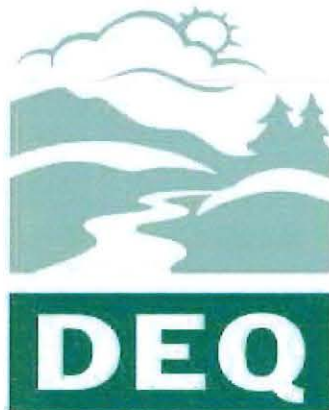


OREGON  
ENVIRONMENTAL QUALITY  
COMMISSION MEETING  
MATERIALS 10/09/2003



State of Oregon  
**Department of  
Environmental  
Quality**

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State of Oregon  
Department of Environmental Quality

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**To:** Environmental Quality Commission      **Date:** September 19, 2003  
**From:** Mikell O'Mealy  
**Subject:** October 9-10, 2003 EQC Meeting Materials

Enclosed are your materials for the October 9-10 EQC meeting in John Day, which will include a Commission tour on Thursday morning, regular meeting work on Thursday and Friday, and a meeting with local officials on Thursday evening. We are starting the event with a dinner on Wednesday night with DEQ Eastern Region staff, who will give an overview of regional activities, local environmental challenges and recent successes. The dinner will begin at 5:00 p.m. on the evening of October 8, and will be held at Shoshoni Winds, located at 128 West Front Street, in Prairie City (see attached driving directions). We have made hotel reservations for you for Wednesday and Thursday evening (October 8 and 9) at the Best Western John Day Inn, located at 315 W. Main Street in John Day, OR 97845; phone: (541) 575-1700, fax: (541) 575-1558 (see attached driving directions). If you have any questions about the meeting, please let me know.

One staff report, Item G: Consideration of Pollution Control Facility Tax Credit Requests, is not included in this package and is being finalized now. I will send this staff report to you within the week.

In addition, as you know, the State of Oregon has made a number of changes to its policies for reimbursing state agency travel and meal costs. These changes are among a number of other administrative restrictions designed to save the State money in these tight budget times. Attached is a summary that clarifies reimbursement rules for Commission meetings, and a new Travel Expense sheet on which you may record all of your travel and meal costs for each meeting. This sheet will replace the daily expense forms we've provided you in the past, and I hope this simplifies your process of documenting expenses and answers any questions you have about reimbursement. If you do have remaining questions, please let me know.

Finally, I have attached an updated *DEQ Acronym List and Glossary*, for your reference in reviewing technical materials and hearing detailed presentations.

If there are any other needs I can help you with, please contact me at 503-229-5301, or toll-free at 1-800-452-4011 ext. 5301 in the state of Oregon.

I look forward to seeing you soon.



## Oregon Environmental Quality Commission Meeting October 9-10, 2003

USDA Malheur National Forest Building  
Juniper Hall  
431 Patterson Bridge Road  
John Day, Oregon

*Please note - the previous agenda was sent to you in error. The EQC Agenda is now available online at <http://www.deq.state.or.us/about/eqc/eqc.htm>. If you would like to be removed from our mailing list or to stop receiving hard copies of our agenda, please contact the Director's Office at 503-229-5990.*

On October 8, beginning at approximately 5:00 p.m., the Commission will have dinner with DEQ Eastern Region managers and staff for an overview of regional activities, local environmental challenges and recent successes. The dinner will be held at Shoshoni Winds, located at 128 West Front Street, in Prairie City.

### **Thursday, October 9, 2003 Regular meeting begins at 1:00 p.m.**

Beginning at 9:00 a.m., the Commission will tour local environmental enhancement projects. The tour will include a working lunch. The regular Commission meeting will begin at approximately 1:00 p.m. at the USDA Malheur National Forest Building, Juniper Hall, located at 431 Patterson Bridge Road.

#### **A. Approval of Minutes**

The Commission will review, amend if necessary, and approve draft minutes of the August 14-15, 2003, Environmental Quality Commission meeting.

#### **B. Informational Item: Overview of DEQ Air Quality Programs and Policy**

Andy Ginsburg, DEQ Air Quality Division Administrator, will give the Commission a brief update on major agency programs and initiatives to protect and improve air quality in Oregon. Time will be reserved for questions and discussion.

#### **C. \*Rule Adoption: On-Road Clean Screening and Self Service Testing of Vehicles**

Andy Ginsburg, DEQ Air Quality Division Administrator, will propose rules for DEQ's Vehicle Inspection Program, which tests emissions from cars in the Portland and Medford areas to protect air quality. The Commission will consider adopting rules to establish two new vehicle testing programs that would make it easier to do business with DEQ. The first program, On-Road Clean Screening, would screen vehicles while on the road and send owners of the cleanest vehicles notices that their vehicles need not be tested at VIP's centralized test stations. The second program, Self Service Testing, would allow customers to self-test their emissions at a designated facility 24 hours a day and 7 days a week. These new programs would build on significant customer service improvements DEQ has made over the past two years.

**D. \*Rule Adoption: Oregon Air Toxics Rules**

Andy Ginsburg, DEQ Air Quality Administrator, will propose rules developed with the help of two stakeholder advisory committees over the past five years to create state air toxics program. This program would supplement the federal air toxics program DEQ has been implementing since 1990. The state program would target urban-area air toxic emissions from mobile and various small sources of pollution to complement the industrial focus of the federal program. Oregon's program would take a community-based approach by creating a framework for adopting concentration limits for certain pollutants, identifying high-risk areas of the state, and implementing local emission reduction plans. The Department last briefed the Commission on the development of the program in July 2002.

**E. Informational Item: Oregon Clean Diesel Initiative**

Andy Ginsburg, DEQ Air Quality Division Administrator, and Kevin Downing, DEQ Air Quality Planner, will brief the Commission on the Department's initiative to reduce pollution from diesel exhaust through the Clean Diesel Initiative, a voluntary, incentive supported program.

At approximately 5:00 p.m., the Commission will hold a working dinner with staff at The Outpost banquet room, located at 155 W Main Street in John Day. From 6:30 to 8:00 p.m., the Commission will hold a public meeting with local officials to discuss environmental issues and opportunities.

**Friday, October 10, 2003 Regular meeting begins at 8:30 a.m., includes a working lunch**

Prior to the regular meeting, the Commission will hold an executive session at approximately 8:00 a.m. 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.

**F. Director's Dialogue**

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

**G. Action Item: Consideration of Pollution Control Facilities Tax Credit Requests**

In 1967, the Oregon Legislature established the Pollution Control Facility Tax Credit Program to help businesses meet environmental requirements. The program was later expanded to encourage investment in technologies and processes that prevent, control or reduce significant amounts of pollution. In 1999, facilities that control nonpoint sources of pollution control (such as wood chippers) were made eligible for the program. At this meeting, the Commission will consider approving tax credit applications for facilities that control air and water pollution, recycle solid and hazardous waste, reclaim plastic products, and control pollution from underground fuel tanks.

- H. Informational Item: Status Update on the Umatilla Chemical Agent Disposal Facility**  
Dennis Murphey, DEQ Chemical Demilitarization Program Administrator, will update the Commission on the status of trial burns, public outreach efforts, legal proceedings, and other issues related to the Umatilla Chemical Agent Disposal Facility (UMCDF).
- I. Informational Item: Overview of DEQ Land Quality Programs and Policy**  
Dick Pedersen, DEQ Land Quality Division Administrator, will give the Commission a brief update on major DEQ programs and policies for solid and hazardous waste management, environmental clean-up, and "cross program" activities that address air, water and land quality issues. Time will be reserved for questions and discussion.
- J. \*Rule Adoption: Hazardous Waste Rule Amendments**  
Dick Pedersen, DEQ Land Quality Division Administrator, will propose change to hazardous waste management rules to incorporate changes in the federal Resource Conservation and Recovery Act, necessary to maintain federal delegation of DEQ's Hazardous Waste Program. The Commission last updated state rules in July 2000. Current proposed changes include adoption of procedural and technical corrections to the federal law, new federal requirements, and clarifications to state-only hazardous waste rules consistent with federal citations and references.
- K. \*Rule Adoption: Underground Storage Tank Rule Revision**  
Dick Pedersen, DEQ Land Quality Division Administrator, will propose a permanent rule to amend the definition of "underground storage tank" to clarify when such tanks are regulated by DEQ. In Oregon, fuel tanks are regulated in one of two ways: the Oregon State Fire Marshal regulates above ground storage tanks and DEQ regulates underground storage tanks. A question was raised recently about the regulation of certain tanks that are partially covered with earthen materials. In recognizing potential ambiguity in the current state rules, the Commission adopted a temporary rule in May 2003 to make tank regulations more clear, and directed the Department to begin a formal rulemaking process to develop a permanent rule. At this meeting, the Commission will consider adoption of the permanent rule that clearly distinguishes between underground and above ground storage tanks.
- L. Commissioners' Reports**

Adjourn

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The next Commission meeting is scheduled for December 4-5, 2003.

**Agenda Notes**

**\*Rule Adoptions:** 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.

**Copies of staff reports** for individual agenda items are available by contacting Andrea Crozier 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 extension 5990, 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 Andrea Crozier as soon as possible, but at least 48 hours in advance of the meeting.

**Public Forum:** The Commission will break the meeting at approximately 11:30 a.m. on Friday, October 10 to provide members of the public an opportunity to speak to the Commission on environmental issues not part of the agenda for this meeting. Individuals wishing to speak to the Commission must sign a request form at the meeting and limit presentations to five minutes. The Commission may discontinue public forum after a reasonable time if a large number of speakers wish to appear. In accordance with ORS 183.335(13), no comments may be presented on Rule Adoption items for which public comment periods have closed.

**Note:** Because of the uncertain length of time needed for each agenda item, the Commission may hear any item at any time during the meeting. If a specific time is indicated for an agenda item, an effort will be made to consider that item as close to that time as possible. However, scheduled times may be modified if participants agree. Those wishing to hear discussion of an item should arrive at the beginning of the meeting to avoid missing the item.

## Environmental Quality Commission Members

The Environmental Quality Commission is a five-member, all volunteer, citizen panel appointed by the governor for four-year terms to serve as DEQ's policy and rule-making board. Members are eligible for reappointment but may not serve more than two consecutive terms.

### **Mark Reeve, Chair**

Mark Reeve is an attorney with Reeve Kearns in Portland. He received his A.B. at Harvard University and his J.D. at the University of Washington. Commissioner Reeve was appointed to the EQC in 1997 and reappointed for a second term in 2001. He became Chair of the EQC in 2003. Commissioner Reeve also serves as Co-Chair of the Oregon Watershed Enhancement Board.

### **Tony Van Vliet, Vice Chair**

Tony Van Vliet received his B.S. and M.S. in Forest Production at Oregon State University. He has a Ph.D. from Michigan State University in Wood Industry Management. Commissioner Van Vliet served sixteen years as a member of the Public Lands Advisory Committee, has been a member of the Workforce Quality Council, served sixteen years as a State Representative on the Legislative Joint Ways and Means Committee, and served eighteen years on the Legislative Emergency Board. He currently resides in Corvallis. Commissioner Van Vliet was appointed to the EQC in 1995 and reappointed for an additional term in 1999.

### **Harvey Bennett, Commissioner**

Harvey Bennett is a retired educator. He has taught and administered at all levels of education, concluding as president emeritus of Rogue Community College. Commissioner Bennett has a B.S., M. Ed. and Ph.D. from the University of Oregon. Commissioner Bennett was appointed to the EQC in 1999 and he currently resides in Grants Pass.

### **Deirdre Malarkey, Commissioner**

Deirdre Malarkey is a graduate of Reed college, with graduate degrees from the University of Oregon. She has served previously on two state natural resource boards and on the Water Resources Commission and retired as a land use planner. Commissioner Malarkey was appointed to the EQC in 1999 and lives in Eugene.

### **Lynn Hampton, Commissioner**

Lynn Hampton serves as Tribal Prosecutor for the Confederated Tribes of the Umatilla Indian Reservation and previously was Deputy District Attorney for Umatilla County. She received her B.A. at University of Oregon and her J.D. at University of Oregon School of Law. Commissioner Hampton was appointed to the EQC in July 2003 and lives in Pendleton.

### **Stephanie Hallock, Director**

#### **Department of Environmental Quality**

811 SW Sixth Avenue, Portland, OR 97204-1390

Telephone: (503) 229-5696 Toll Free in Oregon: (800) 452-4011

TTY: (503) 229-6993 Fax: (503) 229-6124

E-mail: [deq.info@deq.state.or.us](mailto:deq.info@deq.state.or.us)

Mikell O'Mealy, Assistant to the Commission

Telephone: (503) 229-5301

## October 9-10, 2003 EQC Meeting

Meeting site: USDA Malheur National Forest Building  
431 Patterson Bridge Road, John Day, OR. Phone 541-575-3000

### October 8

- 10:45 am **Portland Group** - Drive from Portland to John Day, via Hwy 26. Eat brown bag lunches along the way.
- 1:30 pm **Pendleton Group** - Drive from Pendleton to John Day, via Hwy 395.
- 4:00 pm Arrive at John Day. Check into the Best Western John Day Inn, relax and freshen up. (315 W Main. Phone 575-1700. Rooms paid for individually at check-in.)
- 4:50 pm *Meet in the lobby area of the hotel, prior to departure for dinner, via carpool.*
- 5:00 pm **Demonstration of DEQ Clean Up work** on the way to dinner.
- 5:30 pm **Dinner with DEQ Eastern Region managers and staff** to hear an overview of regional work, highlighting challenges and recent successes. Dinner at Shoshoni Winds in Prairie City. (128 W Front Street. Meals paid with state VISA card. Estimate 15 attendees. Separate room reserved. Order off the menu; no host adult drinks. Phone 820-4544.)

### October 9

- 8:00 am Continental breakfast at the motel (begins at 7:00 am), or breakfast at The Outpost. (155 W. Main. Pay individually, and order off the menu.)
- 8:50 am *Meet in the lobby area of the hotel, prior to departure for tour.*
- 9:00 - 11:30 **Upper John Day River Basin tour** focusing on rural water quality improvement projects and issues. Although a TMDL for the John Day has not yet been established, the tour will demonstrate the kinds of projects that are already being implemented in the Upper John Day and that are typical of the kind of work that is needed to implement nonpoint source portions of TMDLs in Eastern Oregon (largely temperature and sediment related).
- 9:30 Arrive at Page Ranch -- Discuss pond restoration, conservation easement, and grazing allotment. This is a large, multi-partner project, including OWEB.
- 10:15 Arrive at Holiday Ranch -- Discuss irrigation return flow cooling project.
- 10:40 Depart Holiday Ranch for a "windshield tour" of the Upper John Day Watershed, including riparian fencing projects, forest conservation reserves, fire damage in the upper watershed and a general discussion.
- 11:30 am Arrive back at the hotel.
- 11:45 - Noon Travel to the Malheur National Forest building, Juniper Hall meeting room (431 Patterson Bridge Road. Phone 575-3000.)
- Noon Lunch catered into the meeting site by The Squeeze In. (Paid with state VISA card. Estimate 18 attendees. Phone 575-1045.)



1:00 – 3:30 pm **EQC meeting**

- A. Approval of minutes
- B. Informational Item: Overview of AQ programs and policy (45 min), Andy Ginsburg
- C. Rule Adoption: AQ VIP Clean Screening (30 min), Andy Ginsburg
- D. Rule Adoption: AQ Air Toxics (30 min), Andy Ginsburg
- E. Discussion Item: AQ Diesel Retrofit Initiatives to Reduce Air Toxics (45 min), Andy Ginsburg

3:30 pm Return to hotel, rest and relax, freshen up.

4:50 pm *Meet in the lobby area of the hotel, prior to departure for dinner, via carpool.*

5:00 pm **Dinner with DEQ staff** in preparation for meeting with local officials, at The Outpost. (Meals paid with state VISA card. Estimate 18 attendees. Banquet room reserved. Order off the menu.)

6:30 – 8:00 pm **Public meeting with local officials** at The Outpost banquet room; no host.

**October 10**

7:30 am *Check out of Best Western rooms. Meet in the lobby area of the hotel, prior to departure for the meeting, via carpool.*

7:50 – 8:00 am Travel to the Malheur National Forest building, Juniper Hall meeting room.

8:00 am Pastries, juice & coffee catered into the meeting site by The Outpost. (Paid with state VISA card. Estimate 19 attendees.)

8:00 - 8:30 am **EQC executive session**

8:30 - Noon **EQC meeting**

- F. Director's Dialogue (20 min)
- G. Action Item: PCTC Consideration (15 min), Maggie Vandehey
- H. Informational Item: UMCDF status (30 min), Dennis Murphey
- I. Informational Item: Overview of LQ programs and policy (45 min), Dick Pedersen
- J. Rule Adoption: LQ Amend Hazardous Waste Rules (30 min), Dick Pedersen
- K. Rule Adoption: Permanent Rule Amending the Definition of "Underground Storage Tank" (20 min), Dick Pedersen
- L. Commissioners' Reports

Noon Lunch catered into the meeting site by The Squeeze In. (Paid with state VISA card. Estimate 20 attendees.)

1:30 pm Depart for Portland.

6:30 pm Arrive at Portland.

## Driving Directions

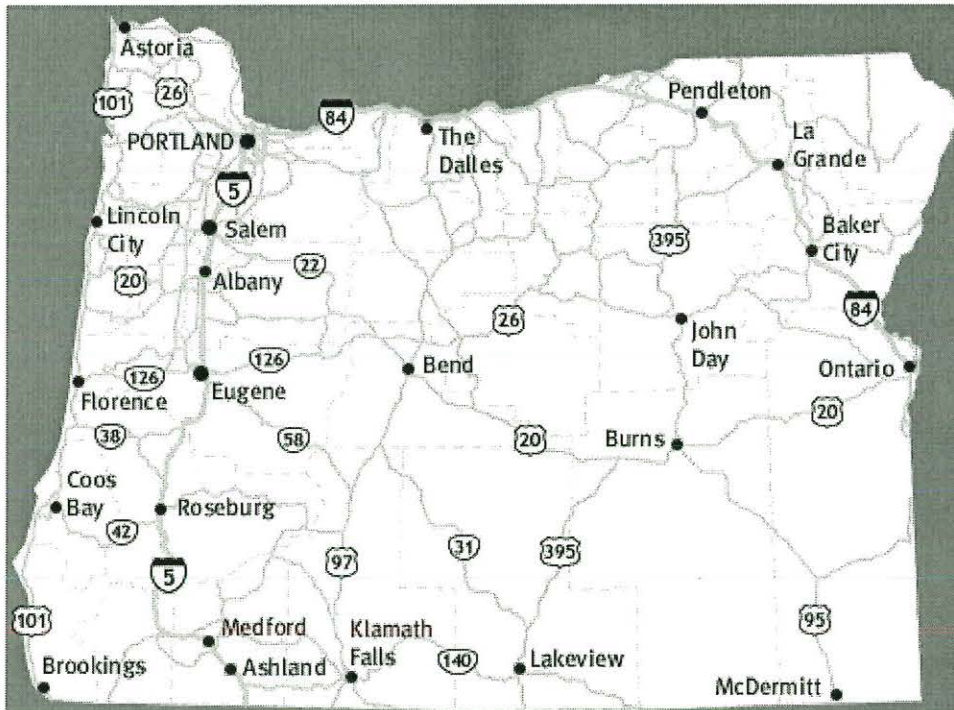
### October 8<sup>th</sup>

*From Portland to Best Western in John Day (315 W Main Street John Day, OR 97845, Phone: (541) 575-1700, Fax: (541) 575-1558)*

- Travel southeast toward John Day on US-26
- Total distance is approximately 264 miles

*From Bend/Prineville to Best Western in John Day (315 W Main Street, John Day, OR 97845)*

- Travel north toward Redmond on US-97
  - In Redmond merge onto OR-126 toward Prineville
  - When you reach Prineville, start traveling east on US-26 to John Day
- Total distance is approximately 153 miles



*From Best Western to Shoshoni Winds (128 W Front Street, Prairie City, OR 97869)*

- Travel east on US-26 to Prairie City
- Total distance is approximately 21 miles

### October 9<sup>th</sup>

*Best Western to USDA Malheur National Forest Building (Juniper Hall, 431 Patterson Bridge Road, John Day, Oregon)*

- Travel east on US-26 approximately 7 miles
  - Turn left onto Patterson Bridge Road
- Total distance is approximately 7 miles

*Best Western to Outpost Trading Company Pizza and Grill (155 W Main Street, John Day, OR 97845)*

- A short, 2 block walk east on US-26

## **Eligible Costs for EQC Members.**

### **Transportation**

Car mileage to and from EQC meetings (and other required Commission related meetings) will be reimbursed at \$0.36/mile provided that your mileage does not exceed Oregon Department of Transportation mileage calculations. For the Oregon mileage chart, please see: <http://www.odot.state.or.us/otms/QuickRef/MileageChart.pdf>

If you exceed the ODOT Car Mileage you must attach written explanation. The Business Office will allow a 15 mile buffer for transportation around town.

Miscellaneous transportation expenses such as parking and shuttle fees may be reimbursed.

Air travel must have prior approval from the agency, and reservations must be made by DEQ using *Away Travel*. Please contact the Director's office at 503-229-5990 to arrange air travel.

### **Lodging and Meals**

If a Commission meeting requires that you be away from home overnight, actual and reasonable costs will be reimbursed up to the federal per diem rate of the city in which you are staying. The lodging rate is based on IRS Publication 1542. This rate structure is based on a standard rate of \$55 for lodging per night and \$31 per day for meals. The attached table provides listings of cities in Oregon, both for lodging and meals, which exceed the standard rate. This table can also be found at:

<http://policyworks.gov/org/main/mt/homepage/mtt/perdiem/perdiem.cfm?st=OREGON&yr=2003>

Room tax is reimbursed separately as a miscellaneous expense.

The non-commercial lodging rate (which applies to overnight stays with family and friends, for example) is \$25 per day.

EQC Members have the flexibility to claim meal allowance at per diem or actual costs incurred that do not exceed the per diem amount. For example, per diem for dinner in Portland is \$21.00. If you purchased a deli sandwich for dinner and only spent \$6.75 on dinner then you can choose to be reimbursed for the actual expense incurred (\$6.75) or the per diem amount of \$21.00. Please indicate in box #12 on your expense claim if you would like to receive actual or per diem reimbursement.

***Please note: Original receipts are required for all expenses with the exception of meals.***

### **Meals - Day Trips**

Meal allowances for trips that do not require an overnight stay are provided under the following conditions:

Breakfast - If a Commission meeting requires you to leave your residence or place of business on or before **6:00 AM**.

Lunch - No lunch allowance is provided on day trips, unless you are participating in a working lunch provided during the EQC meeting.

Dinner - If you are required to return to your residence or place of business on or after **7:00 PM**.

## **Meals - Overnight Trips**

The following rules apply for calculating meal reimbursement on days of partial travel associated with overnight trips:

<b>Initial Day of Travel - Leave</b>	<b>Prior to 6:00 AM</b>	<b>6:00 AM to Noon</b>	<b>12:01 PM to 6:00 PM</b>	<b>After 6:00 PM</b>
Meal Allowance Percentage	100%	75%	50%	25%
<b>Final Day of Travel - Return</b>				
Meal Allowance Percentage	25%	50%	75%	100%

For example: If the meal per diem rate is \$38 per day, and you left your home/official station at 8:00 AM, then you would claim \$28.50 (\$38 x 75%) on your first day of travel.

***Please note: When a meal is provided it will be clearly marked on your Travel Expense Worksheet and no meal allowance may be claimed for that meal.***

## **TRAVEL AWARDS**

The Travel Expense Worksheet includes a section (see # 24) which requires you to report whether or not any travel awards were earned as a result of, or associated with your trip. Travel awards earned during official state business travel become the property of the State and must be used only to reduce the cost of future state travel. In the event that travel awards are accrued, they are required to be disclosed on a separate form. Please contact our office at 503-229-5990 to request a copy of this form or it can be found at:  
<http://scd.das.state.or.us/oam/scdpolicy/754002fo.doc>

Travel awards are defined as "any object of value awarded by a business providing commercial transportation or lodging which can be used to reduce travel costs." Travel awards include, but are not limited to airline frequent flyer miles and hotel or car rental customer award bonuses, points, free rental days or hotel stays. Travel awards also include airline flight segment certificates or dollar bonuses that are offered to a traveler who is voluntarily or involuntarily bumped from an oversold flight. Similar inconvenienced customer rewards offered by hotel or car rental agencies shall also become property of the State.

## **STATE OF OREGON TRAVEL POLICY**

The complete State of Oregon travel policy can be found at:  
<http://scd.das.state.or.us/oam/scdpolicy/401000poa.htm>

## **BUDGET**

Reimbursement will be made to the extent the budget allows. Members are encouraged to use prudence when incurring costs which will be reimbursed.

***Please contact the Director's Office at 503-229-5990 if you have any travel related questions. The Director's Office can assist with making room reservations, transportation arrangements, restaurant recommendations, provide maps, and any other details you may require.***

# MILEAGE TABLE

## Selected Cities in Oregon

Prepared by the  
Oregon Department of Transportation  
Transportation Development Division  
Road Inventory and Classification Services  
2003

MILEAGE TABLE	Albany	Ashland	Astoria	Baker City	Bend	Burns	Coos Bay	Corvallis	Eugene	Florence	Forest Grove	Grants Pass	Gresham	Klamath Falls	La Grande	McMinnville	Medford	Newberg	Newport	Ontario	Pendleton	Portland	Redmond	Roseburg	Salem	Springfield	The Dalles	Tillamook	Woodburn
Albany	-	219	158	351	123	253	147	11	44	94	73	179	78	213	329	50	207	50	65	383	277	69	121	111	24	43	152	92	40
Arlington	205	370	228	168	169	230	347	216	245	298	160	380	126	306	124	173	381	159	248	239	72	136	153	313	182	244	53	210	166
Ashland	219	-	374	447	200	299	182	222	178	202	290	41	295	64	472	264	12	269	252	428	442	285	216	108	240	176	331	309	255
Astoria	158	374	-	396	255	385	233	151	199	184	80	334	108	364	352	105	362	106	134	464	300	95	239	266	136	199	175	66	121
Baker City	351	447	396	-	247	164	466	356	356	404	328	488	294	383	44	341	459	327	393	72	96	304	230	421	350	352	221	378	333
Bandon	171	182	257	490	261	392	24	158	140	72	223	142	244	245	495	198	170	212	122	522	443	236	259	85	201	137	318	191	206
Beaverton	67	282	93	312	167	297	208	79	107	159	15	242	21	276	268	34	270	20	109	383	216	9	151	175	44	107	91	67	28
Bend	123	200	255	247	-	130	237	127	128	190	181	241	145	137	271	158	212	161	180	260	241	160	16	192	131	124	131	206	146
Brookings	249	146	339	559	295	424	107	238	216	155	306	105	327	208	565	280	134	294	205	555	525	317	311	168	272	220	400	274	289
Burns	253	299	385	164	130	-	367	257	259	320	311	339	275	235	205	288	311	291	310	130	198	290	146	322	261	253	260	336	276
Clatskanie	130	347	35	361	221	351	256	128	171	207	56	306	75	341	317	82	334	82	157	431	265	61	205	238	108	170	140	93	91
Condon	220	329	244	189	128	192	347	231	237	300	175	370	141	265	155	189	341	174	300	254	103	151	112	302	198	234	69	225	182
Coos Bay	147	182	233	466	237	367	-	135	116	48	200	142	220	245	471	174	170	188	98	498	419	212	235	85	177	113	294	167	186
Coquille	164	164	251	484	255	385	18	153	134	66	217	124	238	227	489	192	152	206	116	516	437	229	253	67	195	131	312	185	199
Corvallis	11	222	151	356	127	257	135	-	40	83	71	182	90	213	340	46	210	58	53	388	288	81	126	111	35	44	163	90	51
Cottage Grove	60	158	216	370	142	271	96	60	20	83	132	118	137	181	386	106	146	111	113	402	334	127	140	51	81	17	209	151	99
Dallas	31	248	129	364	146	276	164	29	70	112	51	208	71	242	320	25	236	37	70	406	268	60	144	140	15	73	143	64	32
Elgin	349	492	354	64	291	225	491	360	389	434	303	524	270	428	20	317	504	303	393	135	72	279	275	459	326	386	197	353	309
Enterprise	386	536	409	106	336	270	528	397	426	479	341	561	307	473	65	354	548	340	429	178	109	317	320	494	363	426	234	391	347
Eugene	44	178	199	356	128	259	116	40	-	61	112	138	120	173	369	86	166	94	91	388	318	110	126	71	64	4	193	130	81
Florence	94	202	184	404	190	320	48	83	61	-	151	162	172	234	422	126	190	139	50	450	371	164	188	94	118	65	245	119	135
Forest Grove	73	290	80	328	181	311	200	71	112	151	-	250	36	285	283	26	278	26	101	398	232	23	166	182	50	115	107	52	45
Fossil	213	309	264	195	108	172	328	218	218	280	195	350	166	245	175	209	321	194	280	233	123	171	92	282	218	214	89	245	236
Gold Beach	225	175	311	544	316	446	78	213	194	126	278	134	299	238	549	252	162	267	176	576	497	290	314	140	255	192	373	247	261
Grants Pass	179	41	334	488	241	339	142	182	138	162	250	-	254	104	504	224	29	229	212	470	452	245	257	68	199	136	327	269	216
Heppner	260	372	283	155	172	213	391	271	301	345	215	413	181	309	111	228	384	214	303	227	59	191	155	346	237	277	109	265	221
Hermiston	255	399	282	124	219	223	396	266	297	348	210	409	176	351	80	224	387	209	298	195	28	186	203	363	232	295	104	260	216
Hillsboro	73	292	87	322	176	306	206	78	117	156	6	252	30	286	278	32	280	20	106	391	226	17	160	184	50	117	101	58	37
Hood River	131	346	154	242	152	282	273	142	172	224	86	307	52	289	198	99	335	85	174	312	146	62	136	239	108	171	21	136	92
Independence	20	238	134	362	143	273	159	22	63	106	54	198	68	233	318	28	226	40	75	404	266	59	141	131	12	67	141	72	30
John Day	257	353	359	80	153	70	372	262	262	324	287	393	249	290	135	292	365	285	315	132	127	264	136	327	266	258	190	337	281
Junction City	31	193	177	358	130	260	116	26	14	63	97	153	109	187	359	72	181	84	77	391	308	100	128	85	54	18	183	116	72
Klamath Falls	213	64	364	383	137	235	245	213	173	234	285	104	282	-	408	259	76	263	265	365	378	279	153	171	234	170	268	303	250
La Grande	329	472	352	44	271	205	471	340	369	422	283	504	250	408	-	297	484	283	372	115	52	259	255	437	306	369	177	333	289
Lake Oswego	63	283	102	311	169	299	216	78	108	157	27	239	19	273	266	34	271	20	110	381	215	8	167	176	41	108	89	81	24
Lakeview	298	160	430	303	174	139	341	301	261	322	357	200	320	96	344	332	171	335	353	270	337	335	191	267	306	259	305	380	323
Lebanon	14	220	169	337	109	239	150	19	45	99	85	180	89	214	340	61	208	64	71	369	288	80	107	112	35	45	163	106	54
Lincoln City	76	289	110	392	189	319	123	74	122	75	76	238	99	292	348	50	266	65	25	450	296	88	187	170	57	122	171	44	76
Madras	147	243	213	240	42	172	262	152	151	214	140	283	103	179	251	153	255	138	204	278	199	118	26	216	155	148	89	190	133
McDermitt	390	346	532	256	277	147	514	404	406	467	458	410	422	306	299	435	381	438	458	184	351	437	293	469	408	400	407	483	423
McMinnville	50	264	105	341	158	288	174	46	86	126	26	224	49	259	297	-	252	14	76	411	245	38	156	157	26	90	120	67	33
Medford	207	12	362	459	212	311	170	210	166	190	278	29	282	76	484	252	-	257	240	442	454	273	228	96	227	164	343	297	243
Millton-Freewater	306	471	329	111	271	227	449	317	347	400	261	482	228	408	69	275	483	260	118	180	29	237	255	414	284	346	155	311	268
Milwaukie	71	287	101	309	173	303	220	81	112	161	30	243	16	277	265	42	275	28	116	380	214	7	171	179	44	111	88	75	28
Newberg	50	269	106	327	161	291	188	58	94	139	26	229	35	263	283	14	257	-	89	397	231	23	159	161	30	94	106	78	19
Newport	65	252	135	411	183	311	98	54	92	50	102	212	124	267	373	76	240	90	-	442	321	114	179	144	83	96	196	69	100
North Bend	144	185	230	463	235	364	3	132	113	45	197	145	220	248	467	171	173	185	95	495	416	209	233	88	174	111	291	164	191
Nyssa	386	433	480	85	263	133	501	391	391	453	413	473	377	368	128	425	445	411	437	13	180	388	271	456	395	387	305	462	409
Oakridge	82	179	232	329	96	226	145	82	42	103	153	167	157	131	367	128	167	135	136	356	337	151	112	98	106	34	235	171	123
Ontario	383	428	464	72	260	130	498	388	388	450	398	470	364	365	115	411	442	397	424	-	167	374	268	453	392	384	293	448	403
Oregon City	60	276	109	312	158	287	207	71	101	154	36	236	18																



U. S. General Services



<b>Per Diem rates for OREGON</b> Effective October 1, 2002							State Tax Exemption List	Standard CONUS Property List
Per diem locality <small>(Cities not listed or located in listed counties have a Standard CONUS rate of \$55 Lodging &amp; \$31 M&amp;IE for FY 2004; for all other years the rate is \$55 Lodging &amp; \$30 M&amp;IE)</small>		Maximum lodging (excludes taxes) (a)	+	M & IE rate (b)	=	Maximum per diem rate (4) (c)	Property Listing Update	
Key city (1)	County and/or other defined location (2, 3)						Properties at Per diem	
Ashland	Jackson	59		46		105	<u>Prop. List</u>	
Beaverton	Washington	59		42		101	<u>Prop. List</u>	
Bend (Jun 1 - Sep 30) (Oct 1 - May 31)	Deschutes	69		42		111	<u>Prop. List</u>	
		59		42		101	<u>Prop. List</u>	
Clackamas	Clackamas	66		38		104	<u>Prop. List</u>	
Crater Lake	Klamath	74		34		108	<u>Prop. List</u>	
Eugene	Lane (except Florence)	62		42		104	<u>Prop. List</u>	
Florence	City limits of Florence (see Lane County)	80		38		118	<u>Prop. List</u>	
Gold Beach	Curry	58		34		92	<u>Prop. List</u>	
Lincoln City/Newport	Lincoln	65		38		103	<u>Prop. List</u>	
Portland	Multnomah	91		42		133	<u>Prop. List</u>	
Seaside (Jul 1 - Aug 31) (Sep 1 - Jun 30)	Clatsop	79		38		117	<u>Prop. List</u>	
		59		38		97	<u>Prop. List</u>	

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Privacy Policy

**STATE OF OREGON**  
**Employee Report of Travel Awards**  
**Accepted While Conducting State Business**

**AGENCY:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Division:** \_\_\_\_\_

**Report from:** \_\_\_/\_\_\_/20\_\_\_ to \_\_\_/\_\_\_/20\_\_\_

Please use multiple reports for each airline that you have accepted travel awards while on State business.

