continue to make improvements in waste management and to reduce hazardous waste impacts on Oregon's environment, it is appropriate to evaluate how the program might achieve greater environmental benefits, which may involve changes to the scope of work we do.

The Program is looking at hazardous waste activities that are currently outside of the scope of both Federal and State programs, and is evaluating what efforts the DEQ could appropriately take to ensure that these activities are conducted in a protective manner. Recognizing that program resources are limited and may be decreasing, it is now imperative that such efforts focus on how program resources may be efficiently and effectively used to achieve the greatest environmental benefits.

The Hazardous Waste Program also promotes waste reduction and toxics-use reduction, focusing on the chemical constituents that pose the highest level of risk. Both DEQ and EPA have identified the priority of addressing toxics that persist in the environment, and accumulate in organisms as they move through the food chain, known as persistent, bio-accumulative, toxic substances (PBTs). The Hazardous Waste Program will participate in the Governor's mandate to reduce these PBTs in Oregon's environment, the agency's first priority being to reduce risks from mercury.

Sub-objectives identified below reflect these concerns:

³ This measure could be quantified per site visit or could be documented through success stories.

- ❖ Evaluate environmental impacts associated with hazardous waste discharged to wastewater treatment units.
[DEQ Sub-objective 3A]
- ❖ Raise the standard for how conditionally exempt generator (CEG) and household hazardous waste (HHW) are managed.
[DEQ Sub-objective 3B]
- ❖ Reduce use and release of priority toxic substances.
[DEQ Sub-objective 3C]

Strategies

- ➔ Work with Water Quality, EPA and industry to evaluate environmental impacts and appropriate responses to hazardous waste wastewater discharges.
- ➔ Partner with Solid Waste Program to develop CEG/HHW educational materials and promote hazardous waste collection events.
- ➔ Explore new opportunities to encourage safe management of CEG hazardous waste.
- ➔ Focus on mercury reductions, including identification of mercury sources, participation in agency-wide initiatives, and partnering with the Northwest Auto Trades Association to facilitate replacement of mercury-containing automotive switches.

Measures

- ✓ Quantity of hazardous waste managed as wastewaters, as reported to DEQ on an annual basis.
- ✓ Quantity of hazardous waste collected from businesses at CEG collection facilities or events.
- ✓ Mercury-containing products removed from service (e.g., number of mercury-containing devices and/or quantity of mercury collected from collaborative efforts including Switch the Switch and Health Care Without Harm mercury collection efforts).

OBJECTIVE 4. Deliver excellence in service by providing Oregonians with better access to information and easier ways to do business with DEQ.

DEQ's strategic plan identifies delivering excellence as the agency's first priority. The Hazardous Waste Program is committed to providing excellence in performance and service by making it easier for individuals and businesses to seek, obtain, and provide information in a user-friendly way. This includes the availability of electronic reporting to provide better service to the regulated community, and public access to environmental information. These efforts are undertaken to promote greater understanding of environmental issues and enable Oregonians to make informed decisions on how individual actions may affect our environment.

EPA and DEQ are also committed to building partnerships that help everyone involved accomplish as much as possible with the resources available. We will prioritize our efforts to focus on geographic areas containing sensitive or otherwise vulnerable environments, and those that are most in need of multidisciplinary approaches to restoration. We also strive to put our combined resources where the most benefit will occur, such as specific industry sectors highly-persistent chemicals, or other significant human and environmental concerns.

Sub-objectives related to excellence include:

- ❖ Make program information available electronically.
[DEQ Sub-objective 4A]
- ❖ Improve electronic reporting system.
[DEQ Sub-objective 4B]
- ❖ Partner with local, State and Federal government, industry, environmental groups and communities to address environmental priorities.
[DEQ Sub-objective 4C]
- ❖ Provide information and outreach to encourage individuals and businesses to make environmental decisions that facilitate safe management and reduction in toxic chemicals and hazardous waste.
[DEQ Sub-objective 4D]
- ❖ Strengthen the EPA and DEQ partnership through regular interaction of Hazardous Waste Program Managers and staff coordination.
[EPA Sub-objective 10]
- ❖ Increase the availability and accessibility of EPA's information through public access to online databases containing timely and accurate information.
[EPA Sub-objective 70107]

Strategies

- Maintain an up-to-date web page with links to related sources of information on waste management and pollution prevention.
- Expand electronic reporting capabilities (i.e., certification, invoice-estimator, etc.).
- Initiate and/or be receptive to cross-program/cross-agency opportunities to achieve environmental results.
- Work with DEQ Public Affairs to promote environmentally-conscious decisions by individuals and businesses.

Measures

- ✓ Number of initiatives where DEQ has partnered with other entities to address environmental priorities.⁴
- ✓ Annual increase in number of individuals utilizing electronic methods of reporting.
- ✓ Number of web page “hits” per year.

OBJECTIVE 5. Implement program measures that clearly communicate environmental results and program achievements and that assist the program in directing resources to the highest priority environmental needs.

Efforts to measure the success of DEQ’s Hazardous Waste Program are evolving, along with national efforts, to a shift from the measurement of program activities and outputs (e.g., number of inspections completed) to measures that reflect the environmental results of our work. DEQ and EPA are committed to developing environmental outcome and performance-based measures that will describe the environmental benefits and shortcomings of program efforts, and help us to prioritize program resources to the greatest needs. For the term of this PPA, the Hazardous Waste Program has specifically set out to refine a set of performance-based measures that will be used to assess our progress in meeting the objectives established herein. DEQ will also continue to track and report the RCRA core performance measures agreed-upon by EPA and the Environmental Council of States.

Sub-objectives specifically-related to program measures are to:

⁴ This could include the number of agencies DEQ worked with, the number projects involving inter-agency coordination, and the number of public involvement and stakeholder meetings.

- ❖ Utilize program measures to direct the program to (1) ensure program resources are allocated to the highest-priority environmental need, and (2) show progress toward environmental objectives.

[DEQ Sub-objective 4A]

- ❖ Clearly demonstrate and communicate environmental conditions, program results and accomplishments.

[DEQ Sub-objective 4B]

Strategies

- ➔ Inventory and review existing outcome measures; revise as necessary to better quantify environmental results.

Measures

- ✓ Number of measures for Objectives Nos. 1 through 4, that are identified and determined effective in clearly communicating environmental results and program achievements and in assisting the program in directing resources to the highest priority environmental needs.

STATE AND EPA AUTHORITIES

This PPA will adhere to Oregon's authorized program.

The PPA does NOT do any of the following:

- ❖ Restrict EPA's oversight authority for State program activities that are part of the Federal program.
- ❖ Establish privity between EPA and DEQ or the State of Oregon.
- ❖ Restrict EPA's independent civil and criminal enforcement authority to bring separate Federal actions under RCRA.
- ❖ Expand EPA's oversight authority to State-only requirements that do not impact the authorized Federal program.

Also, no waiver of sovereign immunity is implied or assumed by this agreement.

CONCLUSION

The Hazardous Waste Program activities for the coming year that support our program objectives and priorities are described in detail in Attachment _____. We have estimated the resources available to implement the program in the coming year, and will report to each other our accomplishments at the end of the first year. We will discuss any

changes needed at that point and incorporate them into a revised work plan for the second year of this PPA.

COMPLIANCE AND ENFORCEMENT

In February 2001, DEQ Director Stephanie Hallock created the Office of Compliance and Enforcement (OCE) and moved OCE into the Director's office to broaden its involvement in compliance issues and participation in agency-wide decisions on setting enforcement and compliance priorities. OCE is responsible for issuing formal enforcement actions, including civil penalties and orders against persons who violate environmental laws, rules, and permits. OCE and EPA Region 10 are working together to enhance the effectiveness of general and specific deterrence through mutually supportive compliance and enforcement strategies.

STRATEGIES

During the next two years, OCE will coordinate with the DEQ programs to perform the following activities:

1. OCE will conduct a number of process improvements. OCE will improve database management processes. OCE will expand the enforcement database to include additional data to better target and track case process from compliance to enforcement. OCE will manage DEQ's Notice of Noncompliance database to ensure consistent data entry in the agency, and the ability to prepare custom reports. OCE will better coordinate civil penalty collection activities to expedite the collection process. OCE will improve the readability of its templates.
2. OCE will broaden its involvement in compliance issues and decision-making processes. OCE will participate in setting compliance and enforcement priorities for the programs. OCE will conduct program specific training and assist field staff with enforcement and compliance processes. OCE will participate in cross media enforcement and compliance issues. OCE will review the technical compliance assistance efforts performed by the agency and coordinate recommendations to improve the effectiveness these efforts. DEQ will provide additional outreach and technical assistance to businesses through a proposed Pollution Prevention Grant.
3. OCE will participate in rulemaking, policy and guidance development. Specifically, OCE will review DEQ's Division 12 enforcement rules to ensure a consistent, understandable and equitable compliance and enforcement program that encourages compliance and issues civil penalties that appropriately reflects the severity of the violation. EPA will participate as appropriate in this process in order to give real-time feedback to the DEQ as they revise their rules. OCE will revise the Division 12 enforcement rules and guidance as needed.

[Note: this section is still being developed. Awaiting completed sections from the programs in order to make a central statement regarding compliance and enforcement

efforts in the agency. Will highlight program specific compliance and enforcement efforts for the next two years and refer reader to the where these efforts are discussed more specifically in each program's section of the PPA. Discuss EPA OECA compliance and enforcement priorities and where they overlap with the DEQ program compliance and enforcement priorities.]

OBJECTIVES

The 2000-2002 PPA discussed EPA Region 10's review of DEQ's enforcement procedures and outlined objectives DEQ agreed to perform. During that period, OCE completed the following objectives:

1. **Tracking Significant Cases**
EPA's review discussed DEQ's failure to track "significant noncompliers" and "high priority violators." DEQ has addressed EPA's concerns regarding tracking "high priority violators." Significant progress has been made in the air and hazardous waste programs in tracking high priority violators. Tracking significant cases continues to be a concern for OCE.
2. **Economic Benefit**
DEQ hired an economic consultant to review economic benefit calculations and processes, and completed the economic benefit study requested by EPA.

OCE and EPA will continue to work on the following objectives in the next two years:

1. **Penalty Amounts**
EPA's review discussed DEQ assessing higher penalties and assessing penalties on every violation identified in every action. OCE will address these issues during the review of Division 12 enforcement rules. OCE will develop policies on when penalties should be assessed for more than one violation in an action and for more than one day.
2. **Timeliness**
EPA's review discussed improving DEQ's timeliness in issuing enforcement actions within the federal goal of 180 days. In the last year, OCE reduced its enforcement referral lag, which improved the timeliness of the enforcement actions. OCE recently modify the timeliness sheet to better capture and track enforcement case process, and improve agency accountability. In the next two years, OCE will continue to evaluate efforts to improve the timeliness of the enforcement actions.
3. **Deterrence Study**
In the last two years, DEQ conducted a deterrence study to examine the effectiveness of inspections, penalties, and other compliance and enforcement efforts in creating general deterrence. The final phase of the study will be completed during 2002. DEQ will then analyze the results and submit the final report to EPA.

4. Supplemental Environmental Project

DEQ and EPA will continue to review the application of DEQ's SEP policy. EPA agrees to bring forward to OCE any concerns identified in a timely manner for discussion and resolution.

JOINT EVALUATION

DEQ and EPA have many established mechanisms and guidelines for communicating on enforcement and compliance issues. These include Compliance Assurance Agreements specific to hazardous waste, water and air; the Region 10/State Compliance Assurance Principles; and the Region 10/State Compliance Assurance Evaluation Principles. These tools lay out expectations and methods for communicating on compliance and enforcement issues such as oversight mechanisms, inspections, and enforcement cases. DEQ and EPA will continue working together to improve the coordination application and as necessary, the revision tools above in order to best work together. Specifically, OCE and EPA will meet twice a year to discuss any issues of concern, trends, policies, or projects. However, while DEQ and EPA cooperate in administrative, criminal, and civil investigations and enforcement, we recognize that we each retain separate authorities to take separate actions based on the respective laws of each jurisdiction.

CROSS-PROGRAM ACTIVITIES

In addition to the priorities and work identified in and for each of the individual program areas, DEQ and EPA also have identified a number of areas for focus that overlay virtually all programs. Shared attention to these cross-program activities will result in better environmental results and/or increased efficiency within the agencies.

LABORATORY CAPACITY

DEQ's laboratory staff monitor, sample and analyze air, water, soil, hazardous and solid waste, and pollutant discharges. Data obtained by the laboratory are used to determine whether environmental standards have been attained. These data provide compliance information for inspections, help investigate events involving unknown pollutants, and support civil and criminal litigation. Laboratory staff provide scientific and technical assistance in the areas of environmental chemistry, biological assessments, air and water measurements, analytical methods, and quality assurance.

Two changes at the DEQ laboratory are underway which will have some impact on most DEQ programs, but particularly for the air and water programs. First, the DEQ laboratory has outgrown the space available in its current location on Portland State University (PSU) campus. The current lab, originally designed for approximately 50 staff, now houses about 85 permanent staff, plus up to another 15 temporary staff seasonally. As a result DEQ is actively searching for a new laboratory location within the Portland metro area.

Regardless of whether the laboratory succeeds in finding new space or has to rely on remodeling and expanding the current space, the rent will increase as the current rental agreement is based on 25-year old prices. Therefore, another change is that DEQ programs will see increased costs for laboratory services as a result of higher property, operating, and construction costs. The level of increased lab costs is not known at this time, nor is the effect in costs to specific DEQ programs. As these costs and their distribution within programs become known they will need to be accounted for in future grants and operating budgets.

HOMELAND SECURITY

Oregon remains concerned about homeland security issues related to potential terrorist threats. Since September 11, 2001, DEQ identified the need for a 24/7-response capability that could go beyond the traditional spill program and mobilize the agency for action in a wide variety of activities. DEQ recognized that responses will be multi-agency, multi-jurisdictional and will be more complex, involving more than our traditional emergency response partners. While the anthrax incidents raised the issue of a health threat from biological weapons, Oregon also began to recognize the threat posed by unidentified chemical compounds. For such incidents, DEQ's laboratory has become the default laboratory in the state for chemical agent identification. DEQ is continuing to seek additional funding to deal with laboratory capacity issues associated with identifying unknowns from incidents of chemical terrorism.

INFORMATION MANAGEMENT AND DATA SYSTEMS

DEQ and EPA believe that enhanced availability of data to DEQ, EPA, and the public will contribute to better environmental decisions. We jointly adopt the concepts embodied in the "Blueprint for a National Environmental Information Exchange Network" adopted by the State/EPA Information Management Workgroup in October, 2000 as a means to that end. Shared and individual information systems initiatives will be evaluated for consistency with these concepts. We further specifically agree that:

- In the absence of policy or sound reasons to the contrary, data will generally be made available to the public subject to the availability of resources to develop appropriate delivery mechanisms.
- Each partner will provide timely notification of intent to publicly distribute data collected or developed by the other, and will develop products which are respectful of the appropriate use of the data.
- Systems development involving data exchange will focus on approaches embodied in the Blueprint.
- Cross-media integration of data systems will be considered and improved where practical in the course of individual or joint system development.

- DEQ and EPA will continue to support existing exchange mechanisms until both partners agree to implement substitutions.
- DEQ will inform EPA of progress made in implementing the Network and will negotiate Trading Partner Agreements with EPA to address official use of the network to meet reporting requirements.
- Where applicable and practical, new or updated data exchange mechanisms will adhere to data standards adopted by the National Data Standards Council operating under the auspices of the State/EPA Information Management Workgroup.
- This agreement serves to guide ongoing work, but does not require specific information initiatives on the part of either party.
- We may agree to exchange data that is not a part of any reporting requirement. Such data will not be used to evaluate program performance.

TRIBAL RELATIONS

DEQ, EPA, the nine federally-recognized tribes within the State and those tribes with tribal lands in Oregon are vital partners in the protection and restoration of Oregon's environment and natural resources. DEQ maintains regulatory authority over state lands, which includes tribal ancestral and ceded lands. EPA, as the federal government's designated trustee, is responsible for overall environmental protection and management on tribal lands, and for assisting tribes in establishing their own environmental programs. Tribal governments, through EPA approval, are beginning to assume direct environmental regulatory authorities over tribal lands. This underscores the need to strengthen on-going relationships and communications at the policy and management levels of DEQ, EPA and the Tribes, to ensure compatible and integrated environmental protection and management on state and tribal lands. The DEQ/EPA Performance Partnership Agreement and Tribe/EPA Tribal Environmental Agreement processes are key opportunities for discussion of state and tribal issues, priorities, and partnership needs.