**Name of Employee:** \_\_\_\_\_

**Work Section:** \_\_\_\_\_

**Name of Airline:** \_\_\_\_\_

**Frequent Flyer Account #:** \_\_\_\_\_

**AIRLINE AWARDS EARNED/USED**

**State Travel Awards Previous Balance:** \_\_\_\_\_

**Adjustments From Previous Reports:** \_\_\_\_\_

**\*Explanation**

**Awards *Earned* During Period: (+)** \_\_\_\_\_

**Awards *Used* During Period: (-)** \_\_\_\_\_

**Awards Lapsed/Expired:** \_\_\_\_\_

**State Travel Awards Ending Balance: (=)** \_\_\_\_\_

**OTHER AWARDS ACCEPTED**

Program	Beginning Balance	Awards Earned	Awards Used, Adjusted or Expired	Ending Balance

I certify that the information provided is true and accurate.

\_\_\_\_\_  
**Employee Signature**

\_\_\_\_\_  
**Date**

**\*\*This form is to be completed and must accompany any Travel expense Detail Sheet that indicates travel awards were or will be accepted. Missing disclosure forms will delay payment of the travel expense reimbursement. Employees must retain their travel award statements.**



## Acronym List

105 Funds	Federal grant funds awarded annually to DEQ under section 105 of the CAA
ACDP	Air Contaminant Discharge Permit
ACSIS	Air Contaminant Source Information System
ACT	Association for Commuter Transportation
AEA	Atomic Energy Act
ALAPCO	Association of Local Air Pollution Control Officials
AOC	Areas of Contamination
AOI	Associated Oregon Industries
API	Air Pollution Index
API	American Petroleum Institute
AQ	Air Quality
AQMA	Air Quality Management Area
AQMD	Air Quality Management District
ASB	Asbestos
ASTM	American Society for Testing and Materials
ATSDR	Agency for Toxic Substances and Disease Registry
BAA	Business Area Analysis
BACM	Best Available Control Measure
BACT	Best Available Control Technology
BAT	Best Available Technology economically available
BCT	Best Conventional Pollutant Control Technology
BDAT	Best Demonstrated Available Technology
BOD	Biological Oxygen Demand
BMP	Best Management Practices
BPT	Best Practicable Control Technology
BRC	Below Regulatory Concern
BTA	Bicycle Transportation Alliance
CA	Cooperative Agreement
CAA	Clean Air Act (Federal)
CAA <sub>g</sub>	Compliance Assurance Agreement
CAFE	Corporate Average Fuel Efficiency
CAMU	Corrective Management Unit
CBD	Central Business District
CBI	Confidential Business Information
CD	Consent Decree
CDC	Center for Disease Control
CDS	Compliance Data System
CEM	Continuous Emission Monitoring
CEPP	Chemical Emergency Preparedness Program
CERCLA	Comprehensive Environmental Response, Compensation Liability Act (Superfund) of 1980
CFR	Code of Federal Regulations
CLV	Concentration Level Variance
CMAQ	Congestion Mitigation and Air Quality Improvement Program
CMS	Case Management System
CMS	Corrective Measures Study
CMS	Continuous Monitoring System
CNG	Compressed Natural Gas
COD	Chemical Oxygen Demand
COE	U.S. Army Corps of Engineers
CRP	Community Relations Plan
CSO	Combined Sewer Overflow
CTG	Control Technology Guideline

CWA	Clean Water Act
CWS	Community Water System
DEQ	Department of Environmental Quality
DERP	Defense Environmental Restoration Program
DFW	Department of Fish and Wildlife
DLCD	Department of Land Conservation and Development
DMR	Discharge Monitoring Report
DO	Dissolved Oxygen
DOD	Department of Defense
DOE	Department of Ecology
DOE	Department of Energy
DOF	Department of Forestry
DOGAMI	Department of Geology and Mineral Industries
DOI	Department of Interior
DOJ	Department of Justice
DOT	Department of Transportation
DP&R	Department of Parks and Recreation
DSL	Division of State Lands
DWS	Drinking Water Section of OHD
EA	Endangerment Assessment
ECD	Environmental Cleanup Division
ECO	Employee Commute Options
ECOS	Environmental Council of the States
EERU	Environmental Emergency Response Unit
EDF	Environmental Defense Fund
EHS	Extremely Hazardous Substance
EI	Emission Inventory
EIA	Economic Impact Assessment
EIDS	Emission Inventory Data System
EIS	Environmental Impact Statement
EM/CC	Enhanced Monitoring/Compliance Certification
EMD	Emergency Management Division
EPA	United States Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-To-Know Act
EQC	Environmental Quality Commission
ERCA	Emergency Response Cleanup Action
ERT	Environmental Response Team
ESAT	Environmental Services Assistance Team
ESD	Environmental Services Division
ESH	Environmental Safety and Health
ESI	Expanded Site Investigation
FFCA	Federal Facility Compliance Act
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
FIP	Federal Implementation Plan
FIPS	Federal Information Processing Standards
FIRE	Factor Information Retrieval (FIRE) System
FIT	Field Investigation Team
FLM	Federal Land Manager
FOIA	Freedom of Information Act
FR	Federal Register
FS	Feasibility Study
FSP	Field Sampling Plan
FTE	Fulltime Equivalent
FWPCA	Federal Water Pollution Control Act
GAD	Grants Administration Division

GOB	Grants Operations Branch
GOCO	Government-Owned / Contractor Operated
GOGO	Government-Owned / Government Operated
GPS	Groundwater Protection Strategy
GW	Groundwater
GRIG	Groundwater Rules Implementation Guidance
GWMA	Groundwater Management Area
HAP	Hazardous Air Pollutant
HLW	High-Level Radioactive Waste
HSCD	Hazardous Site Control Division
HSED	Hazardous Site Evaluation Division
HSP	Health and Safety Plan
HSWA	Hazardous and Solid Waste Amendments of 1984
HW	Hazardous Waste
IAG	Interagency Agreement
I/M	Inspection and Maintenance
IRIS	Integrated Risk Information System
IRM	Initial Remedial Measure
LA	Load Allocation (Nonpoint Source)
LAER	Lowest Achievable Emission Rate
LCDC	Land Conservation & Development Commission
LDRS	Land Disposal Restrictions
LEV	Low Emission Vehicle
LLW	Low-Level Radioactive Waste
LQG	Large Quantity Generator
LRAPA	Lane Regional Air Pollution Authority
LUBA	Land Use Board of Appeals
LUCS	Land Use Compatibility Statement
LUST	Leaking Underground Storage Tank
MACT	Maximum Achievable Control Technology
MARAMA	Mid-Atlantic Regional Air Management Association
MARPOL	International Convention on the Prevention of Pollution from Ships
MCL	Maximum Containment Level
METRO	Metropolitan Service District (Portland Region)
MML	Maximum Measurable Level
MOCA	Modeling Ozone Cooperative
MOU	Memorandum Of Understanding
MSCA	Multi-Site Cooperative Agreement
MSD	Management Services Division
MSDS	Material Storage Data Sheet
NAAQS	National Ambient Air Quality Standards
NAFTA	North American Free Trade Agreement
NARSTO	North American Research Strategy for Tropospheric Ozone
NARUC	National Assn of Regulatory Utility Commissioners
NCP	National Contingency Plan
NESCAUM	Northeast States for Coordinated Air Use Management
NESHAPS	National Emission Standard for Hazardous Air Pollutants
NGV	Natural Gas Vehicle
NOAA	National Oceanic Atmospheric Administration
NOPR	Notice of Proposed Rulemaking
NPDES	National Pollution Discharge Elimination
NPL	National Priorities List
NPRM	Notice of Proposed Rulemaking
NPS	Nonpoint Source
NRC	National Response Center

NRC	Nuclear Regulatory Commission
NRDA	Natural Resource Damage Assessment
NRDC	Natural Resource Defense Council
NRT	National Response Team
NSF	National Strike Force
NSPS	New Source Performance Standards
NSR	New Source Review
NTNCWS	Nontransient Noncommunity Water System
NWR	Northwest Regional Office
O <sub>3</sub>	Ozone
O&M	Operation and Maintenance
OAQPS	Office of Air Quality Planning and Standards
OAR	Oregon Administrative Rules
OD	Office of the Director
ODA	Oregon Department of Agriculture
ODF	Oregon Department of Forestry
ODOE	Oregon Department of Energy
ODOT	Oregon Department of Transportation
OEC	Oregon Environmental Council
OECM	Office of Enforcement and Compliance Division
OERR	Office of Emergency and Remedial Response
OHD	Oregon Health Division
OHMTADS	Oil and Hazardous Material Technical Assistance Data System
OIRM	Office of Information Resource Management
OMB	Office of Management & Budget
OPA 90	Oil Pollution Act of 1990
OPM	Office of Program Management
ORS	Oregon Revised Statutes
OSC	On-Scene Coordinator
OSHA	Occupational Safety & Health Administration
OSW	Office of Solid Waste
OSWER	Office of Solid Waste and Emergency Response
OWPE	Office of Waste Programs Enforcement
OWRRI	Oregon Water Resource Research Institute
PA	Preliminary Assessment
PA/SI	Preliminary Assessment / Site Investigation
PACS	Portland Aerosol Characterization Study
PBT	Persistent, Bio-accumulative, and Toxic Pollutant
pH	Measure of the acidity of water
PIP	Public Involvement Plan
PM <sub>10</sub>	Particulate Matter less than 10 microns in diameter
PO	Program Operations
POLREPS	Pollution Reports
POTW	Publicly Owned Treatment Works
PPA	Prospective Purchaser Agreement
PPB	Parts per billion
PPM	Parts per million
PRP	Potentially Responsible Party
PSD	Prevention of Significant Deterioration
PSD	Increment Prevention of Significant Deterioration Increment
PSEL	Plant Site Emission Limits
psi(a)	Pounds per square inch (actual)
PUC	Public Utility Commission
PWB	Portland Water Bureau
PWS	Portland Water Supply

QA	Quality Assurance
QC	Quality Control
QAPP	Quality Control Assurance Plan
R & D	Research and Development
RA	Remedial Action
RA	Risk Assessment
RAC	Response Action Contractor
RACT	Reasonably Available Control Technology
RAPS	Regional Air Pollution Study
RAS	Routine Analytical Services
RC	Regional Coordinator
RC	Remedial Construction
RCMS	Removal Cost Management System
RCRA	Resource Conservation and Recovery Act of 1976
RD	Remedial Design
RE	Rule Effectiveness
REM	Roentgen Equivalent Man
REM	Remedial Planning
RCRA	Resource Conservation and Recovery Act
RECLAIM	Regional Clean Air Incentives Market
RFA	RCRA Facility Assessment
RFI	RCRA Facility Investigation
RI	Remedial Investigation
RIA	Regulatory Impact Analysis
ROD	Record of Decision
RP	Responsible Party
RQ	Reportable Quantity
RRC	Regional Response Center
RRT	Regional Response Team
RSCRC	Regional Superfund Community Relations Coordinator
RTS	Removal Tracking System
RWC	Residential Wood Combustion
SAC	State Agency Coordinating Program
SARA	Superfund Amendments and Reauthorization Act of 1986
SCAP	Superfund Emergency Response Actions
SCS	Soil Conservation Service
SDWA	Safe Drinking Water Act of 1974
SEA	State-EPA Agreement
SF	Superfund
SFM	State Fire Marshall
SI	Site Inspection
SIC	Standard Industrial Classification
SIP	State Implementation Plan
SITE	Superfund Innovative Technology Evaluation
SKATS	Salem/Keizer Area Transportation Study
SMCRA	Surface Mining Control and Reclamation Act
SMOA	Superfund Memorandum of Agreement
SMP	Site Management Plan
SNCR	Selective Non-Catalytic Reduction
SOW	Statement of Work
SPCC	Spill Prevention Control and Countermeasure
SPMS	Strategic Planning and Management System
SQG	Small Quantity Generator
SRLF	State Revolving Loan Fund
SSC	Scientific Support Contractor

SSC	Superfund State Contractor
STAPPA	State & Territorial Air Pollution Program Administrators
STP	Sewage Treatment Plant
SW	Solid Waste
SWCD	Soil and Water Conservation District
SWDA	Solid Waste Disposal Act
SWL	Static Water Level
SWMG	State Water Management Group
SWWAPA	Southwest Washington Air Pollution Authority
T ½	Half Life
TAC	Technical Advisory Committee
TACT	Typically Achievable Control Technology
TAG	Technical Assistance Grant
TAP	Technical Assistance Program
TAT	Technical Assistance Team
TCM	Transportation Control Measures
TES	Technical Enforcement Services
Title III	Title III of the Clean Air Act Amendments of 1990 (CAAA90)
Title V	Title V of the CAAA90
TMDL	Total Maximum Daily Load
TNCWS	Transient Noncommunity Water System
TOD	Transportation Oriented Development
TPY	Tons Per Year
TPQ	Threshold Planning Quantity
TRI	Toxic Chemical Release Inventory
TS	Toxic Substance
TS	Technical Services
TSCA	Toxic Substance Control Act
TSDF	Treatment, Storage and Disposal Facility
TSP	Total Suspended Particulates
TSS	Total Suspended Solids
TUR	Toxics Use Reduction
UGB	Urban Growth Boundary
UIC	Underground Implementation Control
USCG	U.S. Coast Guard
UST	Underground Storage Tank
UXO	Unexploded Ordinance
VIO	Vehicle Inspection Office
VOCs	Volatile Organic Compounds
VSI	Visual Site Inspection
WAC	Wellhead Advisory Committee
WESTAR	Western States Air Resources Council
WHP	Wellhead Protection
WLA	Waste Load Allocation (Point Source)
WPCF	Water Pollution Control Facility
WQ	Water Quality
WQC	Water Quality Criteria
WRAP	Waste Reduction Assistance Program
WRC	Water Resource Commission
WRD	Water Resource Division
ZEV	Zero Emission Vehicle
ZOC	Zone of Contribution
ZOI	Zone of Influence
ZRL	Zero Risk Level

## Glossary

**abatement:** The reduction in degree or intensity of pollution.

**acid rain:** Precipitation which has a pH of less than 5.6.

**acute toxicity:** Any poisonous effect produced within a short period of time, resulting in severe biological harm and often death.

**agricultural pollution:** The liquid and solid wastes from farming, including: runoff from pesticides, fertilizers, and feedlots; erosion and dust from plowing; animal manure and carcasses.

**air pollution:** The presence of contaminant substances in the air that do not disperse properly and interfere with human health.

**air shed:** The limited space above a particular area defined by natural features as well as by political or legal boundaries.

**algae:** Simple rootless plants that grow in bodies of water in relative proportion to the amounts of nutrients available. Algal blooms reduce the amount of dissolved oxygen in lakes and rivers and can result in fish kills.

**ambient air:** Any unconfined portion of the atmosphere; the outside air.

**anadromous:** Migratory fish that ascend rivers from the sea to spawn, like salmon.

**aquifer:** An underground bed or layer of earth, gravel or porous stone that contains water. The depth of this layer can vary from a few feet to several hundred feet below the ground.

**asbestos:** A mineral (magnesium silicate) that has been processed so it is used to fire proof buildings, insulate electrical wires, and make brake linings in cars. Asbestos can cause cancer if inhaled or ingested.

**atmosphere:** The layer of air surrounding the earth.

**bioassay:** Using living organisms to measure the effect of a substance, factor or condition.

**biochemical oxygen demand (BOD):** The dissolved oxygen required to decompose organic matter in water. It is a measure of pollution since heavy waste loads have a high demand for oxygen.

**biodegradable:** Able to be broken down into simpler products by microscopic plants and animals.

**carbon monoxide (CO):** A colorless, odorless, highly toxic by-product of incomplete fossil fuel combustion. It is one of the major air pollutants. Cars give off a lot of carbon monoxide.

**carcinogenic:** Capable of causing cancer.

**chlorophyll:** Green pigment found in plant cells.

**conservation:** Not wasting, and renewing when possible, the human and natural resources of the world.

**contaminate:** To pollute something, or make it dirty.

**dissolved oxygen (DO):** A measure of the amount of oxygen available for biochemical activity in a given amount of water. Low DO levels are generally due to inadequate waste treatment.

**dissolved solids:** Total disintegrated organic and inorganic material contained in water.

**ecology:** The study of relationships between living things and their surroundings.

**ecosystem:** A community of living things interacting with one another and with their physical environment, such as a rain forest, pond or estuary.

**effluent:** Waste material discharged into the environment, it can be treated or untreated.

**emission:** Waste substances discharged into the air.

**erosion:** The wearing away of land surface by wind or water. Erosion occurs naturally from weather or run-off but can be intensified by land-clearing practices.

**estuary:** Special environments at the mouth of coastal rivers where fresh water meets sea water. These brackish water ecosystems shelter and feed marine life, birds and wildlife.

**evapotranspiration:** Water loss from soil including evaporation and transpiration from the surfaces of plants.

**fossil fuels:** Fuels such as oil, natural gas, and coal that are made from decayed plants and animals that lived millions of years ago. These fuels are made of hydrogen and carbon (hydrocarbons).

**groundwater:** The mass of water in the ground that fills saturated zones of material such as sand, gravel or porous rock.

**hazardous waste:** Waste materials that are inherently dangerous in contact, handling and disposal. They may be toxic, explosive, caustic, or ignitable. Substances classified as hazardous under state or federal law are subject to special handling, shipping, storage, and disposal requirements. Radioactive materials and some biological wastes are also considered hazardous.

**heavy metals:** Elements with high molecular weights which are generally toxic in low concentrations to plant and animal life. Examples include mercury, chromium, cadmium, arsenic, and lead.

**hydrocarbons:** Compounds found in fossil fuels that contain carbon and hydrogen in various combinations. They are major air pollutants and some may be carcinogenic. Fossil fuels, glues, paints, and solvents contain hydrocarbons. Most people use the terms "hydrocarbon" and "volatile organic compounds" (or VOCs) to mean the same thing.

**hydrologic cycle:** The cyclical movement of water from the ocean to the atmosphere by evaporation through rain to the earth's surface, through runoff and groundwater to streams, and back to the sea.

**inversion:** An atmospheric condition occurring when a layer of cool air is trapped by a layer of warm air and is unable to rise. Inversions spread polluted air horizontally rather than vertically so that contaminating substances cannot be dispersed.

**leachate:** Liquid that has percolated through solid waste or other matter, extracting dissolved or suspended materials from it.



**mobile source:** A moving source of pollution, such as a car or truck.

**nitrogen oxides:** Gases that form when the nitrogen and oxygen in the atmosphere are burned with fossil fuels at high temperatures.

**non-point source:** Water contaminant that cannot be traced to a specific point of origin, but rather comes from many different non-specific sources.

**nutrients:** Essential elements or compounds in the development of living things. Oxygen, nitrogen and phosphorous are examples.

**organic chemicals:** Chemical compounds containing carbon. Historically organic compounds were obtained from vegetable or animal sources. Today, many organic chemicals are synthesized in a laboratory.

**outfall:** The mouth of a sewer, drain or conduit where effluent is discharged into receiving waters.

**ozone:** Pungent, colorless, toxic gas that is the major component of smog. It is formed when sunlight triggers chemical reactions involving hydrocarbons and oxides of nitrogen.

**particulates:** Fine particles such as dust, smoke, fumes, or smog found in emissions and the air.

**PCBs:** Polychlorinated biphenyls. Found in transformers and capacitors, these organic compounds are very persistent in the environment where they accumulate over time.

**pesticides:** Chemicals used to destroy or control insects, weeds or unwanted growths.

**plume:** In water terms, the extent or boundary of the spread of underground soil or water contamination. In air, a visible emission from a flue or chimney.

**point source:** A stationary location where pollutants are discharged.

**pollutant:** A contaminant that adversely alters the physical, chemical, or biological properties of the environment.

**pollute:** To make the land, water, or air dirty and unhealthy.

**pretreatment:** Processes used to reduce the amount of pollution in water before it enters the sewers or treatment plant.

**radon:** Colorless, odorless radioactive gas formed by the decay of radium.

**react:** To act in response to something. For example, a chemical can change, or react, if added to another chemical.

**remedial action:** Work done at a hazardous waste site to clean up or control the contamination found at the site.

**respiratory system:** A body's system for breathing, including the nose, throat, and lungs.

**resource recovery:** The process of obtaining materials or energy, particularly from solid waste.

**river basin:** The land area drained by a river and its tributaries.

**runoff:** Water from precipitation or irrigation that flows over the ground surface and returns to streams. It can collect pollutants from the air or land and carry them to the receiving waters.

**sediment:** Fine particles of soil.

**septic tank:** An enclosure that stores and processes wastes where no sewer system exists. Bacteria decompose the organic matter into sludge, which is pumped off periodically.

**sludge:** A product of the treatment process as particles in waste are converted to solids.

**solid waste:** Useless, unwanted or discarded material with insufficient liquid content to be free flowing. It may be agricultural, commercial, industrial, institutional, municipal, or residential in nature.

**solvent:** A substance used to dissolve another substance.

**stagnation:** Lack of motion in a mass of air or water, which tends to hold pollutants.

**stationary source:** A non-moving source of pollution, such as a factory smokestack.

**stratosphere:** The layer of air that extends from about 10 to 30 mile above the surface of the earth.

**sulfur dioxide:** A colorless gas that can that can bother the lungs. It is formed when fossil fuels that contain sulfur are burned. It is also given off when volcanoes erupt.

**total dissolved solids:** The total amount of solid material dissolved in one liter of water.

**toxic:** Describes something that can be poisonous or deadly if it is eaten touched, or inhaled in large enough amounts.

**toxicity:** The quality or degree of being poisonous or harmful to plant or animal life.

**turbidity:** Hazy air due to the presence of particles and pollutants; a similar cloudy condition in water due to suspended silt or organic matter.

**urban runoff:** Storm water from city streets, usually carrying litter and organic wastes.

**ventilation:** Atmospheric air circulation determined by wind speed and mixing height. The degree of ventilation is an indication of how well air pollution will be dispersed.

**volatile:** Any substance that evaporates at low temperature.


**volatile organic compounds:** VOCs are made of carbon, oxygen, hydrogen, chlorine, and other atoms that can form gases easily. They are found in nature as well as in some glue, paint, solvents, and other products. They help form ozone near the ground, which may harm our health and even cause cancer.

**water pollution:** The addition of enough harmful or objectionable material to damage water quality.

**watershed:** The area drained by a given stream.

**water table:** The upper level of groundwater.

**wetlands:** Areas such as tidal flats or swamps covered by shallow water, or where the water table is at or near the surface.

 **Overview of Air Quality**

- Air Pollution Basics
- DEQ Air Quality Program
- The Big Picture
- Discussion

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 **Air Pollution Basics**

- Criteria Pollutants
- Air Toxics
- Visibility
- Other

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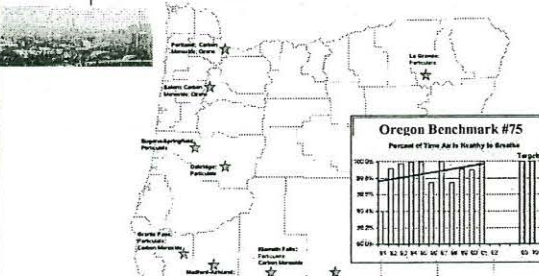
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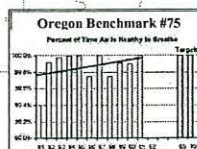
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 **Criteria Pollutants**

**Nonattainment and Maintenance Areas**



**Oregon Benchmark #75**  
Percent of Time Air is Healthy in Benalla



Year	Percent of Time Air is Healthy in Benalla
1991	88.0
1992	88.5
1993	89.0
1994	89.5
1995	90.0
1996	90.5
1997	91.0
1998	91.5
1999	92.0
2000	92.5
2001	93.0
2002	93.5

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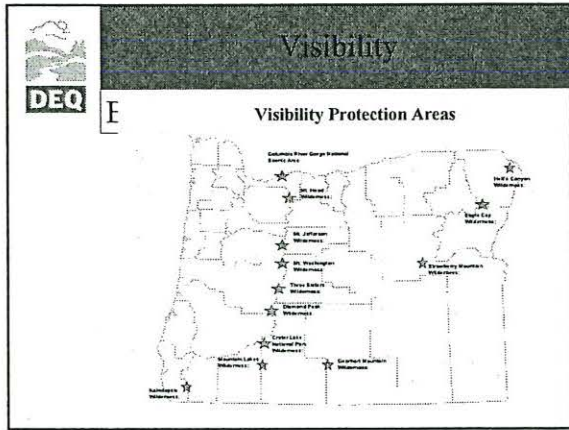
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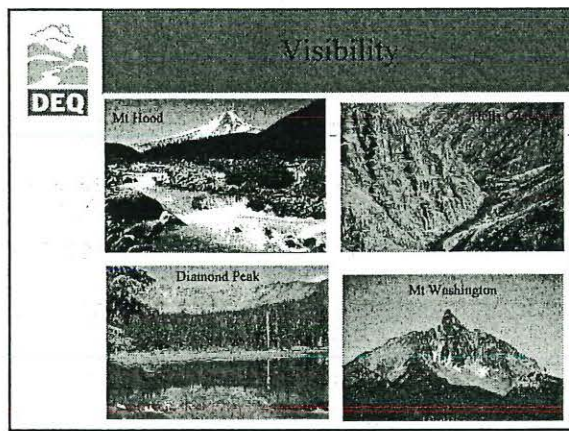
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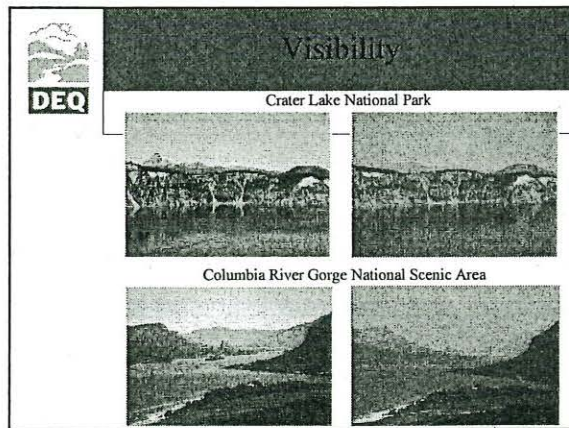
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## Air Pollution Basics

A circular pie chart illustrating the distribution of air pollution sources. The largest segment is 'On Road Mobile' at 42%, followed by 'Area' at 39%, and 'Off Road Mobile' at 19%. The chart includes small icons representing various sources like cars, trucks, and industrial sites.

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## DEQ Air Quality Program

An organizational chart for the DEQ Air Quality Program. At the top is the Director (Fullback). Below is Agency Management (9 FTE). The chart branches into five main areas: AQ Division (Gateway), Eastern Region (Newmarket), Western Region (Andover), Mt. Region (Salem), and Laboratory (Albany). Each area has several sub-offices with their respective FTE counts.

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## DEQ Air Quality Program

Sub-Programs

- Point
  - Title V
  - ACDP
  - Non-permitted
- Area/Mobile
  - Vehicle Inspection
  - Gasoline programs
  - Asbestos
  - Other (open burning, commute trip reduction, smoke management)

Activities

- Sources
  - Permitting
  - Inspections
  - Technical Assistance
  - Education & Outreach
  - Enforcement
- Planning & Assessment
  - Ambient Monitoring
  - Planning & rulemaking
  - Modeling & Data systems

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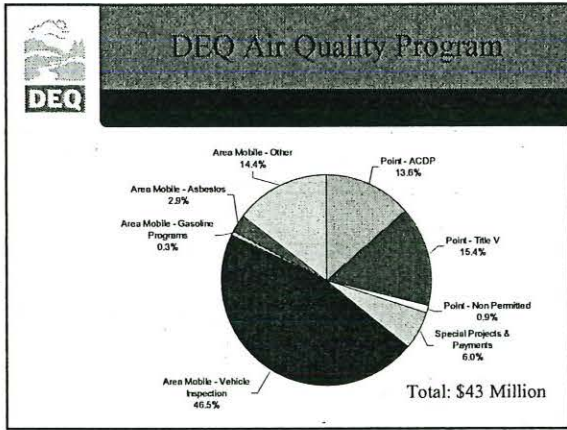
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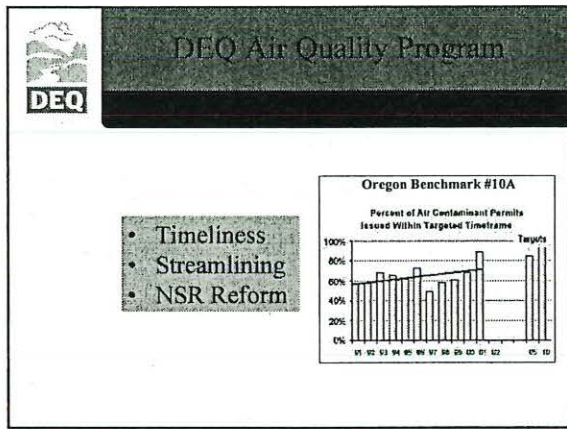
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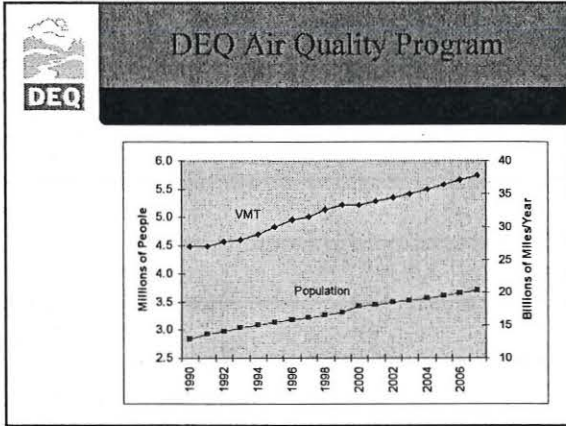
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**DEQ The Big Picture**

	Federal Lead	Federal Delegated	EPA Approved State Efforts	State Initiative
<b>Ambient Standards</b>	•NAAQs •Engine & Fuel Standards	•NSFS	•SIP Plans •SIP Strategy •Permits	•Oregon Ambient Standards •Growth Allowances
<b>Prevention &amp; Visibility</b>	•Increments •Engine & Fuel Standards	•NSFS	•Visibility/ haze SIPs •SIP Strategies •Emission Guidelines •Permits	•Prevention Plans •Columbia River Gorge •Nuisance, Odors
<b>Air Toxics</b>	•List HAPs & categories •Accidental Releases •Fuel Standards	•NESHAP	•Urban Air Toxics •Permits	•State Air Toxics Program •Clean Diesel Initiative
<b>Asbestos</b>		•Asbestos NESHAP		•Asbestos Abatement
<b>Acid Rain</b>	•Emission trading		•Permits	
<b>Stratospheric Ozone</b>	•CFC phase-out		•Permits	•CFC Control
<b>Climate Change</b>	•Energy Star •Voluntary programs			•Oregon Office of Energy •Governor's Initiative

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State of Oregon  
Department of Environmental Quality

Memorandum

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**Date:** October 9, 2003  
**To:** Environmental Quality Commission  
**From:** Andrew Ginsburg, Air Quality Administrator  
**Subject:** Air Quality Program Statutory Overview

The attached table provides an overview of the Air Quality program. This table was originally provided to you at a DEQ/EQC summit on March 7, 2002.

### Federal/State Partnership

The table, called "Air Quality Program: Statutory Overview," shows the federal/state partnership in addressing the major air quality challenges: ambient standards, increments, visibility, air toxics, asbestos, acid rain, stratospheric ozone and climate change. The federal Clean Air Act has provisions that address these air quality challenges. State statutes, EQC rules and DEQ programs also address many of these challenges. The purpose of the table is to illustrate how these various requirements fit together.

The *federal lead* column shows the major programs that EPA implements at a national level for the most part. The *federal delegated* column shows programs that EPA implements until delegated to a state or local agency. The *EPA approved* column shows programs that state and local agencies adopt to meet performance standards set by EPA. All of these programs are designed to meet Clean Air Act requirements, although they may serve other purposes as well. In contrast, the state initiative column shows programs that do not have a Clean Air Act connection and, so, do not have EPA oversight.

The key distinction in these categories is that we have increasing discretion as we move from left to right on the page. With the federal delegated programs, our basic choice is take it or leave it. For the most part, we adopt these programs by reference, although we can adopt alternative rules and demonstrate equivalency. With EPA approved programs, we have varying degrees of latitude in adopting specific programs as long as we meet the performance standards. For example, in adopting a maintenance plan, we can design our own programs provided we demonstrate that we will maintain compliance with the ambient standard for 10 years. The state initiative programs do not have to meet any federal test, although some have specific requirements laid out by the legislature.

## **Clean Air Act Titles**

In addition to listing the programs, the table provides both Clean Air Act (CAA) and Oregon Revised Statute (ORS) citations. Most of what we do falls under Title I of the CAA. Title I lays out programs to attain and maintain national ambient air quality standards, prevent significant deterioration of air quality, protect visibility and address air toxics. Title I also includes a variety of emission standards for stationary sources, pre-construction review programs, and enforcement programs. Title I includes federal lead, federal delegated and EPA approved programs.

Title II is primarily a federal lead program that regulates emissions from motor vehicles, engines and fuels. Title III is mainly administrative, Title IV addresses acid rain (mainly federal lead), Title V is the federal operating permit program (mainly EPA approved), and Title VI is the stratospheric ozone protection program (mainly federal lead). EPA implements these statutes through regulations published in the Code of Federal Regulations (CFR), Title 40, Parts 50-97.

## **Oregon Statutes and Rules**

Oregon's statutes regarding air quality are published in the ORS Chapter 468A. The legislature provided the Commission with a mix of general authorities and specific authorities. For example, ORS 468A.025 provides general authority for the Commission to adopt ambient standards and emission standards, and ORS 468A.035 provides general authority for the Commission to adopt the State Implementation Plan. Chapter 468A provides specific authority regarding permits, vehicle inspection, Woodstove curtailment, field burning, asbestos abatement and other programs. While providing specific authority, these statutes also limit the Commission's general authority. ORS 468A.020 also lays out specific exemptions from air quality regulation, including most agricultural operations, residential heating and fire fighting training.

The Commission's rules that implement the Clean Air Act and state statutes are in the Oregon Administrative rules (OAR) Chapter 340, Divisions 200 through 268. We completely reorganized the air rules in October 1999 to group like requirements and provide room for future rules. Most, but not all, of these rules are included in the State Implementation Plan. This means that EPA must approve revisions to the rules, and that there are both state and federally enforceable versions of the rules that may differ at any given point in time.

## Air Quality Program Statutory Overview

	Federal Lead	Federal Delegated	EPA Approved State Efforts	State Initiative
<b>Ambient Air Quality Protection</b>	<ul style="list-style-type: none"> <li>• National Ambient Air Quality Standards (CAA §109)</li> <li>• National Engine and Fuel Standards (CAA Title II)</li> </ul>	<ul style="list-style-type: none"> <li>• New Source Performance Standards (CAA §111; ORS 468A.025)</li> </ul>	<ul style="list-style-type: none"> <li>• Attainment and maintenance Plan SIPs (CAA §110 &amp; Title I, Part D; ORS 468A.035)</li> <li>• SIP Control Strategies (CAA §110), e.g.:                             <ul style="list-style-type: none"> <li>• Air Contaminant Discharge Permit (ACDP) (ORS 468A.040-060)</li> <li>• Major New Source Review (ORS 468A.025)</li> <li>• Vehicle Inspection Program (ORS 468A.350-455)</li> <li>• Employee Commute Options (ORS 468A.363)</li> <li>• Woodstove Curtailment (ORS 468A.460-520)</li> <li>• Reasonably Available Control Technology (ORS 468A.025)</li> </ul> </li> <li>• Federal Operating Permit (CAA Title V; ORS 468A.300-330)</li> </ul>	<ul style="list-style-type: none"> <li>• Oregon Ambient Air Quality Standards (Particle fallout, Calcium Oxide, Sulfur Dioxide) (ORS 468A.025)</li> <li>• Growth allowances (ORS 468A.035)</li> </ul>
<b>Prevention of Air Quality Degradation &amp; Visibility Protection</b>	<ul style="list-style-type: none"> <li>• Class I &amp; II increments (CAA Title I, Part C)</li> <li>• National Engine and Fuel Standards (CAA Title II)</li> </ul>	<ul style="list-style-type: none"> <li>• New Source Performance Standards (NSPS) (CAA §111; ORS 468A.025)</li> </ul>	<ul style="list-style-type: none"> <li>• Visibility and Regional Haze SIPs (CAA Title I, Part C)</li> <li>• SIP Control Strategies (CAA §110) e.g.:                             <ul style="list-style-type: none"> <li>• Smoke Management, Field Burning, Open Burning (ORS 468A.550-620)</li> <li>• Major New Source Review/PSD (ORS 468A.025)</li> <li>• Air Contaminant Discharge Permit (ACDP) (ORS 468A.040-060)</li> </ul> </li> <li>• Emission Guidelines (CAA §111d; ORS 468A.025)</li> <li>• Federal Operating Permit (Title V; ORS 468A.300-330)</li> </ul>	<ul style="list-style-type: none"> <li>• Prevention Plans (ORS 468A.035)</li> <li>• Columbia River Gorge Air Quality Protection (ORS 468A.025)</li> <li>• Nuisance, Odors, Best Work Practices Agreement (ORS 468A.025)</li> </ul>

<b>Air Toxics</b>	<ul style="list-style-type: none"> <li>List of HAPs (CAA §111b) and source categories (CAA §111c)</li> <li>Accidental Releases (CAA §111f)</li> <li>National Fuel Standards (CAA Title II)</li> </ul>	<ul style="list-style-type: none"> <li>National Emission Standards for Hazardous Air Pollutants (NESHAP) (CAA §112d; ORS 468A.025)</li> <li>Urban Air Toxics (CAA §112k; ORS 468A.025)</li> </ul>	<ul style="list-style-type: none"> <li>Urban Air Toxics (CAA §112k; ORS 468A.025)</li> <li>Federal Operating Permit (CAA Title V; ORS 468A.300-330)</li> <li>Air Contaminant Discharge Permit (ORS 468A.040-060)</li> </ul>	<ul style="list-style-type: none"> <li>State Air Toxics Program (ORS 468A.025)</li> <li>Clean Diesel Initiative</li> </ul>
<b>Asbestos</b>		<ul style="list-style-type: none"> <li>Asbestos NESHAP (§112; ORS 468A.025 &amp; 468A.700-760)</li> </ul>		<ul style="list-style-type: none"> <li>Asbestos Abatement (ORS 468A.700-760)</li> </ul>
<b>Acid Rain</b>	<ul style="list-style-type: none"> <li>Emission trading (CAA Title IV)</li> </ul>		<ul style="list-style-type: none"> <li>Federal Operating Permit (Title V; ORS 468A.300-330)</li> </ul>	
<b>Stratospheric Ozone Protection</b>	<ul style="list-style-type: none"> <li>Chlorofluorocarbon phase-out (CAA Title VI)</li> </ul>		<ul style="list-style-type: none"> <li>Federal Operating Permit (CAA Title V; ORS 468A.300-330)</li> </ul>	<ul style="list-style-type: none"> <li>Chlorofluorocarbon, Halon and Aerosol Control ORS (468A.625-645)</li> </ul>
<b>Climate Protection</b>	<ul style="list-style-type: none"> <li>Energy Star/voluntary programs</li> </ul>			<ul style="list-style-type: none"> <li>Oregon Office of Energy</li> <li>Harmonizing Air Quality and Climate Protection</li> </ul>

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** September 18, 2003  
**To:** Environmental Quality Commission  
**From:** Stephanie Hallock, Director *S. Hallock*  
**Subject:** Agenda Item C, Rule Adoption: On-Road Clean Screening and Self-Service Testing of Vehicles  
October 9-10, 2003 EQC Meeting

**Department Recommendation** The Department recommends that the Environmental Quality Commission (EQC, Commission) adopt the proposed rule revisions and State Implementation Plan (SIP) revisions as presented in Attachments A.1 and A.2, respectively.

**Need for Rulemaking** The Department is requesting that the Commission adopt the proposed changes in the Vehicle Inspection Program rules to allow two new vehicle testing options: On-Road Clean-Screening and Self-Service Testing. Both of these options are intended to improve customer service and reduce the cost of the Vehicle Inspection Program.

Because the Vehicle Inspection Program tests over 1.2 million vehicles each biennium, it is the primary point of contact with the Department for many Oregonians. This program has received a high level of public support because the Department has focused on continually improving customer service. The proposed voluntary tests would meet two important customer service needs: identifying clean vehicles in use so that customers do not have to bring them to stations for testing; and providing convenient options for testing after regular station hours. In addition, the Department anticipates that staffing level at the centralized test stations will decline over time, and the proposed tests are needed to help the Department to meet this constraint while continuing to provide excellent customer service.

The adoption of these rules and associated SIP revisions will allow the Department to submit these changes to the U.S. Environmental Protection Agency (EPA) for approval as required by the federal Clean Air Act.

**Effect of Rule**

The Department currently tests vehicles at centralized test stations using one of three tests depending on the weight and model year of the vehicles:

1. Two Speed Idle Emissions (basic) test;
2. Enhanced Emissions test; and
3. On-Board Diagnostic (OBD) test

The proposed rule will allow two additional options: On-Road Clean-Screening and Self-Service testing. Participation in these new testing options is strictly voluntary.

On-Road Clean-Screen

The On-Road Clean-Screen option involves identifying a clean running vehicle on the road just prior to registration expiration, and issuing the vehicle a Certificate of Compliance with the DEQ testing requirements. Clean vehicles identified with On-Road Clean-Screening would not have to undergo the traditional vehicle inspection test at a DEQ testing facility. Instead, vehicle owners would be issued a Certificate of Compliance that their vehicles have passed the DEQ testing requirements. These vehicle owners would also be notified that they are immediately eligible to register and receive vehicle plate tags from the Department of Motor Vehicles (DMV) through the mail or at a DMV office.

The Department is examining two techniques for accomplishing the Clean-Screening operation. In one technique, the Department would optically measure the vehicle pollution using ultraviolet and infrared light beams directed across a lane of traffic. In the second technique, the Department would intercept a broadcast electronic OBD signal from a vehicle whose owner has volunteered for the program. The Department would evaluate the signal for proper operation of all emissions control systems on that vehicle. If the vehicle meets the Department's OBD requirements, the vehicle would be exempt from the traditional DEQ test. The draft testing process for this second technique is outlined in Attachment A.3.

Self-Service Testing

The Self-Service Testing option lets the customer test his/her own vehicle at a designated location using specific testing procedures. The Department proposes to open one or more of the Self-Service test lanes on a 24 hours a day, seven days a week basis. The Department is examining the same two testing techniques (optical remote sensing and OBD) as proposed in the Clean Screen operation for potential use in the Self-Service test lanes. The draft Self-Service test procedure

using the OBD techniques is outlined in Attachment A.4.

Both On-Road Clean-Screen and Self-Service testing options will be voluntary options. The Department's customers will still be able to have their vehicles tested at the Department's test centers. The fee for these two options will be identical to the fee in the test centers (currently \$21 per Certificate in Portland and \$10 per Certificate in Medford).

**Commission Authority**

The Commission has authority to take this action under ORS 468A.380(1)(c), which authorizes the Commission to "establish criteria and examinations for the testing of motor vehicles" by rule.

**Stakeholder Involvement**

Both of these voluntary testing methods were discussed by an Advisory Workgroup with the following membership:

- City of Portland Fleets
- Oregon Auto Dealers Association
- Northwest Automotive Trades Association (NATA)
- EPA Region 10
- Oregon State Public Interest Research Group
- Clean City Coalition
- American Automobile Association (AAA)
- Oregon Independent Auto Dealers Association.

Although there were concerns by some members of the Workgroup, the proposed concepts were acceptable to the representatives of the Workgroup's organizations. Not all members attended the Workgroup session, but all were briefed and were provided opportunity to make comment. Key issues raised by Workgroup members are summarized below. A complete summary of the Advisory Workgroup discussions is provided as Attachment C.

**Public Comment**

A public comment period extended from April 15 through May 21, 2003. Results of the public input are provided in Attachment B.

**Key Issues**

*Is it too invasive for the Department to receive broadcast OBD signals from privately owned vehicles?*

This issue was raised by the American Automobile Association of Oregon (AAA) during the Advisory Workgroup meeting. Since this broadcast system would only work when activated by the driver, the customer would be permitting the release of this information to DEQ.

*Will there be too much vandalism and circumventing of the tests in the self-service test lanes?*

This issue was raised by the Northwest Auto Trades Association in both the Advisory Workgroup meeting and subsequently as a part of their written public comment. The Department believes that both of these concerns can be managed through the design of the Self-Service facilities and testing procedures. The Department will use a prototype test lane that is staffed, and will not move ahead with the program until these issues are adequately resolved.

**Implementation  
Issues**

Both programs are developmental and, as such, the Department must fully review the operational efficiency and program effectiveness before starting actual testing on a wide scale. If the rules are adopted by the Commission, the Department plans to move ahead as soon as possible with the prototype test lane for the Self-Service Testing and at the same time begin to coordinate with vendors to develop proposals for On-Road Clean-Screen testing.

For both new testing techniques, the Department must develop Oregon-specific software that will automate the testing processes. The Department will implement a contract to begin this software development upon adoption of the rules.

Once the prototype Self-Service Testing has been automated, debugged, and proven to be successful, the Department will implement the first fully Self-Service Testing lane. The On-Road Clean-Screen testing using either OBD broadcasting or optical methods is already a proven technique in other States, and implementation should be relatively easy after Oregon software is integrated into existing vendor operations.

The implementation of both the On-Road Clean-Screen and the Self-Service Testing options will be gradual and dependent on their usefulness for the general public. Both testing options are scheduled to begin small-scale operations in the Fall of 2004. Future expansion of these services will depend on the public's participation.

Funding for development of the proposed Clean-Screen and Self-Service testing operations is derived from the existing \$21 (Portland) and \$10 (Medford) test fees. This fee schedule was designed to provide for periodic replacement of old testing equipment, and the development of new testing technologies. Additionally, two optical remote sensing testing units for Clean-Screen testing were funded through the Department's On-Site Dealer Testing Program. The



Department anticipates that we will save money over time with the two new testing techniques because of reduced labor costs.

One of the voluntary testing options – broadcast OBD - would require participants to install special equipment in their vehicles. The cost of this equipment is described in Attachment F, Statement of Need and Fiscal and Economic Impact.

The Department will inform the public about the new testing techniques via the DMV registration renewal mailer, and through handouts at centralized test centers.

**Attachments**

- A. Proposed Rule Revisions
  - 1. Proposed DEQ Rule Revisions {redlined version}
  - 2. Proposed SIP Revisions {redlined version}
  - 3. Draft On-Road Clean Screening Test Procedure
  - 4. Draft Self-Service Test Procedure
- B. Summary of Public Comments and Agency Responses
- C. Advisory Committee Membership and Report
- D. Presiding Officers' Report on Public Hearings
- E. Relationship to Federal Requirements Questions
- F. Statement of Need and Fiscal and Economic Impact
- G. Land Use Evaluation Statement

**Available Upon Request**

- 1. Legal Notice of Hearing
- 2. Cover Memorandum from Public Notice
- 3. Written Comment Received
- 4. Rule Implementation Plan

Approved:

Section:

*Teal Katochans/Gene*

Division:

*Andrew Ginsburg*

Report Prepared By: Jerry Coffey  
Phone: 503-731-3050 E229

Attachment A 1  
Proposed DEQ Rule Revisions

**340-200-0040**

**State of Oregon Clean Air Act Implementation Plan**

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by the Department of Environmental Quality and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal Clean Air Act, 42 U.S.C.A §§ 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval.

(3) Notwithstanding any other requirement contained in the SIP, the Department may:

(a) Submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after the Department has complied with the public hearings provisions of 40 CFR 51.102 (July 1, 2002).

(b) Approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.

**NOTE:** Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, the Department shall enforce the more stringent provision.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-

Attachment A 1  
Proposed DEQ Rule Revisions

1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95;

**340-256-0010**

**Definitions**

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

- (1) "Basic test" means an inspection and maintenance program designed to measure exhaust emission levels during an unloaded idle or an unloaded raised idle mode as described in OAR 340-256-0340.
- (2) "Carbon dioxide" means a compound consisting of the chemical formula (CO<sub>2</sub>).
- (3) "Carbon monoxide" means a compound consisting of the chemical formula (CO).
- (4) "Certificate of Compliance" means a certification issued by a Private Business Fleet, ~~or~~ a Public Agency Fleet Vehicle Emission Inspector, ~~or~~ a Vehicle Emissions Inspector employed by the Department of Environmental Quality, or an Independent Contractor that the vehicle identified on the certificate is equipped with the required functioning motor vehicle pollution control systems and otherwise complies with the Commission's emission control criteria, standards, and rules, ~~of the Commission.~~
- (5) "Certified Repair Facility" means an automotive repair facility, possessing a current and valid certificate issued by the Department, that employs automotive technicians certified by the Department's Automotive Technician Emission Training Program (ATETP).
- (6) "Clean-Screening" means a procedure by which the Department determines that a vehicle has acceptable emissions and then allows the vehicle owner to bypass the traditional centralized emissions inspection station test. The Department's decision may be the result of remotely sensing the emissions, the status of emissions equipment, or another means determined by the Department.
- (7) "Commission" means the Environmental Quality Commission.
- (8) "Crankcase emissions" means substances emitted directly to the atmosphere from any opening leading to the crankcase of a motor vehicle engine.

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- (98) "Dealer" means any person who is engaged wholly or in part in the business of buying, selling, or exchanging, either outright or on conditional sale, bailment lease, chattel mortgage, or otherwise, motor vehicles.
- (109) "Dealership" means a business involved in the sale of vehicles that is franchised with an automobile manufacturer as defined in ORS 650.120(1).
- (110) "Department" means the Department of Environmental Quality.
- (121) "Diesel motor vehicle" means a motor vehicle powered by a compression-ignition internal combustion engine.
- (132) "Director" means the director of the Department.
- (14) "DMV" means the Driver and Motor Vehicle Division of the Oregon Department of Transportation.
- (153) "Electric vehicle" means a motor vehicle ~~which~~that uses a propulsive unit powered exclusively by electricity.
- (164) "Emissions Inspection Station" means an inspection facility, operated by the Department of Environmental Quality or an Independent Contractor, for the purpose of conducting emissions inspections of all vehicles required to be inspected pursuant to this Division.
- (175) "Enhanced test" means an inspection and maintenance program designed to measure exhaust and fuel evaporative system emissions levels using a loaded transient driving cycle and other measurement techniques as described in OAR 340-256-0350.
- (186) "Exhaust emissions" means substances emitted into the atmosphere from any opening downstream from the exhaust ports of a motor vehicle engine.
- (197) "Factory-installed motor vehicle pollution control system" means a motor vehicle pollution control system installed by the vehicle or engine manufacturer to comply with United States motor vehicle emission control laws and regulations.
- (2018) "Gas analytical system" means a device ~~which~~that measures the amount of contaminants in the exhaust emissions of a motor vehicle, and ~~which~~that has been issued a license by the Department pursuant to OAR 340-256-0450 and ORS 468A.380.
- (2149) "Gaseous fuel" means, but is not limited to, liquefied petroleum gases and natural gases in liquefied or gaseous forms.
- (220) "Gasoline motor vehicle" means a motor vehicle powered by a spark-ignition internal combustion engine.
- (231) "GPM" means Grams Per Mile.

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- (242) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.
- (253) "Heavy duty motor vehicle" means any motor vehicle rated at more than 8500 pounds GVWR or that has an actual vehicle curb weight as delivered to the ultimate purchaser of 6000 pounds or over.
- (264) "Hydrocarbon gases" means a class of chemical compounds consisting of hydrogen and carbon.
- (275) "Idle speed" means the unloaded engine speed when accelerator pedal is fully released.
- (286) "Independent Contractor" means any person, ~~business firm, partnership or corporation~~ with whom the Department enters into an agreement providing for the construction, equipment, maintenance, personnel, management or operation of emissions inspection stations or activities pursuant to ORS 468A.370.
- (297) "Inspection and Maintenance Program (I/M) means a program of conducting regular inspections of motor vehicles, including measurement of air contaminants in the vehicle exhaust and an inspection of emission control systems, to identify vehicles that do not meet the standards of this Division or ~~which~~ that have malfunctioning, maladjusted or missing emission control systems, and, when necessary, of requiring the repair or adjustment of vehicles to make the emission control systems function as intended and to reduce tailpipe emissions of air contaminants.
- (3028) "In-use motor vehicle" means any motor vehicle which is not a new motor vehicle.
- (3129) "Light-duty motor vehicle" means any motor vehicle rated at 8500 pounds GVWR or less and has an actual vehicle curb weight as delivered to the ultimate purchaser of under 6000 pounds.
- (320) "Medford-Ashland Air Quality Maintenance Area (AQMA)" has the meaning given in OAR 340-204-0010.
- (331) "Model year" means the annual production period of new motor vehicles or new motor vehicle engines designated by the calendar year in which such period ends. If the manufacturer does not designate a production period, the model year with respect to such vehicles or engines ~~shall~~ means the 12-month period beginning January of the year in which production thereof begins.
- (342) "Motorcycle" means any motor vehicle, including mopeds, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground and having a mass of 680 kilograms (1500 pounds) or less with manufacturer recommended fluids and nominal fuel capacity included.
- (353) "Motor vehicle" means any self-propelled vehicle used for transporting persons or commodities on public roads.
- (364) "Motor vehicle pollution control system" means equipment designed for installation on a motor vehicle for the purpose of reducing the pollutants emitted from the vehicle, or a system or engine adjustment or modification ~~which~~ that causes a reduction of pollutants emitted from the vehicle, or a

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system or device ~~which that~~ inhibits the introduction of fuels ~~which that~~ can adversely affect the overall motor vehicle pollution control system.

(375) "Motor Vehicle Fleet Operation" means ownership, control, or management or any combination thereof by any person of five or more motor vehicles.

(386) "New motor vehicle" means a motor vehicle whose equitable or legal title has never been transferred to a person who in good faith purchases the motor vehicle for purposes other than resale.

(397) "Noise level" means the sound pressure level measured by use of metering equipment with an "A" frequency weighting network and reported as dBA.

(4038) "OBD" means the On Board Diagnostic system in a vehicle that tracks the effectiveness of the vehicle's emissions control systems. These OBDII (or higher systems) have typically been placed on 1996 and newer motor vehicles.

(4139) "OBD Test" means an emissions related test in which the vehicle's On Board Diagnostic computer is downloaded, supplying diagnostic information to evaluate the effectiveness of the vehicle emissions control systems.

(420) "On-Site Vehicle Test" means an emissions related test that is conducted at the vehicle owner's location. Such test will be performed by DEQ using DEQ test equipment and is only available as a service for automobile dealerships.

(431) "Owner" means the person having all the incidents of ownership in a vehicle, ~~or w~~Where the incidents of ownership are in different persons, it means the person, other than a security interest holder or lessor, entitled to the possession of a vehicle under a security agreement, or a lease for a term of ten or more successive days.

(442) "Opacity" means the degree to which transmitted light is obscured, expressed in percent.

(453) "Oxides of Nitrogen" or NOx means oxides of nitrogen except nitrous oxides.

(464) "Person" means any individual, public or private corporation, political subdivision, agency, board, department, or bureau of the state, municipality, partnership, association, firm, trust, estate, or any other legal entity whatsoever ~~which that~~ is recognized by law as the subject of rights and duties.

(475) "Portland Vehicle Inspection Area" has the meaning given in OAR 340-204-0010.

(486) "PPM" means parts per million by volume.

(497) "Private Business Fleet" means ownership by any person of 100 or more Oregon-registered, in-use, motor vehicles, excluding those vehicles held primarily for the purpose of resale.

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- (5048) "Private Business Fleet Vehicle Emissions Inspector" means any person employed on a full-time basis by a Private Business Fleet that possesses a current and valid license issued by the Department pursuant to OAR 340-256-0440 and ORS 468A.380.
- (5149) "Propulsion exhaust noise" means that noise created in the propulsion system of a motor vehicle that is emitted into the atmosphere from any opening downstream from the exhaust ports. This definition does not include exhaust noise from vehicle auxiliary equipment such as refrigeration units powered by a secondary motor.
- (520) "Public Agency Fleet" means ownership of 50 or more government-owned vehicles registered pursuant to ORS 805.040.
- (531) "Public Agency Fleet Vehicle Emissions Inspector" means any person employed on a full-time basis by a Public Agency Fleet that possesses a current and valid license issued by the Department pursuant to OAR 340-256-0440 and ORS 468A.380.
- (542) "Public roads" means any street, alley, road, highway, freeway, thoroughfare, or section thereof used by the public or dedicated or appropriated to public use.
- (553) "Regional Authority" means a regional air quality control authority established under the provisions of ORS 468A.005 to 468A.035, 468A.075, 468A.100 to 468A.130, and 468A.140 to 468A.175.
- (56) "Remote Sensing" means a technique for determining the level of a vehicle's emissions without connecting equipment directly to the vehicle. The vehicle's emissions can be determined by either optically measuring the pollutants in the vehicle's exhaust plume, by remotely receiving a vehicle's emissions diagnostic information, or by other means determined by the Department.
- (574) "Ringlemann Smoke Chart" means the **Ringlemann Smoke Chart** with instructions for use as published in May, 1967, by the U.S. Department of Interior, Bureau of Mines.
- (585) "RPM" means engine crankshaft revolutions per minute.
- (59) "Self-Service Test Lane" means a technique for vehicle testing offered by the Department where the vehicle owner or representative can perform an emissions test on the vehicle at a facility provided by the Department using remote sensing, plug-in OBD emissions testing, or other means designated by the Department.
- (6056) "Two-stroke cycle engine" means an engine in which combustion occurs, within any given cylinder, once each crankshaft revolution.
- (6157) "Vehicle Emission Inspector" means any person employed by the Department or an Independent Contractor that possesses a current and valid license issued by the Department pursuant to OAR 340-256-0440 and ORS 468A.380.

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(6258) "Visible Emissions" means those gases or particulates, excluding uncombined water, ~~that~~ which separately or in combination are visible upon release to the outdoor atmosphere.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 467.030 & ORS 468A.360

Stats. Implemented: ORS 467.030 & ORS 468A.350 – ORS 468A.400

Hist.: [DEQ 8, f. 4-7-70, ef. 5-11-70; DEQ 4-1993, f. & cert. ef. 3-10-93]; [DEQ 89, f. 4-22-75, ef. 5-25-75; DEQ 139, f. 6-30-77, ef. 7-1-77; DEQ 9-1978, f. & ef. 7-7-78; DEQ 22-1979, f. & ef. 7-5-79; DEQ 18-1980, f. & ef. 6-25-80; DEQ 12-1982, f. & ef. 7-21-82; DEQ 23-1984, f. 11-19-84, ef. 4-1-85; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1996, f. & cert. ef. 11-26-96]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-024-0005 & 340-024-0305; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 11-2001, f. & cert. ef. 10-4-01

### Emission Control System Inspection

#### 340-256-0300

##### Scope

Pursuant to ORS 467.030, 468A.350 to 468A.400, 803.350, and 815.295 to 815.325, OAR 340-256-0300 through 340-256-0465 establish the criteria, methods, and standards for inspecting motor vehicles to determine eligibility for obtaining a Certificate of Compliance or inspection. Any person subject to these rules must obtain a Certificate of Compliance as required under ORS 803.350. Any person seeking an exemption from the inspection requirements of this rule must prepare and submit to the Department or DMV a statement describing the grounds for the exemption on forms as provided by the Department or DMV.

- (1) Except as provided in sections (3) and (4) of this rule, any person owning or leasing 1975 and newer model year vehicles in the Portland Vehicle Inspection Area must ensure the vehicles meet the requirements of one of the following emission tests:
  - (a) A light duty vehicle that is a 1975 through 1980 model year must meet the basic test requirements of OAR 340-256-0340, 340-256-0380, 340-256-0400 and 340-256-0430.
  - (b) A light duty vehicle that is a 1981 through 1995 model year must meet the enhanced test requirements of OAR 340-256-0350 and 340-256-0410. These vehicles found to be safe but unable to be dynamometer tested due to drive line configuration and these vehicles equipped with All Wheel Drive (AWD) will meet the basic test requirements of OAR 340-256-0340, 340-256-0380, 340-256-0400 and 340-256-0430.
  - (c) ~~Once the vehicle inspection program establishes OBD testing, then a~~ A light duty vehicle that is a 1996 and newer model year must meet the OBD test requirements of OAR 340-256-0355. For those vehicles that cannot be OBD tested due to manufacturer defects in the vehicle (where EPA has not issued an associated recall), vehicle incompatibility with the OBD test system, or other



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similar manufacturing problems, the vehicle must meet either the enhanced test requirements of OAR 340-256-0350 and 340-256-0410, the basic test requirements of OAR 340-256-0340, 340-356-0380, 340-256-0400, or other test criteria as determined by the Department.

- (d) A heavy duty vehicle must meet the basic test requirements of OAR 340-256-0340, 340-256-0390 and 340-256-0420, ~~except. Once the vehicle inspection program establishes an OBD test for heavy duty vehicles, the~~ gasoline powered heavy duty vehicles equipped with OBDII or higher systems must meet the OBD test requirements of OAR 340-256-0355. For those vehicles that cannot be OBD tested due to manufacturer defects in the vehicle (where EPA has not issued an associated recall), vehicle incompatibility with the OBD test system, or other similar manufacturing problems, the vehicle must meet either the enhanced test requirements of OAR 340-256-0350 and 340-256-0410, the basic test requirements of OAR 340-256-0340, 340-356-0380, 340-256-0400, or other test criteria as determined by the Department.

- (2) Except as provided in section (3) of this rule, any person owning or leasing vehicles that are up to 20 model years in age in the Medford-Ashland Air Quality Maintenance Area must ensure the vehicles meet the requirements of one of the following emission tests:

(a) ~~The Department may use the OBD testing in Medford as a pass screen before or instead of the basic test. Once EPA mandates OBD testing in the Medford-Ashland Air Quality Maintenance Area,~~ a light duty vehicle that is a 1996 and newer model year must meet the OBD test requirements of OAR 340-256-0355. For those vehicles that cannot be OBD tested due to manufacturer defects in the vehicle (where EPA has not issued an associated recall), vehicle incompatibility with the OBD test equipment, or other similar manufacturing problems, the vehicle must meet the basic test requirements of OAR 340-256-0340, 340-256-0380, 340-256-0400 and 340-256-0430 or other test criteria as determined by the Department.

(ab) ~~All other light-duty vehicles tested that are up to 20 model years in age through 1995 model year, in the Medford-Ashland Air Quality Maintenance Area,~~ must meet the basic test requirements of OAR 340-256-0340, 340-256-0380, 340-256-0390, 340-256-0400 and 340-256-0420.

(b) ~~A heavy duty vehicle in the Medford-Ashland Air Quality Maintenance Area must meet the basic test requirements of OAR 340-256-0340, 340-256-0390 and 340-256-0420. Once the vehicle inspection program establishes an OBD test for heavy-duty vehicles in the Medford area, the~~ All gasoline powered heavy duty vehicles equipped with OBDII or higher systems must meet the OBD test requirements of OAR 340-256-0355. For those vehicles that cannot be OBD tested due to manufacturer defects in the vehicle (where EPA has not issued an associated recall), vehicle incompatibility with the OBD test equipment, or other similar manufacturing problems, the vehicle must meet the basic test requirements of OAR 340-256-0340, 340-256-0380, 340-256-0400 and 340-256-0430 or other test criteria as determined by the Department.

- (3) The Department may test any gasoline powered heavy duty or light duty vehicle using one of the following procedures as an alternative to the test procedure otherwise required by this rule:

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(a) Clean-Screen Testing following the procedures of OAR 340-256-0357 or

(b) Self-Service Testing following the procedures of OAR 340-256-0358.