The DEQ and EPA each have established government-to-government relations programs for working with tribal governments. DEQ's program was created under the Governor's Executive Order 96-30 on State-Tribal Relations. In 2002, the Legislature passed SB 770 (ORS 182.162 to 182.168), which basically placed the directives of the Executive Order into state law. EPA's tribal program was established under Presidential Executive Order 13084 and the EPA Region 10 Strategy on Environmental Protection in Indian Country. The two agencies are strongly committed to work cooperatively with tribes to promote early and clear communications; to promote the consistent sharing of information on a formal and informal basis; and to establish collaborative efforts on program development and implementation regarding issues of common concern.

In January 2002, DEQ updated its Statement of Intent to address the intent of SB 770. This Statement describes DEQ's approach in addressing the directives in the new law (see Appendix C). Tribe and agency staff are currently developing a list of issues and priorities for each tribe. DEQ's efforts to strengthen its working relations with tribal governments are directed at:

- educating and training staff;
- improving communications and data/information sharing with tribes;
- participating in the Governor's Government-to-Government process natural resource state agency/tribal government work group; and,
- integrating tribal relations into the day-to-day work of the agency.

DEQ and EPA staff working with tribes are committed to cooperatively promoting early and clear communications with tribes, to further consistency in the sharing of information at the policy and technical levels, and to establish early consultation on program development and implementation.

ENVIRONMENTAL JUSTICE

The DEQ developed guidance on the issue of environmental equity-justice in 1998. In 1994, DEQ was the lead agency for a statewide study on environmental equity. A Governor-appointed citizen advisory committee (CAC) assisted with the study. The term "environmental justice" expresses the concept of inequitable distribution of environmental risks and impact to communities of color and low income communities. It is the more common expression used to address the concept of disproportionate impact to minorities and low income groups. The 1994 study was referred to as the Environmental Equity Study because "equity" connotes fairness and equal protection of all, and also conveys measurement and quantification. Additionally, the term was believed to better reflect the goal of the study, which was to:

- identify existing and potential environmental equity issues and concerns;
- examine the environmental concerns of minority and low-income communities; and
- propose an interagency approach to assure equity in all state environmental regulatory decisions.

At the conclusion of this study, the CAC presented a number of recommendations to the Governor. The recommendations described what actions the affected agencies needed to take to better assure equitable treatment of all citizens in administering the State's environmental programs. In response to the CAC recommendations, DEQ developed agency guidance and implementation measures that are described in Appendix D.

INNOVATION AND EXCELLENCE

DEQ and EPA have developed programs that provide incentives to regulated facilities that demonstrate environmental excellence and achieve environmental results that are significantly better than otherwise provided by law. Such experiments were authorized through Oregon's Green Permits legislation, that was enacted during the 1997 legislative session (ORS 468.501 to 468.521), and are consistent with EPA's new

National Performance Track program. Through the Green Permits and the National Environmental Performance Track programs, EPA and DEQ are pursuing an approach that we believe will achieve superior environmental results. With the DEQ/EPA Green Permits Memorandum of Agreement as a framework for roles, we will work to aggressively implement and maximize the benefits of the approach, evaluate the results, and pursue adjustments where appropriate based upon experience. Several facilities have already been issued a Green Permit or accepted into the National Performance Track program (or both), and EPA and DEQ are working together on drafting a federal site-specific rule to implement one of the incentives for one facility that is a member of both programs.

DEQ and EPA recognize that agency participation in these programs using existing staff resources may impact meeting PPA commitments identified elsewhere in this agreement. This investment of resources is critical to supporting our commitment to providing incentives for superior environmental performance. If resource impacts are significant, the impact on PPA program commitments will be addressed during periodic program reviews.

DEQ and EPA are pursuing other innovative approaches to environmental protection. DEQ is implementing watershed-based effluent trading, which encourages alternative approaches to eliminating pollutants within our watersheds in a cost-effective matter. EPA has drafted an Innovations Strategy that encourages EPA and states to take a performance-based approach to environmental protection. EPA and DEQ also work together to implement environmental management systems or encourage the implementation of environmental management systems within facilities. DEQ also has developed an Environmental Partnerships for Oregon Communities Program, which provides technical assistance to small communities facing environmental compliance issues.

APPENDICES

- A. Water Quality Activity Tables
- B. Hazardous Waste PPA Agreements
 - B.1. Hazardous Waste Program Operating Plan
 - B.2. Dispute Resolution Agreement
 - B.3. Corrective Action Communication Strategy
- C. DEQ Statement of Intent regarding SB 770 on State/Tribal Government-to-Government Relations
- D. Environmental Justice Principles and Implementation
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 - E.1. EPA and Tribal Program and Funding Agreements
 - E.2. EPA and State Agencies Agreements
 - E.3. EPA and Federal Agencies Agreements

State of Oregon
Department of Environmental Quality

Memorandum

Date: April 8, 2002
To: Environmental Quality Commission
From: Stephanie Hallock, Director *S. Hallock*
Subject: Agenda Item H, Informational Item: Update on Performance Partnership Agreement with EPA. April 25, 2002 EQC Meeting

Purpose of Item DEQ is negotiating a Performance Partnership Agreement (PPA) with the U.S. Environmental Protection Agency (EPA) Region 10. The purpose of this item is to inform the EQC about the highlights and priorities outlined in the draft agreement, and provide an opportunity for public review and comment before the agreement is signed by myself and EPA Regional Administrator John Iani.

Oregon's Performance Partnership Agreement serves as the workplan for many of the federal grants that support the air quality, water quality and hazardous waste programs. The PPA is considered the base grant for operating Oregon's federally delegated programs, and federal funds represent approximately 19 percent of DEQ's operating budget. The term of the PPA covers two state fiscal years (July 1, 2002-June 30, 2004), and is staggered with the state's biennial budget cycle.

The PPA workplan describes many of DEQ's core functions that are essential to protect the environment: rule development; permit issuance; ambient monitoring; and compliance, enforcement and technical assistance activities. DEQ's *Strategic Directions 2002* are reflected in various ways throughout the PPA, such as in key initiatives to address water quality and toxics. Key issues in this year's negotiations include factoring DEQ's increases in operating costs into our budget estimates, and being realistic about additional workload commitments if they are not accompanied by new federal resources.

The PPA is organized by program area – air quality, water quality and hazardous waste – to reflect the three base grant applications that will be submitted to EPA. The PPA also includes information on DEQ's compliance and enforcement efforts as well as agencywide efforts that affect multiple programs. The following sections describe some of the key areas and issues outlined in the PPA.

Water Quality

Key priorities in Oregon's Water Quality program include protecting beneficial uses of waterbodies and restoring degraded waters through the development and implementation of Total Maximum Daily Loads, permitting, enforcement, and outreach and technical assistance. Some notable issues under discussion include:

- 1) Working with EPA on a "shared approach" to implementing the underground injection control program that will enable DEQ to maintain program delegation despite very limited state resources for this program; and
- 2) Working with EPA to plan for a review of DEQ's wastewater permitting program. This will have implications for the PPA agreement and beyond, as the findings from this review may identify ways in which DEQ is not fulfilling EPA's expectations and may dictate actions DEQ will need to take to resolve those issues.

Air Quality

Key priorities in Oregon's Air Quality program include ongoing program commitments to ensure that all Oregonians breathe clean air. Commitments include statewide ambient air quality monitoring and efforts to reduce air emissions through planning, permitting, technical assistance, compliance and enforcement. Emerging programs are a state-led air toxics program, addressing visibility issues in the Columbia Gorge and Class I wilderness areas. Notable issues that DEQ and EPA are focusing on include:

- 1) Adequate funding for air programs in Oregon that includes flexibility to address air toxics and visibility issues.
- 2) Continuing process improvements such as the new State Implementation Plan (SIP) streamlining efforts. This work fosters a close working relationship between EPA and DEQ, reduces duplication of efforts, and expedites processing of SIP amendments. Results include minimizing delays in SIP approvals (such as when winter fuel requirements are dropped) and speeding up EPA approvals of rules adopted by the EQC.

Hazardous Waste

DEQ's Hazardous Waste program has two primary goals: (1) ensure that hazardous wastes are managed safely, in a manner that protects human health and the environment, and (2) encourage reduction in the quantity of toxic

chemicals used and hazardous wastes generated in the state. DEQ has convened a Hazardous Waste Workgroup to enlist stakeholder input on how to maintain an effective and viable program to implement these goals. As a result of significant revenue shortfalls, the scope of some program activities, the allocation of resources within the program, and the specific program commitments in the PPA may change to reflect Workgroup recommendations.

Compliance and Enforcement

DEQ's Office of Compliance and Enforcement (OCE) and EPA Region 10 are working together to enhance the effectiveness of compliance and enforcement strategies. In addition to internal process improvements, OCE has begun a review of Oregon's Division 12 enforcement rules to ensure a consistent, understandable and equitable program that encourages compliance and issues civil penalties that appropriately reflect the severity of the violation.

Cross-Program

Cross-program priorities identified in the PPA include working cooperatively on programs that encourage innovation and excellence, such as Oregon's Green Permits program and EPA's National Environmental Performance Track program. The PPA also describes Oregon's approach and directions regarding information management and data systems, laboratory needs, tribal relations and environmental justice.

Next Steps

DEQ and EPA staff are developing more detailed workplans that describe workload commitments and outcome measures for implementing the federal programs for the next two years. DEQ and EPA will solicit public comments on the draft PPA through May 10, 2002. The two agencies will consider public comments before the final agreement is signed.

The PPA document and base grant applications will be submitted to EPA Region 10 prior to June 30, 2002. DEQ and EPA will periodically review progress and determine if any changes are needed in the workplans or budgets during the two-year PPA cycle.


Available Upon Request

Draft Performance Partnership Agreement, FY 2002-2004
Performance Partnership Agreement, FY 2000-2002
([http://www.deq.state.or.us/msd/ppa/PPA\(01-02\).htm](http://www.deq.state.or.us/msd/ppa/PPA(01-02).htm))
Strategic Directions 2002 (<http://www.deq.state.or.us/pubs/strategicdirections/>)

Agenda Item H, Informational Item: Update on Performance Partnership Agreement with EPA
April 25, 2002 EQC Meeting
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Approved:

Section:



Division:

Report Prepared By: Marianne Fitzgerald

Phone: (503) 229-5946

Item #

PERFORMANCE PARTNERSHIP AGREEMENT
between the
OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY
and the
U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 10
for
July 1, 2002 - June 30, 2004

The Environmental Performance Partnership Agreement process offers a profound opportunity for cultural change in the relationship between the Oregon Department of Environmental Quality (DEQ) and the U.S. Environmental Protection Agency - Region 10 (EPA). The direction of this change toward a greater focus on environmental outcomes will be best supported by an equal practicing partnership negotiated in good faith between federal and state agencies. Partnerships of this type depend on adherence to the principles of the agreements which are created between the partners. Therefore, we commit ourselves and our staff to the following Guiding Principles.

- Partnership** We will work together as equal partners respecting the contributions of both agencies. Neither partner will attempt to dominate or undermine the other. We will recognize the need for compromise in creating a partnership between Oregon DEQ and EPA.
- Coordination** We will create up-front, joint planning processes to coordinate environmental priorities which maximize both agencies' resources, avoid duplication of efforts, eliminate surprises, and institutionalize communication.
- Outcomes** We will align program implementation efforts, focus on environmental goals, and drive toward outcomes and environmental indicators rather than outputs to measure progress.
- Integration** We will further integrate pollution prevention, cross-media coordination, place-based environmental initiatives, a balance among compliance, technical assistance and outreach strategies, and continuous improvement in program implementation.
- Barriers** We will work together to change agency roles and policies and state and federal statutes that conflict with or detract from environmental goals, objectives, strategies and measures as agreed upon in the PPA.
- Changes** We will negotiate changes (e.g. priorities, roles, resources, etc.) which may affect the other party prior to implementing those changes.
- Uniqueness** We will create our agreements based on conditions specific to Oregon, as well as fundamental national environmental concerns. We recognize and respect the different and complementary roles of EPA and DEQ as defined in this agreement.

- Accountability** We will work to ensure that DEQ and EPA staff at all levels are aware and held accountable for realizing these principles and for meeting the deliverable aspects of this agreement in timely manner.
- Resolution** We will follow processes as defined in this agreement to point out and address requests or actions which appear to violate the principles and/or expectations of this agreement.
- Review** We will establish and follow a review process, contained in this agreement, to assess our progress in implementing the agreement.
- Commitment** We will clearly state in the agreement what each partner will do to meet the priorities as defined.
- Clarity** We will use plain language to clearly state our priorities, activities, and commitments to our publics and to each other.

This Agreement is intended to be a "living," iterative document. Though DEQ and EPA have developed this PPA based on current and projected information, as new information becomes available or situations change, either partner may initiate discussions toward revising this Agreement. Any amendments to this Agreement must be consistent with the previously stated Guiding Principles.

We expect that in many instances, negotiating these changes will be a fluid process that both agencies can adapt to readily, or that we will interpret these changes to lie within the scope of the existing agreement. Where changes desired by one agency are distinct from the existing agreement, and where we have the discretion to do so, we will defer the change until the next review process, when both agencies can evaluate the impact of the proposed change within the context of the whole program. Each of the three program partners will determine the schedule of their own review cycle. When in the view of the Director/Administrator of each agency, changes cannot be deferred until the next review, both agencies will re-open the Performance Partnership Agreement under their direction.

The DEQ and EPA are fully committed to facilitating communications and trust to avoid conflicts; however, both partners recognize that disputes arise as a normal part of any partnership. Therefore, the undersigned empower and expect their staffs to resolve disputes whenever possible. When resolution is not feasible or successful, there must be timely elevation to managers responsible for the program area in question. If a conflict still cannot be resolved, the undersigned will be the final level of appeal.

It is our belief that this Performance Partnership Agreement will continue progress toward protection of Oregon's environmental resources. In addition, we hope this Agreement communicates to local communities, tribal governments and citizens our mutual priorities and commitments.

Stephanie Hallock, Director
Oregon Department of Environmental
Quality

Signature Date

John Iani,
Regional Administrator
Environmental Protection Agency, Region
10

Signature Date

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NEED MORE INFORMATION? HAVE QUESTIONS OR COMMENTS?

The Oregon Department of Environmental Quality (DEQ) and the U.S. Environmental Protection Agency, Region 10 (EPA) are committed to listening and responding to any questions or concerns about their partnership to protect Oregon's environmental resources.

Public participation in developing the 2002-2004 PPA was solicited through an informational report to the Environmental Quality Commission, postings to DEQ's website, and through mailings to tribes and other stakeholders. DEQ and EPA will seek opportunities to expand involvement in subsequent PPAs. The contacts identified on this page look forward to receiving suggestions to promote public participation in subsequent PPA processes.

PUBLIC INFORMATION CENTER

This document and referenced documents can be obtained by contacting:

EPA Region 10
Public Information Center
1200 Sixth Ave, EXA-142
Seattle, WA 98101
Phone: 206-553-4973

Oregon DEQ
Office of the Director
811 S.W. Sixth Ave
Portland, OR 97204
Phone: 503-229-5946

INTERNET

This document and other related information will be available on the Oregon Department of Environmental Quality Web Page located at:
<http://www.deq.state.or.us/about/index.htm>

STAFF CONTACTS

In many parts of this document, staff contacts are identified. These people are available to assist with questions or comments about specific parts of the 2002-2004 PPA.

For general assistance regarding the PPA process or suggestions for the next PPA, please contact Marianne Fitzgerald, DEQ at 503-229-5946 (email fitzgerald.marianne@deq.state.or.us) or Dan Opalski, EPA at 503-326-3250 (email opalski.dan@epa.gov). For specific questions on the topics below, please contact the following DEQ staff:

Air Quality:	Greg Aldrich, (503) 229-5687
Water Quality:	Karen Tarnow, (503) 229-5988
Hazardous Waste:	Karen Whisler, (503) 229-5082
Compliance & Enforcement:	Anne Price, (503) 229-6585
Cross-Program Activities	Marianne Fitzgerald, (503) 229-5946

EXECUTIVE SUMMARY

Oregon's Performance Partnership Agreement serves as the workplan for many of the federal grants that support the air quality, water quality and hazardous waste programs. The PPA is considered the base grant for operating Oregon's federally delegated programs, and federal funds represent approximately 19 percent of DEQ's operating budget. The term of the PPA covers two state fiscal years (July 1, 2002-June 30, 2004), and is staggered with the state's biennial budget cycle.