(34) Vehicle owners may apply for a waiver from the enhanced test requirements in ~~OAR 340-256-0300~~ section (1)(b) of this rule and OAR 340-256-0350. Vehicle owners are eligible in the year 2000 if their net household income is less than or equal to that established by multiplying the year 2000 Federal Poverty Guideline amounts by 1.3. For each year after the year 2000, the calculated year 2000 numbers are adjusted using the Oregon Consumer Price Index for the Portland Metro Regional Area. Proof of eligibility and vehicle ownership may be required by the Department. Providing false information may result in revocation of the low income waiver. If the Department approves the waiver, the owner must pass the basic motor vehicle emissions test requirements in OAR 340-256-0300(1)(a) and 340-256-0340 and pay the required fees in order to receive a certificate of compliance.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

[ED. NOTE: The chart referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 467.030 & ORS 468A.350 – ORS 468A.400

Stats. Implemented: ORS 468A.350 – ORS 468A.400, ORS 803.350 & ORS 815.295

Hist.: DEQ 89, f. 4-22-75, ef. 5-25-75; DEQ 139, f. 6-30-77, ef. 7-1-77; DEQ 23-1984, f. 11-19-84, ef. 4-1-85; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1996, f. & cert. ef. 11-26-96; DEQ 2-1998, f. & cert. ef. 3-5-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-024-0300; DEQ 4-2000(Temp), f. & cer. ef. 2-17-00 thru 8-9-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 17-2000, f. & cert. ef. 10-25-00

### **340-256-0320**

#### **Motor Vehicle Inspection Program Fee Schedule**

This rule sets out the fee schedule for Certificates of Compliance, and licenses issued by the Department's ~~of Environmental Quality~~, Vehicle Inspection Program:

(1) The cost of each Certificate of Compliance issued by the Department, at an Emissions Inspection Station including those issued at emissions test stations and those issued through the Clean-Screen and Self-Service Testing procedures, is:

(a) ~~In the Portland Vehicle Inspection Area will be a maximum of \$21; or~~

(b) ~~In the Medford-Ashland Air Quality Maintenance Area will be a maximum of \$10.~~

(2) The cost of each Certificate of Compliance issued by a Private Business Fleet or Public Agency Fleet is:

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- (a) In the Portland Vehicle Inspection Area ~~is will be~~ a maximum of \$10; ~~and or~~
  - (b) In the Medford-Ashland Air Quality Maintenance Area ~~is will be~~ a maximum of \$5.
- (3) The cost of each License issued to a Private Business Fleet or Public Agency Fleet is as follows:
- (a) Initial \$5;
  - (b) Annual renewal \$1.
- (4) The cost of each License issued to a Private Business Fleet or Public Agency Fleet Vehicle Emission Inspector is as follows:
- (a) Initial \$5;
  - (b) Annual renewal \$1.
- (5) The cost of each License issued for a Gas Analytical System is as follows:
- (a) Initial \$5;
  - (b) Annual renewal \$1.
- (6) The cost of each Certificate of Compliance issued on-site to an automobile dealership ~~is will be~~ a maximum of \$26.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468A.400

Stats. Implemented: ORS 468A.400

Hist.: DEQ 20-1981, f. 7-28-81, ef. 8-1-81; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1996, f. & cert. ef. 11-26-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-024-0307; DEQ 11-2001, f. & cert. ef. 10-4-01

**340-256-0357**

**Emissions Control Test Method for Clean-Screen Testing Program**

- (1) The Department may evaluate emissions of vehicles on the roadway using an optical attenuation method of observing actual pollutant emissions, remotely received electronic broadcasts of the vehicles' emissions diagnostic data, or other means approved under section (5) of this rule.
- (2) A vehicle that meets the Department's emissions standards for on-road testing within a time period not to exceed one year from its required registration date will be issued a certificate of compliance without being required to pass the emissions inspection station test otherwise required.

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(3) Before implementing Clean-Screen Testing under this rule, the Department must establish specific testing processes in the Department's policies and procedures documents, including:

(a) the test technique to be used for On-Road Clean-Screen Testing;

(b) the valid test period of On-Road Clean-Screen Testing;

(c) procedures for identifying an on-road vehicle;

(d) procedures for protecting the test process from vandalism and cheating; and

(e) testing standards for Clean-Screen testing.

(4) If the Department uses the optical attenuation method for Clean-Screen Testing, 1975 and newer model year vehicles are eligible for Clean-Screen testing. If the Department uses broadcast data from vehicles' emissions diagnostic systems for Clean-Screen Testing, 1996 and newer model year vehicles are eligible for Clean-Screen Testing.

(5) The Department may develop and implement additional test methods for use in the Clean-Screen Testing program. Before implementing such test methods, the Department must develop documentation that such method will provide equal or greater accuracy in identifying vehicles that would pass or fail the otherwise required emission test.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 467.030 & ORS 468A.380(1)(c)

Stats. Implemented: ORS 468A.350 – ORS 468A.420

**340-256-0358**

**Emissions Control Test Method for Self-Service Testing Program**

(1) The Department may provide a testing method whereby the vehicle owner or his or her representative will perform the emissions test. The test performed will be either a remote sensing optical quantification of the tailpipe pollutants, a remote or computer connected OBD test, or other means approved under section (5) of this rule.

(2) Before implementing Self-Service Testing under this rule, the Department must establish specific Self-Service Testing processes in the Department's policies and procedures documents, including:

(a) the test techniques to be used for Self-Service Testing;

(b) procedures for identifying the Self-Service Test vehicle;

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(c) procedures for protecting the test process from vandalism and cheating; and

(d) testing standards for the Self-Service technique that will be used.

(4) If the Department uses the optical attenuation method for Self-Service Testing, 1975 and newer model year vehicles are eligible for Self-Service Testing. If the Department uses broadcast data or hardwire cable connection from vehicles' emissions diagnostic systems for Self-Service Testing, 1996 and newer model year vehicles are eligible for Self-Service Testing.

(5) The Department may develop and implement additional test methods for use in the Self-Service Testing program. Before implementing such test methods, the Department must develop documentation that such method will provide equal or greater accuracy in identifying vehicles that would pass or fail the otherwise required emission test.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 467.030 & ORS 468A.380(1)(c)

Stats. Implemented: ORS 468A.350 – ORS 468A.420

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**5.4.7 Test Procedures and Standards**

The authority to establish test procedures and standards is contained in Oregon statutes ORS 468A.360 through 468A.460 in Section 2.2.11 of the Oregon SIP. The test procedures and test standards are specified in the regulation in Section 2.2.7 of the Oregon SIP.

In the Portland area:

The first two model years are exempt.

~~Next three model year vehicles - basic test~~  
1996 to three year old vehicles - OBD test

~~1981 - to 6 year old vehicles~~  
1995 model year vehicles - enhanced test

~~1975 -1980 model year vehicles - basic test~~

The restructuring of the vehicle test schedule above, by adding the OBD test for 1996 to three year old vehicles, will begin on or before January 1, 2001. OBD testing for light duty passenger vehicles and light duty trucks (GVWR less than or equal to 8500 lbs) will begin January 1, 2001, as these vehicles are currently equipped with advanced OBD systems (OBDII or higher). OBD testing of gasoline powered heavy duty vehicles (greater than 8500 lbs GVWR) will begin when advanced OBD systems are available on these vehicles.

In the Medford area:

The first ~~four~~two model years are exempt

~~1996 - five year old vehicles - OBD test~~

~~Next 19~~20 year old - 1995 model year vehicles - basic test

The restructuring of the vehicle test schedule above, by adding the OBD test for 1996 to three year old vehicles, will begin on the date that is mandated by EPA for the OBD testing in Medford. Before the mandatory implementation, OBD testing will be used as a pass only screen; vehicles that fail the OBD test will receive a basic emissions test. The following is the estimated implementation schedule for OBD based on vehicle types:

- ~~OBD testing for light duty passenger vehicles and light duty trucks (GVWR less than or equal to 8500 lbs) will begin when mandated by~~

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~~EPA, as these vehicles are currently equipped with advanced OBD systems (OBDII).~~

- ~~• OBD testing of gasoline powered heavy duty vehicles (greater than 8500 lbs GVWR) will begin when advanced OBD systems are available on these vehicles and EPA mandates OBD testing of these vehicles.~~

In both the Portland and Medford test areas, vehicles ~~are~~will be rejected for unsafe conditions, including overheating, fluid leaks, or other conditions determined to be unsafe to the inspection program operations.

For the basic test, vehicles 1981 and newer must pass both an idle and 2500 rpm emissions standards for carbon monoxide and hydrocarbons. Subject vehicles with model years older than 1981 are not judged at the 2500 rpm test point. All basic tested vehicles are given a second chance idle test.

In the Portland area, a gas cap test will be performed for all basic tests. Also, a cap test and an evaporative system purge test will be done as part of all Portland area tailpipe enhanced tests. In the Medford area, neither the cap nor the purge test will be performed in conjunction with their basic test. The purge tests will not be done as an add-on to the OBD test in either the Medford or Portland area. The cap test may be done on OBD tested vehicles in Portland and Medford.

The enhanced test is a 31 second loaded transient cycle as outlined in the test procedures.

Detailed testing procedures for the basic test are shown in Appendix H and Appendix K Section 710.00. Detailed testing procedures for the enhanced test are shown in OAR 340-256-0350 and OAR 340-256-0410. The OBD test procedure is outlined in OAR 340-256-0355.

Both the Portland and Medford inspection areas will continue using self-testing fleet operations, including requiring that these fleets perform OBD tests on 1996 and newer vehicles where OBD testing is required as a part of the centralized testing operations.

DEQ ~~will initiate~~began on-site vehicle testing of manufacture franchised dealership vehicles ~~beginning on~~ January 2, 2002. In this program, ~~dealerships' with~~ approximately 25,000 vehicles per year ~~will be~~are tested at the dealer's locations. DEQ ~~will~~ performs the testing operations. The program ~~will be~~is operated using test methods and standards that ~~will~~ provide essentially no

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emissions reduction loss from the process where vehicles are tested in DEQ's centralized test lanes.

DEQ will initiate On-Road Clean Screen testing beginning Fall, 2004. In this program DEQ will identify a clean vehicle as it is driven on the roads and exempt the vehicle from the requirement of centralized testing. DEQ will use either optical remote sensing equipment or vehicle broadcast OBD data stream to determine the status of the on-road vehicle's emissions. A vehicle owners or his or her representative may choose to use this program in lieu of the otherwise required test.

DEQ will initiate Self Service testing beginning Fall, 2004. In this program, DEQ will allow drivers to test their own vehicles in a highly automated testing environment. DEQ will use either optical remote sensing equipment, vehicle broadcast OBD data stream, or direct cable hookup to vehicle OBD connector to determine the status of the vehicle's emissions. A vehicle owner or his or her representative may choose to use this program in lieu of the otherwise required test.



# Draft

## Attachment A 3

Oregon Department of Environmental Quality

Vehicle Inspection Program

<b>Policy 203.00 On-Road Clean Screen Testing</b>
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<b>Effective Date: 10/10/03</b>
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<b>Supersedes: none</b>	<b>Date Signed:</b>
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<b>Approved By:</b>
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<b>Originating Section: Engineering</b>
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**INTENT:** To outline the testing process for On-Road Clean Screening Testing

**AUTHORITY:** OAR 340-256-0357

**POLICY:**

This testing process can be used to test any vehicle furnished with an OBDII or newer vehicle diagnostic system, including:

- all 1996 and newer gasoline powered light duty (less than 8,500 GVWR) vehicles.
- all 1997 and newer diesel powered light duty (less than 8,500 GVWR) vehicles
- selective 1996 and newer gasoline powered heavy duty (GVWR 8,500-14,000) vehicles.

### Test and Certification Criteria

The fee for a Certificate of Compliance is \$21.00 at Portland/Metro area Clean Air Stations and \$10.00 at the Medford Clean Air Station. Fees must be paid in cash, check, coupon, or money order for exact amount. There is no fee for a voluntary or failed emission test report.

### Testing Criteria

The On- Road Clean Screen test procedure is available for use for any owner of a vehicle that falls within the above categories of year and weight classes. The vehicle owner has two options, outlined below, for the Clean Screen program. Using either of the options below, the vehicle owner may be excluded from

# Draft

## Attachment A 3

Oregon Department of Environmental Quality  
DEQ's centralized testing requirements if the Clean-Screen testing criteria are met.

Vehicle Inspection Program

Customers will be required to sign up with VIP, and have their vehicle VIN identified and the broadcasting equipment installed. The vehicle owner will be required to pay all costs associated with the installation of the broadcast equipment and all airways fees.

The OBD parameters reviewed for both options are VIN (or transponder ID), engine-on MIL (malfunction indicator light on dash) status, readiness status, and diagnostic trouble codes (DTC).

The passing criteria are:

- Less than three parameters not ready
- Engine-on MIL status must be off

### **Option 1 OBD Diagnostics Observed Periodically Through the Biennial Period.**

In this option, a complete signal from the OBD will be broadcasted from the vehicle every time the engine is started. VIP will review the status of the vehicle's OBD signal. If MIL is commanded on, the vehicle owner will have a maximum of 60 days to repair the vehicle. If the vehicle's MIL is on in excess of 60 days, or a signal is not received from the vehicle for more than 90 days, VIP will remove the vehicle from the active Clean-Screen Testing program. Once dropped from the program, the vehicle will then be required to be tested at a centralized test station for the current biennium registration emissions test. After the centralized testing is completed successfully, the vehicle will once again be eligible for the On-Road Clean-Screen Testing program.

If the vehicle has successfully participated in the Clean-Screen Testing program beginning at least 180 days prior to the vehicle's required registration date, DEQ will send the vehicle owner a letter indicating compliance with the Clean Screen testing program. This letter must then be forwarded along with registration information and the appropriate fees to DMV to complete the registration.

### **Option 2 OBD Diagnostics Observed only in the 90 days Prior to Vehicle's Required Registration Date.**

# Draft

## Attachment A 3

Oregon Department of Environmental Quality

Vehicle Inspection Program

In this option, DEQ will only review the OBD signal within 90 days prior to the required registration date for purposes of the testing process. The customer can, of course, broadcast the signal any time. When VIP sees a signal from the vehicle within the 90 day period and OBD parameters meet the pass criteria, VIP will send the vehicle owner a letter indicating compliance with the Clean-Screen testing program. This letter must then be forwarded along with registration information, and the appropriate fees to DMV to complete the registration.

The participating company will record the latest OBD test result in a computer WEB page for readings transmitted within the 90 day period so that the customer can know for certain that his/her vehicle has been tested and the status of that test.

If the vehicle fails the test during the 90-day period, that failure will be superceded by a passed test. If any pass occurs during the 90-day period, VIP will issue the customer a letter indicating compliance for registration purposes.

If the vehicle fails to pass the remote OBD test within the 90-day period, the vehicle must then be tested at one of VIP's centralized test stations for that year's registration process only. If the vehicle passes the centralized test, the vehicle will be eligible for On-Road Clean screening in subsequent registration periods.

**Draft**

**Attachment A 4**

Oregon Department of Environmental Quality

Vehicle Inspection Program

<b>Policy 204.00 Self-Service Test Procedure</b>	
<b>Effective Date: 10/10/03</b>	
<b>Supersedes: none</b>	<b>Date Signed:</b>
<b>Approved By:</b>	
<b>Originating Section: Engineering</b>	

**INTENT:** To clarify the process for Self-Service Testing

**AUTHORITY:** OAR 340-256-0358.

**POLICY:**

This testing process can be used to test any vehicle furnished with the OBDII or newer vehicle diagnostic system, including:

- all 1996 and newer gasoline powered light duty (less than 8,500 GVWR) vehicles.
- all 1997 and newer diesel powered light duty (less than 8,500 GVWR) vehicles
- selective 1996 and newer gasoline powered heavy duty (GVWR 8,500-14,000) vehicles.

**Test and Certification Criteria:**

The fee for a Certificate of Compliance is \$21.00 at Portland Metro area Clean Air Stations and \$10.00 at the Medford Clean Air Station. Fees must be paid in cash, check, coupon, or money order for exact amount.

There is no fee for a voluntary or failed emission test report.

**Testing Criteria**

The Self-Service Test procedure is available for any owner of a vehicle that falls within the above categories of year and weight classes. There are two options for the vehicle owner within the Self-Service Testing program. Using either of the options below, the vehicle owner may be excluded from DEQ's centralized testing requirements if the Self-Service Testing criteria are met.

# Draft

## Attachment A 4

Oregon Department of Environmental Quality

Vehicle Inspection Program

If the owner uses the remote sensing option of the Self-Service Testing process, customers will be required to sign up with VIP, and have their vehicle VIN identified and the broadcasting equipment installed. The vehicle owner will be required to pay all costs associated with the installation of the broadcast equipment and all airways fees.

The second option will not require prior relations with VIP.

The OBD test criteria reviewed for both options are VIN (or transponder ID), engine-on MIL status, readiness status, and diagnostic trouble codes.

The passing criteria are:

- Less than three parameters not ready
- Engine-on MIL status must be off

### **Test Criteria**

#### **Option 1, Remote OBD**

This test process is as discussed in Policies and Procedures 203.00, except VIP will issue a certificate to the customer in the Self-Service Test lane when the customer passes the test in the lane and pays by credit card. While still in the Self-Service lane, the customer may purchase and be dispensed vehicle registration tags.

#### **Option 2, Cable Connected OBD**

The customer must enter the vehicle plate, make and/or VIN. This information will be matched to existing DEQ data base to protect from fraud. If the vehicle was previously tested in the centralized lanes, and the vehicle ID matches, an OBD test can be done in the Self-Service lane. If the vehicle passes the test, and the customer pays the DEQ fee, VIP will print a certificate of compliance for the customer. If the customer then wishes, he/she may purchase registration tags which will be automatically dispensed in the lane.

## Summary of Public Comment and Agency Response

**Title of Rulemaking: On-Road Clean Screening and Self-Service Testing of Vehicles.**

**Prepared by: Jerry Coffey**

**Date: July 7, 2003**

**Comment period** The public comment period opened on April 15, 2003 and closed at 5:00 P.M. on May 21, 2003. DEQ held public hearings on May 15, 2003 in Portland and May 16, 2003 in Medford. No one attended either hearing. No written or oral comments were made at the Public Hearings. However, two parties submitted written comments during the open comment period.

**Organization of comments and responses** Summaries of individual comments and the Department's responses are provided below. Comments are summarized in categories. The persons who provided each comment are referenced by number. A list of commenters and their reference numbers follows the summary of comments and responses.

<b>Summary of Comments and Agency Responses</b>	
<b>Comment 1</b>	The commenter was supportive of any changes in our test which "will reduce the time and cost of complying." He suggested the use of statistical vehicle profiling to exempt vehicles from the emissions test that have a good probability of passing the test.
<b>Response</b>	The Department has already implemented such profiling in Medford in January 2002 and will be implementing profiling in Portland in January 2004, by exempting vehicles from the tests that are less than four years old.
<b>Comment 2</b>	NATA conducted a survey of their approximately 900 members in the auto repair business to determine their concerns about the proposed rules. Their members were generally supportive of the Department's proposed new innovative testing programs. They, however, expressed two concerns about the Self-Service testing proposals. First, they were concerned about "consumers circumventing the self-test and or vandalizing the equipment." They recommended that the Department "manage these concerns through the design of the self-service facility and specific testing procedures." Second, NATA members were also concerned about the impact of developing the new testing processes on the Department's budget. They recommended postponing "the phases on the new programs that require additional revenue until the economic forecasts improve."
<b>Response</b>	The Department agrees completely with NATA concerns about circumventing the self-test and vandalizing the equipment. The Department believes that these concerns can be managed through the design of the self-service facilities. The Department will use a prototype test lane that will be staffed, and will not move ahead with the program until these issues are adequately resolved.  With regard to the impact on the Department's budget of developing the new tests, the Department believes that the developmental cost is small compared to the large potential savings for the testing operations once the



	new test programs are fully functional. The up front developmental costs will be paid from existing funds. The Department believes it is the Department's financial advantage to implement both cost savings programs as soon as possible.
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<i>List of Commenters and Reference Numbers</i>				
<b>Reference Number</b>	<b>Name</b>	<b>Organization</b>	<b>Address</b>	<b>Date on comments</b>
1	Stephen Dudley	NA	Email: sbdudley@prodigy.net	April 17, 2003
2	Deb Elkins and Christine Logue	Northwest Automotive Trades Association	1701 NE 82 <sup>nd</sup> Avenue Portland, OR 97220	May 19, 2003

Attachment C

Advisory Workgroup  
for  
On-Road  
Clean Screening and Self-Service  
Test Lane  
March 7, 2003 Meeting Summary

Present were:

Wayne Elson, EPA 206-553-1463  
Don Taylor, City of Portland Fleets, 503-823-1804  
Christine Logue, NATA, 503-253-9898  
Jerry Coffey, DEQ, 503-731-3050 E229  
Jim Houser, Hawthorne Auto Clinic, 503-234-2119  
Elliott Eki, AAA, 503-222-6729  
Sonja Johnston, VIP Outreach, 503-229-5680  
Bruce Arnold, VIP, 503-731-3050 E237

Jerry Coffey discussed the two options for On-Road Clean Screening: 1) remote optical plume measurement and 2) remote on-board diagnostics (OBD) data retrieval from on-road vehicles.

He explained that the traditional optical remote sensing equipment was still being evaluated by DEQ for its use in clean screening vehicles, and that MD LaserTech, DEQ's current vendor of this equipment, will soon introduce a new unit that is expected to have a better low end accuracy. He explained that the Department is also currently considering remote OBD as a Clean Screen method. Both the optical clean screening and remote OBD are being considered by DEQ for use in the Self-Service test lanes. In the Self-Service test lanes there would also be the option of a hardwire connected OBD download from the vehicle's computer. If OBD were to become the only test for On-Road Clean Screening and for the Self-Service test lanes, then only 1996 and newer vehicles could be tested under the proposed new techniques. Jerry explained that both On-Road Clean Screening and Self-Service testing provide value to the Department by reducing the need to build additional full-service test stations to meet the anticipated growth in the vehicle population.

He explained that California Air Resources Board (CARB) is now estimating that OBDIII, which is scheduled to be released for new vehicles in the 2005 model year, will not contain the capability of broadcasting OBD data streams, and that the manufacturers will likely delay such broadcasting until the 2010 model year. As such, to operate remote OBD testing in Oregon for 1996 and newer model year vehicles, it will be necessary that vehicle owner add an OBD transponder to his/her vehicle.

In this system, which would either be a local area broadcasting signal reception or a cell phone broadcast central reception, the customer would have to purchase and install the broadcasting unit. In addition, the customer would likely have to key the vehicle's VIN



number into the unit for 1996-2004 model year vehicles so the broadcast would identify the test vehicle. CARB has assured DEQ that 2005 and newer model year vehicles will have the vehicle VIN within the vehicle's on-board computer.

After this overview of current DEQ thinking about On-Road Clean Screening and Self-Service testing, the following agenda item issues were discussed as outlined below: In each case the question was asked and any member of the workgroup who had a position or concern about the issue was allowed time to respond.

### **On-Road Clean Screening**

1. Do you prefer announcing testing locations and schedules? (This question refers to the use of either optical clean screening or local broadcast remote OBD clean screening)

Don Taylor said it was best to announce the locations and times because it would help remove the stigma that the state is collecting information about the public that may not always be used in a positive way even though DEQ says it will only be used when a vehicle passes the Clean Screen test.

Jim Houser said it is best to announce because it diffuses the potential negative impact of broadcasting OBD.

2. What should be added or subtracted from the proposed On-Road Clean Screen letter (apart from better grammar)?

Sonja Johnston said we should mention that these tests are reducing pollution.

Jim Houser said we should mention the expense of the clean screen testing equipment and operations to explain why we are charging the customers the same fee as for a centralized test certificate.

3. Is there a preference for the locations of the vans? VIP requires a single lane road with VSP greater than 5. Generally we would want a slight slope, maybe 1-3 degrees. Should be high volume and good traffic mix. The speed should be 20-40 MPH and the acceleration positive. VIP is primarily looking now at freeway on-ramps. (This question refers to use of either optical clean screening or local broadcast remote OBD clean screening)

Jim Houser suggested setting up after the stop light queuing of freeway onramps.

Wayne Elson said ODOT may object to increased traffic in a high traffic area if DEQ announces the test areas.

4. What hours of operation for Clean Screening? (This question refers to use of either optical clean screening or local broadcast remote OBD clean screening)

Jim Houser thought we should setup during high traffic times such as commute hours. He also thought weekends should be used when people have free time.

Sonja Johnston suggested weekends.

5. Any ideas in reducing the big brother aspect of clean screening? VIP proposes to always use the positive message that the vehicle has passed the test. Also, VIP proposes to reduce information recorded for the test to a minimum (for example we plan to not indicate location of screening). Are there other ideas?

Elliot Eki was concerned about electronic transmission of OBD information.

Jim Houser explained that it would not be personal information but just the VIN and a few diagnostic readings. Mr. Eki remained concerned about on air data.

Wayne Elson said the VIN is readable from the windshield of a vehicle. Mr. Eki still seemed a bit concerned about electronic transmission of information.

Christine Logue said it may not be a privacy issue but perhaps it is a perceived privacy issue because people don't know that there is only limited data being transmitted.

Jerry Coffey said it becomes less of a privacy issue if the vehicle owner has to purchase equipment and voluntarily turn it on and knowingly give up the vehicle information to DEQ and the air waves.

6. Will Clean Screening be a detriment or help to members of your organization?

All said it would be helpful.

7. Would you prefer remote sensing of all model year vehicles using optical measurement or 1996 and newer model year vehicles only with OBD remote sensing? Keep in mind that only the cleanest vehicles will pass the emissions measurement Clean Screening which will likely mean the dominate fraction of vehicles clean screened will be 1996 and newer vehicles.

Jim Houser said he would prefer On-Road Clean screening with optical sensing of plume to look at all model years tested by VIP. He suggested the compromise of 1975-95 tested with optical remote sensing and 1996 and newer models profiled. He said he would like the opportunity to clean screen all vehicles.

Jerry Coffey said that because optical clean screening will be allowing only the cleanest vehicles to pass, it is not likely that many vehicles older than 1996 model year would be clean screened as a pass. Jim said he still would like to see it available for all vehicles.

Many thought there would be few willing to purchase a unit to broadcast the signal to DEQ if the cost were about \$50. Even if the cost were less around \$20 most thought only the "techies" participate.

8. Would your members have a problem if VIP charges the full \$21 for a Clean Screen test?

None of the committee members thought the \$21 fee would be a problem except if DEQ uses stand alone profiling. Even though OBD remote sensing might be a test relatively cheap to operate, the members thought DEQ could go with the \$21 fee because we will be doing a test of some type and the fee is not increased above that in the centralized station.

9. Do you have a problem with profiling for the Clean Screen Test?

Most thought the term profiling was a negative term. Jerry Coffey suggested using indexing and that seemed more acceptable.

Jim Houser said he much prefers optical clean screening to profiling because optical clean screening is actually looking at vehicle exhaust and would not let really bad vehicles through, while profiling would.

Jerry Coffey said EPA says the emissions reduction is the same for both types of clean screening (profiling and optical remote sensing). Jim was a little surprised that EPA would count them the same.

## **Self-Service Test Lanes**

1. Do you like the concept of Self-Service testing?

Christine Logue said that NATA had discussed Self-Service testing last week and concluded that they would like to have it available for use by repair facilities, but not for the general public. She said there were very few people present at last weeks NATA meeting and that the member's main objections were potential vandalism and cheating. She also was concerned that free OBD diagnostic would be available at the Self-Service lane. She also said the general public would not be able to find the connector in many cases, and when found, damage it or the vehicle while installing the connection. Afterward they may then blame DEQ for instructing them in an effort that created damage to their vehicle.

Jim Houser said any customer can already get free OBD tests in the current centralized test lanes. Jim also suggested that many consumers would have a difficult time locating and accessing their vehicle's OBD connector.

## Attachment C

Jerry Coffey agreed that the only difference in availability of free OBD tests was that DEQ would be open longer hours at the Self-Service test lane (24 hours a day, 7 days a week) and it would be self-service. He also indicated that many of the concerns of the repair facilities were actually concerns for DEQ difficulties, and that DEQ would be operating prototype lanes to insure these concerns are resolved before we open the Self-Service test lane unsupervised to the general public.

Wayne Elson said he likes the idea of having a way to look at what is wrong with his OBDII vehicle without having to go to a shop to have them tell him.

Jim Houser said Wayne could purchase a palm program and attachment for reading OBD at a cost of \$125. Wayne thought he would still rather have the free service.

2. Where would you like to see the test lanes? VIP proposes to locate the first prototype lane in the entrance area of our existing Clackamas test station. If it is determined to use only OBD for this lane, it would be inexpensive and the space requirement would be small.

Sonja Johnston thought supermarket parking lots.

Jim Houser said shopping centers were already overcrowded. But Sonja said she was thinking about grocery stores. Jim also said it should be in a well lighted area for security.

Don Taylor thought DMV or colleges were good locations.

3. Would you like to have both tests (1975-95 emissions tested remote sensing and 1996+ OBD test) or only do 1996+ tests with OBD?

Don Taylor thought the most cost effective means should be the use that of OBD only. There were no other comments on this issue.

4. What hours of operation would you prefer? VIP proposes 24 hrs per day 7 days a week.

Bruce Arnold commented that it does not make sense to ever have it closed as long as it was not staffed. No one disagreed.

5. Any ideas for security both against vandalism and against cheating?

No comments on this issue.

6. Will the Self-Service Testing lane be a detriment or help to the members of your organization?

No comments on this issue.

7. Do you have a problem with profiling for the Self-Service Test?

No comments on this issue.

#### General Comments

Elliot Eki suggested we introduce these new programs in Medford first as trial basis because Medford is a small area. Jerry Coffey said the Self-Service would be a prototype so it would be very small to begin with, and the work may need to be done in Portland for review purposes. However the clean screening could possibly be introduced in Medford.

Wayne Elson asked how we know which of our stations would have reduced traffic with such programs. Jerry Coffey said we would not know, but they would equalize if there is low traffic at one station and high at another the traffic will move to the low volume station.

Elliot Eki asked when these programs would be implemented. Jerry Coffey said both are expected to start the end of this year after EQC rule adoption on August 14, 2003.

Attachment C

Workgroup for  
DEQ Vehicle Inspection Program  
Contact Information  
Date: 2/26/03  
By: Jerry Coffey

Name	Don Taylor	Darrel Fuller	Deb Elkins	Wayne Elson
Title	Fleets Operations	Regulatory Affairs Director	Executive Director	Environmental Protection Specialist
Organization	City of Portland	Oregon Auto Dealers Association	Northwest Automotive Trades Association	EPA Region 10
Address	2835 N. Kerby, Portland, OR 97227	P.O. Box 14460 Portland, OR 97293-0460 or 1025 15 <sup>th</sup> St NE Salem, OR 97301	1710 NE 82 <sup>nd</sup> Av, Portland, Or 97220	USEPA OAQ-107,1200 6 <sup>th</sup> Avenue, Seattle WA 98101
Phone	503-823-1804	503-930-1005	503-253-9898	206-553-1463
Fax	503-823-4374	503-231-4728	503-253-9890	206-553-0110
Email	ddtaylor@ci.portland.or.us	darrell@oregonautodealers.org	deb@aboutnata.org	Elson.wayne@epa.gov

Name	Sonja Johnston	Rhett Lawrence	Larry Medearis	Elliott Eki
Title	Public Affairs	Environmental Advocate	Co-Coordinator	Public Affairs Director
Organization	DEQ	Oregon Student Public Interest Research Group	Clean City Coalition (Portland)	American Automobile Association
Address		1536 SE 11 <sup>th</sup> Avenue, Portland, OR 97214	7000 NE Airport Way Portland, OR 97208	600 SW Market Street, Portland, OR 97201
Phone	503-229-5680	503-233-4181 E313	503-460-4080	503-222-6729
Fax		503-231-4007	503-460-4124	503-222-6756
Email		info@ospirgstudents.org	medeal@portptld.com	Elliott.eki@aaaoregon.com

## Attachment C

Name	Bruce Arnold	Jerry Coffey	Monty King
Title	Purchasing Specialist	Engineer	Executive Director
Organization	DEQ, Vehicle Inspection Program	DEQ, Vehicle Inspection Program	Oregon Independent Auto Dealers Association
Address	1240 SE 12 <sup>th</sup> Avenue, Portland, OR 97214	1240 SE 12 <sup>th</sup> Avenue, Portland, OR 97214	2582 19 <sup>th</sup> Street SE Salem, OR 97302
Phone	503-731-3050 E237	503-731-3050 E229	800-447-0302
Fax	503-731-3269	503-731-3269	503-664-7331
Email	bruce.arnold@deq.state.or.us	jerry.coffey@deq.state.or.us	oiada@worldnet.att.net

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

**Memorandum**

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Date: May 19, 2003

To: Environmental Quality Commission  
From: Bruce E. Arnold  
Subject: Presiding Officer's Report for Rulemaking Hearing

Title of Proposal: Vehicle Inspection Program Rule Proposal-On-Road Clean  
Screening and Self-Service Testing of Vehicles

Hearing Date and Time: May 15, 2003, 10:00 AM

Hearing Location: Executive Building, Rm 3A  
811 SW 6<sup>th</sup> Avenue  
Portland, OR 97204

The Department convened the rulemaking hearing at the announced time and place. No one entered the hearing room to testify. Jerry Coffey and I waited the required one half hour for late arrivals. There being none I officially closed the hearing at 10:35am. A record of closing the hearing was made on the tape recorder provided for this purpose.



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

**Memorandum**

Date: May 16, 2003

To: Environmental Quality Commission

From: Ted Wacker

Subject: Presiding Officer's Report for Rulemaking Hearing

Title of Proposal: On-Road Clean Screening and Self-Service Testing of Vehicles

Hearing Date and Time: May 16, 2003 10:00 AM

Hearing Location: Jackson County Courthouse Auditorium

The Department convened the rulemaking hearing on the proposal referenced above at 10:00 AM and closed it at 10:30 AM. People were asked to sign registration forms if they wished to present comments. People were also advised that the hearing was being recorded.

No one attended the hearing; No people testified.