The PPA workplan describes many of DEQ's core functions that are essential to protect the environment: rule development; permit issuance; ambient monitoring; and compliance, enforcement and technical assistance activities. DEQ's *Strategic Directions 2002* are reflected in various ways throughout the PPA, such as in key initiatives to address water quality and toxics. Key issues in this year's negotiations include factoring DEQ's increases in operating costs into our budget estimates, and being realistic about additional workload commitments if they are not accompanied by new federal resources.

The PPA is organized by program area – air quality, water quality and hazardous waste – to reflect the three base grant applications that will be submitted to EPA. The PPA also includes information on DEQ's compliance and enforcement efforts as well as agencywide efforts that affect multiple programs. The following sections describe some of the key areas and issues outlined in the PPA.

Air Quality

Key priorities in Oregon's Air Quality program include ongoing program commitments to ensure that all Oregonians breathe clean air. Commitments include statewide ambient air quality monitoring and efforts to reduce air emissions through planning, permitting, technical assistance, compliance and enforcement. Emerging programs are a state-led air toxics program, and addressing visibility issues in the Columbia Gorge and Class I wilderness areas. Notable issues that DEQ and EPA are focusing on include:

- 1) Adequate funding for air programs in Oregon that includes flexibility to address air toxics and visibility issues.
- 2) Continuing process improvements such as the new State Implementation Plan (SIP) streamlining efforts. This work fosters a close working relationship between EPA and DEQ, reduces duplication of efforts, and expedites processing of SIP amendments. Results include minimizing delays in SIP approvals (such as when winter fuel requirements are dropped) and speeding up EPA approvals of rules adopted by the EQC.

Water Quality

DEQ's Water Quality Program protects the beneficial uses of Oregon's surface and ground water by developing water quality standards, monitoring water quality, issuing permits for wastewater discharges to water and land, and providing technical assistance. A top priority for the Water Quality Program is the development and implementation of Total Maximum Daily Loads and Water Quality Management Plans, which will lead to water quality improvements in streams where water quality standards are not being met. Some notable issues under discussion during this PPA cycle include:

- 1) Working with EPA on a "shared approach" to implementing the underground injection control program that will enable DEQ to maintain program delegation despite very limited state resources for this program; and
- 2) Working with EPA to plan for a review of DEQ's wastewater permitting program. This will have implications for the PPA agreement and beyond, as the findings from this review may identify ways in which DEQ is not fulfilling EPA's expectations and may dictate actions DEQ will need to take to resolve those issues.

Hazardous Waste

DEQ's Hazardous Waste program has two primary goals: (1) ensure that hazardous wastes are managed safely, in a manner that protects human health and the environment, and (2) encourage reduction in the quantity of toxic chemicals used and hazardous wastes generated in the state. DEQ has convened a Hazardous Waste Workgroup to enlist stakeholder input on how to maintain an effective and viable program to implement these goals. As a result of significant revenue shortfalls, the scope of some program activities, the allocation of resources within the program, and the specific program commitments in the PPA may change to reflect Workgroup recommendations.

Compliance and Enforcement

DEQ's Office of Compliance and Enforcement (OCE) and EPA Region 10 are working together to enhance the effectiveness of compliance and enforcement strategies. In addition to internal process improvements, OCE has begun a review of Oregon's Division 12 enforcement rules to ensure a consistent, understandable and equitable program that encourages compliance and issues civil penalties that appropriately reflect the severity of the violation.

Cross-Program

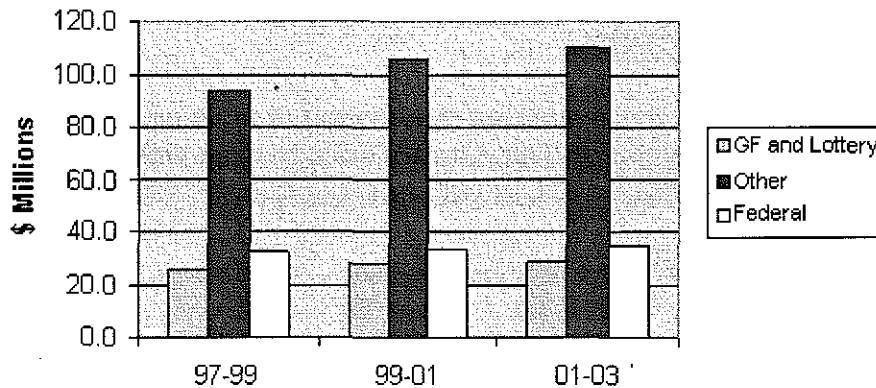
Cross-program activities identified in the PPA include working cooperatively on programs that encourage innovation and excellence, such as Oregon's Green Permits program and EPA's National Environmental Performance Track program. The PPA also describes Oregon's approach and directions regarding information management and data systems, laboratory needs, tribal relations and environmental justice.

PURPOSE, SCOPE & REVIEW

The purpose of the PPA is to serve as a single planning process to establish joint priorities and work commitments for EPA and DEQ. This document, inclusive with its appendices, serves as the work plan for much (but not all) of the federal funding of DEQ programs. DEQ operations are approximately 20% funded by federal funds. All of the activities planned to be undertaken to promote environmental protection in the areas of air quality, water quality, and hazardous waste relative to this PPA are contained in this document and appendices.

Over the past three biennia, DEQ's federal funding has remained relatively flat. Despite inflationary costs and increasing volume and complexity of work, the amount of actual dollars allocated to the agency has increased an average of only 1% per year since 1997. New money allocated by EPA is generally expected to pay for new work. While brand new federal programs often provide funding to cover actual costs, the lack of increases for base funding mean that less work can be done for the same federal allocation.

Operating Budget



Note: this chart includes all federal funds, not just PPA funds.

In addition, Oregon, like many states in the nation, faces significant budget shortfalls due to the economic downturn. During the special sessions held in 2002, DEQ's General Fund budget for the current biennium was cut by \$2.4M. DEQ also expects significant increases in laboratory costs beginning in the 2003-2005 biennium, as it relocates its laboratory. The existing laboratory lease is being terminated by the landlord; DEQ's new lab will expand to relieve overcrowding and to respond to new homeland security issues.

DEQ's budget situation and the amount of work that existing federal funding could support were key topics during the DEQ-EPA PPA negotiations. While both agencies recognize constraints in state and federal budgeting procedures, these factors are

considered as the agencies form agreements about what work will be completed under the PPA. Since the agreement falls across two budget cycles, a mid-course review will be needed in the summer of 2003 after the Oregon Legislature approves DEQ's 2003-2005 budget.

This PPA has been negotiated on a program-by-program basis and the reader may note several differences in the program approaches. During the term of this PPA, managers from each agency within each program may periodically meet to review progress under the PPA and determine if adjustments are needed. Any changes to the PPA that result from these discussions will be agreed to by both agencies and captured in writing.

This check-in review should satisfy or support all grant-reporting requirements. Any other reporting expected by either agency should be identified as an activity in this agreement, along with any applicable deadlines. Such other reports will be submitted through regular communication channels, and will not become part of the check-in.

Since EPA and DEQ are engaged with other state, local, federal, and tribal governments to deliver environmental programs, this PPA attempts to identify these vital relationships in Appendices C and E.

STRATEGIC PLANNING

DEQ STRATEGIC DIRECTIONS

Oregon DEQ's mission is to be a leader in restoring, maintaining and enhancing the quality of Oregon's land water and air. Our vision is to work with all Oregonians for a healthy, sustainable environment. Our values encompass the following areas:

- Environmental Results
- Customer Service
- Partnership
- Teamwork
- Excellence and Integrity
- Employee Growth
- Diversity

Four overarching priorities guide Oregon DEQ's development of this PPA:

1. Deliver Excellence in Performance and Product
2. Protect Oregon's Water
3. Protect Human Health and the Environment from Toxics
4. Involve Oregonians in Solving Environmental Problems

The Agency's *Strategic Directions 2002* outlines several key actions that will be developed under each of these priorities, along with checkpoints for measuring our

progress. This document identifies agency-wide priorities, and is not intended to represent all of the work that DEQ does. Program planning efforts and the PPA serve to link these priorities and the broader scope of work of Oregon DEQ. These priorities also form the basis of budget requests, grant applications, employee workplans, and environmental reporting.

State Performance Measurement

Executive measures are being developed that provide information to answer the Strategic Direction's checkpoint questions, and to report the status and success of our implementation efforts for the key actions. These executive measures complement existing Benchmarks, which are developed in collaboration with the Oregon Progress Board, and program measures.

EPA STRATEGIC PLAN

EPA's Goals and Priorities – A National and Regional Perspective

National goals and priorities are established in EPA Headquarters with substantial input by a wide variety of stakeholders. EPA Region 10 plays a role both in helping to inform this setting of national goals and priorities and in translating these national goals and priorities into areas for focus within the Region 10 states of Oregon, Washington, Idaho, and Alaska.

MISSION

The mission of the U.S. Environmental Protection Agency is to protect human health and to safeguard the natural environment—air, water, and land—upon which life depends.

EPA's purpose is to ensure that:

All Americans are protected from significant risks to human health and the environment where they live, learn and work.

National efforts to reduce environmental risk are based on the best available scientific information.

Federal laws protecting human health and the environment are enforced fairly and effectively.

Environmental protection is an integral consideration in U.S. policies concerning natural resources, human health, economic growth, energy, transportation, agriculture, industry, and international trade; and these factors are similarly considered in establishing environmental policy.

All parts of society—communities, individuals, business, state and local governments, tribal governments—have access to accurate information sufficient to effectively participate in managing human health and environmental risks.

Environmental protection contributes to making our communities and ecosystems diverse, sustainable and economically productive.

The United States plays a leadership role in working with other nations to protect the global environment.

EPA STRATEGIC GOALS

1. Clean Air – The air in every American community will be safe and healthy to breathe.
2. Clean and Safe Water -- All Americans will have drinking water that is clean and safe to drink.
3. Safe Food – The foods Americans eat will be free from unsafe pesticide residues.
4. Preventing Pollution and Reducing Risk in Communities, Homes, Workplaces, and Ecosystems – Pollution prevention and risk management strategies aimed at eliminating, reducing, or minimizing emissions and contamination will result in cleaner and safer environments in which all Americans can reside, work, and enjoy life.
5. Better Waste Management, Restoration of Contaminated Waste Sites, and Emergency Response – America’s wastes will be stored, treated, and disposed of in ways that prevent harm to people and the natural environment.
6. Reduction of Global and Cross-Border Environmental Risks – The United States will lead other nations in successful, multilateral efforts to reduce significant risks to human health and ecosystems from climate change, stratospheric ozone depletion, and other hazards of international concern.
7. Expansion of Americans’ Right-to-Know About Their Environment – The public and decision makers at all levels will have access to information about environmental conditions and human health to inform decision making and help assess the general environmental health of communities.
8. Sound Science, Improved Understanding of Environmental Risk, and Greater Innovation to Address Environmental Problems – EPA will develop and apply the best available science for addressing current and future environmental hazards as well as new approaches toward improving environmental protection.

9. A Credible Deterrent to Pollution and Greater Compliance with the Law – EPA will ensure full compliance with laws intended to protect human health and the environment.
10. Effective Management – EPA will maintain the highest quality standards for environmental leadership and for effective internal management and fiscal responsibility by managing for results.

CURRENT ENVIRONMENTAL PRIORITIES FOR EPA REGION 10

EPA Region 10's most important work is the day-to-day work in all Offices. Examples include permitting, grants management, inspections and enforcement, emergency planning and response, scientific analyses, and assistance to citizens. This work may be routine because we do a lot of it day after day, but it is absolutely critical. It is the foundation of the environmental work of the region. There are a "pyramid" of folks, critters, and places dependent on this core work.

In addition, Region 10 has identified a list of priority environmental problems demanding extra attention and a special push:

1. The Coeur d'Alene Basin – EPA will continue our longstanding efforts to protect health and restore water quality;
2. The Columbia Basin -- where problems of water quality, salmon, dams, and other environmental issues combine to create a critical geographic focal area for EPA;
3. Oil and gas in Alaska -- there are several new projects on the way that will create a major workload for us in permitting and EIS review, so EPA needs to be ready to deal with the questions these projects will raise;
4. Contaminated Sites Clean-up -- whether it's contaminated sediments in rivers and harbors, old mining sites, hazardous waste facilities, leaking gasoline tanks, or Hanford, our region still has a large number of critical cleanup projects underway, so this continues to be one of EPA's top problem areas;
5. Support for Tribes -- working more effectively with Tribes on their environmental problems will continue to be a priority, as it has been in Region 10 for several years; and
6. Vehicle emissions and smoke -- we all breathe the air, so reducing these threats is critical.

AIR QUALITY PROGRAM

GOAL

The ultimate goal of DEQ's Air Quality Program is to keep Oregon's air healthy to breathe and ensure visibility is clear.

ENVIRONMENTAL INDICATORS

To measure how well Oregon's air quality goal is being achieved, the following indicators are utilized:

- Percent of time that the air is healthy to breathe for all Oregonians. (Oregon Benchmark – criteria air pollutants only)
- Trends in emissions of toxic air pollutants. (EPA/ECOS Core Performance Measures)
- Trends in criteria air pollutants (EPA/ECOS Core Performance Measures)

CURRENT CONDITIONS AND CHALLENGES

Oregon's air is considered healthy since all areas of the state are within existing criteria pollutant health-based standards. However, Oregon's population is growing rapidly and new criteria pollutant health standards are under development. Also, public interest and concern regarding potential health impacts from toxic air pollutants is increasing. Further, in some areas of Oregon, the quality of life is hampered by a continued decline in visibility and by nuisances (impacts from odors, particle fallout, and smoke). These pose great challenges to maintaining clean and healthy air in Oregon. The information contained within the "strategies" and "objectives" sections describe DEQ's methods and commitments to meet these challenges.

In keeping with DEQ's over-arching short-term strategic direction, a high emphasis is being placed on protecting people's health from harmful toxics. DEQ has convened a broad-based stakeholder group called the Hazardous Air Pollutant Consensus Group which has recommended a state air toxics program to improve DEQ's information base and reduce health risks from exposure to air toxics. The program will be built on a foundation of good science, utilizing the expertise of an impartial Science Advisory Panel. The program will provide critical information through a comprehensive inventory of toxic chemical emissions, advanced modeling techniques to estimate potential exposure, and neighborhood monitoring to validate model predictions. This will be followed by identification of communities where people may be exposed to harmful levels of air toxics as well as assistance to these communities in designing their own plans to reduce health risks. A final element of the program will address localized health concerns that are missed by other parts of the program. A key element of the Oregon program is collaboration with scientific experts, federal, state and local agencies and local business and community representatives.

DEQ STRATEGIES

To meet Oregon's air quality goal, the program strives to reduce emissions of criteria and hazardous air pollutants through the following strategies. Similar strategies are employed across all programs within DEQ:

- **Planning and Program Development.** This strategy includes activities such as SIP development, rules and guidance, citizen, industry, local government and interagency coordination.
- **Compliance Assurance.** This strategy includes activities such as complaint response, inspections, vehicle exhaust testing, and enforcement actions.
- **Permitting & Licensing.** This strategy includes activities such as writing permits, conducting public hearings, and licensing/certifying asbestos contractors/trainers.
- **Education, Outreach and Technical Assistance:** This strategy includes activities such as regulatory technical assistance, assistance to local governments and communities, coordination with other public education programs, and small business assistance.
- **Monitoring and Data Collection:** This strategy includes activities such as modeling, emission inventory, meteorological and pollutant monitoring, laboratory analysis, and information systems management.
- **Infrastructure:** This strategy includes activities such as professional development, efficiency improvement, pollution prevention/cross-media coordination, Community Solutions Teams, legislative coordination, EPA coordination, strategic planning and performance measurement.

Note that the Lane Regional Air Pollution Authority (LRAPA) conducts the air pollution control program in Lane County. Under current legislation adopted in 1967, members of the authority are Lane County and the cities of Eugene, Springfield, and Cottage Grove. As authorized, LRAPA exercises the functions otherwise vested in the Department of Environmental Quality with respect to: 1) powers and duties; 2) standards of quality and purity; and 3) rules and regulations and enforcement.

JOINT EVALUATION PROCESS

To insure that EPA and DEQ maintain open communications during this PPA, the two air quality programs have agreed to a series of meetings, check-ins, and a report. This evaluation process will also insure that the necessary grant monitoring requirements will be met. Check-ins may be conducted via e-mail or telephone or both. The proposed evaluation points are:

- March 2003 – check-in
- July or August 2003 – meeting
- September or October 2003 – check-in
- February or March 2004 – meeting, including discussion on 04-06 PPA
- August 2004 – check-in
- September or October 2004 – written report

DEQ AQ STAFFING

This PPA is intended to provide an overview of the entire Air Quality Program. In addition, it provides specific information that will suffice as the work plan for the Section 105 base grant which will start on October 1, 2002 and end on September 30, 2004. DEQ staffing levels are shown for each of the five air quality objectives that follow. The first number presents the total program staffing, including positions funded through Section 105 base grant, Section 105 priority projects, federal PM 2.5 monitoring funds, state General Fund, Title V fees, Air Contaminant Discharge Permit fees, vehicle inspection fees, and other miscellaneous revenue sources. The second number represents the staffing level supported specifically by the Section 105 base grant. For this two-year PPA and Section 105 grant period, the estimated Section 105 base grant FTE is 16. The total Air Quality Program FTE is 292.

DEQ OBJECTIVES

Meeting the following five objectives will help Oregon achieve its goal of healthy and clean air.

OBJECTIVE 1: Prevent public exposure to criteria pollutants by keeping all areas of the state meeting and beating health-based air quality standards as measured by the percent of time that air is healthy to breathe for all Oregonians. (57 FTE; 8 FTE related to 105 grant)

OUTCOME MEASURES

- Assure that public health is protected while eliminating nonattainment designations and associated growth impediments in Grants Pass (PM 10), Klamath Falls (PM10) and Medford (PM10).
- Achieve consistent state and federal air quality regulations as a result of federally approved State Implementation Plan (SIP) submittals.

OUTPUTS

- DEQ and EPA will implement the SIP process improvements agreed upon in the Region 10 SIP Process.
- DEQ will complete Environmental Quality Commission adoption and submittal to EPA of the following plans (including redesignation requests and emission inventories):
 - Grants Pass PM10 maintenance plan by October 2002.
 - Medford PM10 attainment and maintenance plan by spring 2003.
 - Klamath Falls PM 10 maintenance plan by fall 2002.
- EPA will review and approve SIP's submitted for Grants Pass, Medford and Klamath Falls.

- DEQ and EPA will negotiate SIP Development Plan for each SIP revision and provide the resources and meet the timelines agreed upon.
- DEQ and EPA will process SIP revisions as minor amendments whenever possible to use resources most efficiently.
- DEQ and EPA will share cumulative workload information on all Oregon SIP packages under development and pending EPA final action at least annually during the second quarter to improve efficiency.
- DEQ and EPA will negotiate a work plan in letter format for each attainment and maintenance plan, including specific target dates. (e.g., dates for IPP, Q/A, modeling protocol, and other such submittals and approvals etc.).
- EPA will acknowledge receipt of final submittals within six months of receipt, and take final action on final submittals within 18 months of receipt.
- DEQ will conduct monitoring network assessment under National strategy by 12/02.
- EPA will work with tribes to protect air quality in Oregon. DEQ will provide assistance as resources allow.
- DEQ will complete Portland CO inventory by January 2004.
- DEQ will complete Portland ozone emission inventory and modeling by January 2004.
- DEQ will submit PM10 NSR for maintenance areas by fall 2002.
- EPA will approve Medford CO maintenance plan by 11/02.

ONGOING ACTIVITIES

- DEQ will operate and maintain the monitoring network plan according to 40 CFR Part 58 requirements and EPA approved Q/A plans.
- DEQ will maintain existing control strategies required in attainment and maintenance plans.
- DEQ will provide emission inventory preparation plans, modeling protocols (as appropriate) and prepare emission inventories.
- DEQ will notify EPA of exceedance events, evaluate exceedance events and implement appropriate action as needed.
- DEQ will participate in national and regional monitoring quality assurance.

REPORTING

- DEQ will submit PM10 Reasonable Further Progress reports for areas that have not been designated to attainment, if requested by EPA. The RFP reports will evaluate the implementation status of the attainment strategies and trends in ambient air quality.
- DEQ will report ambient air quality data to AIRS quarterly, as required by 40 CFR Part 58.
- DEQ will report on emissions for all source categories as defined in the CFR.
- DEQ will report point source annual emissions (except LRAPA) as defined by 40CFR Part 51.
- EPA will inform DEQ of SIP submittal status quarterly.

OBJECTIVE 2: Implement ongoing air quality improvement strategies (180 FTE; 2 FTE related to 105 Grant)

OUTCOME MEASURES

- Provide an increasingly effective service to reduce criteria air pollutants in Oregon.

OUTPUTS

- DEQ and EPA will update the Title V Implementation Agreement by December each year.
- DEQ will submit a delegation request in April of each year for all adopted NSPS.
- DEQ will undertake modeling-related rule making. Specifically being improved is 340-222-0060(d) and offset requirements in 34-225-0090. These recommended rule changes will be combined with the entire AQ programs rule-making efforts.
- EPA will issue a delegation notice for NSPS within 3 months of receiving a delegation request from DEQ.
- DEQ will assist EPA as EPA develops a regional strategy to examine air quality and human health issues associated with burning of agricultural residues in the northwest.
- DEQ will participate in interagency and multi-jurisdictional efforts to better characterize, manage, and minimize the impacts (health, visibility, and nuisance smoke) of prescribed burning activities, including agricultural and forestry practices.
- DEQ will participate in the interagency review and development of the BlueSky-RAINS project, a web-based prescribed burning information system.
- EPA will periodically convene meetings with local, state, federal and tribal agencies in the Northwest with and interest in prescribed fire, smoke, and air quality issues.

ONGOING ACTIVITIES

- DEQ will implement permitting process streamlining strategies, and partner with EPA to continually improve both regulatory processes.
- DEQ will implement the Title V Permitting Program.
- DEQ will implement the ACDP Permitting Program.
- DEQ will implement the NSPS Program through the ACDP and Title V programs.
- DEQ will implement Maintenance and Attainment Plan commitments.
- DEQ will implement the VIP I&M program.
- EPA will partner with DEQ to further develop implementation strategies for NSPS and NESHAP Programs, and clarify roles affected by delegation issues.
- DEQ will work to implement the diesel retrofit program.
- Implement SIP PIP for rule revisions to existing strategies.
- EPA and DEQ will continue to participate in and/or track progress and products of the WRAP's Fire Emission Joint Forum.

REPORTING

- DEQ will submit to EPA: NSR/PSD applications, incomplete application letters, updated application information, technical analysis, draft permits, and final permits.
- DEQ will enter RACT/BACT/LAER determinations into Clearinghouse database.
- DEQ will prioritize submittals quarterly, communicate the priorities to EPA and inform EPA about future submittals.
- DEQ will submit to EPA: Title V draft permits, permits and permit renewal applications.
- EPA will conduct expedited T5 reviews (5 day) for most T5 permit submittals and utilize the 45 review timeframe for only those permits with significant issues.
- EPA will respond to NSR/PSD submittals in a timely manner.
- EPA and DEQ will work to improve the PSD permitting process including communication, coordination and notification between DEQ, EPA and the federal land manager.

OBJECTIVE 3: Reduce public exposure to toxic air pollution (10.75 FTE; 0 FTE related to 105 Grant)

OUTCOME MEASURES

- Compliance with federal hazardous air pollutant program is high.
- Monitoring results are recorded and available for the public (based on information collected from the monitor in Portland and other monitors sited with additional funding).
- The National Toxics Inventory (NTI) results will show a decrease in emissions over time.

OUTPUTS

- *NESHAP Program*
 - DEQ will submit a NESHAP delegation request to EPA annually in April of each year. The request will be for all NESHAPS adopted by EPA and in the CFR published July 1 of the same year.
 - EPA will process NESHAP delegation requests within three months after they are received.
 - DEQ and EPA will work to eliminate the applicability determination backlog by December 2003.
- *Air Toxics Assessment*
 - DEQ and EPA will work together to obtain permanent funding for a permanent air toxics monitor.
 - Once permanent funding is obtained, DEQ will establish, operate and maintain a permanent air toxics monitor in Portland.
 - Contingent upon continued funding, by 6/1/04 DEQ will report on 2002 HAP emissions for all source categories.
- *State Program Development*

- DEQ will complete development of the air toxics program rules.
- EPA will assist DEQ as needed in development of Oregon's toxic air pollutant program rules.
- *MACT Hammer*
 - DEQ will perform MACT hammer application completeness reviews within 30 days of receipt.
 - EPA will provide guidance and assistance conducting application reviews, process and decision making.

ONGOING ACTIVITIES

- *NESHAPS Program*
 - DEQ will carry out the asbestos NESHAP: certification, accreditation, notification, inspections, compliance and enforcement.
 - DEQ will submit delegation request to EPA for all adopted NESHAPS annually in April of each year for the NESHAPS published in the CFR in July of the preceding year.
 - DEQ will implement NESHAP rules: incorporate into permits, provide technical assistance, inspections, compliance and enforcement.
 - EPA will process NESHAP delegation requests within three months after they are received.
 - EPA will consult with DEQ on applicability determinations, compliance determinations, and other case-by-case issues where EPA needs to make final decisions.
- *State program development*
 - DEQ will develop rules.
 - DEQ will seek resources for the program.
 - DEQ will create a Science Advisory Panel.
 - DEQ will collect information and begin prioritizing areas of concern for geographic approaches.
 - DEQ will develop the scientific foundation for the state program as resources become available (EI, monitoring, modeling, risk assessment).
 - Special projects addressing local toxic air pollutant concerns.
 - DEQ will operate and maintain the air toxics monitor in Portland.

REPORTING

- DEQ will submit information on asbestos demolition and renovation notification, inspections, and administrative and judicial enforcement activity to the NARS database.
- DEQ will input data to AIRS.
- EPA will complete applicability determinations in a timely fashion.

OBJECTIVE 4: Improve visibility in federal Class I Areas, and work to protect visibility in Columbia River Gorge Scenic Area (5.25 FTE; 0 FTE related to 105 Grant)

OUTCOME MEASURES

- Better assess regional haze in Oregon's federal Class I areas.
- Improved visibility in the Columbia Gorge National Scenic Area (NSA).
- Improved visibility in Class I areas.

OUTPUTS

- During this PPA, Oregon may develop and submit a Regional Haze 308 Commitment SIP. Timing is dependent on when EPA makes its final determination on PM 2.5 attainment status designations in Oregon. This SIP would be due 12 months after these designations are made. EPA may take action by July 2003.
- As funding allows, expand current state visibility monitoring network.

ONGOING ACTIVITIES

- DEQ will participate with EPA Region 10, WRAP Modeling Committee, and the Regional Technical Center in the development of Models 3 for Regional Haze rule.
- DEQ will participate in IOC meetings and conference calls.
- Contingent upon funding, DEQ will continue visibility monitoring in the Columbia Gorge NSA in partnership with Washington Dept. of Ecology and conduct data analysis to determine sources contributing to visibility impairment.
- DEQ will continue to operate existing visibility monitoring network.
- DEQ will work to secure funding to implement the Gorge air quality work plan.
- EPA will work with the tribes and participate in the Gorge Advisory committee.
- EPA will coordinate with neighboring regions when reviewing regional haze SIP submittals.

REPORTING

- Visibility analysis and reporting occurs on a 3-year cycle. The next report is due in 2005.

OBJECTIVE 5: Maintain an effective compliance assurance program that contributes to prevention and reduction of pollution and protection of public health (39 FTE; 6 FTE related to 105 Grant)

OUTCOME MEASURES

- High rates of compliance with regulations and permits.
- Maintain a credible deterrent to non-compliance.
- Regulated sources utilize self-policing and self-reporting.

OUTPUTS

- DEQ and EPA will periodically review and discuss compliance and enforcement program trends using data from national and state databases and will use such information in adjusting program activities.
- DEQ and EPA will participate in an annual compliance planning meeting. Discussion topics for the meeting will include:
 - work share opportunities,
 - roles and responsibilities,
 - national, regional and state priorities,
 - changes in national guidance,
 - joint compliance and enforcement activities, and
 - planned inspection activities (i.e. mentoring, oversight, joint).
- Violations detected at major sources will be resolved by DEQ in accordance with the EPA "Timely and Appropriate Enforcement Response Guidance for High Priority Violations."
- EPA will be responsible for conducting compliance assistance and enforcement activities in Indian Country.
- The compliance component of the air program will be conducted in accordance with the compliance assurance agreement dated October 1999.
- DEQ and EPA will collaborate to identify the type of PSD/NSR compliance work DEQ will undertake during the course of the PPA at the annual compliance meeting.
- EPA will increase its level of oversight of the Title V annual certification program to include both general oversight of how the state's program is carried out and by reviewing certifications received in accordance with the region's MOA commitment to OECA.
- EPA will work with DEQ on revisions to DEQ Division 12 Rules.
- EPA will lead, and DEQ will participate in an initiative to develop policy and guidance related to cumulative impact increment analysis.
- DEQ and EPA will work to define priorities and respective roles relative to MACT implementation and MACT hammer provisions in accordance with the requirements at Section 112(j)(2).

REPORTING

- DEQ will review and/or revise the compliance monitoring plan by December 30th of each year.
- DEQ will report the number and status of sources subject to high priority violation policy.
- DEQ will upload information on compliance, inspection and enforcement to the EPA AFS database monthly.
- DEQ and EPA will participate in a quarterly conference call to discuss high priority violations, as well as policy and strategy issues.

WATER QUALITY PROGRAM

DEQ's Water Quality Program is the state agency responsible for protecting Oregon's surface and ground waters for a wide range of uses. DEQ sets water quality standards to protect "beneficial uses" such as recreation, fish habitat, drinking water supplies, and aesthetics. DEQ monitors water quality with regular sampling of more than 50 rivers and streams in the 18 designated river basins found in Oregon.

DEQ regulates approximately 1062 wastewater sewage treatment facilities and 234 industrial dischargers through individual permits that set limits on pollutants discharged. In addition, approximately 1048 facilities have general permits that limit discharges and 1701 facilities are covered by storm water general permits. DEQ also permits injection systems and inspects septic system installations. The department offers low cost loans to public agencies to help fund improvements to water quality.

DEQ is also responsible for addressing nonpoint sources of pollution which are diffuse or unconfined sources of pollution where wastes or contaminants can be conveyed to surface or ground water. DEQ maintains a Nonpoint Source Plan under Section 319 of the Clean Water Act that describes how the state plans to manage nonpoint sources to protect and restore water quality.

For Water Quality, federal grants account for approximately 17% of the program's budget. Most of this comes in the form of "base grants," which are reissued year after year provided that Congress continues to appropriate money for them. Generally speaking, there are two "truths" about these grants:

- Increases to base grants come with expectations for new work—for example, a supplemental increment in 2001 allowed DEQ to add 6 FTE to work on TMDL implementation.
- Base grants do not increase to cover inflation.

This means that DEQ has to secure increases in General or Other funds to cover inflationary costs, find other ways to reduce costs, or negotiate with EPA about the expectations for what will be accomplished.

During this current PPA cycle, DEQ is negotiating with EPA about two water quality programs where resource limitations are affecting program outcomes. In the Underground Injection Control program, EPA has agreed to "share" the responsibility for certain program activities in order to ensure that an adequate program can be implemented. In the wastewater permitting program, where DEQ has a backlog of expired permits due to a 12 FTE shortfall (as determined by an EPA workload model), DEQ is pushing back on EPA's expectations for reducing the backlog.

GOOD NEWS FOR OREGON'S RIVERS AND STREAMS

- The Oregon Water Quality Index indicates that water quality is improving at 47% of the 140 sites located throughout the state, and only 1% of those sites show decreasing water quality. Of the 12 monitoring sites located in basins where TMDLs are being implemented, 11 are showing water quality improvements.
- DEQ has completed and received EPA approval on 263 Total Maximum Daily Loads since January 1, 2000. This puts us on track to be ahead of the Federal District Court's Consent Order to have 310 TMDLs completed by 2004.
- An increase in federal resources has allowed DEQ to maintain a presence in watersheds where TMDLs have been completed. This will help ensure that water quality improvements are achieved.
- DEQ has recently begun synchronizing the update of wastewater permits on a watershed basis. By addressing all permits within a watershed at the same time, agency resources for data gathering and analysis, public notification and technical assistance will stretch farther. Additional benefits of this approach include enhanced opportunities for public awareness and involvement, greater consistency between permits, and improved environmental decision-making.
- DEQ will be proposing to add or revise more than 100 water quality standards over the next year. The number of revisions is high because we are doing a major update of the toxic pollutants criteria (Table 20). With the adoption of these standards, DEQ will be able to better protect fish and other aquatic species and the health of Oregonians.