## **Relationship to Federal Requirements**

**Answers to the following questions identify how the proposed rulemaking relates to federal requirements and potential justification for differing from federal requirements. The questions are required by OAR 340-011-0029.**

**1. Are there federal requirements that are applicable to this situation? If so, exactly what are they?**

Vehicle inspection is included in the federally-enforceable State Implementation Plan (SIP) to attain and maintain air quality standards in Oregon. Any changes to the program must be approved by the U.S. Environmental Protection Agency (EPA) as a SIP revision. Federal rules do not require or prohibit the use of Clean Screening or Self-Service testing. However, DEQ will be required to demonstrate that these options achieve the same emission reduction as the otherwise required vehicle inspection tests. EPA has approved of optical clean screening for use in vehicle emissions testing programs and has described its methodology in a document titled "Program User Guide for Interim Vehicle Clean Screening Credit Utility" dated May 1998.

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

Not applicable.

**3. Do the applicable federal requirements specifically address the issues that are of concern in Oregon? Was data or information that would reasonably reflect Oregon's concern and situation considered in the federal process that established the federal requirements?**

Not applicable.

**4. Will the proposed requirement improve the ability of the regulated community to comply in a more cost effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later?**

The proposed rules for new vehicle testing options provide a service to the public that is more convenient than the Department's current testing. In the case of On-Road Clean Screening, the need for some customers to take their vehicles to a centralized testing location for a test will be eliminated. In the case of the Self-Service test lane, customers will be able to test their vehicles 24 hours a day, seven days a week.

Attachment E

**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?**

One of the central purposes for both new testing processes is to draw vehicles from the centralized testing lanes into the new programs to relieve potential future crowding at the centralized stations. This potential crowding would be anticipated over time as vehicle populations grow in the Portland and Medford areas. The proposed programs will help maintain current traffic flow at DEQ test stations.

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

Not applicable.

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

Not applicable.

**9. Does the proposed requirement include procedural requirements, reporting or monitoring requirements that are different from applicable federal requirements? If so, Why? What is the "compelling reason" for different procedural, reporting or monitoring requirements?**

Not applicable.

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

Yes. The technologies of OBD and remote sensing are currently available and proven. The Department merely proposes to apply the technologies in a new way for both the Clean Screening and Self-Service testing programs.

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

Not applicable.

**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**Chapter 340**  
**Proposed Rulemaking**  
**STATEMENT OF NEED AND FISCAL AND ECONOMIC IMPACT**  
This form accompanies a Notice of Proposed Rulemaking

<b>Title of Proposed Rulemaking:</b>	Vehicle Inspection Program (VIP) Rule Proposal - On-Road Clean Screening and Self-Service Testing of Vehicles .
<b>Need for the Rule(s)</b>	Provide guidance for two new VIP programs that improve customer service and reduce labor costs. Both the On-Road Clean Screen operation and the Self-Service Testing lanes are in the developmental stages and both have two optional methods of implementation. Rules are needed to begin work, test and evaluate the options and choose the best options to serve VIP's customers.
<b>Documents Relied Upon for Rulemaking</b>	<ul style="list-style-type: none"> <li>• "Description and Documentation for Interim Vehicle Clean Screening Credit Utility" dated May 1998.</li> <li>• Summary of March 7, 2003 Meeting of Advisory Workgroup. Both documents are available at Department of Environmental Quality, Vehicle Inspection Program, 1240 SE 12<sup>th</sup> Avenue, Portland, OR 97214.</li> </ul>
<b>Fiscal and Economic Impact</b>	
<b>Overview</b>	VIP will be testing two options for each of the new programs. For the On-Road Clean Screening program, VIP will be looking at optical remote sensing and broadcast on-board diagnostics. For Self-Service Testing of Vehicles, VIP will test optical remote sensing and on-board diagnostics.
<b>General public</b>	<p>The cost to the general public for vehicle testing will remain at \$21 per certificate for Portland and \$10 per certificate in Medford. However, some of the convenience options which the Department is proposing could lead to additional expenditures for the customer who opts into the program. The options and costs include:</p> <p><b>Optical On-Road Clean Screening Option</b> - there would be no additional costs for the public to participate above the current \$21 (Portland) or \$10 (Medford) fee.</p> <p><b>Broadcast OBD Testing</b> - the costs to the vehicle owner for individual vehicle broadcasting units is estimated to range from \$25-\$350, depending on the sophistication of the equipment. In addition, the airways transmissions cost would range from \$0-150 per year depending on the type and usage of the airways.</p>

Attachment F

	<p>The broadcasting equipment would be available through vendors listed by the Department as participating vendors. Participation in broadcast OBD is optional to the customer. The more expensive OBD clean screen options provide sophisticated vehicle tracking information for the customer including maintenance schedules, historical OBD trouble code information, driving speeds, etc., which may be of benefit to some vehicle owners (especially fleets).</p> <p><b>Self-Service Test lanes with direct connected OBD</b> – there would be no additional costs for the public to participate above the current \$21 (Portland) or \$10 (Medford) fee.</p> <p><b>Self-Service Testing using the broadcast OBD Option</b> - would create the costs to the vehicle owner discussed above for broadcast OBD testing equipment.</p> <p>The Self-Service testing would allow customers to test their vehicles 24 hours a day 7 days a week so that the customer would not need to take time off work to have their vehicle tested. Both of the new tests are optional for the general public and are designed primarily to provide convenience for the public.</p>
<p><b>Small Business</b></p>	<p>Costs for small business would be the same as the costs for the general public outlined above.</p> <p>The Self-Service test lanes with direct connect OBD would be advantageous to repair facilities. They can offer better service to their customers by having the ability to test OBD vehicles 24 hours a day, seven days a week at no additional cost to them.</p>
<p><b>Large Business</b></p>	<p>Large businesses with large vehicle fleets will be able to take advantage of the Self-Service testing lane at no additional cost for vehicle testing. They would also have the option of signing up for remote OBD broadcasting from their vehicles. This would cost them \$25-350 per vehicle for the broadcasting equipment and \$0-150 a year for the transmission airways. Large companies may initially select this option not so much for the emissions testing convenience, but for monitoring their fleet vehicles using tracking options available on some OBD broadcasting equipment.</p>
<p><b>Local Government</b></p>	<p>Local government fleet managers may opt to use vehicle-tracking options available as discussed for large businesses above, or they may opt to take advantage of the Self-Service test lane at no additional cost. They would experience similar costs as large businesses explained above.</p>
<p><b>State Agencies</b></p>	
<p><b>DEQ</b></p>	<p>DEQ will be testing two options for On-Road Clean Screening</p>

and two options for Self-Service Testing. DEQ will only use one of the two options for On-Road Clean Screening and one of the two options for Self-Service testing. The analysis below identifies the cost of all four options but only two options will be implemented.

There will be start up costs for each of the options, but those costs will be offset over time by reduced vehicle inspector staffing and associated costs.

**On-Road Clean Screening:**

**If optical remote sensing testing equipment is used:**

Initial implementation of this program can begin with existing equipment. To fully implement the program over a seven year period, the total capital cost for would be approximately \$1.5 million. To fully automate the program, the additional software cost would be about \$200,000. These equipment and software costs would be offset by savings in inspector staffing costs due to a reduced test volume at the centralized test stations.

**If OBD broadcast equipment is used:**

This Clean Screen program would require some additional effort from existing staff for statistics overview and computer oversight. However, overall, the VIP workload will decrease with this option initially, and if the public opts into the new program in large volumes, this could be a major labor saving test method for DEQ. The labor savings occurs because all the test work is done by the computer.

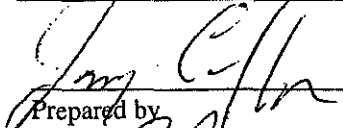
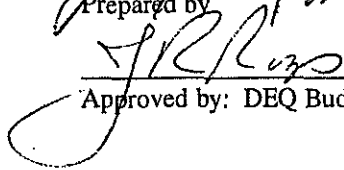
The Department hardware cost is estimated at \$30,000 for new computers and associated computer hardware. The Department's software cost is estimated to be about \$100,000 to fully automate the new program.


**Self-Service Testing Lane:**

**If optical equipment is used:**

VIP will not use any inspectors for this operation because all the test work is done by the computer and the customer. Occasional statistical oversight and expected minor labor effort will be the major DEQ labor expenditures.

	<p>The Department's hardware cost is estimated at about \$400,000 per Self-Service test lane. The software cost is estimated to be about \$200,000 to fully automate the new program.</p> <p><b>If only OBD equipment is used:</b></p> <p>The VIP operations inspector use will drop because all the test work is done by the customer and the computer. Occasional statistical oversight and minor maintenance costs will be the major labor expenditure for VIP.</p> <p>The Department's hardware costs are estimated at about \$50,000 per Self-Service test lane. The software cost is estimated to be about \$200,000 to fully automate the new program.</p> <p><b>Summary</b></p> <p>As noted above, DEQ will only use one of the two options for On-Road Clean Screening and one of the two options for Self-Service testing. It would be incorrect to add the costs for all four options because a total of only two options will be used. Recovery of start up costs is dependent on the options chosen and the level of acceptance by the public.</p>
<b>Other agencies</b>	As with private fleets, government fleets would have the same options and costs as discussed under large businesses.
<b>Assumptions</b>	The costs for OBD broadcasting units on vehicles and airways costs were obtained from Networkcar.com and Systech International. Costs for optical remote sensing units were estimated from current cost of optical remote sensing equipment from MD LaserTech at \$175,000 per unit.
<b>Housing Costs</b>	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.
<b>Administrative Rule Advisory Committee</b>	The Department used an Advisory Workgroup to help establish the direction of the proposed testing operations.

  
 Prepared by  
  
 Approved by: DEQ Budget Office

 4/14/03  
 Printed name Date  
 James Roys 4/14/03  
 Printed name Date

Attachment G

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
for  
On-Road Clean Screening and Self Service Testing of Vehicles

Land Use Evaluation Statement

**1. Explain the purpose of the proposed rules.**

This proposal would provide for two new vehicle testing programs. The first, On-Road Clean Screening, looks for clean vehicles on the road and, if the vehicle has clean emissions, DEQ will not require it to have a traditional DEQ test (i.e., go to a vehicle inspection station). The second new test method, Self Service testing, consists of the customer driving to a designated location and testing his/her own vehicle.

The new programs offer the opportunity to reduce labor costs and improve customer service. Both the On-Road Clean Screen operation and the Self Service Testing lanes are expected to reduce required DEQ staffing gradually as the number of participants increase. Clean screening is expected to save customers time by eliminating the need for the cleanest vehicles to be taken to DEQ testing facilities. Once fully phased-in, Self Service Testing is expected to enable customers to take the vehicle emissions test outside of DEQ's regular operating hours.

**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?



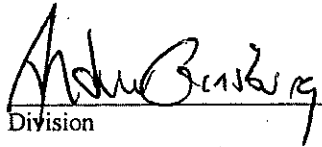
- c. If no, apply the following criteria to the proposed rules.
- d.


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

It has been previously determined through the DEQ SAC program that the Vehicle Inspection Program is not a program that significantly affects land use. These proposed rules, which address only a switch in the testing procedure generally for newer model year vehicles, do not contain program changes that significantly affect land use.

- 3. If the proposed rules have been determined a land use program under 2 above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.

N/A

  
Division

  
Intergovernmental Coord.      4-8-03  
Date

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** September 18, 2003  
**To:** Environmental Quality Commission  
**From:** Stephanie Hallock, Director *S. Hallock*  
**Subject:** Agenda Item D, Rule Adoption: Oregon Air Toxics Rules  
October 9-10, 2003 EQC Meeting

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AIR QUALITY DIVISION  
Dept. Environmental Quality

**Department Recommendation** The Department recommends that the Environmental Quality Commission (EQC, Commission) adopt the proposed Oregon Air Toxics Program rules as presented in Attachment A.

**Need for Rulemaking** Air Toxics are generally defined as air pollutants known or suspected to cause cancer and other serious health problems. These pollutants include gases like benzene and formaldehyde, metals like chromium and nickel, and fine particles like diesel particulate. Recent studies indicate that air toxics are at concentrations of concern statewide. While new and proposed federal standards for industries, auto and truck engines and other sources will reduce some emissions over time, unacceptable levels of risk from air toxics will remain. A comprehensive health-based approach is necessary to identify and reduce these risks statewide. The chart in Attachment I illustrates the relationship between the elements of the federal and proposed state air toxics programs.

**Effect of Rule** The proposed rules establish a framework the Department will follow to:

- determine concentrations of concern, or "benchmarks," for toxic air pollutants (Attachment A, p. 4-5);
- prioritize and select geographic areas with the highest risk of harmful health effects from these air toxics (Attachment A, p. 6-7); and
- develop and implement plans and strategies to reduce the release of these chemicals (Attachment A, p.8-9).

Benchmarks would be adopted as rules, with opportunity for public comment. Geographic area plans would be developed by a local advisory committee and approved by the Commission following a public comment period. The proposed rules also provide criteria the Department will use to develop strategies to reduce emissions from groups of similar air pollutant sources (Attachment A, p. 5-6). Further, the proposed rules address the rare cases of

Agenda Item D, Rule Adoption: Oregon Air Toxics Rules

October 9-10, 2003 EQC Meeting

Page 2 of 10

individual industrial sources of toxic air emissions that are not addressed by the program, but have the potential to cause harm to public health (Attachment A, p. 11-12). The Air Toxics Advisory Committee Report (Attachment C) contains a full explanation of the proposed program.

**Commission Authority**

The Commission has authority to take this action under ORS 468.015, 468.035, 468A.010, and 468A.025.

**Stakeholder Involvement**

Between 1998 and 2003, the Department worked with two advisory committees to develop the proposed rules. The Hazardous Air Pollutant Consensus Group (HCG) and Air Toxics Advisory Committee (ATAC) were composed of representatives from the public, environmental justice community, environmental groups, local government, state and local health departments, small businesses, large businesses, Associated Oregon Industries, Oregon Business Association, Gasoline Marketing Association, and Oregon Economic and Community Development Department. The June 2002 report from the ATAC, as well as a membership list can be found in Attachment C. The February 2000 HCG report is available upon request.

The advisory committees recommended that the Department use a foundation of good science to address multiple air toxics and cumulative exposures on a geographic basis with the participation of community stakeholders. All advisory committee members expressed interest in an effective and pragmatic program to reduce health risk. Industrial stakeholders sought to ensure that toxic emissions would be reduced from sources in proportion to their contributions to the problem. Public interest stakeholders sought to reduce risk in a timely and accountable fashion. Local government stakeholders worked to ensure flexibility in the planning process.

**Public Comment**

The Department has conducted two public comment periods for the proposed air toxics rules. After the first public comment period in August 2002, the Department delayed the rules to respond to budget and timing issues. The Department re-proposed the rules this year, with a public comment period extending from April 16 to May 30, 2003, including public hearings in Bend, Medford, Eugene, Portland and La Grande. The major issues raised during both comment periods are summarized below under "Key Issues." Attachment B, the summary of Public Comments and Agency Responses, provides the detailed results of the most recent public input and corresponding rule changes. The 2002 Summary of Public Comments and Agency Responses is available upon request.

**Key Issues**

**A. Key Issues Raised during the 2002 Public Comment Period**

The rules that were proposed and received public comment this year benefited from the many thoughtful comments the Department received last year. During the initial review process, the most significant comments related to the Geographic Program. Commenters expressed concerns about the ability of local advisory committees to develop timely and effective air toxics emissions reduction plans. The rules were changed to allow a one-time extension of the planning process as long as the Department believes that reasonable progress is being made. Changes were also made in the Department's review of plan implementation to include a contingency plan. The revised proposal directs the Department to implement contingency measures at the six and nine year milestones if air quality goals are not met. New language was added to ensure that plans would treat sources and source categories fairly, seeking reductions commensurate with their contribution to the problem. A complete copy of the Department's summary and responses is available upon request.

**B. Key Issues Raised during the 2003 Public Comment Period**

**1. The Need for the Proposed Rules**

Most commenters support adoption of a state program to address the ever-increasing information about air toxics risks in Oregon. However, some stakeholders still question whether air toxics problems are sufficiently defined and whether federal programs will eventually provide adequate coverage.

EPA's National Air Toxics Assessment (NATA) results show that concentrations of at least sixteen air toxics in Oregon exceed generally acceptable health risk levels. While some stakeholders question whether NATA provides adequate technical support for the proposed Oregon program, the Department has verified the national modeling study with Oregon-specific monitoring and modeling. The Department conducted air toxics monitoring for over a year at five sites in the Portland area, and the model-to-monitor comparisons have shown that NATA results are reliable. In addition, a recent project that modeled air toxics on a refined scale in the Portland area also shows similar concentrations of concern. Based on this information, the Department believes that air toxics pose a significant public health risk in Oregon.

**a. Need for the Geographic Program**

The monitoring and modeling data show that while air toxics pose health risks throughout the state, the risk is highest in more populated or urban areas. This is due to the cumulative effects of air toxics emissions from many sources. Addressing these cumulative effects was the critical concern that led the HCG to recommend the Geographic Approach as the primary tool to reduce air toxics risk in Oregon.

The federal air toxics program primarily relies on technology-based emission standards – known as Maximum Achievable Control Technology or MACT – to reduce air toxics emissions from major industrial sources. These standards, while important to reducing emissions from major sources, do not consider the cumulative effects of multiple small and large sources in populated areas. EPA's strategy to address cumulative effects relies on state and local programs like the proposed rules. Thus, without the local geographically-based approach in the proposed rules, there is no other tool to address cumulative effects.

**b. Need for the Source Category Program**

The Department expects the federal program will adequately address risk from major sources and from new motor vehicle engines. However, the federal program will not adequately address air toxics from smaller and area sources (e.g. open burning) and in-use mobile sources (e.g. existing diesel engines). The source category element of the proposed rules would direct the Department to pursue voluntary and regulatory approaches to source categories that are not addressed by the federal program but contribute to local or state-wide health risks. Oregon's Clean Diesel Initiative is an example of a categorical approach that will significantly reduce health risks by encouraging voluntary retrofit of existing diesel engines with modern pollution-control technology.

**c. Other Needs Addressed by the Proposed Rules**

While the Department believes that the Geographic and Source Category approaches in the proposed rules will address most of the gap in the federal air toxics program, there may be a small

number of point sources that fall through the cracks and create unacceptable local health risks. The Safety Net Program in the proposed rules will fill this gap by providing a procedure for identifying and assessing the risk from sources that are not subject to risk analysis under the federal program and are not otherwise addressed by the Oregon program. In addition, the federal program is limited to specifically listed hazardous air pollutants. The proposed rules establish a process for the Commission to adopt health-benchmarks for other pollutants that may be identified as causing significant health risks in Oregon.

## **2. Regulatory Authority**

Some commenters have noted that the proposed air toxics rules are not required by state or federal law. While there is no specific legislative mandate directing the Department to develop an Oregon air toxics program, existing statutes clearly authorize the Commission to adopt the program. ORS 468A.010 and 468A.015 state a purpose and policy to restore and maintain the state's air quality by controlling, abating and preventing air pollution, as practicable, consistent with overall public welfare.

In addition, ORS 468A.025 governing air quality standards and treatment and control of emissions specifically authorizes the Commission to adopt emission standards by rule. ORS 468A.025(3) authorizes the Commission to adopt these standards for different pollutants and source categories, and to adopt standards for the entire state or an area of the state. ORS 468A.025(4)(e) directs the Commission to adopt rules applicable to a source category, pollutant or geographic area necessary to protect public health or welfare for pollutants that are not otherwise regulated by the Commission or as necessary to address cumulative impacts.

While federal law does not require the Commission to adopt the proposed program, EPA has encouraged the Department to submit the air toxics program upon adoption for approval under the federal Urban Air Toxics Program. The federal Urban Air Toxics Program, which EPA is developing for implementation by the states, calls for states to adopt strategies to meet risk goals statewide, in urban areas, and near stationary sources. ("Urban" areas may include both large and small

cities, depending on the general density of the populated area.) The EPA has not yet finalized a framework to administer the Urban Air Toxics Program, but has indicated that it would approve qualifying state programs or operate the programs itself. The Department believes the proposed rules meet the intent of the federal Urban Air Toxics Strategy and will qualify for approval.

Over the last twenty years, many other states have developed successful risk-based air toxics programs that focus on industrial point sources and reviewing new sources of air toxics. Numerous states and cities are now conducting air toxics modeling or monitoring projects to assess community risk, and plan for local emission reduction measures. Elements of these programs and projects are aligned with the goals of EPA's Urban Air Toxics Strategy. However, at this time, Oregon is the only state proposing a comprehensive air toxics program that addresses risk statewide, in communities, and near sources. Oregon's proposed air toxics program has often been presented as a viable model that other states could use to meet the goals of the Urban Air Toxics Strategy.

### **3. Exemptions for Regulated Stationary Sources**

The Department received several comments that industrial sources subject to costly MACT requirements should receive an exemption from all or parts of the proposed air toxics program.

The Safety Net Program provides a specific exemption for sources subject to MACT because EPA's Residual Risk Program will eventually evaluate and address health risk near MACT sources. This exemption previously applied only to specific emissions reduced by the MACT. Upon learning that EPA plans to extend residual risk analysis facility wide, even for pollutants not specifically controlled by the MACT, the Department expanded this exemption to include all facilities that must comply with a MACT for which EPA will perform a residual risk analysis.

However, the Geographic and Source Category Programs do not contain specific exemptions for sources subject to MACT, although they include consideration of factors, such as technical feasibility, cost effectiveness and equity, to avoid duplicative regulation. Because of these considerations and the potential need to address remaining risks, the proposed rules do not include specific exemptions for these sources.

In the Geographic Program (Attachment A, p. 6-9), a local committee must design emission reduction plans that are “commensurate with source contributions” and consider toxicity, technical feasibility, cost effectiveness and equity. Given these criteria, it is very unlikely that MACT sources with low emissions or low contributions to risk would be required to make further emissions reductions.

In the Source Category Program (Attachment A, p. 5-6), the Department will consider whether emissions are not or will not be addressed by other regulations or strategies, including the Geographic and Safety Net Programs, as well as federal MACT standards. Any future source category rulemaking must clearly involve analysis of regulatory burdens and economic impacts along with specific environmental benefits.

#### **4. Benchmark Criteria**

In addition to comments urging the Department to set ambient benchmarks that are protective of sensitive populations, commenters raised two issues related to exposure. First, commenters felt that ambient benchmarks should reflect annual average concentrations, rather than short term concentrations. Second, the rules should state that plausible upper bound, or reasonable maximum exposures should be considered when developing the ambient benchmarks.

The Department expects that initial ambient benchmarks will be based on chronic or long term exposures, and, so, will be expressed as annual average concentrations. However, future studies may show that benchmarks, especially those protecting sensitive individuals or critical periods of development, should also address acute or short term exposures. For this reason, the proposed rules do not limit ambient benchmarks to annual average concentrations. The Department will specify the averaging period when proposing each benchmark for adoption. (Attachment A, p. 4-5).

The Department agrees that the benchmark process should refer to plausible upper bound or reasonable maximum exposures, and has added this reference to the proposed rules (Attachment A, p. 4). The Department plans to develop a protocol for benchmark adoption, including a hierarchy of preferred information sources, data



prioritization, and consistent criteria for decision-making. This protocol will be developed as a Department policy in consultation with the Air Toxics Science Advisory Committee (ATSAC).

### **5. Identifying Geographic Areas**

The proposed rules describe steps for screening, identification and selection of high priority Geographic Areas, or areas with risk more than ten times above ambient benchmarks (Attachment A, p. 6). These three steps would be based on modeling, emission inventory and, when available, monitoring information. Commenters stated that the Department should not identify high priority areas without quality monitoring data. Because of their belief that designation as a high priority area could result in economic disadvantages, commenters felt that it should be supported by actual measurement of air toxics.

In response to this concern, the proposed rules now require the Department to use representative monitoring data to select an area for emission reduction planning (Attachment A, p. 6 and 7). The Department will select high priority areas when measured air toxics concentrations from individual pollutants are more than ten times above ambient benchmarks. The Department will still follow screening and identification steps – using modeling and emission inventory data – to decide which high priority geographic areas to monitor. Monitoring will be conducted using EPA monitoring guidance.

Based on EPA's 1996 National Air Toxics Assessment, potential high priority Geographic Areas under consideration for monitoring and subsequent selection are: Portland Metro Area, Medford, Salem, La Grande, McMinnville, Baker City, Eugene/Springfield, Albany/Millersburg and Klamath Falls. The next release of the National Air Toxics Assessment, expected in 2003, could revise risk estimates for some of these areas, causing them to fall below the high priority level of ten times above the benchmark.

Selecting Geographic Areas through monitoring means that the areas will be selected over several years as monitoring resources allow, rather than at once through modeling as initially proposed. Although the Department expects to identify very few Safety Net sources, this change in selecting geographic areas means more sources are potentially subject to the Safety Net Program. This is because the

Safety Net Program only applies outside of selected high priority Geographic Areas. However, monitoring will still be required under the Safety Net Program to demonstrate the need for a health risk assessment.

**Next Steps**

With Commission adoption, the Oregon Air Toxics Program will be effective upon filing by the Secretary of State in November 2003. The Department will submit the program for approval by EPA. In early 2004, the Department will appoint the Air Toxics Science Advisory Committee (ATSAC) and begin work on ambient benchmarks. The Department expects that the first set of ambient benchmarks will be presented to the Commission for adoption in early to mid-2005, and the first Geographic Area will be selected shortly afterwards. Geographic planning will proceed first in Portland, with a local emission reduction plan due by the end of 2006.

Between 2004 and 2005, the Department will work with the ATSAC to develop a risk assessment protocol for the Safety Net Program, and develop forms, templates and a training plan for regional staff. The Department will implement the Oregon Air Toxics Program using existing, reprioritized and additional resources. The legislature authorized three new federally funded positions to perform toxicology, emission inventory and planning work in air toxics. The full implementation plan is available upon request.

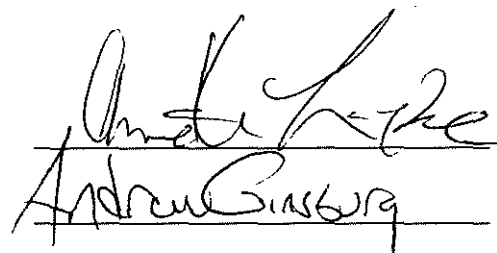
- Attachments**
- A. Proposed Rule Revisions
  - B. 2003 Summary of Public Comments and Agency Responses
  - C. Air Toxics Advisory Committee Report and Membership
  - D. Presiding Officers' Reports on Public Hearings
  - E. Cover Memorandum for Public Notice
  - F. Relationship to Federal Requirements Questions
  - G. Statement of Need and Fiscal and Economic Impact
  - H. Land Use Evaluation Statement
  - I. Elements of the Federal and State Air Toxics Programs

- Available Upon Request**
- 1. Legal Notice of Hearing
  - 2. 2002 Summary of Public Comments and Agency Responses
  - 3. 2002 and 2003 Written Comments Received
  - 4. Rule Implementation Plan
  - 5. HAP Consensus Group Report and Membership

Approved:

Section:

Division:



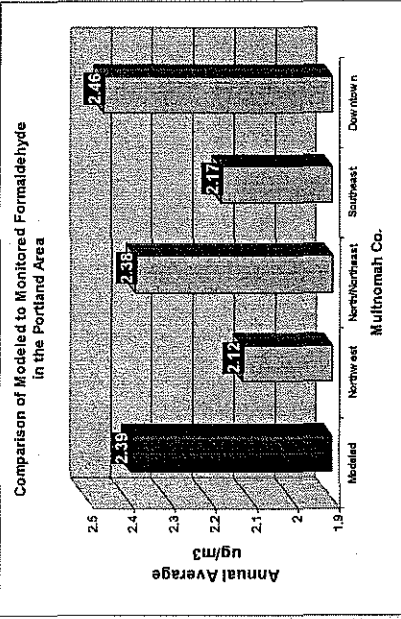
Andrew Lopez  
Andrew Ginsburg

Report Prepared By: Sarah Armitage  
Phone: 503-229-5186

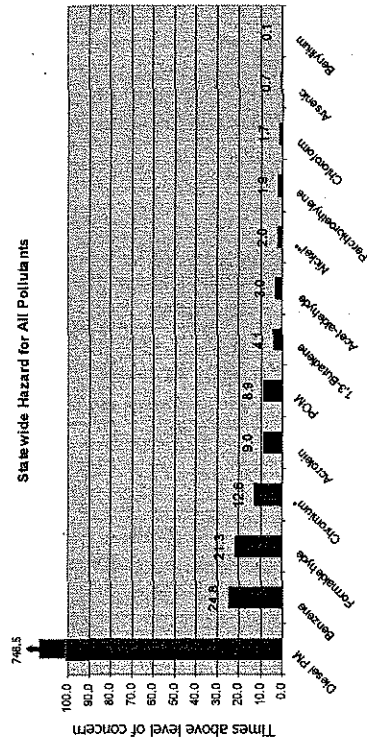




# Air Toxics Monitoring

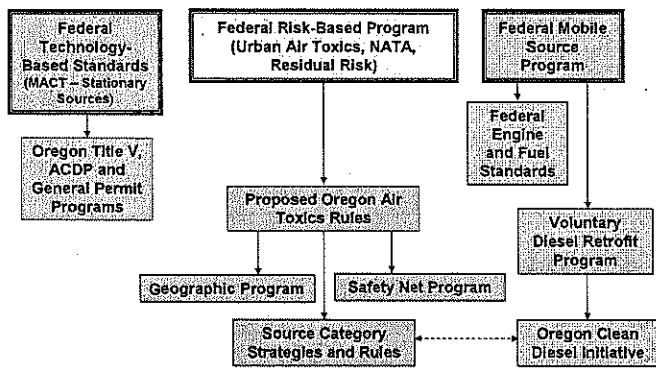


### Statewide Hazard for All Pollutants

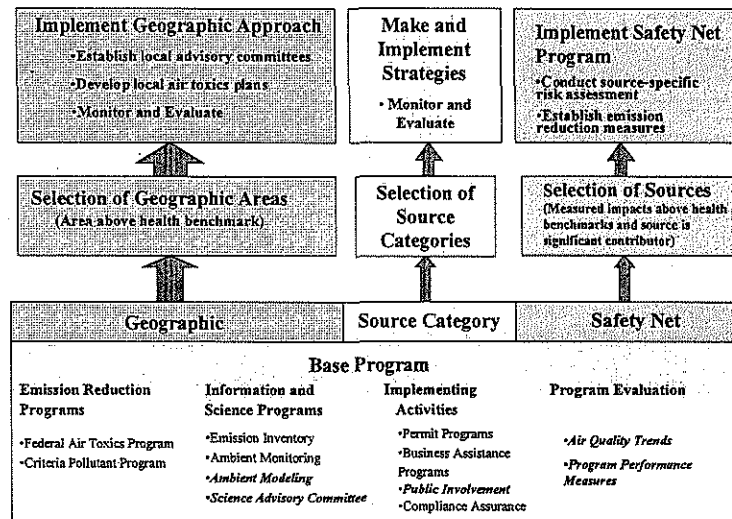




### Elements of the State and Federal Air Toxics Programs



### Proposed Oregon Air Toxics Program Structure





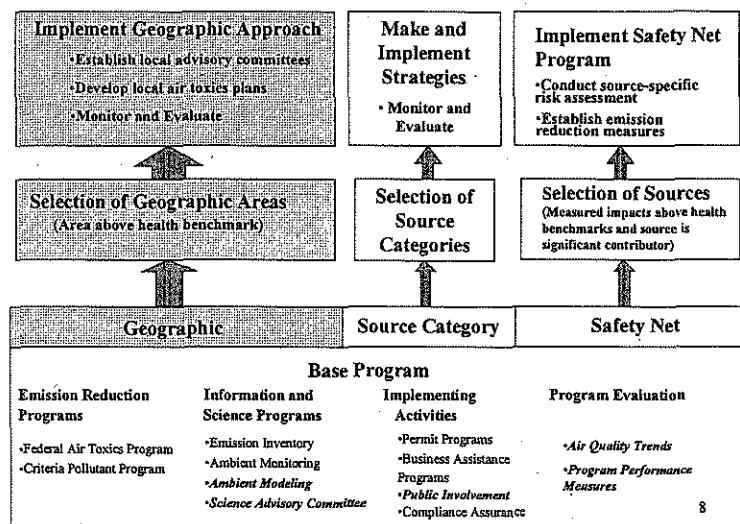
## Air Toxics Science Advisory Committee (ATSAC)

- Benchmarks
- Program Evaluation
- Advisory Opinions
- Safety Net Selection



7

## Proposed Oregon Air Toxics Program Structure

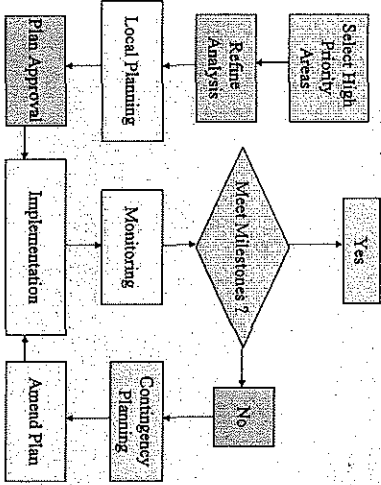


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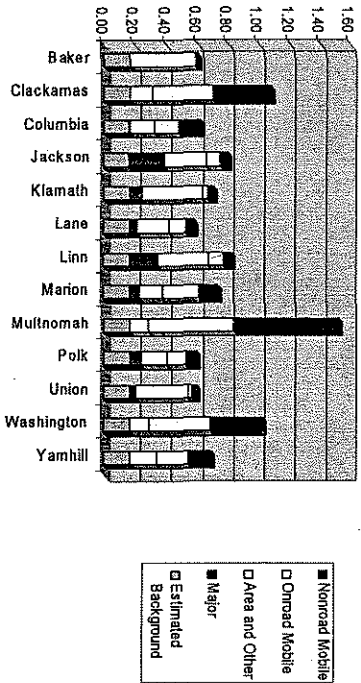