CHALLENGES

- Oregon has over 51,000 miles of perennial rivers and streams. Oregonians expect these rivers to be clean and healthy for people and fish. DEQ has reviewed water quality data for 38 percent of Oregon's perennial rivers and streams and of those we've reviewed, about 70 percent, over 13,000 miles of rivers and streams, don't meet clean water standards.
- Poor water quality contributes to many of our native salmon being threatened with extinction and formally listed under the Endangered Species Act. Some water, like the Willamette, has fish consumption advisories posted because of contamination with hazardous chemicals like mercury. Oregon's waters have problems with temperature, bacteria, sedimentation, dissolved oxygen, growth of aquatic weeds, toxic chemicals, and habitat and flow modifications.
- The requirements of the Endangered Species Act often overlap with Clean Water Act requirements, which may result in confusion and burdensome reporting requirements for the regulated community.

- According to EPA's workload model, DEQ's wastewater permitting program continues to operate at a level well below that which is needed to handle the permit load. This has caused DEQ to reduce the resources available for technical assistance and compliance efforts, and has resulted in a backlog of expired permits.
- Some complex environmental problems require the focused attention of more than one Division within DEQ and require cross-program coordination. For example, contaminated sediments and mercury-laden runoff from abandoned mines are issues that span the regulatory responsibilities of both the Water Quality and Land Quality Divisions.

DEQ PROPOSED SOLUTIONS

To address the challenges mentioned above and other high priority objectives, DEQ's Water Quality Division will:

- Continue to prioritize TMDL work in order to stay on track with the agreed upon schedule with EPA.
- Continue to work with other natural resource agencies to implement the Oregon Plan for Salmon and Watersheds. This coordinated effort has increased the attention and efforts of state agencies and other partners on the water quality needs of salmonids as well as overall watershed health.
- Work closely with EPA and other federal partners to coordinate on ESA activities. This includes collaborating on setting priorities and ensuring early/frequent communication on policy and rule development activities.
- Propose to augment the wastewater permitting program by adding two permit writers to the wastewater permitting program for the 03-05 biennium to focus on incorporating TMDL Waste Load Allocations into Willamette Basin permits.
- Work with EPA in 2002 to formally undertake a review of the wastewater permitting program to assess its strengths and weaknesses and chart a course for its future.
- Work with other DEQ Divisions to undertake cross-program initiatives on complex environmental issues such as toxics, abandoned mines, and contaminated sediments.

WATER QUALITY PRIORITIES

TMDLs

Oregon's TMDL schedule is aggressive. Under the Oregon Plan, DEQ is directed to complete TMDLs for all 91 sub-basin in a systematic fashion by the end of 2007. DEQ staff are presently involved in about half of Oregon's 91 sub-basins developing TMDLs and helping implement watershed projects that will clean up hundreds of miles of waterbodies through the hard work of local communities and private parties in those watersheds.

To support this watershed based restoration effort, DEQ is moving away from producing TMDLs through intensive studies of a single water quality parameter on a single water body to more sweeping efforts to address all of the important water quality issues in whole watersheds and it is paying off. We are learning that comprehensive watershed based approaches that involve forestry, agriculture, municipal, and industrial sectors provide the best mechanism to equitably address the pollution problems in a watershed. With the additional federal funding that allowed the creation of 6 TMDL Implementation positions, DEQ will be actively engaged in sub-basins that have completed TMDLs ensuring Load Allocations and Wasteload Allocations are being implemented.

Incorporating Waste Load Allocations into Wastewater Permits

[to be completed]

Stormwater

[to be completed]

Municipal Wet-Weather Pilot

DEQ will develop and pilot test of a comprehensive watershed-based approach for addressing municipal wet weather issues.

Groundwater

[to be completed]

Safe Drinking Water

[to be updated] The 1996 Safe Drinking Water Act Amendments mandated that states conduct "source water assessments" for all public water systems. Assessments include identifying the geographic source areas for all groundwater and surface water-supplied public water systems and determining how susceptible the systems are to potential contamination. There are 2656 public water systems in Oregon that will be addressed by this program which ends in 2003. Each public water system will receive a summary report with a map of their source area or watershed. The primary objective of the assessment is to identify for the community the most vulnerable natural areas within the watershed or groundwater well recharge area.

State Revolving Loan Fund

DEQ is undertaking a rulemaking in 2002-2003 to ensure that nonpoint source pollution control projects are eligible for funding under its Clean Water State Revolving Loan Fund (CWSRF). In addition, DEQ is working with a county government in 2002 to establish Oregon's first "local revolving fund" under the CWSRF. This effort will allow the county to make low interest loans to homeowners needing to repair or replace failing septic systems and potentially address other nonpoint pollution control projects.

Water Quality Standards

As part of its responsibilities under the federal Clean Water Act, the DEQ is required to review Oregon's water quality standards at least once every three years. This review process helps to assure that water quality standards keep abreast of current technology and reflect the most recently available information. Because the review process typically takes the full three years, the process of reviewing the State's water quality standards is continuous. Due to limited resources, DEQ focuses on specific standards determined to be a high priority for review by the Department with input from EPA. The standards currently under review include: temperature, biocriteria, designated beneficial uses, toxic pollutants, an antidegradation implementation plan, and outstanding resource waters. Additional standards work currently underway includes preparation to develop nutrient criteria, a policy on the application of water quality standards to reservoirs and permit compliance schedules.

ENVIRONMENTAL INDICATORS TO MEASURE PROGRESS

In order to determine whether environmental objectives are being met, DEQ's Laboratory Division is developing methods for measuring environmental results. The chief indicator of trends in water quality is the Oregon Water Quality Index.

The Oregon Water Quality Index (OWQI) is a single number that expresses water quality by integrating measurements of eight water quality parameters (temperature, dissolved oxygen, biochemical oxygen demand, pH, ammonia+nitrate nitrogen, total phosphates, total solids, and fecal coliform). Its purpose is to provide a simple and concise method for expressing ambient water quality. The index relies on data generated from routine ambient monitoring and can be used to analyze trends in water quality over long time periods. Oregon's ambient water quality monitoring network is designed to measure cumulative impacts from point and non-point sources of pollution in a variety of conditions.

Other measures of environmental condition being developed include an index of biological health for macroinvertebrate assemblages. This index utilizes a multivariate assessment model that compares the expected macroinvertebrate assemblage at a site with that actually observed. Expected conditions are based on regional reference sites. Oregon DEQ has been developing this index as part of the State's Oregon Plan for Salmon and Watershed plan and through EPA grants such as EMAP. The index is also being incorporated into numeric biological criteria.

HAZARDOUS WASTE PROGRAM

INTRODUCTION

The Oregon Department of Environmental Quality implements the State Resource Conservation and Recovery Act (RCRA) program as authorized by EPA, as well as the

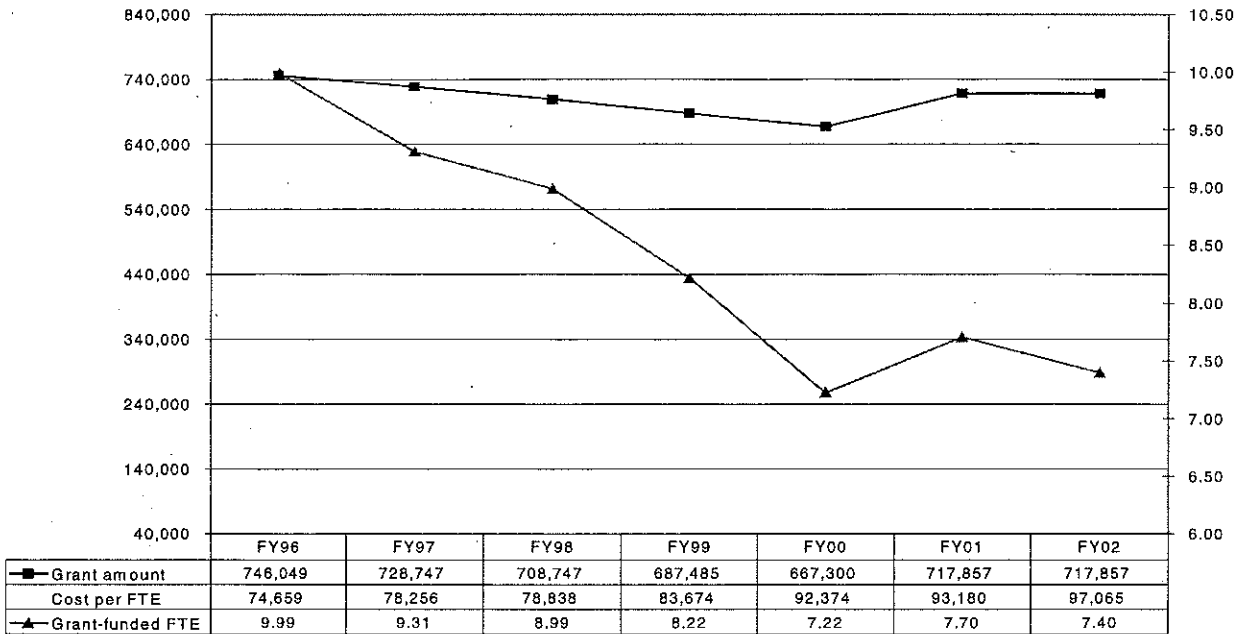
State hazardous waste regulations. This section of the Performance Partnership Agreement (PPA) describes:

- ❖ The goals of Oregon's Hazardous Waste Program.
- ❖ The environmental and programmatic objectives of each agency that are related to these goals.
- ❖ The priorities and strategies that will guide program activities for the term of this PPA.
- ❖ The measures we will use to evaluate our success.

Implementation of this agreement is the responsibility of DEQ's Land Quality Division, EPA's Region 10 Office of Waste Chemicals Management, and the DEQ and EPA Regional Enforcement Sections. This is a two-year agreement for State Fiscal Years 2003 and 2004 (July 1, 2002 – July 30, 2004). This agreement is supplemented by the agencies' joint agreements for dispute resolution (Appendix B-2), corrective action communication (Appendix B-3) and the RCRA Info Memorandum of Agreement (MOA). Activity and resource commitments under the PPA are included for the first year in the FY 2003 Operating Plan table (Appendix B-1). Each agency agrees to track and report the activities and commitments under this agreement, to review our progress at the end of the first year and revise, as needed, our activities and resources in a work plan for FY 2004. A final report documenting our accomplishments will be prepared by each agency within 60 days of completion of the PPA.

Negotiations of priorities for implementation of the Hazardous Waste Program have emphasized the critical financial situation faced by the program as it approaches the FY 03-05 biennium, and it is expected that both EPA and DEQ will continue to work together to make the difficult decisions of how to maintain a viable program in Oregon in the face of funding shortages. This may involve the identification of work that will not be completed, increased assistance from EPA to the State, and/or a reduction of efforts in certain program areas in order to dedicate sufficient resources in others. Thus this PPA in particular is one that will be evolving over the course of the next two years, and the agencies will update the Operating Plan to reflect decisions on resource allocations.

Hazardous Waste Grant History



The federal grant currently pays for about 17% of total Hazardous Waste Program costs, excluding program costs associated with implementation of State requirements such as Oregon's Toxic Use Reduction program. This graph shows that the federal grant has reduced over time, from an annual allocation of \$746,049 in 1996 to \$667,300 in 2000. The additional grant moneys received in FY01 and FY02 of approximately \$50,000 will continue into this biennium, but are to be dedicated to implementing corrective action in the State in support of EPA's national 2005 environmental indicator goals. The graph also shows that due to inflation the number of FTE supported by grant dollars has declined, such that in 1996 the grant supported 10 FTE. In FY01 grant moneys now support 6.9 FTE to implement the delegated program in Oregon (again outside of the additional moneys received to be used for corrective action).

ENVIRONMENTAL GOALS AND PROGRAM OBJECTIVES

DEQ and EPA share the primary goals of the State's Hazardous Waste Program:

- ❖ Safe waste management.
- ❖ Waste minimization.
- ❖ Cleanup of hazardous waste contamination.

Within this context, each agency has also developed its own environmental program objectives, and has identified strategies to achieve these objectives that form the basis of this FY 2003-2004 PPA. The specific activities to be undertaken by each agency in implementing these strategies during the first PPA year are documented in Appendix B-1. The key program objectives, which constitute the current priorities for program work,

are described in detail below. This includes Federal and State program sub-objectives and strategies related to each priority, and the outcome measures we have identified to evaluate our progress. Implementation of certain measures identified for State objectives will require new data collection or tracking that may not be available until completion of the new field data tracking database (specific measures requiring additional implementation work are identified). Each agency maintains responsibility for reporting and tracking their respective program objectives and measures.

OBJECTIVE 1. Reduce the threat of exposure to hazardous waste through safe management utilizing the program's compliance monitoring and assistance, enforcement and permitting tools and through the remediation efforts of DEQ's Cleanup Program.

A key priority of the HW Program is to ensure that hazardous wastes generated are managed such that the threat of exposure and the impacts of exposure to Oregonians and our environment are reduced. DEQ allocates program resources and tools, and prioritizes the efforts of our compliance monitoring, technical assistance, permitting, and enforcement, to achieve safe management of hazardous wastes.

The following sub-objectives further detail this priority as it relates to program efforts:

- ❖ Maintain a strong site presence with compliance inspections and TUWRAP site visits to ensure RCRA compliance.
[DEQ Sub-objective 1A]
- ❖ Ensure proper tools are in place to promote safe management.
[DEQ Sub-objective 1B]
- ❖ Prevent human exposures and control groundwater releases at high-priority GPRC corrective action sites.
[DEQ Sub-objective 1C]
- ❖ Improve the environment and protect human health by increasing compliance with environmental laws through a strong enforcement presence.
[EPA Sub-objective 90102]
- ❖ Promote the regulated communities' compliance with environmental requirements through voluntary compliance incentives and assistance programs.
[EPA Sub-objectives 90201 and 90202]
- ❖ By 2005, ensure that 90 percent of existing treatment storage, and disposal facilities have approved controls in place, to prevent releases to the environment (using the universe base line from 1996).
[EPA Sub-objective 50204]

- ❖ By 2005, control human exposure to toxins and groundwater releases at 95 percent and 70 percent respectively, of all high-priority correction action sites on the baseline reported to Congress for the Government Performance and Results Act.

[EPA Sub-objective 50105]

Strategies

- ➔ Adopt Federal and State rules and develop State policies that promote safe management.
- ➔ Conduct compliance monitoring inspections according to regional priorities.
- ➔ Conduct training to educate regulated community.
- ➔ Provide technical assistance through TUWRAP site visits, publication of program guidance and fact sheets, etc.
- ➔ Explore additional waste streams that may be more safely managed through the universal waste program.
- ➔ Maintain a meaningful role for EPA in Oregon's compliance enforcement program [EPA].
- ➔ Transfer RCRA sites to DEQ's Cleanup Program for corrective action implementation.
- ➔ Conduct permitting and ensure that approved controls are in place at TSD facilities, to prevent releases to the environment.

Measures

- ✓ As a result of site inspection or TUWRAP visits, the annual quantity of hazardous waste not managed in compliance with regulations, diverted to safe and compliant management.¹
- ✓ Number of generators that have been inspected.²
- ✓ Number of generators that received a TUWRAP visit.

¹ Availability of statewide data for this measure is dependent on OHWIME development schedule. This could also measure used oil, universal waste, as well as the specific activity fostering the change, and could also be reported through documentation of success stories.

² "Generator" could also include used oil processing facilities or universal waste handlers, for purposes of measuring safe management.

- ✓ Number of complaint response investigations.
- ✓ Number of RCRA sites transferred to the Cleanup Program annually.
- ✓ Number of high-priority corrective action sites meeting human exposure and groundwater control indicators. [EPA]
- ✓ Number of TSDFs with approved controls in place. [EPA]

OBJECTIVE 2. Encourage reduction in the use of toxic materials and hazardous waste generation utilizing the program's technical assistance, education, and outreach, compliance and enforcement tools.