# Geographic Program

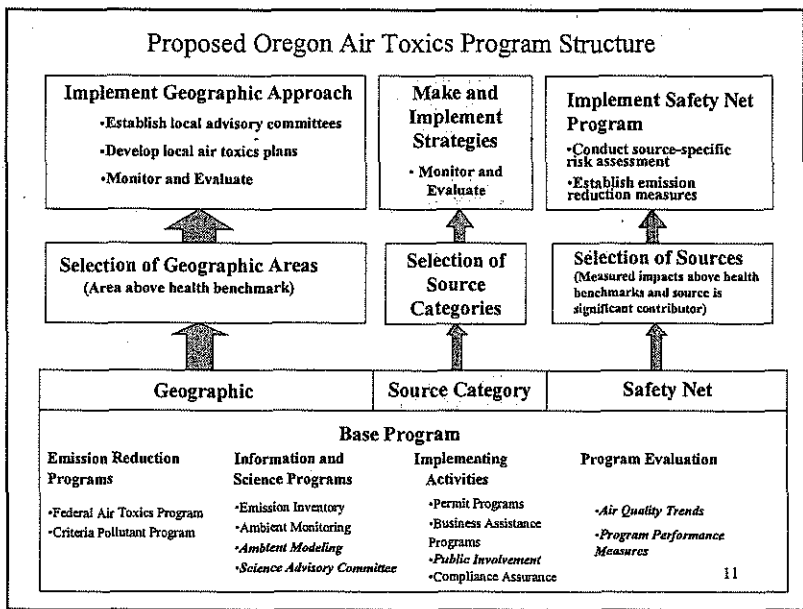
## Process





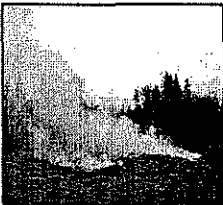
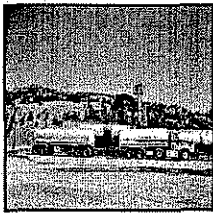
## Formaldehyde Sources

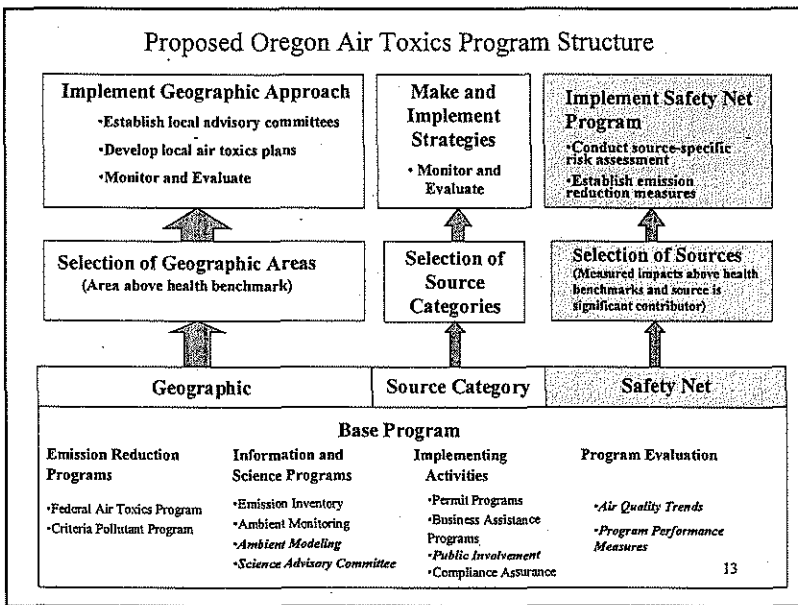







### Source Category Strategies



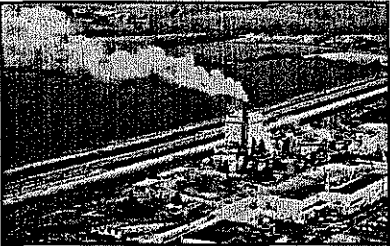


## Safety Net Program

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Purpose

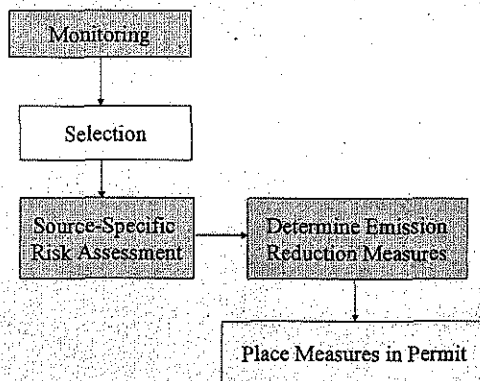
- Address potentially high risk emissions at stationary sources that are not covered by federal standards, geographic planning or state rules
- Rare cases






## Safety Net Program

### Process


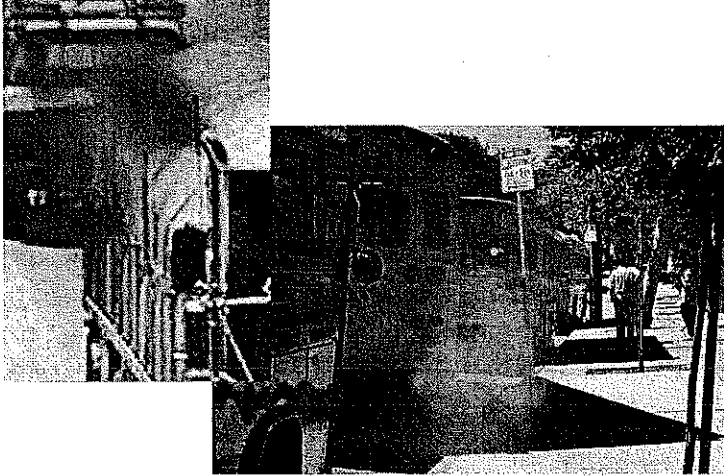


## Next Steps

- Air Toxics Science Advisory Committee
- Benchmark Adoption
- Portland Planning
  - Early Reductions
  - Local Advisory Committee
- Monitoring Projects
- Oregon Clean Diesel Initiative
- Next Geographic Area



Oregon Clean Diesel Initiative



Diesel Engines and Air Quality

- Diesel exhaust is a complex mixture of gases and fine particles
- Engines have historically contributed significant amounts of NOx, particulate matter to air pollution
- Carbon soot identified as potent global warming contributor



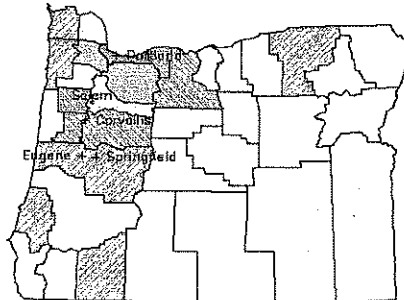
## Diesel Engines and Air Quality

- Diesel PM listed as probable human carcinogen by international, federal and state agencies
- California research indicates diesel PM responsible for 70% of cancer risk from ambient air toxics
- Diesel exhaust listed among 5 most hazardous to children

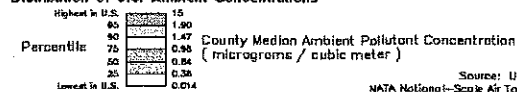


## What Is The Concern in Oregon?

1996 Estimated County Median Ambient Concentrations  
Diesel Particulate Matter – OREGON Counties



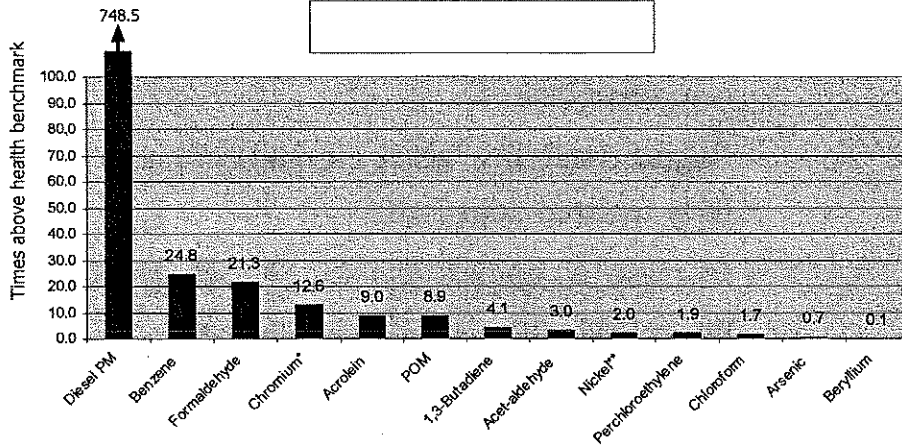
Distribution of U.S. Ambient Concentrations



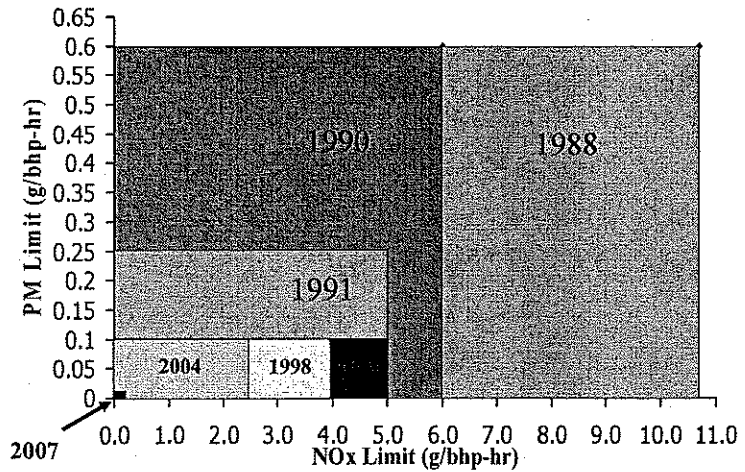
Source: U.S. EPA / OAQPS  
NATA National-Scale Air Toxics Assessment



# Statewide Hazard For All Pollutants



# On Road Diesel Engine Emission Standards



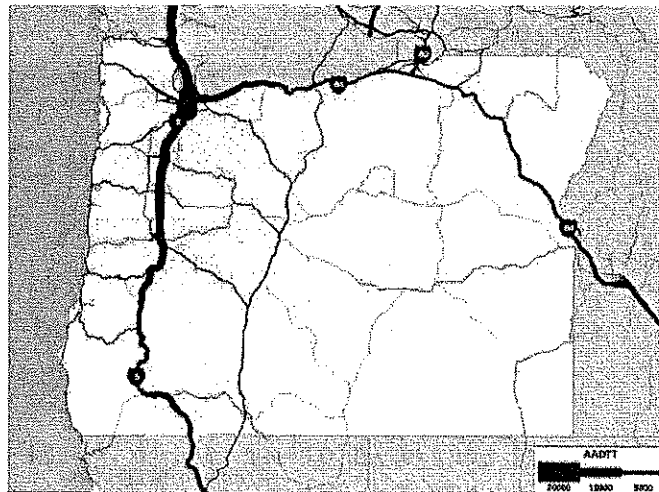


## What Is The Concern?

- Federal emission standards have become more restrictive but
- Engine durability means air quality benefit not fully realized until 2030
- Increase in number and use of diesel vehicles may offset gains from fleet turnover



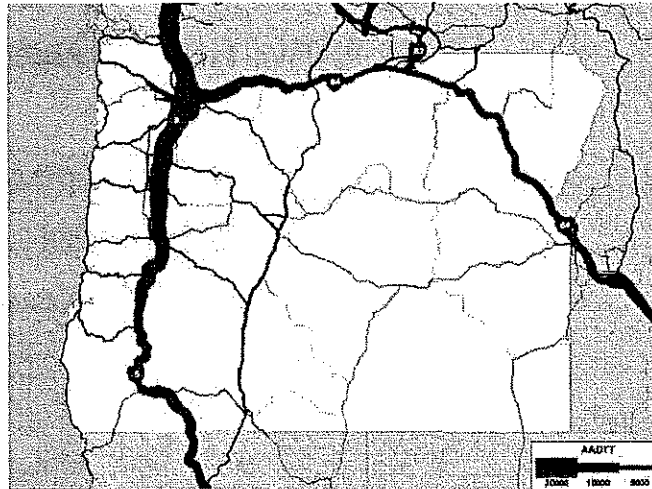
## Estimated Average Annual Daily Truck Traffic 1998



Source:  
Federal Highway  
Administration  
November 2002



## Estimated Average Annual Daily Truck Traffic 2020



Source:  
Federal Highway  
Administration  
November 2002



## How Do We Get There?

- Burn Cleaner Fuel
- Burn Fuel Cleaner





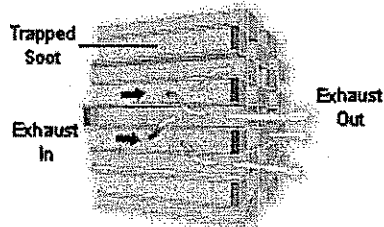
## Burn Cleaner Fuel

### Ultra Low Sulfur Diesel

- Off road diesel up to 5000 PPM sulfur
- On road diesel up to 500 PPM sulfur
- ULSD no more than 15 PPM sulfur



## Burn Fuel Cleaner



- Catalyst oxidizes CO, HC to harmless gases
- Trap prevents particulate emissions to open air; catalyst oxidizes the particulate, regenerating the trap
- Can reduce total particulate emissions by up to 95 %
- Better toxic reduction (carbonyl & PAHs) than CNG



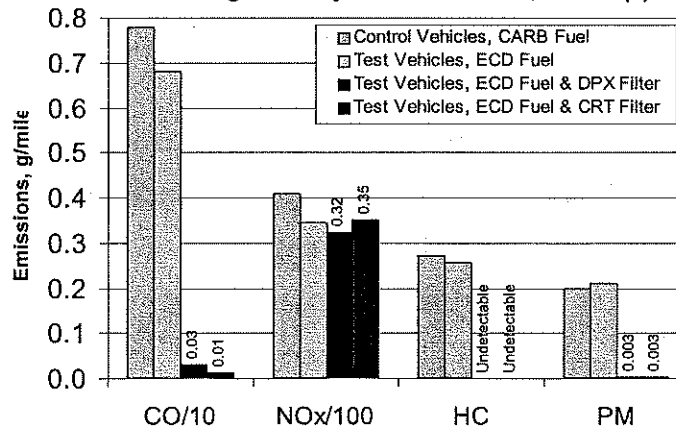
## Burn Fuel Cleaner

- 1999 Detroit Diesel Series 60
- 12.7 liter turbocharged diesel, 430hp
- Johnson Matthey CRT and Engelhard DPX
- 42,000 lb test weight
- Twenty trucks tested to investigate vehicle-to-vehicle variability



## Burn Fuel Cleaner

Average Grocery Truck Emissions, CSHVR(2)





## Tax Credits for Diesel Retrofits

For installation of catalyzed soot filters:  
35% credit against Oregon income taxes

For more information:

- Maggie Vandehey
- DEQ 503.229.6878
- [vandehey.maggie@deq.state.or.us](mailto:vandehey.maggie@deq.state.or.us)
- [www.deq.state.or.us/msd/taxcredits/txcp.htm](http://www.deq.state.or.us/msd/taxcredits/txcp.htm)



## Oregon Clean Diesel Initiative

Reducing diesel PM emissions has  
multiple benefits:

- Cancer risk
- Other toxics, e.g., formaldehyde
- Asthma induction and incidence
- Global warming
- Visibility, regional haze
- PM<sub>2.5</sub> attainment



## Oregon Clean Diesel Initiative

- For more information:

Kevin Downing  
DEQ – Air Quality  
503.229.6549  
[downing.kevin@deq.state.or.us](mailto:downing.kevin@deq.state.or.us)



## Efforts to Date

- Clean Diesel Conference – July 2001
- Initial efforts attempt to identify demand for fuel
- Promote options not dependent on fuel availability



## Efforts to Date

### Filter Installation

- Rogue Disposal & Recycling  
Garbage trucks
- CSU  
Over the road trucks
- Beaverton School District  
School buses



## Efforts to Date

### Identify Fuel Market

- Target: 10 million gallons annual demand  
Allows distribution from Portland bulk terminals to Willamette Valley, Central Oregon and, ultimately, the rest of the state



## Efforts to Date

### Identify Fuel Market – 10 million

#### Commitments in hand

- 4.25 million gallons from 15 public and private fleets in Willamette Valley
- 1.25 million from transit fleets in Salem and Eugene



## Efforts to Date

### Identify Fuel Market – 10 million

#### Commitments sought

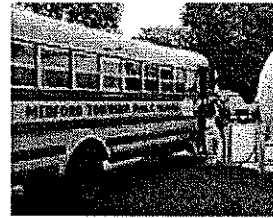
- 3.4 million from school bus fleets in Valley, North & Mid Coast, Central Oregon
- 12 million gallons from TriMet and Portland area garbage haulers

Total: 21 million gallons

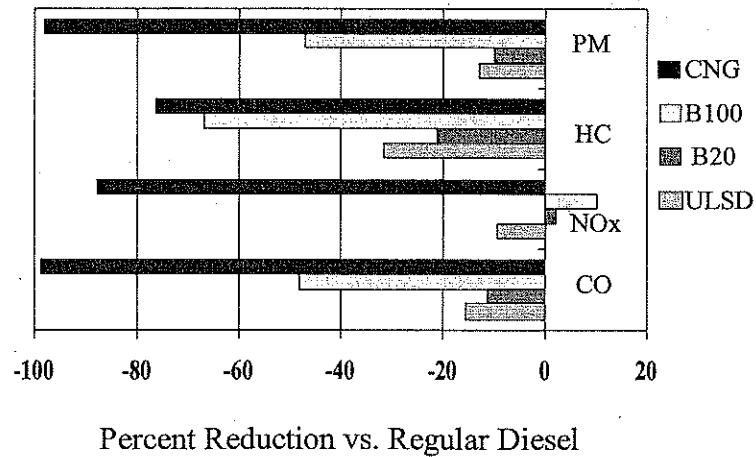


## Burn Cleaner Fuel - Biodiesel

- Vegetable oils and/or waste grease refined to diesel fuel
- Biodegradable, nontoxic, renewable fuel
- Reduces PM, CO, VOCs; Increases NOx
- Can be blended (20%) or used 100%
- Excellent lubricity
- Cost, high cloud point



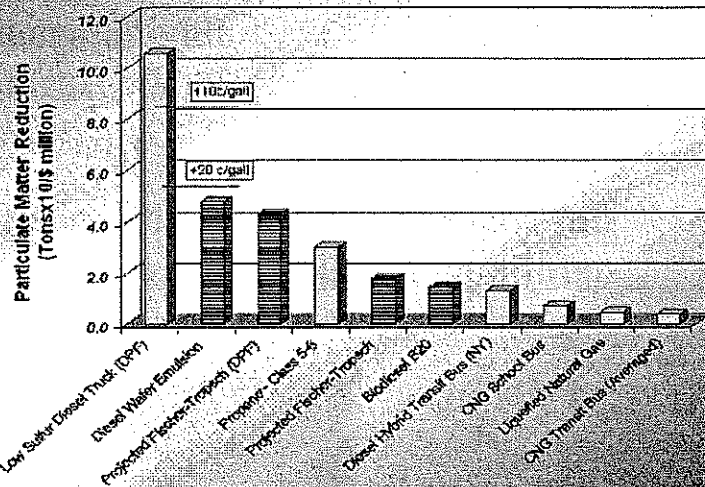
## Burn Cleaner Fuel





## Cost Effectiveness of Alternative Control Options

Particulate Matter and Toxics Reduction per Million Dollars Expended



From:  
Alternative Diesel  
Fuel Symposium,  
August 2003,  
California Energy  
Commission



## Economics of Retrofitting

### Environmental/Public Health Impact in Oregon

- \$937 million per year or
- \$2 per gallon of diesel used





## Economics of Retrofitting

Per vehicle:	Environmental/ Public Health costs
Filter/fuel costs	– \$16,000
– \$1,600	

Environmental/Public Health benefit with retrofitting is realized in less than 2 months



## Economics of Retrofitting

Hypothetical large grocery/consumer goods retailer

- \$715,000 for the filters
- \$60,000 premium for the fuel

Impact on the customer

- 1/2 cent on a \$100 purchase



## Economics of Retrofitting

### Hypothetical garbage hauler

- \$97,500 for the filters
- \$5,400 premium for the fuel

### Impact on the customer

- \$1.60 per year



## Economics of Retrofitting

### Hypothetical transit fleet

- \$1,300,000 for the filters
- \$310,000 premium for the fuel

### Impact on the customer

- 1 cent fare increase



## Clean Diesel Initiative

- Addresses a serious need
- Solution readily available
- Requires substantial effort
- Cost effective
- Substantial gains in protecting public health and the environment

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** September 18, 2003  
**To:** Environmental Quality Commission  
**From:** Stephanie Hallock, Director *S. Hallock*  
**Subject:** Agenda Item E, Informational Item: Oregon Clean Diesel Initiative  
October 9, 2003 EQC Meeting

**Purpose of Item** The purpose of this item is to brief the Environmental Quality Commission on current efforts by the Department to reduce exposures to diesel exhaust through a voluntary, incentive supported program called the Clean Diesel Initiative.

**Relationship to state of Oregon and Department Priorities** The Initiative supports two of the Department's Strategic Directions: 1) To Protect Human Health and the Environment from Toxics and 2) To Involve Oregonians in Solving Environmental Problems.

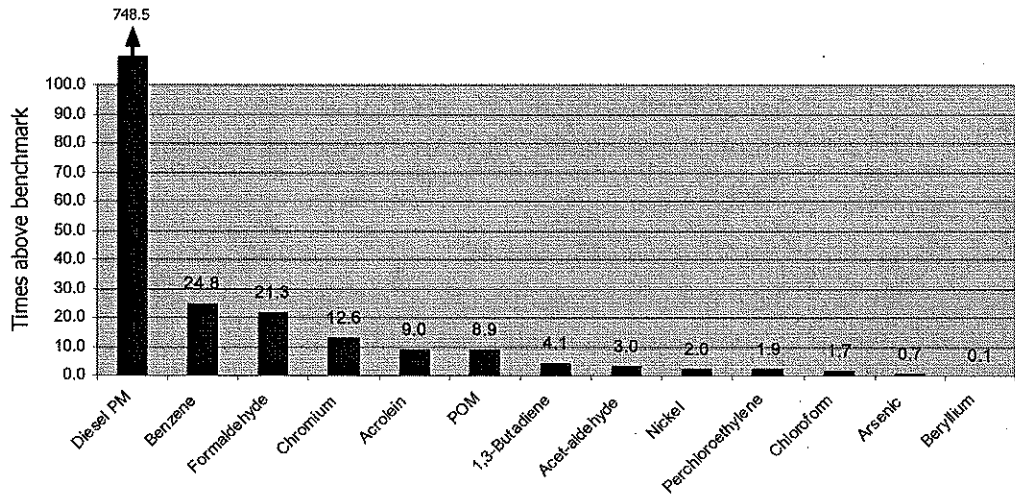
The Department has been working for the past several years to develop an air toxics control program, which the Commission will consider for adoption in a separate action at this meeting. Diesel particulate causes the greatest health risk of all pollutants to be addressed under this program, making the Clean Diesel Initiative the most important source category strategy the Department will pursue under this program.

The Initiative is also a key strategy for the Department in supporting and realizing the goals of the Governor's Sustainability Executive Order. The Department is forming a Clean Diesel Workgroup to develop a strategy that further promotes clean diesel technology in Oregon. This workgroup will prepare a list of recommendations and actions by spring 2004.

**Background** Diesel engines are well known for their durability, reliability, power and fuel economy. These advantages have led to their widespread use in heavy duty applications. Today, diesel engines in trucks, locomotives and tugs are responsible for 94 percent of the freight movement in the United States. However, these engines are disproportionate emitters of nitrogen oxides (NOx) and respirable fine particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). Heavy-duty diesel vehicles account for about 6 percent of all motor vehicles in Oregon but

emit about 35 percent of the NOx and about 65 percent of the particulate matter from motor vehicles. An increasing body of medical evidence points to diesel particulate matter as a potent carcinogen. Preliminary assessment of toxic air contaminants in Oregon shows diesel particulate to be the number one health risk, by an order of magnitude, among all other outdoor air toxics. (Figure 1)

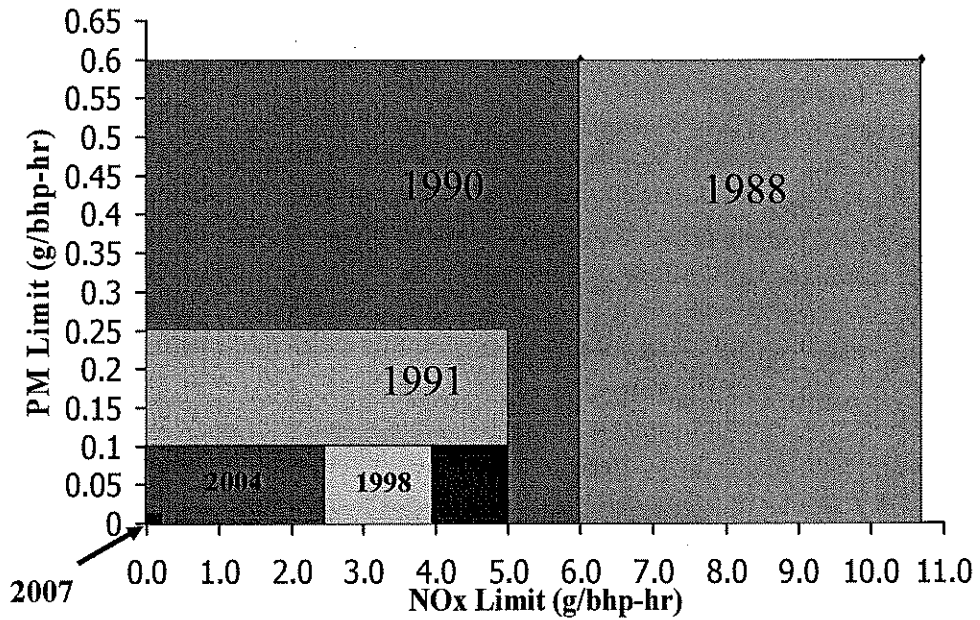
Figure 1 Statewide Risk For All Air Toxics



Diesel engines have gotten cleaner over the past several years as shown in Figure 2. Although the 2007 standards represent a significant milestone for reducing emissions from diesel engines, any air pollution benefit must come from turnover in the fleet, which is much slower than for light duty vehicles because of the durability of a diesel engine. The Environmental Protection Agency projects that substantial benefits from the 2007 rule will not be realized for another 15 to 20 years.

In Oregon, fleet turnover appears to be happening even more slowly because the average age of a heavy-duty diesel vehicle in this state is one to two years greater than the national fleet. Full realization of the benefits from stricter engine standards is also confounded by an increase in the use of diesel powered vehicles, where not only the number of vehicles has grown but the vehicle miles traveled has increased even faster.

Figure 2 Federal Heavy Duty Diesel Engine Certification Standards



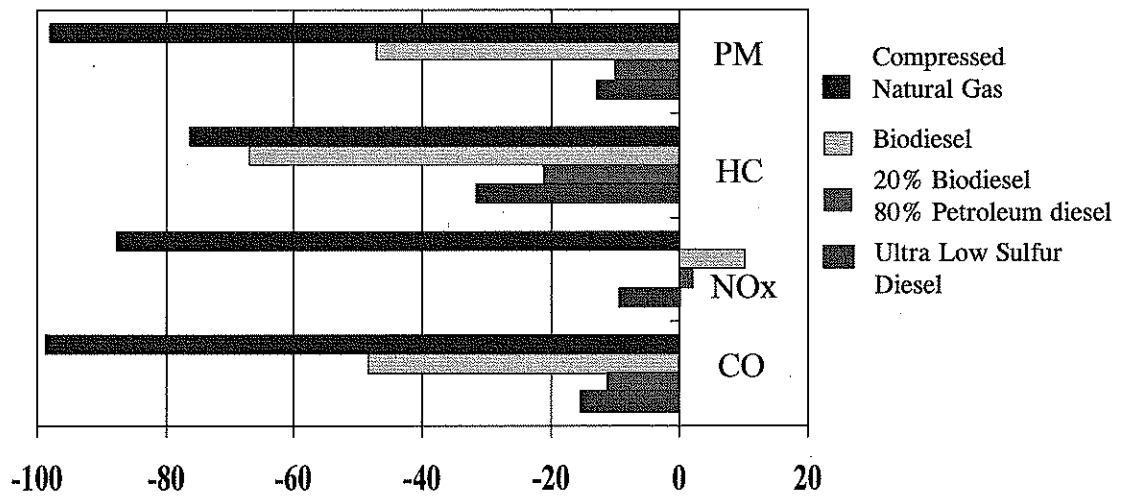
The goal of the Clean Diesel Initiative is to reduce the risk in Oregon by reducing emissions from in-use diesel vehicles while the new engine standards phase in. A number of techniques to reduce emissions from in-use vehicles are possible. These include cleaner fuels, retrofit emission control equipment and combinations of cleaner fuel and exhaust controls.

Figure 3 shows emission benefits resulting from several approaches relying on fuel change alone. For instance, a long-standing approach has been to repower heavy-duty engines with compressed or liquefied natural gas. Compared to standard diesel engines, natural gas vehicles show excellent emission reductions with regulated pollutants, however operational constraints have prevented widespread acceptance of this fuel/engine powertrain. At twenty to forty thousands dollars more per natural gas vehicle, cost is a significant barrier. This does not include the additional expenditures needed for fueling infrastructure.

Biodiesel is another fuel that has recently sparked interest because of its many environmentally-friendly qualities. Biodiesel is a renewable diesel fuel derived from any number of vegetable oils and recycled animal fats. Although it can be used at full strength, biodiesel is often blended 20 percent with petroleum diesel to reduce certain operational limitations and lower the

cost. This blending also reduces the environmental benefits. The fuel is clearly superior to petroleum diesel on measures of energy security, energy renewability, and global warming, but is mixed on air quality benefits. While there are reductions in particulate (PM), hydrocarbon (HC) and carbon monoxide (CO) emissions, the use of biodiesel does result in an increase in NOx emissions. Biodiesel is overall a less effective, and more costly, air quality strategy than other available approaches. For instance, it costs eleven times more to reduce the same amount of particulate with biodiesel than with catalyzed soot filters. Nonetheless, the Department supports the development of biodiesel as an element of an overall sustainable program to reduce harmful emissions from diesel engines, especially if the feedstock and production processes are part of an economic development strategy for Oregon and the Northwest.

Figure 3 Reduction of Regulated Emissions

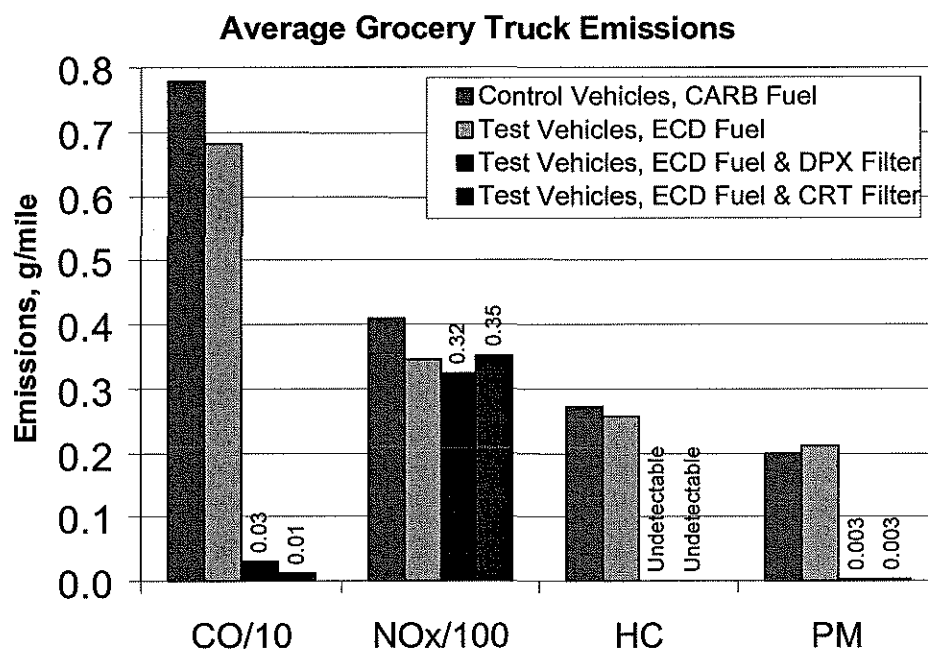


Percent Reduction vs. Regular Diesel

Advances in pollution control technology and a cleaner formulation of petroleum diesel fuel (called Ultra Low Sulfur Diesel Fuel) make it possible for many diesel engines already on the road to operate with very low emissions. Figure 4 shows emission test results from a California study on heavy-duty trucks comparing baseline emissions to vehicles using just the fuel, here branded by British Petroleum as ECD™, and vehicles fitted with each of two different types of catalytic soot filters, the DPX™ filter manufactured by Engelhard and the CRT™ filter made by Johnson-Matthey. The resulting emissions are dramatically lower for carbon monoxide,

hydrocarbon and particulate emissions. Little or no change in nitrogen oxide emissions are anticipated as these devices are not intended for NOx control. Diesel vehicles using the fuel and filters have an emissions profile that is very similar to a compressed natural gas vehicle for carbon monoxide, hydrocarbons and particulates. However, this is achieved at a much lower cost and while still retaining the operational advantages of a diesel engine. Biodiesel is naturally low sulfur fuel and would also enable the use of catalytic soot filters.

Figure 4 Emissions Reductions with ULSD and Filters



**Clean Diesel Efforts to date**

The Oregon Clean Diesel Initiative is intended to encourage retrofitting of existing vehicles with catalyzed soot filters along with the use of the ultra low sulfur fuel in order to realize the environmental and public health protections made possible by these technological improvements.

The Department's recent efforts have focused on identifying and aggregating demand for ultra low sulfur fuel in order to demonstrate a large enough market in Oregon to warrant early introduction of the fuel. So far, the Department has received commitments for over 5 million gallons of annual fuel use and anticipates securing another 10 million gallons of demand by this



fall. This will put Oregon well above the 10 million gallon target established by the oil refiners for market viability. Initially, the fuel will be available in the Portland area followed by other portions of the Willamette Valley, central Oregon and southern Oregon. The Department is working with agencies in Washington state to ensure early introduction of the fuel east of the Cascades as well.

Several fleets have already committed to demonstrating the effectiveness and utility of the catalytic soot filters on at least forty vehicles around the state on school buses, garbage trucks and over-the-road trucks.

The Initiative is also exploring other opportunities to reduce emissions from diesel engines. For example, the Department is partnering with Puget Sound Clean Air Agency to investigate cost effective emission control options for diesel engines in construction, marine and railroad operations. Engines operating in these settings tend to be more heavily polluting than onroad vehicles but operational issues associated with these applications hinders straightforward technology transfer from highway vehicles when retrofitting existing engines. The Department is encouraging EPA to adopt nonroad engine certification standards and fuel requirement for new engines that are similar in stringency to highway diesel engines.

The Department is working with other partners to explore ways to help save fuel and reduce air pollution from truck idling. Operators idle their diesel engines for a number of reasons. In some cases, particularly at truck stops, drivers idle their vehicle to maintain personal comfort systems during federally mandated rest periods. The Initiative has undertaken efforts to partner with federal and state transportation, energy and environmental agencies along the west coast to develop a regional strategy along the Interstate 5 corridor for truck stop electrification. This is a promising technique that offers a variety of services for truckers including cable television, Internet access, as well as heat or air conditioning in the sleeper compartments of their vehicles while reducing their fuel costs and wear and tear on their vehicle's engines.

**EQC  
Involvement**

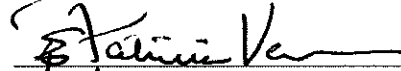
In January 2001, the Environmental Quality Commission amended rules for the Pollution Control Facilities Tax Credit Program to make "nonpoint source" facilities eligible for the credit. This includes retrofitting of diesel engines with exhaust aftertreatment controls. The Clean Diesel Initiative is an example of a source category approach that could be employed under the air toxics program under consideration for approval by the Commission at this same meeting.

**Further  
Information  
Available**

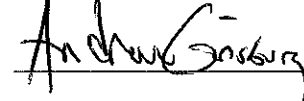
Other information about clean diesel efforts in Oregon is found at <http://www.deq.state.or.us/qa/diesel/index.htm>. Information about the Voluntary Diesel Retrofit program sponsored by the Environmental Protection Agency can be located at <http://www.epa.gov/otaq/retrofit/index.htm>.

Approved:

Section:

  
\_\_\_\_\_

Division:

  
\_\_\_\_\_

Report Prepared By: Kevin Downing

Phone: 503.229.6549



Here's how the sponsorship option works:

- A borrower applies for a traditional wastewater treatment project. Attached to the project is a nonpoint source, water restoration activity that the borrower also wishes to complete (such as riparian restoration).
- The interest rate for the combined project (the traditional project *and* the water restoration activity) is reduced until the repayment amount is the same as it would have been for the traditional project by itself (at standard interest rates). The minimum rate is 1%.
- Other loan terms and conditions are the same as for a traditional project, with some accommodation for the nature of the water restoration activity.

Recently, DEQ granted the first two of these sponsorship loans, both to the City of Portland for wastewater treatment work that included a number of habitat restoration and revegetation projects along Johnson Creek, the Columbia Slough and the Willamette River. A total of \$12.3 million will be loaned to the City at 1% interest, which will result in \$2.3 million in nonpoint source pollution projects in addition to the traditional wastewater treatment work without additional cost to the City's ratepayers.

This is a significant step forward in our efforts to help finance nonpoint source pollution projects in Oregon. We expect that other public agencies in Oregon will soon take advantage of the loan sponsorship option, given the favorable financial terms of the agreement and the potential for making additional water quality improvements in local watersheds.

### **West Coast States Commit to Climate Change Initiative**

In August, I reported that Pacific Coast States and British Columbia were exploring a West Coast climate change initiative that would include coordinated, regional actions, policies, and measures. In late September, Governor Kulongoski announced that Oregon would join with Washington and California in the initiative (see Attachment A), which will set a meaningful goal for reducing carbon dioxide (CO<sub>2</sub>) emissions and other climate change-causing substances through a combination of short and long-term actions. The West Coast governors now will invite British Columbia and Mexico to join the initiative. In Oregon, a stakeholder advisory group staffed by the Oregon Office of Energy is being convened to assist in implementing climate change strategies, and an interagency group chaired by DEQ will be established to help Oregon agencies reduce our own climate change-causing emissions.

### **DEQ Developing a Sustainability Plan**

The Governor's Executive Order on a Sustainable Oregon for the 21<sup>st</sup> Century calls on state agencies to develop sustainability plans by this December. In addition, the Governor's Natural Resource Office (GNRO) has asked natural resource agencies to coordinate our plans and incorporate GNRO priorities. DEQ is in the process of developing our plan, which will focus on key actions from our Strategic Directions, including reducing toxics in our environment, promoting the use of clean diesel, and encouraging the reuse of waste water. Our plan will also describe how we will build on past successes to become more sustainable in our own operations and encourage others outside the agency. Andy Ginsburg, DEQ's Air Quality Division Administrator, is DEQ's Sustainability Coordinator. We will be seeking your input on DEQ's plan at the December EQC meeting.

### **Potential Groundwater Management Area in Southern Willamette Valley**

DEQ recently completed a three year study on groundwater quality in the Southern Willamette Valley (SWV, see map in Attachment B). The SWV is one of the fastest growing areas of the state, and the majority of public water systems and private well owners rely on shallow groundwater for drinking water supplies. Based on groundwater sampling conducted by DEQ in 2000-2003, approximately 20% of the wells sampled contained more than 7 milligrams per liter (mg/L) of nitrate, and more than 35% of those wells were over the public drinking water standard of 10 mg/L of nitrate. Nitrate in the SWV is not a naturally occurring contaminant, and the study indicates that nonpoint sources such as septic systems and fertilizers are among the primary causes for the pollution.

In October and November, we will be asking for public comment on our proposal to declare a Groundwater Management Area for part of the SWV, which is statutorily required if assessment information indicates widespread nitrate groundwater contamination. If a Groundwater Management Area is declared, the Department will work with other state agencies, and collaborate with a groundwater management committee comprised of local stakeholders, to develop groundwater management plans. The plans would include continued public education, research and demonstration projects, and implementation of best management practices to address contamination and protect groundwater quality for future uses. The proposed SWV Groundwater Management Area would probably cover over 10,000 residents. Only two other Groundwater Management Areas currently exist in Oregon, one in the Lower Umatilla Basin and one in the Upper Malheur Basin, both declared in the early 1990s.

Since conclusion of this study, DEQ has been working to notify as many SWV residents as possible of the problem. We are using workshops, newsletters, newspaper articles, websites, OSU extension classes for rural homeowners, and meetings with local farm groups, governments, County Commissions and Environmental Health Departments to inform residents. We are encouraging people to test their wells regularly, and if they have concerns about the nitrate levels in their water, to drink bottled water or consider a treatment system or new well. Ultimately, residents must make their own decisions about the level of risk they are willing to accept. Our goal at this point is to provide the information they need to make that decision.

### **State Temperature Standard Out for Public Comment**

DEQ is currently revising state water quality rules that set standards for the protection of aquatic life, including temperature criteria, intergravel dissolved oxygen standards and antidegradation provisions. This rulemaking stems from a March 2003 Oregon District Court decision that overturned EPA's 1999 approval of Oregon's existing temperature criteria and ruled that the intergravel dissolved oxygen criteria were not protective of salmonid spawning activities. The revised rules will also incorporate recent guidance EPA provided to States and Tribes on developing temperature criteria.

A public comment period on the proposed new standards opened on August 15 and will close on October 3. Oregonians were notified of the proposal through a variety of traditional and innovative methods. In addition to direct notice mailings, we developed an email list of all watershed councils, soil and water conservation districts, irrigation districts, environmental and trade organizations, and federal, state and local government agencies. We're using email to alert

people to early draft comment opportunities, to the start and close of the official comment period, and to scheduled public hearings. In addition, we posted the rule and supporting documents on an interactive web page that allow visitors to email questions and comments directly to DEQ.

DEQ conducted ten hearings around the State between September 15 and 24. Over 70 persons attended the meetings, and for the most part, the rules were well received. We plan to present the new standards to you for consideration at the December meeting, and submit the rules to EPA immediately thereafter. Driven by the District Court decision, EPA is on a parallel track to revise temperature criteria for Oregon. By mid-December, EPA plans to decide whether to focus their efforts on completing their rule or approving Oregon's rule. By March 2004, EPA must either adopt their rule or approve ours. We are continuing to work closely with EPA and the Services on our rule revision to put it in the best possible position to be approved.

### **Progress in Wastewater Permit Backlog Reduction and the Blue Ribbon Advisory Committee**

In May, I reported to you on changes in DEQ's water program designed to reduce wastewater permit backlogs and identify long-term solutions for adequate funding and managing program workload. Initial goals for this one-year initiative were:

- for the short term, to reduce the permit backlog as much as possible, including completion of permits for "major" sources of wastewater discharge, and
- for the longer term, to work with the Blue Ribbon Advisory Committee on strategies for improving the program, including streamlining permit processes, restructuring fees, and identifying rule or statute changes needed for long term program health. We plan to have changes ready to propose to the 2005 legislature.

By the end of August, the program had issued 15 permits, putting us over 10% of the way toward reaching our backlog reduction goal of issuing 133 permits by June 2004. The Blue Ribbon Advisory Committee has also made progress, by established a vision and key elements for revising the program as follows.

The Committee's vision for an effective wastewater program:

*"DEQ's wastewater program improves and protects water quality through timely, predictable, innovative, responsive and transparent regulation of wastewater and stormwater."*

The Committee recommends achieving this vision through the following key elements:

- Implements water quality standards to achieve and protect beneficial uses of the State's waters, in concert with TMDLs and other related water quality programs;
- Implements predictable and transparent permitting and inspection/compliance responsibilities in a timely, consistent, and efficient manner, utilizing technology and innovation where appropriate;
- Provides assistance to help facilities achieve compliance and offers incentives to encourage permit holders to move beyond compliance to achieve higher environmental performance; and
- Is accountable for the work it performs.

With this guidance, DEQ is drafting an implementation plan that the Blue Ribbon Committee will respond to its next meeting in late October.

**Governor's and Senator's Representatives Tour McCormick & Baxter Superfund Site**

In August, I briefed you on the status of clean-up work at the McCormick & Baxter Creosoting Company site – a federally listed Superfund site on the banks of the Willamette River, within the boundaries of the more recently designated Portland Harbor Superfund site. To date, more than \$22 million, including \$8 million from Oregon, has been invested to address extensive creosote and pentachlorophenol contamination from wood treating activities conducted at the site from the 1940's to 1991. In July, the Environmental Protection Agency (EPA) made the decision not to fund the next step of the project for fiscal year 2004 (approximately \$12 million to clean up sediments by covering them with a cap). As a result, we began aggressively pursuing future funding from EPA, working through the Governor's office with EPA Region 10 and Headquarters.

On September 25, representatives from Governor Kulongoski's office and Senator Gordon Smith's office toured the McCormick and Baxter Superfund Site and saw first hand the exposed, contaminated sediments that continue to leach pollutants into the river, threatening human health and species living in and around the Willamette. Participants were interested and supportive of Oregon's need for funds to complete the cleanup work, and we are hopeful that our efforts will result in 2004 funding from EPA.

**Partnership Discussions with Gail Achterman, Head of Institute for Natural Resources**

On September 15, members of DEQ's Executive Management Team and I met with Gail Achterman, the recently appointed head of the Institute for Natural Resources, created by the 2001 Oregon Legislature and housed at Oregon State University (see Attachment C). In leading the Institute, Achterman has begun meeting with a number of agency directors and state leaders to develop a plan for the Institute's role and operation. In our conversations, Achterman and I discussed opportunities for partnership between DEQ and the Institute, primarily for collection, evaluation and analysis of scientific information to support policy-making and public education. We talked about development of the new DEQ-Public Health Laboratory facility and the possible creation of a Science and Information Center, and Achterman expressed interest coordinating on both of these efforts.

On September 24, Achterman participated in the first meeting of the DEQ Laboratory Review Workgroup, which Mary Abrams, DEQ Laboratory Division Administrator, has convened to help evaluate the laboratory's functions and space requirements in preparation for finding an appropriate space for the DEQ and Public Health laboratories. Other members of the workgroup include the EPA, FBI, U.S. Geological Survey, Oregon Watershed Enhancement Board, Lane Regional Air Pollution Authority, Northwest Pulp and Paper Association, Oregon Forest Industries Council, and a number of local government and private laboratory representatives. In addition to getting valuable input from these partners on the lab's organization, our intent is to raise awareness and support for the lab relocation effort. The Committee will continue to meet through the end of the year to develop recommendations on any changes that might improve the lab's contribution to the work of the agency and state environmental management.

**Attachment A**

**Governors Kulongoski, Locke and Davis Announce  
Tri-State Strategy to Reduce Global Warming**

September 22, 2003 Press Release

Governor Ted Kulongoski joined Governors Gary Locke and Gray Davis via statement today to announce an ambitious, coordinated strategy to reduce global warming. Due to the effects of climate change, the governors concluded that states must act individually and interactively to protect their residents and economies.

“Global warming is a real phenomenon, which affects us in many ways, from increasingly costly forest fires to encroaching seas upon our coastline. This is a matter of economic necessity,” said Governor Kulongoski.

The agreement by the three governors represents their resolve to decrease the emissions that cause global warming.

Specifically, the three governors plan have directed their staffs to work together to provide them with recommendations on ways the West Coast states can:

- Use the states’ combined purchasing power to obtain fuel-efficient vehicles and low-rolling resistance tires. For example, the states are working on a uniform specification for the purchase of hybrid vehicles.
- Reduce emissions from diesel fuel in transportation through reductions in the use of diesel generators of ships in west coast ports and in the use of diesel engines by creating a system of emission-free truck stops along the Interstate 5 corridor all the way from Mexico to Canada.
- Remove barriers to and encourage the development of renewable electricity generation resources and technologies. (California already has an ambitious renewable energy portfolio in state.)
- Develop uniform efficiency standards with the potential to reduce greenhouse gas emissions. Specifically, they will work together to deal with federal limitations on upgrades of appliance efficiency standards, which may include waivers from those limitations.
- Develop consistent and coordinated greenhouse gas emission inventories, protocols for standard reporting, and accounting methods for greenhouse gas emissions, and collaborate on improved scientific tools to more precisely measure the impact of climate change.



**Attachment B**

**Southern Willamette Valley Groundwater Management Area:  
Study Results and the Next Steps**

The Department has considered the Southern Willamette Valley a priority area for groundwater assessment and protection. We have been concerned about this area for many reasons, including: the documented severity and extent of nonpoint source groundwater contamination; the vulnerability of shallow groundwater to impacts from the overlying land uses; the expectation that population growth in this area will rapidly expand; and the fact that most of those who live in the area obtain their drinking water from the shallow groundwater. In addition, water-supply data indicate that the shallow sand and gravel aquifer provides more than 80% of the water beneficially used in the Willamette Valley.

Based on the above concerns, the Department conducted a nitrate groundwater study in the Southern Willamette Valley (SWV) during 2000-2001. That study focused on the shallow groundwater as the resource most likely affected by human activities. Nitrate concentrations exceeding 2-3 mg/L generally point toward anthropogenic contributions of nitrate. Results of this study indicated that 20% of the wells sampled had nitrate present at levels greater than 7 milligrams per liter (mg/L). Of those wells greater than 7 mg/L, 35% reported nitrate present at concentrations greater than the health-based public water supply standard of 10 mg/L. There are no health-based private water supply standards.

In 2002, the Department undertook a second nitrate study of the shallow groundwater in the Southern Willamette Valley. This study included resampling those wells from the previous study that had reported nitrate values greater than 7 mg/l. Also included in the 2002 study were the analyses of phosphate, iron, manganese, arsenic, lead, bacteria, pesticides, caffeine, and other water quality parameters.

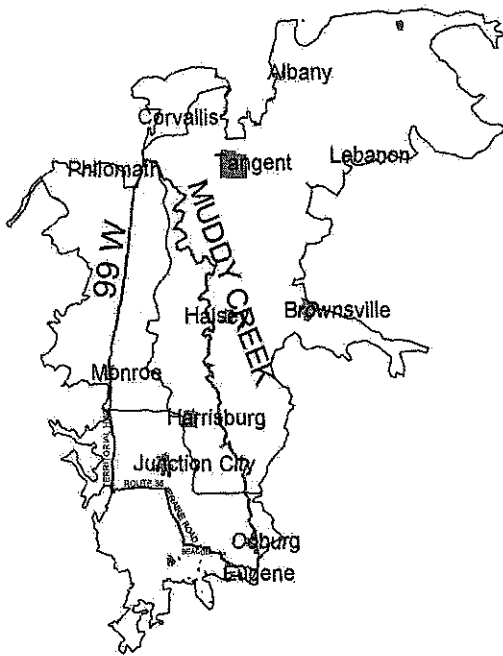
In general, the 2002 nitrate values were higher when compared to the results of samples collected from the same wells in 2000-2001. The highest nitrate value in 2002 was 28 mg/L. The areas around Junction City and Coburg revealed the presence of high nitrate-value clusters. There were detections of fifteen different pesticides above their respective reporting limits, albeit these detections were at low concentrations. By far, the most widespread pesticide present was atrazine and its' breakdown product desethyl-atrazine. Atrazine was present at 31 sampling locations, in concentrations ranging from 25-192 nanograms per liter (ng/L). Desethyl-atrazine was present at 54 sampling locations, in concentrations ranging from 21 -776 ng/L. Simazine was the next most frequently reported pesticide, and was present at 11 sampling locations in concentrations ranging from 20 – 239 ng/L. There were no exceedances of a health-based standard for any of the pesticides.

The Department's Groundwater Program uses a protection strategy that begins with monitoring and assessment to identify groundwater quality problems. When there is confirmation of nonpoint sources of groundwater contamination above regulatory levels (in the case of nitrate, 7 mg/L as contained in OAR 340-40), State agencies collaborate with local stakeholders who have formed a groundwater management committee to develop groundwater management plans. The

primary goals of such management plans include the development and implementation of best management practices to lessen future groundwater contamination and the determination of appropriate means for protection of public health and the groundwater resource. There is an expected emphasis of these plans on public education, and research and demonstration projects to increase public awareness.

The Department used the results of all previous studies to determine the appropriate recommendation for a groundwater protection strategy. A recommendation has been made to designate parts of the Valley a Groundwater Management Area (GWMA), consistent with ORS 468B.180. Widespread nitrate groundwater contamination at levels greater than 7 mg/L is the basis for this recommendation.

A series of public meetings and public hearings are scheduled for October 2003, and public comment will be taken until December 1, 2003. The Department will evaluate all comments and determine the feasibility of declaring a GWMA as proposed and, if such a declaration is made, the appropriateness of the proposed boundary for the GWMA.



This is the figure of the Southern Willamette Valley Study area and the proposed boundary for the Groundwater Management Area. The proposed boundary includes Highway 99W, Muddy Creek and the communities of Coburg, Junction City and Harrisburg. The Department is also considering adding the area north of Corvallis to the GWMA.

**Attachment C**

**OSU TAPS ACHTERMAN TO HEAD INSTITUTE FOR NATURAL RESOURCES**

July 29, 2003 Press Release

CORVALLIS - Gail L. Achterman, a leading state and national natural resource policy adviser, has been named director of the Institute for Natural Resources at Oregon State University - a center for research, information access and policy analysis established by the Oregon Legislature.



She was an assistant to former Oregon Gov. Neil Goldschmidt on natural resource issues from 1987-91, and earlier served as a legal adviser for the U.S. Department of the Interior. She also chaired the Governor's Task Force on Impacts of Growth for Gov. John Kitzhaber in 1998 and is now a member of the Oregon Transportation Commission.

Created in 2001 as part of the Oregon Sustainability Act, the Institute for Natural Resources conducts important research on natural resource issues, and develops and evaluates data that help Oregon's political and resource management leaders create sound policy based the latest scientific findings.

Rich Holdren, vice provost for research at OSU, called the hiring of Achterman "an exciting success" for the institute.

"Gail has natural resource policy experience in the state and federal government, she has worked with environmental law in private industry, and she has headed a non-profit corporation," Holdren said. "She is a non-traditional hire in that her background isn't from academia. However, in these times of tight resources, it was critical that OSU identify an individual who can work across - and within - the web of political, economic, social and environmental interests in the state.

"Her wealth of experiences and her dedication to sound policy will enable the university to play a key role in addressing Oregon's natural resource needs," Holdren added.

For the past three years, Achterman has been the executive director of the Deschutes Resources Conservancy. The non-profit corporation has led an unusual initiative to carry out ecosystem restoration in Central Oregon, bringing local, state, federal and tribal governments together with private stakeholders to work on restoring stream flows and improving water quality in the Deschutes River basin.

From 1991-2000, she worked as a partner with Stoel Rives LLP in Portland, where she practiced natural resource and environmental law, with an emphasis on issues involving water and endangered species. She has a law degree and a master's degree in natural resources policy and management from the University of Michigan. Achterman graduated from Stanford University in 1971 with a bachelor's degree in economics, with honors.

Achterman described the Institute for Natural Resources at OSU as a bridge between public policy makers and the Oregon University System's research and information capabilities.

"For the first time, Oregon citizens, legislators and government officials have a single 'storefront' where they can get objective, independent advice on scientific issues that pervade natural resource policy decisions," Achterman said. "The institute can act as an information clearinghouse, a research unit, and a center for policy analysis."

Achterman will be the first full-time director of the institute, which already is involved in several projects. Hal Salwasser, dean of OSU's College of Forestry, has been interim director of the center since its inception.

Working with a grant from the Meyer Memorial Trust, the institute is leading a collaborative effort on the Willamette Basin Conservation Project - developing maps and data that will become available to the public through a digital library. It also is working with other northwest institutions and agencies on a Sustainability Atlas for the Pacific Northwest.

Salwasser said the institute has completed a review of the Oregon Scenic Waterways Program for the Oregon Parks and Recreation Department, and led a refinement of environmental benchmarks for the Oregon Progress Board.

**Date:** September 19, 2003  
**To:** Environmental Quality Commission  
**From:** Stephanie Hallock, Director *S Hallock*  
**Subject:** Agenda Item G, Action Item: Tax Credit Consideration  
October 10, 2003 EQC Meeting

**Proposed Action** Decide whether to take the action that the Department of Environmental Quality (DEQ, Department) recommends regarding the Pollution Control Facilities Tax Credits presented in this Staff Report.

**Key Issues** The Department presents its analyses and recommendations to the EQC to approve or deny tax credit certification in Attachments B through E. The attachments' cover pages provide background information and references.

- Attachment B is the approval for **preliminary certification** of Tillamook County Creamery Association's planned wastewater treatment system.
- Attachment C is the **reconsideration of a prior EQC Order** certifying the facility presented on Marion Resource Recovery Facility's application number 6113. The Department recommends that the EQC approve certification for an increased tax credit amount.
- Attachment D presents 55 applications for **approval of final certification**.
- Attachment E presents three applications for **denial of final certification**.

The EQC has requested that each staff report for tax credits include a Certified Wood Chipper Report and a Tax Expenditure Liability Report. The Department presents these two reports in Attachments F and G.

The Department submits a letter for the Commission's approval that would permit the Department to sign the Pollution Control Tax Credit Certificates. The delegation letter is Attachment H.

**EQC Action Alternatives** Any application may be postponed to a future meeting if the Environmental Quality Commission (EQC, Commission):

- Requires the Department or the applicant to provide additional information; or
- Makes a determination different from the Department's recommendation, and that determination may have an adverse effect on the applicant.

Agenda Item G  
Action Item: Tax Credit Consideration  
October 10, 2003 EQC Meeting

**Department Recommendation** The Department recommends that the Commission:

- approve the preliminary certification of the applications presented in Attachment B;
- reconsider and approve the higher tax credit amount presented in Attachment C;
- approve final certification of the 55 facilities detailed in Attachment D;
- deny final certification of the three facilities presented in Attachment E.; and
- consider delegating certificate signature authority to the Department as presented in Attachment H.

**Attachments**

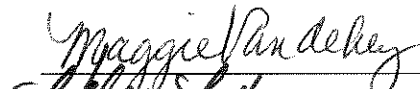
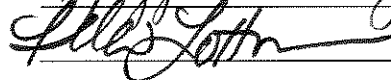
- A. Summary of Recommendations
- B. Background and References for Preliminary Approval
- C. Reconsideration of Final Order
- D. Background and References for Final Approvals
- E. Background and References for Denials
- F. Certified Wood Chipper Report
- G. Tax Expenditure Liability Report
- H. Letter of Delegation

**Available Upon Request** ORS 468.150 to 468.190 & OAR 340-016-0005 to 340-016-0080

Approved:

Section:

Division:

Report Prepared By: Maggie Vandehey  
Phone: 503-229-6878

# Attachment A

## Summary of Recommendations

### Recommended for Approval

App #	Applicant	Claimed Cost	Certified Cost	Difference	% Allocable	Maximum Allowable %	Tax Expenditure Liability <sup>1</sup>	Media	Notes	
5564	A.G.G. Enterprises, Inc.	521,826	495,536	(26,290)	81%	50%	200,692	SW		
5571	East County Recycling Company	568,188	123,612	(444,576)	100%	50%	61,806	SW		
5601	Steven Terjeson 50% Patrick Wright - 50%	476,617	476,617	0	100%	50%	238,309	SW		
5838	S & H Logging, Inc.	245,507	143,507	(102,000)	69%	50%	49,510	SW		
5853	Willamette Industries, Inc.	3,686,460	2,905,456	(781,004)	100%	50%	1,452,728	Air		
5885	Roseburg Forest Products Company	313,276	225,310	(87,966)	100%	50%	112,655	Air		
6113	Marion Resource Recovery Facility, LLC	3,042,922	2,741,771	(301,151)	24%	50%	329,013	SW		
6136	Intel Corporation	1,451,529	238,379	(1,213,150)	100%	50%	119,190	Water		
6137	Intel Corporation	2,470,603	2,293,400	(177,203)	100%	50%	1,146,700	Water		
<b>6138</b>	<b>TDY Industries, Inc.<sup>2</sup></b>	<b>2,084,412</b>	<b>853,847</b>	<b>(1,230,565)</b>	<b>100%</b>	<b>50%</b>	<b>426,924</b>	<b>Air</b>		
6244	TDY Industries, Inc.	41,887	27,926	(13,961)	100%	50%	13,963	Air		
6245	TDY Industries, Inc.	1,034,326	816,949	(217,377)	100%	50%	408,475	Air		
6333	Freres Lumber Co., Inc.	245,214	180,295	(64,919)	100%	35%	63,103	Air		
6370	Monaco Coach Corporation	1,741,970	1,741,970	0	100%	50%	870,985	Air		
6390	Sumitomo Electric Semiconductor Materials	774,668	774,668	0	100%	50%	387,334	Water		
6391	Sumitomo Electric Semiconductor Materials	120,833	120,833	0	100%	50%	60,417	Air		
6399	United States Gypsum Company	2,055,408	1,381,242	(674,166)	100%	50%	690,621	Air		
6405	Rexius Forest By-Products, Inc.	291,656	289,372	(2,284)	100%	25%	72,343	Water		
6407	Tillamook County Creamery Association	Preliminary Certification								
6436	McCafferty-Whittle Construction Company	1,700,246	1,500,246	(200,000)	23%	25%	86,264	Air		
6444	Weyerhaeuser Company	2,375,266	2,166,153	(209,113)	100%	50%	1,083,077	Air		
6464	Eric & Roy Peterson Farm	121,371	120,307	(1,064)	100%	35%	42,107	Water		

1. Tax expenditure liability = certified cost \* % allocable \* maximum allowable %.
2. This facility in this application includes the replacement of previously certified facilities.

## Recommended for Approval

App #	Applicant	Claimed Cost	Certified Cost	Difference	% Allocable	Maximum Allowable %	Tax Expenditure Liability	Media	Notes
6480	Gary Yates	25,747	25,050	(697)	100%	35%	8,768	Water	
6482	Fort James Operating Company, GP	292,219	292,219	0	100%	50%	146,110	Water	
6483	Fort James Operating Company, GP	147,070	41,300	(105,770)	100%	35%	14,455	Water	
6489	Scientific Developments, Inc.	57,835	52,435	(5,400)	100%	35%	18,352	Air	
6498	Safeway, Inc.	39,342	39,342	0	100%	35%	13,770	SW	
6499	Safeway, Inc.	34,298	34,298	0	100%	35%	12,004	SW	
6500	Safeway, Inc.	23,702	23,702	0	100%	50%	11,851	SW	
6502	Teri Georgette Andrews	141,337	128,402	(12,935)	100%	35%	44,941	Water	
6509	TDY Industries, Inc.	76,130	76,130	0	100%	35%	26,646	Water	
6513	Roseburg Forest Products Company	65,512	51,012	(14,500)	100%	35%	17,854	Air	
6515	New KAB IV, LLC	4,591	4,591	0	100%	35%	1,607	SW	
6516	Kadel's Auto Body I, LLC	6,342	6,342	0	100%	35%	2,220	SW	
6518	Loren's Sanitation Service, Inc.	356,827	356,827	0	100%	50%	178,414	SW	
6519	Loren's Sanitation Service, Inc.	36,780	36,780	0	100%	50%	18,390	SW	
6520	Loren's Sanitation Service, Inc.	13,333	13,324	(9)	100%	50%	6,662	SW	
6521	Loren's Sanitation Service, Inc.	45,224	45,224	0	100%	50%	22,612	SW	
6523	TDY Industries, Inc.	475,495	475,495	0	100%	50%	237,748	Water	
6524	Clackamas Compost Products, LLC	230,000	230,300	300	94%	35%	75,769	SW	
6526	Charlie Waterman	24,047	23,434	(613)	100%	35%	8,202	NPS	
6529	Cottage Grove Garbage Service, Inc.	27,413	27,413	0	86%	35%	8,251	SW	
6531	Timothy Pfeiffer	44,341	27,341	(17,000)	92%	35%	8,804	Air: Field	
6533	Snow-McElligott	68,190	68,139	(51)	100%	50%	34,070	NPS	
6535	Metro Metals Northwest, Inc	18,938	18,000	(938)	100%	35%	6,300	SW	
6536	Donald G & Cynthia Jo Smith	36,100	36,100	0	100%	35%	12,635	NPS	
6539	Columbia Steel Casting Co	31,802	25,404	(6,398)	100%	35%	8,891	Air	
6543	Metro Metals Northwest, Inc.	32,385	32,385	0	100%	35%	11,335	SW	
6544	Metro Metals Northwest, Inc.	28,875	28,875	0	100%	35%	10,106	SW	
6547	New KAB III LLC	7,391	7,391	0	100%	35%	2,587	SW	



### Recommended for Approval

App #	Applicant	Claimed Cost	Certified Cost	Difference	% Allocable	Maximum Allowable %	Tax Expenditure Liability	Media	Notes
6548	Metro Metals Northwest, Inc.	49,655	49,655	0	100%	35%	17,379	SW	
6549	Metro Metals Northwest, Inc.	20,782	20,782	0	100%	35%	7,274	SW	
6550	Metro Metals Northwest, Inc.	29,770	29,770	0	100%	35%	10,420	SW	
6551	Metro Metals Northwest, Inc.	46,592	46,592	0	100%	35%	16,307	SW	
6552	Metro Metals Northwest, Inc.	48,766	48,766	0	100%	35%	17,068	SW	
6553	Metro Metals Northwest, Inc.	48,144	48,144	0	100%	35%	16,850	SW	
6554	Metro Metals Northwest, Inc.	32,452	32,452	0	100%	35%	11,358	SW	

**Final Apps**

<b>56</b>	<b>Sum</b>	<b>28,031,612</b>	<b>22,120,812</b>	<b>(5,910,800)</b>		<b>8,982,220</b>
	Average	500,565	395,015	(105,550)		160,397
<b>Prelim</b>	Minimum	4,591	4,591	(1,230,565)		1,607
<b>Apps 1</b>	Maximum	3,686,460	2,905,456	300		1,452,728
	Median	66,851	51,724	0		20,501

### Recommended for Denial

App #	Applicant	Claimed Cost	Certified Cost	Difference	% Allocable	Maximum Allowable %	Tax Expenditure Liability	Media	Notes
5912	Clackamas Compost Products, LLC	111,778	0	(111,778)	100%	50%	0	SW	
6421	Whittier Wood Products Company	49,550	0	(49,550)	100%	50%	0	Air	
6484	Terrain Tamers Chip Hauling Inc.	18,574	0	(18,574)	100%	35%	0	Water	

<b>Apps</b>	<b>Sum</b>	<b>179,902</b>
<b>3</b>	Average	59,967
	Minimum	18,574
	Maximum	111,778
	Median	49,550

# Attachment B

## Background and References for Preliminary Approval

Tillamook County Creamery Association submitted a preliminary application requesting the EQC's pre-certification of their effluent cooling system. The applicant filed the **optional** preliminary application before they completed constructing the system according to ORS 468.167.