The most effective means of eliminating the risks associated with hazardous waste is to not generate them in the first place. While it is unlikely that we will achieve zero waste generation, DEQ seeks to encourage business and individuals to reduce the use of toxic chemicals, and to minimize the wastes they generate through the efforts of the TURWRAP program and public outreach and education.

Sub-objectives that serve to foster and promote hazardous waste and toxics use reduction include the following:

- ❖ Maintain presence of TUWRAP program at facilities in the State.
[DEQ Sub-objective 2A]
- ❖ Reduce toxics use by promoting chemical substitution, recycling efficiency, or other toxics reduction strategies.
[DEQ Sub-objective 2B]
- ❖ Assist businesses in identifying waste minimization opportunities.
[DEQ Sub-objective 2C]
- ❖ Reduce the most persistent, bio-accumulative, and toxic compounds in hazardous waste streams by 50 percent from 1991 to 2005, to achieve a 25 percent increase in the amount of hazardous waste safely recycled, relative to the amount of safely-recycled materials in 1993.
[EPA Sub-objective 40601]

Strategies

- ➔ Work with stakeholders to maximize benefits of TUWRAP.
- ➔ Use training, program policies, public outreach and educational materials to promote reduction in toxics use and hazardous waste generation.

- Identify waste minimization opportunities in compliance monitoring and enforcement.
- Conduct TUWRAP efforts according to regional priorities.

Measures

- ✓ The quantity of hazardous waste or toxic chemical products reduced annually as a result of DEQ activities³.
- ✓ Number of people attending DEQ hazardous waste training sessions.
- ✓ Number of TUWRAP site visits.

OBJECTIVE 3. **Seek opportunities to reduce the threat of exposure to hazardous waste through safe management by enhancing program scope.**

RCRA has been in place for over two decades, and since 1986 DEQ has been authorized to implement the program in Oregon, to ensure compliance by generators and waste management facilities. In addition, DEQ's TUWRAP program, which was initiated in 1989, has worked to encourage safe management practices at facilities, that are conditionally exempt from hazardous waste regulations. As we continue to make improvements in waste management and to reduce hazardous waste impacts on Oregon's environment, it is appropriate to evaluate how the program might achieve greater environmental benefits, which may involve changes to the scope of work we do.

The Program is looking at hazardous waste activities that are currently outside of the scope of both Federal and State programs, and is evaluating what efforts the DEQ could appropriately take to ensure that these activities are conducted in a protective manner. Recognizing that program resources are limited and may be decreasing, it is now imperative that such efforts focus on how program resources may be efficiently and effectively used to achieve the greatest environmental benefits.

The Hazardous Waste Program also promotes waste reduction and toxics-use reduction, focusing on the chemical constituents that pose the highest level of risk. Both DEQ and EPA have identified the priority of addressing toxics that persist in the environment, and accumulate in organisms as they move through the food chain, known as persistent, bio-accumulative, toxic substances (PBTs). The Hazardous Waste Program will participate in the Governor's mandate to reduce these PBTs in Oregon's environment, the agency's first priority being to reduce risks from mercury.

Sub-objectives identified below reflect these concerns:

³ This measure could be quantified per site visit or could be documented through success stories.

- ❖ Evaluate environmental impacts associated with hazardous waste discharged to wastewater treatment units.
[DEQ Sub-objective 3A]
- ❖ Raise the standard for how conditionally exempt generator (CEG) and household hazardous waste (HHW) are managed.
[DEQ Sub-objective 3B]
- ❖ Reduce use and release of priority toxic substances.
[DEQ Sub-objective 3C]

Strategies

- ➔ Work with Water Quality, EPA and industry to evaluate environmental impacts and appropriate responses to hazardous waste wastewater discharges.
- ➔ Partner with Solid Waste Program to develop CEG/HHW educational materials and promote hazardous waste collection events.
- ➔ Explore new opportunities to encourage safe management of CEG hazardous waste.
- ➔ Focus on mercury reductions, including identification of mercury sources, participation in agency-wide initiatives, and partnering with the Northwest Auto Trades Association to facilitate replacement of mercury-containing automotive switches.

Measures

- ✓ Quantity of hazardous waste managed as wastewaters, as reported to DEQ on an annual basis.
- ✓ Quantity of hazardous waste collected from businesses at CEG collection facilities or events.
- ✓ Mercury-containing products removed from service (e.g., number of mercury-containing devices and/or quantity of mercury collected from collaborative efforts including Switch the Switch and Health Care Without Harm mercury collection efforts).

OBJECTIVE 4. Deliver excellence in service by providing Oregonians with better access to information and easier ways to do business with DEQ.

DEQ's strategic plan identifies delivering excellence as the agency's first priority. The Hazardous Waste Program is committed to providing excellence in performance and service by making it easier for individuals and businesses to seek, obtain, and provide information in a user-friendly way. This includes the availability of electronic reporting to provide better service to the regulated community, and public access to environmental information. These efforts are undertaken to promote greater understanding of environmental issues and enable Oregonians to make informed decisions on how individual actions may affect our environment.

EPA and DEQ are also committed to building partnerships that help everyone involved accomplish as much as possible with the resources available. We will prioritize our efforts to focus on geographic areas containing sensitive or otherwise vulnerable environments, and those that are most in need of multidisciplinary approaches to restoration. We also strive to put our combined resources where the most benefit will occur, such as specific industry sectors highly-persistent chemicals, or other significant human and environmental concerns.

Sub-objectives related to excellence include:

- ❖ Make program information available electronically.
[DEQ Sub-objective 4A]
- ❖ Improve electronic reporting system.
[DEQ Sub-objective 4B]
- ❖ Partner with local, State and Federal government, industry, environmental groups and communities to address environmental priorities.
[DEQ Sub-objective 4C]
- ❖ Provide information and outreach to encourage individuals and businesses to make environmental decisions that facilitate safe management and reduction in toxic chemicals and hazardous waste.
[DEQ Sub-objective 4D]
- ❖ Strengthen the EPA and DEQ partnership through regular interaction of Hazardous Waste Program Managers and staff coordination.
[EPA Sub-objective 10]
- ❖ Increase the availability and accessibility of EPA's information through public access to online databases containing timely and accurate information.
[EPA Sub-objective 70107]

Strategies

- Maintain an up-to-date web page with links to related sources of information on waste management and pollution prevention.
- Expand electronic reporting capabilities (i.e., certification, invoice-estimator, etc.).
- Initiate and/or be receptive to cross-program/cross-agency opportunities to achieve environmental results.
- Work with DEQ Public Affairs to promote environmentally-conscious decisions by individuals and businesses.

Measures

- ✓ Number of initiatives where DEQ has partnered with other entities to address environmental priorities.⁴
- ✓ Annual increase in number of individuals utilizing electronic methods of reporting.
- ✓ Number of web page “hits” per year.

OBJECTIVE 5. Implement program measures that clearly communicate environmental results and program achievements and that assist the program in directing resources to the highest priority environmental needs.

Efforts to measure the success of DEQ’s Hazardous Waste Program are evolving, along with national efforts, to a shift from the measurement of program activities and outputs (e.g., number of inspections completed) to measures that reflect the environmental results of our work. DEQ and EPA are committed to developing environmental outcome and performance-based measures that will describe the environmental benefits and shortcomings of program efforts, and help us to prioritize program resources to the greatest needs. For the term of this PPA, the Hazardous Waste Program has specifically set out to refine a set of performance-based measures that will be used to assess our progress in meeting the objectives established herein. DEQ will also continue to track and report the RCRA core performance measures agreed-upon by EPA and the Environmental Council of States.

Sub-objectives specifically-related to program measures are to:

⁴ This could include the number of agencies DEQ worked with, the number projects involving inter-agency coordination, and the number of public involvement and stakeholder meetings.

- ❖ Utilize program measures to direct the program to (1) ensure program resources are allocated to the highest-priority environmental need, and (2) show progress toward environmental objectives.

[DEQ Sub-objective 4A]

- ❖ Clearly demonstrate and communicate environmental conditions, program results and accomplishments.

[DEQ Sub-objective 4B]

Strategies

- ➔ Inventory and review existing outcome measures; revise as necessary to better quantify environmental results.

Measures

- ✓ Number of measures for Objectives Nos. 1 through 4, that are identified and determined effective in clearly communicating environmental results and program achievements and in assisting the program in directing resources to the highest priority environmental needs.

STATE AND EPA AUTHORITIES

This PPA will adhere to Oregon's authorized program.

The PPA does NOT do any of the following:

- ❖ Restrict EPA's oversight authority for State program activities that are part of the Federal program.
- ❖ Establish privity between EPA and DEQ or the State of Oregon.
- ❖ Restrict EPA's independent civil and criminal enforcement authority to bring separate Federal actions under RCRA.
- ❖ Expand EPA's oversight authority to State-only requirements that do not impact the authorized Federal program.

Also, no waiver of sovereign immunity is implied or assumed by this agreement.

CONCLUSION

The Hazardous Waste Program activities for the coming year that support our program objectives and priorities are described in detail in Attachment _____. We have estimated the resources available to implement the program in the coming year, and will report to each other our accomplishments at the end of the first year. We will discuss any

changes needed at that point and incorporate them into a revised work plan for the second year of this PPA.

COMPLIANCE AND ENFORCEMENT

In February 2001, DEQ Director Stephanie Hallock created the Office of Compliance and Enforcement (OCE) and moved OCE into the Director's office to broaden its involvement in compliance issues and participation in agency-wide decisions on setting enforcement and compliance priorities. OCE is responsible for issuing formal enforcement actions, including civil penalties and orders against persons who violate environmental laws, rules, and permits. OCE and EPA Region 10 are working together to enhance the effectiveness of general and specific deterrence through mutually supportive compliance and enforcement strategies.

STRATEGIES

During the next two years, OCE will coordinate with the DEQ programs to perform the following activities:

1. OCE will conduct a number of process improvements. OCE will improve database management processes. OCE will expand the enforcement database to include additional data to better target and track case process from compliance to enforcement. OCE will manage DEQ's Notice of Noncompliance database to ensure consistent data entry in the agency, and the ability to prepare custom reports. OCE will better coordinate civil penalty collection activities to expedite the collection process. OCE will improve the readability of its templates.
2. OCE will broaden its involvement in compliance issues and decision-making processes. OCE will participate in setting compliance and enforcement priorities for the programs. OCE will conduct program specific training and assist field staff with enforcement and compliance processes. OCE will participate in cross media enforcement and compliance issues. OCE will review the technical compliance assistance efforts performed by the agency and coordinate recommendations to improve the effectiveness these efforts. DEQ will provide additional outreach and technical assistance to businesses through a proposed Pollution Prevention Grant.
3. OCE will participate in rulemaking, policy and guidance development. Specifically, OCE will review DEQ's Division 12 enforcement rules to ensure a consistent, understandable and equitable compliance and enforcement program that encourages compliance and issues civil penalties that appropriately reflects the severity of the violation. EPA will participate as appropriate in this process in order to give real-time feedback to the DEQ as they revise their rules. OCE will revise the Division 12 enforcement rules and guidance as needed.

[Note: this section is still being developed. Awaiting completed sections from the programs in order to make a central statement regarding compliance and enforcement]

efforts in the agency. Will highlight program specific compliance and enforcement efforts for the next two years and refer reader to the where these efforts are discussed more specifically in each program's section of the PPA. Discuss EPA OECA compliance and enforcement priorities and where they overlap with the DEQ program compliance and enforcement priorities.]

OBJECTIVES

The 2000-2002 PPA discussed EPA Region 10's review of DEQ's enforcement procedures and outlined objectives DEQ agreed to perform. During that period, OCE completed the following objectives:

1. Tracking Significant Cases

EPA's review discussed DEQ's failure to track "significant noncompliers" and "high priority violators." DEQ has addressed EPA's concerns regarding tracking "high priority violators." Significant progress has been made in the air and hazardous waste programs in tracking high priority violators. Tracking significant cases continues to be a concern for OCE.

2. Economic Benefit

DEQ hired an economic consultant to review economic benefit calculations and processes, and completed the economic benefit study requested by EPA.

OCE and EPA will continue to work on the following objectives in the next two years:

1. Penalty Amounts

EPA's review discussed DEQ assessing higher penalties and assessing penalties on every violation identified in every action. OCE will address these issues during the review of Division 12 enforcement rules. OCE will develop policies on when penalties should be assessed for more than one violation in an action and for more than one day.

2. Timeliness

EPA's review discussed improving DEQ's timeliness in issuing enforcement actions within the federal goal of 180 days. In the last year, OCE reduced its enforcement referral lag, which improved the timeliness of the enforcement actions. OCE recently modify the timeliness sheet to better capture and track enforcement case process, and improve agency accountability. In the next two years, OCE will continue to evaluate efforts to improve the timeliness of the enforcement actions.

3. Deterrence Study

In the last two years, DEQ conducted a deterrence study to examine the effectiveness of inspections, penalties, and other compliance and enforcement efforts in creating general deterrence. The final phase of the study will be completed during 2002. DEQ will then analyze the results and submit the final report to EPA.

4. Supplemental Environmental Project

DEQ and EPA will continue to review the application of DEQ's SEP policy. EPA agrees to bring forward to OCE any concerns identified in a timely manner for discussion and resolution.

JOINT EVALUATION

DEQ and EPA have many established mechanisms and guidelines for communicating on enforcement and compliance issues. These include Compliance Assurance Agreements specific to hazardous waste, water and air; the Region 10/State Compliance Assurance Principles; and the Region 10/State Compliance Assurance Evaluation Principles. These tools lay out expectations and methods for communicating on compliance and enforcement issues such as oversight mechanisms, inspections, and enforcement cases. DEQ and EPA will continue working together to improve the coordination application and as necessary, the revision tools above in order to best work together. Specifically, OCE and EPA will meet twice a year to discuss any issues of concern, trends, policies, or projects. However, while DEQ and EPA cooperate in administrative, criminal, and civil investigations and enforcement, we recognize that we each retain separate authorities to take separate actions based on the respective laws of each jurisdiction.

CROSS-PROGRAM ACTIVITIES

In addition to the priorities and work identified in and for each of the individual program areas, DEQ and EPA also have identified a number of areas for focus that overlay virtually all programs. Shared attention to these cross-program activities will result in better environmental results and/or increased efficiency within the agencies.

LABORATORY CAPACITY

DEQ's laboratory staff monitor, sample and analyze air, water, soil, hazardous and solid waste, and pollutant discharges. Data obtained by the laboratory are used to determine whether environmental standards have been attained. These data provide compliance information for inspections, help investigate events involving unknown pollutants, and support civil and criminal litigation. Laboratory staff provide scientific and technical assistance in the areas of environmental chemistry, biological assessments, air and water measurements, analytical methods, and quality assurance.

Two changes at the DEQ laboratory are underway which will have some impact on most DEQ programs, but particularly for the air and water programs. First, the DEQ laboratory has outgrown the space available in its current location on Portland State University (PSU) campus. The current lab, originally designed for approximately 50 staff, now houses about 85 permanent staff, plus up to another 15 temporary staff seasonally. As a result DEQ is actively searching for a new laboratory location within the Portland metro area.

Regardless of whether the laboratory succeeds in finding new space or has to rely on remodeling and expanding the current space, the rent will increase as the current rental agreement is based on 25-year old prices. Therefore, another change is that DEQ programs will see increased costs for laboratory services as a result of higher property, operating, and construction costs. The level of increased lab costs is not known at this time, nor is the effect in costs to specific DEQ programs. As these costs and their distribution within programs become known they will need to be accounted for in future grants and operating budgets.

HOMELAND SECURITY

Oregon remains concerned about homeland security issues related to potential terrorist threats. Since September 11, 2001, DEQ identified the need for a 24/7-response capability that could go beyond the traditional spill program and mobilize the agency for action in a wide variety of activities. DEQ recognized that responses will be multi-agency, multi-jurisdictional and will be more complex, involving more than our traditional emergency response partners. While the anthrax incidents raised the issue of a health threat from biological weapons, Oregon also began to recognize the threat posed by unidentified chemical compounds. For such incidents, DEQ's laboratory has become the default laboratory in the state for chemical agent identification. DEQ is continuing to seek additional funding to deal with laboratory capacity issues associated with identifying unknowns from incidents of chemical terrorism.

INFORMATION MANAGEMENT AND DATA SYSTEMS

DEQ and EPA believe that enhanced availability of data to DEQ, EPA, and the public will contribute to better environmental decisions. We jointly adopt the concepts embodied in the "Blueprint for a National Environmental Information Exchange Network" adopted by the State/EPA Information Management Workgroup in October, 2000 as a means to that end. Shared and individual information systems initiatives will be evaluated for consistency with these concepts. We further specifically agree that:

- In the absence of policy or sound reasons to the contrary, data will generally be made available to the public subject to the availability of resources to develop appropriate delivery mechanisms.
- Each partner will provide timely notification of intent to publicly distribute data collected or developed by the other, and will develop products which are respectful of the appropriate use of the data.
- Systems development involving data exchange will focus on approaches embodied in the Blueprint.
- Cross-media integration of data systems will be considered and improved where practical in the course of individual or joint system development.

- DEQ and EPA will continue to support existing exchange mechanisms until both partners agree to implement substitutions.
- DEQ will inform EPA of progress made in implementing the Network and will negotiate Trading Partner Agreements with EPA to address official use of the network to meet reporting requirements.
- Where applicable and practical, new or updated data exchange mechanisms will adhere to data standards adopted by the National Data Standards Council operating under the auspices of the State/EPA Information Management Workgroup.
- This agreement serves to guide ongoing work, but does not require specific information initiatives on the part of either party.
- We may agree to exchange data that is not a part of any reporting requirement. Such data will not be used to evaluate program performance.

TRIBAL RELATIONS

DEQ, EPA, the nine federally-recognized tribes within the State and those tribes with tribal lands in Oregon are vital partners in the protection and restoration of Oregon's environment and natural resources. DEQ maintains regulatory authority over state lands, which includes tribal ancestral and ceded lands. EPA, as the federal government's designated trustee, is responsible for overall environmental protection and management on tribal lands, and for assisting tribes in establishing their own environmental programs. Tribal governments, through EPA approval, are beginning to assume direct environmental regulatory authorities over tribal lands. This underscores the need to strengthen on-going relationships and communications at the policy and management levels of DEQ, EPA and the Tribes, to ensure compatible and integrated environmental protection and management on state and tribal lands. The DEQ/EPA Performance Partnership Agreement and Tribe/EPA Tribal Environmental Agreement processes are key opportunities for discussion of state and tribal issues, priorities, and partnership needs.

The DEQ and EPA each have established government-to-government relations programs for working with tribal governments. DEQ's program was created under the Governor's Executive Order 96-30 on State-Tribal Relations. In 2002, the Legislature passed SB 770 (ORS 182.162 to 182.168), which basically placed the directives of the Executive Order into state law. EPA's tribal program was established under Presidential Executive Order 13084 and the EPA Region 10 Strategy on Environmental Protection in Indian Country. The two agencies are strongly committed to work cooperatively with tribes to promote early and clear communications; to promote the consistent sharing of information on a formal and informal basis; and to establish collaborative efforts on program development and implementation regarding issues of common concern.

In January 2002, DEQ updated its Statement of Intent to address the intent of SB 770. This Statement describes DEQ's approach in addressing the directives in the new law (see Appendix C). Tribe and agency staff are currently developing a list of issues and priorities for each tribe. DEQ's efforts to strengthen its working relations with tribal governments are directed at:

- educating and training staff;
- improving communications and data/information sharing with tribes;
- participating in the Governor's Government-to-Government process natural resource state agency/tribal government work group; and,
- integrating tribal relations into the day-to-day work of the agency.

DEQ and EPA staff working with tribes are committed to cooperatively promoting early and clear communications with tribes, to further consistency in the sharing of information at the policy and technical levels, and to establish early consultation on program development and implementation.

ENVIRONMENTAL JUSTICE

The DEQ developed guidance on the issue of environmental equity-justice in 1998. In 1994, DEQ was the lead agency for a statewide study on environmental equity. A Governor-appointed citizen advisory committee (CAC) assisted with the study. The term "environmental justice" expresses the concept of inequitable distribution of environmental risks and impact to communities of color and low income communities. It is the more common expression used to address the concept of disproportionate impact to minorities and low income groups. The 1994 study was referred to as the Environmental Equity Study because "equity" connotes fairness and equal protection of all, and also conveys measurement and quantification. Additionally, the term was believed to better reflect the goal of the study, which was to:

- identify existing and potential environmental equity issues and concerns;
- examine the environmental concerns of minority and low-income communities; and
- propose an interagency approach to assure equity in all state environmental regulatory decisions.

At the conclusion of this study, the CAC presented a number of recommendations to the Governor. The recommendations described what actions the affected agencies needed to take to better assure equitable treatment of all citizens in administering the State's environmental programs. In response to the CAC recommendations, DEQ developed agency guidance and implementation measures that are described in Appendix D.

INNOVATION AND EXCELLENCE

DEQ and EPA have developed programs that provide incentives to regulated facilities that demonstrate environmental excellence and achieve environmental results that are significantly better than otherwise provided by law. Such experiments were authorized through Oregon's Green Permits legislation, that was enacted during the 1997 legislative session (ORS 468.501 to 468.521), and are consistent with EPA's new

National Performance Track program. Through the Green Permits and the National Environmental Performance Track programs, EPA and DEQ are pursuing an approach that we believe will achieve superior environmental results. With the DEQ/EPA Green Permits Memorandum of Agreement as a framework for roles, we will work to aggressively implement and maximize the benefits of the approach, evaluate the results, and pursue adjustments where appropriate based upon experience. Several facilities have already been issued a Green Permit or accepted into the National Performance Track program (or both), and EPA and DEQ are working together on drafting a federal site-specific rule to implement one of the incentives for one facility that is a member of both programs.

DEQ and EPA recognize that agency participation in these programs using existing staff resources may impact meeting PPA commitments identified elsewhere in this agreement. This investment of resources is critical to supporting our commitment to providing incentives for superior environmental performance. If resource impacts are significant, the impact on PPA program commitments will be addressed during periodic program reviews.

DEQ and EPA are pursuing other innovative approaches to environmental protection. DEQ is implementing watershed-based effluent trading, which encourages alternative approaches to eliminating pollutants within our watersheds in a cost-effective matter. EPA has drafted an Innovations Strategy that encourages EPA and states to take a performance-based approach to environmental protection. EPA and DEQ also work together to implement environmental management systems or encourage the implementation of environmental management systems within facilities. DEQ also has developed an Environmental Partnerships for Oregon Communities Program, which provides technical assistance to small communities facing environmental compliance issues.

APPENDICES

- A. Water Quality Activity Tables
- B. Hazardous Waste PPA Agreements
 - B.1. Hazardous Waste Program Operating Plan
 - B.2. Dispute Resolution Agreement
 - B.3. Corrective Action Communication Strategy
- C. DEQ Statement of Intent regarding SB 770 on State/Tribal Government-to-Government Relations
- D. Environmental Justice Principles and Implementation
- E. Related Environmental Agreements
 - E.1. EPA and Tribal Program and Funding Agreements
 - E.2. EPA and State Agencies Agreements
 - E.3. EPA and Federal Agencies Agreements

DEQ-EPA Performance Partnership Agreement

Marianne Fitzgerald
 Oregon Department of Environmental Quality
 Cross-Program Coordinator
 811 SW Sixth Avenue
 Portland, OR 97204
 (503) 229-5946
 fitzgerald.marianne@deq.state.or.us
 April, 2002

PPA--What It Is

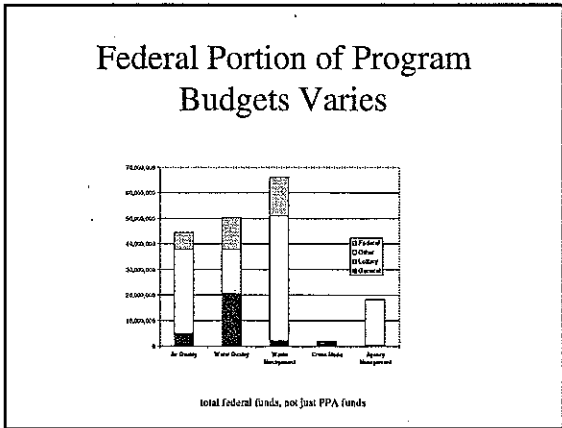
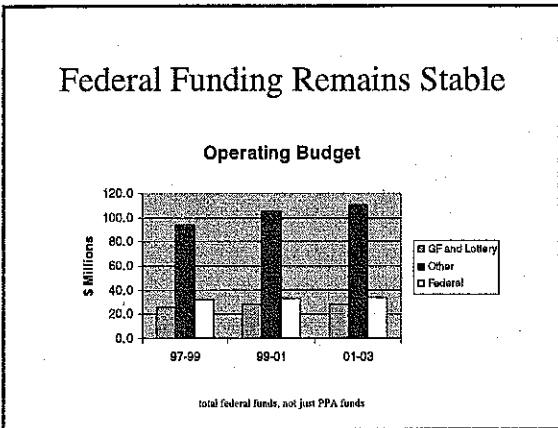
- Intended to describe how EPA and state environmental agencies will work together to protect the environment
- EPA Base Grant for Air Quality, Water Quality and Hazardous Waste programs
- Workplans typically include both federally funded and state-funded activities
- Program-by-program approach in Oregon

PPA--What It Isn't

- Federal base grant does not fully fund delegated program activities
- EPA-ECOS Goal of Joint Strategic Planning has not been realized yet
- Coordinated approach difficult to achieve due to program-by-program negotiations

Resource Issues

- DEQ 01-03 budget recently cut (\$2.4 million general funds)
- Federal funding has not increased
 - Additional funding has generally come with additional workload expectations
- Future Uncertainties:
 - higher laboratory costs
 - homeland security protection
 - inflation and other cost increases



Strategic Planning

- DEQ Strategic Directions
 - four key priorities
- EPA Strategic Plan
 - 10 strategic goals, 6 regional priorities
- Working toward a focus on outcomes

PPA Aligned with Strategic Directions

- Priority 1: Enforcement rules review
- Priority 2: Water Quality watershed approach, TMDLs
- Priority 3: Air Toxics program
- Priority 4: Hazardous Waste compliance assistance and outreach

PPA Highlights

- Air Quality:
 - process improvements such as State Implementation Plan approvals
 - flexibility to address air toxics and visibility
- Water Quality:
 - shared approach to implement underground injection control program
 - EPA review of wastewater permitting program

PPA Highlights (cont'd)

- Hazardous Waste:
 - significant revenue shortfalls will affect program activities and commitments; external workgroup providing recommendations
- Compliance/Enforcement:
 - process improvements
 - review enforcement rules
- Cross-Program Priorities
 - Laboratory capacity

DEQ/EPA Collaboration

- Air Quality State Implementation Plan process improvements
- Water Quality Underground Injection Control Program dialogue
- Hazardous Waste Work Group dialogue
- Green Permits/National Performance Track program implementation
- Compliance/Enforcement improvements

Next Steps

- Comments from EQC, Tribes, public through 5/10/02
- Draft grant application due 4/30
- Final grant application due 5/31
- Periodic check-ins, progress reports
 - following 2003 legislative session
 - as needed to revise budgets and commitments

State of Oregon
Department of Environmental Quality

Memorandum

Date: April 19, 2002
To: Environmental Quality Commission
From: Stephanie Hallock, Director
Subject: Agenda Item I, Temporary Rule Adoption: Authorized Representatives for Parties in Contested Case Hearings
April 25, 2002 EQC Meeting

Department Recommendation The Department recommends the Commission temporarily adopt the proposed rule revisions as presented in Attachment A.

Need for Rulemaking In July 2000, the Department inadvertently repealed a rule that allowed for certain entities appearing before the Department in a contested case hearing to be represented by an authorized representative. Without this rule, these entities would need to be represented by an attorney.

Effect of Rule Without adoption of this rule, an injustice would occur for those entities appearing before the Department in a contested case hearing in that they would be required to hire an attorney.

Commission Authority The Commission has authority to take this action under ORS 183.335 and ORS 468.020.

Stakeholder Involvement Under ORS 183.335(5) the Department is not required to provide public notice before adopting a temporary rule. The Department will provide notice of the temporary rule adoption to the rulemaking mailing list and other interested persons following the EQC meeting. Additionally, the Department will provide public notice and accept comments on the rule change when it is proposed for permanent adoption.

Key Issues On January 1, 2000, the Department of Justice adopted rules relating to contested case hearings (Hearing Panel Rules). Agencies cannot adopt procedural rules for contested case hearings unless the rules are required by state or federal law, the rules are specifically authorized by the Hearing Panel Rules, or the agency has been exempted from the Hearing Panel Rules.

In response to the Hearing Panel Rules, the EQC adopted temporary rules in February 2000, and subsequently, permanent rules in July 2000. The rule changes permanently repealed all those rules that the Department believed it no longer needed or was no longer able to have as procedural rules.

Agenda Item I, Rule Adoption: Authorized Representatives for Parties in Contested Case Hearings

April 25, 2002 EQC Meeting

Page 2 of 2

During this process, the Department inadvertently repealed a rule that allowed corporations, partnerships, limited liability companies, unincorporated associations, trusts and government bodies to be represented by an 'authorized representative' instead of an attorney. An authorized representative is defined to include an employee or officer of the entity, or a member of a partnership.

This issue has recently been raised in a contested case hearing wherein an entity planned to be represented by an employee. The hearing officer would not allow the representation since the Department did not have a rule allowing it. To avoid the injustice of requiring an entity to hire an attorney whereas an individual would not be required to do so, the Department is proposing the adoption of a temporary rule allowing the appearance of an authorized representatives for an entity in contested case hearings.

Next Steps

Temporary rules are only effective for a maximum of 180 days. The Department will propose and adopt a permanent rule within this time frame.

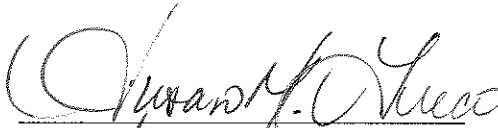
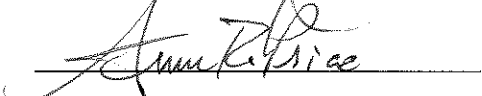
Attachments

- A. Proposed Rule Revisions
- B. Statement of Need and Justification
- C. ORS 183.457 and OAR 137-003-0555

Approved:

Section:

Division:

Report Prepared By: Susan M. Greco

Phone: (503) 229-5152

DIVISION 011

**RULES OF GENERAL APPLICABILITY
AND ORGANIZATION**

Contested Cases

340-011-0106

Authorized Representatives of Parties in a Contested Case Hearing

Per ORS 183.457 and OAR 137-003-0555, a corporation, partnership, limited liability company, unincorporated association, trust and government body may be represented by either an attorney or an authorized representative in a contested case hearing before a hearing officer or the Commission.

Stat. Auth.: ORS 183.335 and ORS 468.020

Stat. Impl.: ORS 183.457

Secretary of State

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Environmental Quality – Office of Compliance and Enforcement
Agency and Division

In the Matter of)	Statutory Authority,
OAR 340-011-0106)	Statutes Implemented,
)	Statement of Need,
)	Principal Documents Relied Upon,

Statutory Authority: ORS 183.335 and ORS 468.020

Other Authority:

Statutes Implemented: ORS 183.457

Need for the Temporary Rule(s): In July 2000, the Department inadvertently repealed a rule which allowed for an entity in a contested case hearing to be represented by an authorized representation. Without this rule, corporations, partnerships, limited liability companies, unincorporated associations, trusts and government bodies must be represented by an attorney. The Department has traditionally allowed these entities to be represented by an authorized representation which is defined in statute and in the Hearing Panel Rules to include a member of a partnership or an officer or regular employee of the entity.

Documents Relied Upon: ORS 183.457 and Hearing Panel Rule 137-003-0555

Justification of Temporary Rule(s): Without adoption of this temporary rule, entities which appear before the Department in a contested case hearing will be required to hire an attorney to represent them. To avoid the injustice this requirement would place on entities, a temporary rule is necessary.

Authorized Signer and Date

Secretary of State

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Environmental Quality – Office of Compliance and Enforcement
Agency and Division

In the Matter of)	Statutory Authority,
OAR 340-011-0106)	Statutes Implemented,
)	Statement of Need,
)	Principal Documents Relied Upon,

Statutory Authority: ORS 183.335 and ORS 468.020

Other Authority:

Statutes Implemented: ORS 183.457

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Documents Relied Upon: ORS 183.457 and Hearing Panel Rule 137-003-0555

Justification of Temporary Rule(s): Without adoption of this temporary rule, entities which appear before the Department in a contested case hearing will be required to hire an attorney to represent them. To avoid the injustice this requirement would place on entities, a temporary rule is necessary.

Stephanie Dallock 4-24-02
Authorized Signer and Date

series. See Preface to Oregon Revised Statutes for further explanation.

183.455 [1987 c.259 §3; repealed by 1999 c.448 §10]

183.457 Representation of persons other than agencies participating in contested case hearings. (1) Notwithstanding ORS 8.690, 9.160 and 9.320, and unless otherwise authorized by another law, a person participating in a contested case hearing conducted by an agency described in this subsection may be represented by an attorney or by an authorized representative subject to the provisions of subsection (2) of this section. The Attorney General shall prepare model rules for proceedings with lay representation that do not have the effect of precluding lay representation. No rule adopted by a state agency shall have the effect of precluding lay representation. The agencies before which an authorized representative may appear are:

(a) The State Landscape Contractors Board in the administration of the Landscape Contractors Law.

(b) The Office of Energy and the Energy Facility Siting Council.

(c) The Environmental Quality Commission and the Department of Environmental Quality.

(d) The Department of Consumer and Business Services for proceedings in which an insured appears pursuant to ORS 737.505.

(e) The Department of Consumer and Business Services and any other agency for the purpose of proceedings to enforce the state building code, as defined by ORS 455.010.

(f) The State Fire Marshal in the Department of State Police.

(g) The Division of State Lands for proceedings regarding the issuance or denial of fill or removal permits under ORS 196.800 to 196.825.

(h) The Public Utility Commission.

(i) The Water Resources Commission and the Water Resources Department.

(j) The Land Conservation and Development Commission and the Department of Land Conservation and Development.

(k) The State Department of Agriculture, for purposes of hearings under ORS 215.705.

(L) The Bureau of Labor and Industries.

(2) A person participating in a contested case hearing as provided in subsection (1) of this section may appear by an authorized representative if:

(a) The agency conducting the contested case hearing has determined that appearance of such a person by an authorized representative will not hinder the orderly and timely

development of the record in the type of contested case hearing being conducted;

(b) The agency conducting the contested case hearing allows, by rule, authorized representatives to appear on behalf of such participants in the type of contested case hearing being conducted; and

(c) The officer presiding at the contested case hearing may exercise discretion to limit an authorized representative's presentation of evidence, examination and cross-examination of witnesses, or presentation of factual arguments to ensure the orderly and timely development of the hearing record, and shall not allow an authorized representative to present legal arguments except to the extent authorized under subsection (3) of this section.

(3) The officer presiding at a contested case hearing in which an authorized representative appears under the provisions of this section may allow the authorized representative to present evidence, examine and cross-examine witnesses, and make arguments relating to the:

(a) Application of statutes and rules to the facts in the contested case;

(b) Actions taken by the agency in the past in similar situations;

(c) Literal meaning of the statutes or rules at issue in the contested case;

(d) Admissibility of evidence; and

(e) Proper procedures to be used in the contested case hearing.

(4) Upon judicial review, no limitation imposed by an agency presiding officer on the participation of an authorized representative shall be the basis for reversal or remand of agency action unless the limitation resulted in substantial prejudice to a person entitled to judicial review of the agency action.

(5) For the purposes of this section, "authorized representative" means a member of a participating partnership, an authorized officer or regular employee of a participating corporation, association or organized group, or an authorized officer or employee of a participating governmental authority other than a state agency. [1987 c.833 §3; 1989 c.453 §2; 1993 c.186 §4; 1995 c.102 §1; 1999 c.448 §1; 1999 c.599 §1]

Note: 183.457 was added to and made a part of 183.413 to 183.470 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

183.458 Nonattorney representation of parties in certain contested case hearings. (1) Notwithstanding any other provision of law, in any contested case hearing before a state agency involving child support or public assistance as defined in ORS

(D) The admissibility of evidence; and

(E) The correctness of procedures being followed in the contested case hearing.

(4) If the hearing officer determines that statements or objections made by an agency representative appearing under section (2) involve legal argument as defined in this rule, the hearing officer shall provide reasonable opportunity for the agency representative to consult the Attorney General and permit the Attorney General to present argument at the hearing or to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Authority: ORS 183.341

Stats. Implemented: ORS 183.341, 183.413, 183.415; Or Laws 1999, ch 448, ch 599, ch 849

Representation of Parties; Out-of-state Attorneys

137-003-0550 (1) Natural persons who are parties in a contested case may represent themselves or may be represented by an attorney or, if authorized by state or federal law, other representative.

(2) Corporations, partnerships, limited liability companies, unincorporated associations, trusts and government bodies must be represented by an attorney except as provided in OAR 137-003-0555 or as otherwise authorized by law.

(3) Unless otherwise provided by law, an out-of-state attorney may not represent a party to a contested case unless the out-of-state attorney is granted permission to appear in the matter pursuant to Oregon Uniform Trial Court Rule 3.170. Local counsel who obtained the order on behalf of the out-of-state attorney must participate meaningfully in the contested case in which the out-of-state attorney appears.

Stat. Authority: ORS 183.341

Stats. Implemented: ORS 9.241, ORS 9.320, ORS 183.341 & Or Laws 1999, ch 849

Authorized Representative of Parties Before Designated Agencies

137-003-0555 (1) For purposes of this rule, the following words and phrases have the following meaning:

(a) "Agency" means State Landscape Contractors Board, Office of Energy and the Energy Facility Siting Council, Environmental Quality Commission and the Department of Environmental Quality; Insurance Division of the Department of Consumer and Business Services for

proceedings in which an insured appears pursuant to ORS 737.505; the Department of Consumer and Business Services and any other agency for the purpose of proceedings to enforce the state building code, as defined by ORS 455.010; the State Fire Marshal in the Department of State Police; Division of State Lands for proceedings regarding the issuance or denial of fill or removal permits under ORS 196.800 to 196.990; Public Utility Commission; Water Resources Commission and the Water Resources Department; Land Conservation and Development Commission and the Department of Land Conservation and Development; State Department of Agriculture for purposes of hearings under ORS 215.705; and the Bureau of Labor and Industries.

(b) "Authorized Representative" means a member of a partnership, an authorized officer or regular employee of a corporation, association or organized group, an authorized officer or employee of a governmental authority other than a state agency or other authorized representatives recognized by state or federal law;

(c) "Legal Argument" includes arguments on:

(A) The jurisdiction of the agency to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency;

(C) The application of court precedent to the facts of the particular contested case proceeding.

(d) "Legal Argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the statutes or rules to the facts in the contested case;

(B) Comparison of prior actions of the agency in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;

(D) The admissibility of evidence; and

(E) The correctness of procedures being followed in the contested case hearing.

(2) A party or limited party participating in a contested case hearing before an agency listed in subsection (1)(a) of this rule may be represented by an authorized representative as provided in this rule if the agency has by rule specified that authorized representatives may appear in the type of contested case hearing involved.

(3) Before appearing in the case, an authorized representative must provide the hearing officer with written authorization for the named representative to appear on behalf of a party or limited party.

(4) The hearing officer may limit an authorized representative's presentation of evidence, examination and cross-examination of witnesses, or presentation of factual arguments to insure the orderly and timely development of the hearing records, and shall not allow an authorized representative to present legal argument as defined in subsection (1)(c) of this rule.

(5) When an authorized representative is representing a party or limited party in a hearing, the hearing officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections may involve legal argument as defined in this rule, the hearing officer shall provide reasonable opportunity for the authorized representative to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Authority: ORS 183.341

Stats. Implemented: ORS 183.341, 183.457; Or Laws 1999, ch 448, ch 599, ch 849

Emergency License Suspension, Refusal to Renew

137-003-0560 (1) If the agency finds there is a serious danger to the public health or safety, it may, by order, immediately suspend or refuse to renew a license. For purposes of this rule, such an order is referred to as an emergency suspension order. An emergency suspension order must be in writing. It may be issued without prior notice to the licensee and without a hearing prior to the emergency suspension order.

(2)(a) When the agency issues an emergency suspension order, the agency shall serve the order on the licensee either personally or by registered or certified mail;

(b) The order shall include the following statements:

Oregon DEQ EQC Meeting Minutes

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Approved X
Approved with Corrections _____

Minutes are not final until approved by the Commission.



Environmental Quality Commission

Minutes of the Three Hundredth and Second Meeting

April 23-25, 2002

Regular Meeting^[1]

The following Environmental Quality Commission (EQC) members were present for the regular meeting, held at The Comfort Inn, located at 504 Highway 20 in Hines, Oregon.

Melinda Eden, Chair
Tony Van Vliet, Vice Chair
Mark Reeve, Member
Harvey Bennett, Member
Deirdre Malarkey, Member

Also present were Larry Knudsen, Oregon Department of Justice (DOJ), Stephanie Hallock, Department of Environmental Quality (DEQ) Director, and DEQ staff.

Tuesday, April 23, 2002

Vice Chair Van Vliet called the meeting to order at approximately 3:00 p.m.^[2] Agenda items were taken in the following order.

A. Information Item: Overview of the DEQ Land Quality Division

David Rozell, Acting DEQ Land Quality Division Administrator, presented an overview of the major DEQ programs and initiatives for solid and hazardous waste management, environmental clean-up, and cross-program activities that address air, water and land quality issues. Commissioners discussed program activities, challenges and budget needs with Mr. Rozell and Director Hallock.

B. Information Item: DEQ Information Management Assessment Project Update

Helen Lottridge, DEQ Management Services Division Administrator working on special assignment, gave the Commission an update on DEQ's work to find ways to make environmental information more accessible to Oregonians and make the best use of the technology and information resources available to the agency. Ms. Lottridge described progress since January 2002 to evaluate information management systems and develop recommendations for system improvements by September 2002.

I. Temporary Rule Adoption: Authorized Representatives for Parties in Contested Case Hearings

Larry Knudsen, Assistant Attorney General, proposed temporary adoption of an agency rule that was inadvertently repealed in July 2000. The rule, Oregon Administrative Rule 340-011-0106, allowed certain entities that appear before DEQ in contested case hearings to be represented by an authorized representative. Without the rule, these entities would need to be represented by an attorney. Mr. Knudsen explained that once adopted, the temporary rule would be effective for a maximum of 180 days. Commissioners discussed and concluded the need for the rule. Commissioner Bennett moved the Commission adopt the proposed temporary rule. Commissioner Malarkey seconded the motion and it passed with five "yes" votes.

Chair Eden recessed the meeting at approximately 4:30 p.m. At 6:30 p.m., the Commission joined DEQ staff for dinner at The Apple Peddler, located at 540 Highway 20 North, in Hines, to discuss agency activities in Eastern Oregon.

Wednesday, April 24, 2002

The Commission toured the Malheur Wildlife Refuge and Frenchglen area with Harney County Judge Steve Grasty, local stakeholders and DEQ staff to discuss ecological conditions and various environmental issues. At 6:00 p.m., the Commission hosted a dinner with local officials and citizens to hear and discuss environmental issues, opportunities and challenges. During the dinner, Commissioners expressed their appreciation to attendees for their interest and involvement in protecting environmental quality. The dinner was held at The Pine Room, located at 543 West Monroe, in Burns.

Thursday, April 25, 2002

The Commission held an executive session at 8:00 a.m., to consult with counsel concerning legal rights and duties with regard to current and potential litigation involving the Department. Executive session was held pursuant to ORS 192.660(1)(h).

At approximately 8:30 a.m., Chair Eden called the regular meeting to order and agenda items were taken in the following order.

C. Approval of Minutes

Chair Eden and Commissioner Reeve amended draft minutes of the March 7-8, 2002, meeting. On page 3, Item E, "starting-up" was changed to "starting" in the first sentence. On page 4, Item G, "early-on" was changed to "early" in the third sentence. Commissioner Van Vliet moved the Commission approve draft minutes with corrections. Commissioner

Malarkey seconded the motion and it passed with five "yes" votes.

D. Director's Dialogue

Commissioners and Director Hallock discussed current events and issues involving the Department and state. In addition, Mike Llewelyn, DEQ Water Quality Division Administrator, and Dick Nichols, DEQ Eastern Region Manager, described the status of the Snake River-Hells Canyon Total Maximum Daily Load (TMDL) and answered questions from the Commission.

E. Information Item: Status Update on DEQ Approval for the Start of Umatilla Chemical Agent Disposal Facility Surrogate Operations

Wayne Thomas, DEQ Administrator of the Umatilla Chemical Demilitarization Program, gave the Commission an update on the status of activities that must be completed before DEQ approves the start of Umatilla Chemical Agent Disposal Facility (UMCDF) surrogate operations. In March 2002, the Commission modified the hazardous waste permit for the UMCDF to require DEQ approval for starting surrogate operations (scheduled for May 2002) and Commission approval for starting chemical agent operations (scheduled for February 2003). Commissioners discussed progress and upcoming work at UMCDF with Mr. Thomas and Director Hallock.

F. Rule Adoption: Mercury Thermostat Labeling Rules

David Rozell, Acting DEQ Land Quality Division Administrator, proposed new rules for labeling mercury-containing thermostats to help homeowners and building contractors dispose of thermostats correctly. Mr. Rozell explained that the rules were needed to implement a law passed by the 2001 Legislature intended to reduce the release of mercury, a toxic chemical, to the environment. Mr. Rozell described plans to make the rules effective this summer, working with thermostat manufacturers that produce thermostats sold in Oregon, as well as stakeholders involved in reducing mercury in the environment. Commissioners discussed the new rules with Mr. Rozell, noting that the Legislature made the Department of Justice, rather than DEQ, responsible for enforcing the requirement. Commissioner Reeve moved the Commission adopt the rule. Commissioner Malarkey seconded the motion and it passed with five "yes" votes.

G. Rule Adoption: Amendments to the Oregon Visibility Protection Plan

Brian Finneran, DEQ Air Quality specialist, proposed improvements to the Oregon Visibility Protection Plan, which was adopted in 1986 to protect certain areas of the state from air pollution. The plan covers Crater Lake National Park and eleven national wilderness areas in Oregon. As periodically required by law, DEQ reviewed the plan in consultation with a stakeholder advisory committee to develop recommendations and plan improvements. Mr. Finneran summarized changes to expand Oregon's visibility monitoring network, strengthen smoke management coordination, increase the use of non-burning

alternatives for agriculture and forestry, and improve tracking of burning and fire emissions. The plan is one part of Oregon's State Implementation Plan (SIP) for protecting air quality under the federal Clean Air Act. Commissioners discussed the proposed changes and gave suggestions for working with stakeholders and other agencies. Commissioner Van Vliet moved the Commission adopted proposed amendments to the plan as a revision to the SIP. Commissioner Bennett seconded the motion and it passed with five "yes" votes.

H. Information Item: Updating the Performance Partnership Agreement between DEQ and the Environmental Protection Agency

Director Hallock introduced Marianne Fitzgerald, DEQ Cross Program Coordinator, to report on negotiations with the federal Environmental Protection Agency (EPA) to update the Performance Partnership Agreement. Ms. Fitzgerald explained that the agreement describes how DEQ and EPA carry out joint environmental responsibilities for air quality, water quality and hazardous waste, including work priorities and program commitments. Commissioners gave suggestions for soliciting input from the Tribes, other stakeholders and the public in updating the agreement, which will be finalized in June 2002.

Public Forum

At approximately 11:30 a.m., Chair Eden asked whether anyone wished to provide public comment. David Evans, representing the Burns Paiute Tribe, expressed appreciation to the Commission for meeting in Burns, and commented on the good working relationship between DEQ staff and the Burns Paiute Tribe.

J. Commissioners' Reports

Commissioner Malarkey reported on her recent participation in a watershed management workgroup, and provided the Commission information on the "Waste to Work" Partnership program, which helps business, government and non-profit agencies develop recycling and waste disposal alternatives.

Commissioner Bennett commented on the high value and quality of the Hines-Burns meeting, noting exceptional dialogue and interaction with local officials and stakeholders.

Chair Eden adjourned the meeting at approximately 12:30 p.m.

[1] Staff reports and written material submitted at the meeting are made part of the record and available from DEQ, Office of the Director, 811 SW Sixth Avenue, Portland, Oregon 97204; phone: (503) 229-5990.

[2] Chair Eden arrived shortly after the meeting was called to order.

For more information contact Mikell O'Mealy at 503-229-5301.

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If you have questions or comments contact DEQ's webmaster.