The Commission's pre-certification is limited to the technical aspects of the claimed facility. The attached report describes the facility's technical qualifications for pre-certification. The Commission's pre-certification does not:

- exempt the applicant from submitting their final application within the required filing period;
- include the eligible facility cost, percentage of the facility cost allocated to pollution control, or the maximum allowable percentage; or
- address the proposed facility's compliance with DEQ rules and regulations.

The Commission's approval of the application provides prima facie evidence that the facility is qualified for tax relief under ORS 468.170. The pre-certification does not ensure that the facility represented on the preliminary application would receive final certification according to the law. The pre-certification assures the applicant, as provided by OAR 340-016-0055(1), that the facility meets the technical qualification of a pollution control facility if they construct the facility according to the pre-certification.



State of Oregon  
Department of  
Environmental  
Quality

## *Director's Recommendation*

Approve PRELIMINARY Application No. 6407

Applicant: Tillamook County Creamery Association

# Tax Credit Review Report

## **Pollution Control Facility: Water Preliminary Certification**

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

PO Box 313  
Tillamook, OR 97141

Organized as: **Co-Op**  
Taxpayer ID: **93-0297170**

### *Facility Identification*

4175 Hwy 101 North  
Tillamook, OR 97141

The preliminary certification will identify the facility  
as:

**Effluent cooling tower at wastewater treatment  
plant and effluent discharge pipe.**

### *Technical Information*

Tillamook County Creamery Association (TCCA) manufactures dairy products. Currently, the applicant's wastewater treatment plant discharges treated effluent directly into the Wilson River at 90°F. The applicant's NPDES wastewater discharge permit limits the temperature of the effluent to a maximum of 70°F. The applicant plans to install an effluent cooling system in the wastewater treatment plant and then discharge it onto TCCA's natural wetland for additional cooling and subsequent runoff into the Wilson River.

The applicant plans to construct the claimed facility in two stages. In the first stage, they plan to install a cooling tower that would reduce the temperature of the treated wastewater from 90°F to approximately 70°F. They would discharge the cooled wastewater through an existing discharge line to the Wilson River. The applicant, however, determined the reduced discharge temperature would still exceed permit limits. Therefore, they plan a second stage to install a new 1,500-foot wastewater outfall line. The outfall line would transport the treated wastewater from the cooling tower to a natural wetland for additional evaporative cooling and subsequent runoff into the Wilson River. In addition to the cooling tower and the outfall line, the planned facility would include two pumping stations, sumps, six manholes, electrical service, associated electrical wiring, and an access road.

**Taxpayer Allowed Credit**ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. **Owner**, including a contract purchaser, of the trade or **business** that **utilizes the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

**Eligibility****Timely Filing** Criteria

ORS 469.167(1)

Any person proposing to apply for certification for tax relief under ORS 468.155 to 468.190 may file, before the completion of a pollution control facility, for pre-certification of the facility with the Environmental Quality Commission.

Applied to this Application

The applicant filed the application on 12/17/02. The applicant plans to place the facility into operation in late 2003 or early 2004.

**Purpose: Required** Criteria

ORS 468.155

(1)(a)(A)

OAR 340-016-

0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ or EPA to prevent, reduce, or control water pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. (ORS 468B.005)

Applied to this Application

If constructed as planned, the cooling tower, pipeline, pumps and manholes would comply with the applicant's NPDES wastewater discharge permit. The permit imposes the following temperature limits:

June through September, Low Flow	68.25°F
June through September, Average Flow	74.40°F
October through May, Low Flow	59.25°F

**Method** Criteria  
 ORS 468.155 (1)(b)(A) The prevention, control, or reduction must be accomplished by disposal or elimination of industrial wastewater and the use of a treatment works for industrial waste as defined in ORS 468B.005.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

The cooling tower, sumps, pumps, and discharge pipe **meet the definition of** treatment works in ORS 468B.005. Elevated temperature **meets the definition of** water pollution as presented under the *Purpose: Required* section above.

**Exclusions** Criteria  
 ORS 468.155(3) The regulations provide a list of more than 40 items excluded from the definition  
 OAR 340-016- of a Pollution Control Facility. Items that do not meet the definition are  
 0070(3) ineligible for certification.

Applied to this Application

The definition of a pollution control facility **specifically excludes roadways**. The applicant plans to construct a road along the pipeline to maintain the pipes, sumps, pumps, and the wetland area. The Department would recommend excluding the costs associated with the roadway if the applicant includes the cost in the final application.

**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location; therefore, the facility is **not a replacement** facility.

**Maximum Credit**  
 ORS 468.173(1) This section **does not apply** to applications for preliminary certifications.

***Facility Cost***

This section **does not apply** to applications for preliminary certifications. The applicant estimates the facility cost would be \$746,335.

***Facility Cost Allocable to Pollution Control***

This section **does not apply** to applications for preliminary certifications.

***Compliance***

Elliot Zais in DEQ's Northwest Region is the staff assigned to the source. Mr. Zais stated the applicant is under an MAO to meet temperature standards for the Wilson River. The Department and the applicant expect the proposed facility will meet the conditions of the MAO. DEQ issued the following permits to the applicant at this site:

NPDES No. 102527 issued June 25, 2002

Air Contaminant Discharge Permit No. 29-0004, issued June 16, 1999

Storm Water Permit No. 1200-Z, issued on August 9, 2002

Reviewers: Dennis Cartier, PBS Engineering and Environmental  
Maggie Vandehey, DEQ

# Attachment C

## Reconsideration of Final Order

The Environmental Quality Commission certified Marion Resource Recovery Facility (MRRF), LLC's material recovery facility on May 9, 2003. On August 15, 2003, the Commission approved MRRF's Petition for Reconsideration of Final Order. This attachment includes the signed order approving the petition and the revised Review Report. The report contains the Department's analysis and recommendation after considering the applicant's new information.

On June 25, 2003, Marion Resource Recovery Facility (MRRF) provided clarification about how the company's material recovery facility operates. The clarification prompted the Department's re-analysis of the facility claimed on application number 6113 and certified on Pollution Control Facility Certificate Number 10362. The Department verified MRRF's clarifications that the facility:

- does not accept liquid and putrescible wastes,
- processes 100% of the incoming solid waste,
- accepts "clean" source-separated waste that produces little residual waste, and
- accepts "dirty" mixed waste that has a relatively high residual waste content.

In its original analysis, the Department subtracted \$1,809,569 from the claimed facility cost. The amount represented 66% of the eligible facility cost. The percentage was equal to the percentage of solid waste that the Department thought the applicant sent directly to the landfill without going through any material recovery process. In fact, the applicant did send 66% of the residual material to the landfill but after they removed any reusable material. The Department revised the attached report by removing the \$1,809,569 subtraction thereby increasing the tax credit.

	<b>October 10, 2003 Recommendation</b>	<b>May 9, 2003 Certification</b>	<b>Difference</b>
<b>Facility Cost</b>	\$2,741,771	932,202	1,809,569
<b>Tax Credit</b>	329,013	111,864	217,149

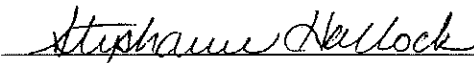
BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

In Re Petition for Reconsideration                    )  
of Marion Resource Recovery Facility, LLC        )  
  )  
  )     Tax Credit Application #6113

This matter came before the Commission at its regular meeting on August 15, 2003. Petitioner, Marion Resource Recovery Facility, LLC, applied for Pollution Control Facility/Material Recovery-Tax Credit, Application No. 6113. On May 9, 2003, the Commission approved the tax credit certificate in an amount less than requested by the applicant. Notice of the decision was sent to the applicant on May 30, 2003. On June 19, 2003, the applicant petitioned for reconsideration.

The Commission, upon consideration of the petition and the Department's staff report dated July 24, 2003, hereby grants the petition for reconsideration.

Dated this 20<sup>th</sup> day of August, 2003.

  
\_\_\_\_\_  
Stephanie Hallock, Director of the  
Department of Environmental Quality  
for the Environmental Quality Commission





State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

**Pollution Control Facility: Material Recovery**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

## ***Applicant Identification***

PO Box 9130  
Salem, OR 97305

Organized as: **LLC**

Taxpayer ID: **93-1278502**

## ***Director's Recommendation***

### **Reconsideration**

**Approve Application No. 6113 @ Reduced Cost**

Applicant: **Marion Resource Recovery Facility, LLC**

Certification of:

Facility Cost		\$2,741,771
Percentage Allocable	X	24%
Maximum Percentage	X	50%
Tax Credit		<u>\$329,013</u>

Certificate Period: **10 years**

## ***Facility Identification***

3680 Brooklake Road NE  
Salem, OR 97303

The certificate will identify the facility as:

**A resource recovery facility that includes  
A 180' x 200' steel building, fixed equipment  
and the following mobile equipment:**

**One - 621 CXT Case Wheel Loader, Serial #  
JEE0092596**

**One - Used MI 4141 Forklift**

**One - Case 90XT Scrap Grapple, Serial #  
JAF0299089**

**One - Takenchi TB070 PSM Grapple**

**One - C580SW Series II, 4-Wheel Drive  
Loader, Serial # JJG0271797**

**One - 1978 International Tractor, Serial #  
E2327HGA22576**

**One - IT18F Group B, Fork Loader, Serial #  
06ZF00460;**

**One - IT18B Group B, Fork Loader, Serial #  
02NJ00374;**

**Ten - 4-yard Tote Bin Heavy Duty Cans  
Model MR4HDTB, Serial numbers  
165260-165269**

### ***Technical Information***

Marion Resource Recovery Facility, LLC (MRRF) claims a new resource recovery facility including a new steel building, and fixed and mobile equipment. The applicant accepts mixed solid waste from commercial refuse haulers. They do not accept residential or "wet" commercial loads.

MRRF uses the claimed loaders, grapples, and forklift to empty and sort the truckloads of mixed solid waste. The applicant spreads the load over the floor and reloads any unacceptable material back onto the truck for delivery to an authorized disposal facility. Large bulky items are sorted first into storage bins for recycling. The conveyor belt elevates the solid waste onto the shaker screen that is 18 feet above the sorting floor. The shaker screen separates smaller materials while large items pass over the shaker screen onto a sorting conveyor. Employees remove recyclable material such as cardboard, ferrous and non-ferrous metals, wood, and sheetrock. Five bunkers, located directly below the sorting platform, provide interim storage for recovered materials. All material recovered from the waste stream is hauled to the appropriate recycling mill.

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

#### Applied to this Application

Applicant is the owner of the equipment that they use for recycling and material recovery.

### ***Eligibility***

**Timely Filing** Criteria

ORS 468.173(1)  
OAR 340-016-0007

The applicant must submit the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

#### Applied to this Application

The applicant completed construction on 03/31/2000 and submitted the application on 03/29/02, thereby **filing** the application **within** the two-year filing requirement. The applicant submitted the final application after they completed construction and placed the facility into operation on 04/10/2000.

**Purpose: Voluntary** Criteria

ORS 468.155(1)(a)(B) The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste, hazardous waste, or used oil.

“Solid waste” as defined by ORS 459.005: All useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

MRRF processes 100% of the material that they take in. About 34% is "clean" enough for recycling or has an available recycling market. They send the residual material to the landfill. Materials that are not recyclable include furniture, plastic pipe, gypsum wallboard, carpet, carpet pad, mattresses, and other dry junk. Cardboard, metals, wood, concrete, appliances and sheetrock **meet the definition** of solid waste as defined in ORS 459.005.

**Method** Criteria

ORS 468.155(1)(b)(D) The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste:

"Material Recovery" means any process, such as pre-segregation, for obtaining materials from solid waste, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:

- a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or
- b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process that burns waste, if such device is otherwise eligible for pollution control tax credit under these rules.

OAR 340-016-0010(7) The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, **processing, pre-segregation,**  
 OAR 340-016-0060  
 (4)(e)

chemical processing; or through the production, **processing, pre-segregation,** or use of materials which:

- a. Have **useful chemical or physical properties** and which may be used for the same or other purposes: or
- b. The applicant may use in the same kind of application as its prior use without change in identity.

Applied to this Application

The applicant sorts and process **30,700 tons of material** on an annual basis. They reduce this mixed dry waste to 10,347 tons of recyclable materials that they sell at market value to various recycling mills.

**Exclusions** Criteria

ORS 468.155(3)  
OAR 340-016-0070(3) The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

ORS 468.155 specifically excludes office buildings and furnishings, such as computer equipment and telephones. Components that do not make a significant contribution to the sole purpose of the facility include:

- Scales used to weigh waste for billing purposes, scale shack and related costs.
- Pressure washer and grease pump used for maintenance.
- Diesel tank and associated costs (listed as Misc. Equipment in the application record) are for continued operation.
- Plumbing, HVAC, fire protection, shower/eyewash station and extra transmission oil do not contribute to material recovery.

The Department subtracted the costs of these components from the claimed facility costs under the *Facility Cost* section below.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement** facility because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at the Salem location.

**Maximum Credit** Criteria

ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The **maximum tax credit is 50%** because the applicant began construction on 8/1/1999, completed construction on 3/31/2000, and submitted the application on 3/29/2002.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a) the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b) the amount of any government grants received to pay part of the facility cost;
- c) the present value of any other state tax credits for which the investment is eligible; and
- d) ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no further Subtractions than those mentioned already in this review report.

**§ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices substantiate the claimed cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$3,042,922
<i>Exclusions:</i>	Office computers and telephones	-14,935
	Weigh scales and related costs	-138,397
	Pressure washer	-740
	Plumbing	-25,898
	HVAC	-22,557
	Fire protection	-90,000
	Shower/Eye wash area	-1,083
	Extra transmission oil	-69
	Grease pump	-599
	Diesel Tank and related costs	-6,873
		<b>Certified</b> <u>\$2,741,771</u>

**Facility Cost Allocable to Pollution Control****% Certification** Criteria

ORS 468.170(1) The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or reduction of solid waste, hazardous waste, or to recycling or appropriately disposing of used oil.

Applied to this Application

The applicant and the Department determined that **24%** of the facility cost is allocable to pollution control as described under the *Percentage* section below.

**Integral Facility** Criteria

OAR 340-016-0075(4)(a) Facilities that are integral to the applicant's business must use an **alternate method** for calculating the percentage of the facility cost that is allocable to pollution control if the **facility cost exceeds \$50,000**. Examples of integral facilities include commercial solid waste and hazardous waste landfills, **solid waste** and hazardous waste **recycling businesses**, and environmental service providers.

The Commission may determine that a pollution control facility is integral to the operation of the applicant's business if the business is unable to operate or is only able to operate at reduced income levels.

The Department may use the following factors to determine whether a pollution control facility is integral to the operation of the applicant's business.

- a. The facility represents **25% or more** of the total assets of the applicant's business; or
- b. The facility was constructed or installed in response to market demand for such pollution control facilities such as requirements imposed by DEQ, EPA or regional air pollution authority on parties unaffiliated with the applicant; or
- c. Where the facility allows the applicant to generate gross revenues **at least 50%** greater than could be or were without the facility; or
- d. The applicant's operating expenses for the facility are **at least 50%** of the operating expenses for the applicant's entire business.

Applied to this Application

The applicant and the Department determined that the claimed facility **is integral** to the applicant's business because it meets one or more of the factors as shown in boldface above.

**Percentage** Criteria

ORS 468.190(1) The following factors establish the portion of costs properly allocable to material recovery or recycling.

- a. The extent to which the applicant uses the facility to recover and convert waste products into a **salable or usable commodity**;
- b. The estimated annual percent **return on the investment** in the facility;

- c. Any alternative methods, equipment, and costs for achieving the same pollution control objective;
- d. Any related savings or increase in costs that occur or may occur as a result of the installation of the facility; and
- e. Any other relevant factors.

Applied to this Application

The Department calculated the percentage of the facility cost allocable to pollution control according to the method for integral facilities provided by OAR 340-016-0075(4) while considering the factors a. through e. above. The Department verified that the applicant accurately calculated the integral percentage allocable according to OAR 340-016-0075(4). The percentage allocable to pollution control is **24%** when calculating the facility's return on investment (ROI). The resulting facility ROI, however, is less than the National ROI for 2000 (the year that the applicant completed the constructing the facility.) The applicant based the ROI on an **18-year useful life**. The applicant did not investigate an alternative technology.

***Compliance***

The applicant states that the facility and site are in compliance with Department rules and statutes and with EQC orders. DEQ issued the following permits to the applicant at the site: Solid Waste Disposal, #400, Issued 12/30/93. The EQC certified no previous facilities at this location.

Reviewer: Maggie Vandehey, DEQ

# Attachment D

## Background and References for Final Approvals

The Department recommends the Environmental Quality Commission approve certification of the 55 pollution control and material recovery facilities presented in this attachment. The individual application records and the Pollution Control Facilities Tax Credit regulations support the Director's Recommendation as show at the top of each Review Report. The Department organized the reports by ascending application number under the following categories.

1. Air
2. Alternatives to Field Burning (shown as *Alt FB* on the tab)
3. Material Recovery (shown as *Mat Rec* on the tab)
4. Nonpoint Source Pollution Control (shown as *NPS* on the tab)
5. Water

The Commission's certification of these facilities could reduce taxes paid to the State of Oregon by a maximum of **\$8,653,208**.

### Definition of a "Pollution Control Facility"

The tax credit regulations provide the definition of a "pollution control facility." The regulations split the definition into several parts. The parts of the definition common to all pollution control facilities include a broad description of the asset, the environmental benefit, and the purpose of the facility:

Asset	Environmental Benefit	Pollution Control Purpose
<ul style="list-style-type: none"> <li>• Land</li> <li>• Structure</li> <li>• Building</li> <li>• Installation</li> <li>• Excavation</li> <li>• Machinery</li> <li>• Equipment</li> <li>• Devices</li> </ul>	Prevents, Controls, or Reduces: <ul style="list-style-type: none"> <li>• Air pollution</li> <li>• Water pollution</li> <li>• Solid waste</li> <li>• Hazardous waste</li> <li>• Used oil</li> </ul>	Required - Principal primary and most important purpose is to achieve the environmental benefit by complying with DEQ/EPA/LRAPA requirements  Voluntary - Sole sole or exclusive purpose is to achieve the environmental benefit - the benefit must be substantial



## Statutory Definition of "Pollution Control Facility"

### ORS 468.155 Definitions for ORS 468.155 to 468.190 and 468.962

- (1)(a) As used in ORS 468.155 to 468.190 and 468.962, unless the context requires otherwise, "pollution control facility" or "facility" means any land, structure, building, installation, excavation, machinery, equipment or device, or any addition to, reconstruction of or improvement of, land or an existing structure, building, installation, excavation, machinery, equipment or device reasonably used, erected, constructed or installed by any person if:
- (A) The principal purpose of such use, erection, construction or installation is to comply with a requirement imposed by the Department of Environmental Quality, the federal Environmental Protection Agency or regional air pollution authority to prevent, control or reduce air, water or noise pollution or solid or hazardous waste or to recycle or provide for the appropriate disposal of used oil; or
  - (B) The sole purpose of such use, erection, construction or installation is to prevent, control or reduce a substantial quantity of air, water or noise pollution or solid or hazardous waste or to recycle or provide for the appropriate disposal of used oil.

- (2)(a) As used in ORS 468.155 to 468.190 and 468.962, "pollution control facility" or "facility" includes a nonpoint source pollution control facility.

## Eligibility and Purpose

### OAR 340-016-0060 Eligibility

- (1) Eligible Facilities. Facilities eligible for pollution control tax credit certification shall include any land, structure, building, installation, excavation, machinery, equipment or device, or alternative methods for field sanitation and straw utilization and disposal. An eligible facility shall be reasonably used, erected, constructed or installed as:
- (a) A new facility;
  - (b) An addition or improvement to an existing facility; or
  - (c) The reconstruction or replacement of an existing facility.
- (2) Purpose of Facility. The facility shall meet the principal purpose requirement to be eligible for a pollution control facility tax credit certification, or if the facility is unable to meet the principal purpose requirement, the facility shall meet the sole purpose requirement to be eligible for a pollution control tax credit:

- (a) **Principal Purpose Requirement.** The principal purpose of the facility is the most important or primary purpose of the facility. Each facility shall have only one principal purpose. The facility shall be established to comply with environmental requirements imposed by the Department, the federal Environmental Protection Agency or a regional air pollution authority to control, reduce, or prevent air, water or noise pollution, or for the material recovery of solid waste, hazardous waste or used oil; or
- (b) **Sole Purpose Requirement.** The sole purpose of the facility shall be the exclusive purpose of the facility. The only function or use of the facility shall be the control, reduction, or prevention of air, water or noise pollution; or for the material recovery of solid waste, hazardous waste or used oil.

## BACKGROUND

### APPROVALS: Air Pollution Control Facilities

The Department recommends that the Environmental Quality Commission approve **14** air pollution control facilities. Each of these facilities disposes of or eliminates air pollution with the use of air cleaning devices. The Commission's certification of the facilities could reduce taxes paid to the State of Oregon by a maximum of **\$5,314,308**.

**Eleven** applicants constructed facilities in response to a requirement imposed by the Department, the federal Environmental Protection Agency (EPA), or a regional air pollution authority. Commonly called "principal purpose facilities", their primary and most important purposes are to comply with requirements to control air pollution with the use of air cleaning devices. These facilities may serve other purposes but their main purpose is air pollution control.

**Three** applicants voluntarily installed facilities that were not required by DEQ, EPA, or a regional air pollution authority. These facilities have a **sole purpose**, meaning an exclusive pollution control purpose. Additionally, these facilities control a substantial quantity of air pollution. The Department has subtracted any portions of these facilities that serve other purposes.

#### Summary of Air Pollution Control Facilities

App #	Applicant	Certified Cost	% Allocable	Maximum Allowable %	EQC Action
5853	Willamette Industries, Inc.	2,905,456	100%	50%	
5885	Roseburg Forest Products Company	225,310	100%	50%	
6138	TDY Industries, Inc.	853,847	100%	50%	
6244	TDY Industries, Inc.	27,926	100%	50%	
6245	TDY Industries, Inc.	816,949	100%	50%	
6333	Freres Lumber Co., Inc.	180,295	100%	35%	
6370	Monaco Coach Corporation	1,741,970	100%	50%	
6391	Sumitomo Electric Semiconductor Materials	120,833	100%	50%	
6399	United States Gypsum Company	1,381,242	100%	50%	
6436	McCafferty-Whittle Construction Company	1,500,246	23%	25%	
6444	Weyerhaeuser Company	2,166,153	100%	50%	
6489	Scientific Developments, Inc.	52,435	100%	35%	
6513	Roseburg Forest Products Company	51,012	100%	35%	
6539	Columbia Steel Casting Co, Inc.	25,404	100%	35%	

<b>Apps</b>	<b>Sum</b>	<b>12,049,078</b>
<b>14</b>	Average	860,648
	Minimum	25,404
	Maximum	2,905,456
	Median	521,130

Statutory Definition of an "Air Pollution Control Facility"

ORS 468.155 Definitions for ORS 468.155 to 468.190 and 468.962

...

(b) Such prevention, control or reduction required by this subsection shall be accomplished by:

...

(B) The disposal or elimination of or redesign to eliminate air contaminants or air pollution or air contamination sources and the use of air cleaning devices as defined in ORS 468A.005;

...

ORS 468A.005 provides the following pertinent definitions.

"Air contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

"Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby.

"Air contamination source" means any source at, from, or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in, at or on which such source is located, or the facility, equipment or other property by which the emission is caused or from which the emission comes.

An "Air-cleaning device" means any method, process or equipment that removes, reduces or renders less noxious air contaminants prior to their discharge in the atmosphere.

Eligibility

OAR 340-016-0060 Eligibility

...

(4) Eligible Activities. The facility shall prevent, reduce, control, or eliminate:

(a) Air contamination by use of air cleaning devices as defined in ORS 468A.005 or through equipment designed to prevent, reduce or eliminate air contaminants prior to discharge to the outdoor atmosphere;

...



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

**Pollution Control Facility: Air**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Weyerhaeuser Company  
Tax Department CH IC28  
PO Box 9777  
Federal Way, WA 98063

Organized as: **C Corp**  
Taxpayer ID: **93-0312940**

### ***Technical Information***

Willamette Industries Albany Paper Mill, owned by Weyerhaeuser Company, produces linerboard, corrugating medium, and bag paper using kraft and secondary fiber pulping processes and paper machines. The pulping and related processes generate volatile organic compounds (VOCs), formaldehyde, acetaldehyde, methyl ethyl ketone and sulfur dioxide. The applicant claims modifications to a new evaporation system, a non-condensable gas (NCG) collection system and a NCG incineration system to control these hazardous air pollutants (HAPs).

The applicant made **modifications to the new evaporator system**. The new evaporator system generates approximately 1,200 gallons per minute (gpm) of condensate as it removes the liquid from the pulping digesters. Willamette Industries claims baffling added to the 5<sup>th</sup> and 6<sup>th</sup> sections of the evaporator system. The baffling segregates approximately 200 gpm of the foulest condensates that contain the majority of the odorous sulfur compounds from the cleaner condensates. The system sends the foul condensates to the stripper described below and reuses the clean condensate in the process. The stripper is not capable of handling the entire volume of condensate without the baffling.

The applicant also claims additional surface area in the 1<sup>st</sup> and 2<sup>nd</sup> sections of evaporator (identified as 1/A, 1C/1D and 2A/2B.) The additional area reduces the by-products of the pulping process, and increases the solids from 68% to 73%. The higher percentage of solids produces a higher burn

### ***Director's Recommendation***

**Approve Application No. 5853 @ Reduced Cost**

Applicant: **Willamette Industries, Inc.**

Certification of:

Facility Cost		\$2,905,456
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<b>\$1,452,728</b>

Certificate Period: **7 years**

### ***Facility Identification***

3251 Old Salem Road  
Albany, OR 97321

The certificate will identify the facility as:

**Modifications to a new evaporator system  
NCG collection and incineration system**

temperature within the recovery boiler which then reduces sulfur dioxide emissions by 90%.

The applicant claims an **NCG collection and incineration system**. It collects and reduces hazardous air pollutants (HAP) and volatile organic compounds (VOC) emissions from several pulp-manufacturing processes. The system includes two sub-systems. One collects dilute and concentrated HAPs and VOC emissions. The second sub-system separates condensable air pollutants from the non-condensable air pollutants. The applicant reuses or reroutes the resulting liquid to an existing wastewater treatment system. The applicant ducts the remaining air pollutants to a new burner in the recovery boiler where the boiler converts them to harmless carbon dioxide and water. The applicant also claims the new burner.

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

#### Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

**Timely Filing** Criteria

ORS 468.173(1)  
OAR 340-016-0007

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

#### Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 3/31/2000 and submitted the application on 11/30/2001. The applicant submitted the application after they completed construction and placed the facility into operation on 3/31/2000.

**Purpose: Required** Criteria

ORS 468.155  
(1)(a)(A)  
OAR 340-016-0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ, EPA, or LRAPA to prevent, reduce, or control air pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

The facility has a **principal purpose**. The NCG collection and incineration system, the baffling system added as modifications to 5<sup>th</sup> and 6<sup>th</sup> sections of the evaporators, and the expanded tube area for the 1<sup>st</sup> and 2<sup>nd</sup> sections all **comply** with the applicant's **Title V permit** imposed by DEQ to control air pollution.

The primary and most important purpose of the flame arrestor is to meet fire code regulations and for insurance and safety purposes. The primary and most important purpose of the caged ladder and platform grating at the stripper are for maintenance. The Department subtracted the cost of these components from the claimed facility cost under the *Facility Cost* section below.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(B)	The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005:

“Air-cleaning device” means any method, process or equipment which removes, reduces or renders less noxious air contaminants prior to their discharge in the atmosphere.

“Air contaminant” means any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

“Air pollution” means the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere.

Applied to this Application

VOCs, formaldehyde, acetaldehyde, methyl ethyl ketone and sulfur dioxide **meet the definition of** hazardous air pollutants as defined under the *Purpose: Required* section above.

The NCG collection and incineration system and the modifications to the evaporator system **meet the definition of** an air cleaning device as defined in ORS 468A.005

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The application record does not indicate that there are additional excluded parts of the claimed facility other than the items subtracted in the *Purpose: Required* section above.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued 52 certificates to the applicant at this location and 33 for controlling air pollution. The claimed facility **did not replace** any one of the previously certified facilities.

**Maximum Credit** Criteria

ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 6/1/1998, completed construction on 3/31/2000, and submitted the application on 11/30/2001.

**Facility Cost**

The claimed facility was part of a larger construction project at the Albany Paper Mill. The applicant originally requested a tax credit for the cost of installing the entire evaporator system rather than just the pollution control components. On July 11, 2003, the applicant adjusted the costs to the pollution components associated with the evaporator system but unintentionally omitted costs related to the NCG collection and incineration system that had been part of the original application. The Department included these costs with the resubmitted costs. Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion		Cost
	Originally claimed cost 11/20/2001	Claimed	\$19,665,293
<i>Facility Cost</i>	Adjustment per Applicant 7/11/2003		-15,978,833
	Addition Error on Electrical Summary		-1,695,596
	NCG Collection and Incineration System		928,504
<i>Purpose</i>	Flame Arrestor		-4,995
	Caged ladder and platform grading		-8,917
		<b>Certified</b>	<b>\$2,905,456</b>



***Facility Cost Allocable to Pollution Control***

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

<b>Factor</b>	<b>Applied to this Facility</b>
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS 468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is 7 years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: Willamette Industries considered adding a stand-alone stripper to the previous evaporator system and determined that constructing the new six-effect evaporator system was more efficient and required less maintenance.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

***Compliance***

DEQ Air Quality staff assigned to the source is Gary Andes from the Western Region Office. Mr. Andes affirmed the applicant's statement that the claimed facility is in compliance with its Title V Air Contamination Discharge Permit. DEQ issued the following permits to the site:

NPDES Waste Permit Number 101345, issued November 30, 1995;  
 NPDES Stormwater Permit Number 1200-Z, issued July 22, 1997;  
 Notice of Intent to Construct Number 016917, approved July 14, 1998;  
 DEQ Title V Permit Number 22-0471, issued April 26, 2001.

Reviewers: Gordon Chun, P.E., SJO Consulting Engineers  
 Dennis Cartier, PBS Engineering and Environmental  
 Islay Robertson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

PO Box 1088  
Roseburg, OR 97470

Organized as: **C Corp**  
Taxpayer ID: **93-1240670**

### *Technical Information*

Roseburg Forest Products manufactures particleboard at its mill in Dillard, Oregon. The manufacturing process generates wood dust. The applicant rerouted the exhaust from five cyclones, which had previously vented to the atmosphere, into four existing wet electrostatic precipitators (ESPs). According to information provided by the applicant, two of the four ESPs run at any given time. The applicant installed 500 feet of ducting with various diameters ranging between 26 and 48 inches, and four manual diverter valves upstream of each wet ESP. The ducting and valves are modifications to reduce excess particulate matter (PM) emissions from the cyclones as specified in a Notice of Noncompliance issued by DEQ. These modifications bring the facility into compliance with its Title V permit requirements. The applicant estimated that the overall particulate emission reductions are more than 50 tons per year based on tests conducted at the cyclones and ESPs before and after the project.

### *Director's Recommendation*

**Approve Application No. 5885 @ Reduced Cost**

**Applicant: Roseburg Forest Products Company**

Certification of:

Facility Cost		\$225,310
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<hr/> \$112,655

Certificate Period: **10 years**

### *Facility Identification*

Dillard Complex  
Old Highway 99 South  
Dillard, OR 97432

The certificate will identify the facility as:

**Five Refiner Cyclone Ducting Lines**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing** Criteria

ORS 468.173(1)

OAR 340-016-0007

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 1/1/2001 and submitted the application on 12/10/2001. The applicant submitted the application after they completed construction and placed the facility into operation on 1/1/2001.

**Purpose: Required** Criteria

ORS 468.155

(1)(a)(A)

OAR 340-016-

0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ, EPA, or LRAPA to prevent, reduce, or control air pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

The applicant claims the facility has a **principal purpose**. The applicant installed the ducting and valves to **comply** with **Title V** permit requirements imposed by DEQ. The primary or most important purpose of the claimed facility is to reduce air pollution.

The primary and most important purpose of the insulation is to reduce heat loss through system ductwork. The insulation does not contribute to the ability of the system to reduce particulate. The primary and most important purpose of the dampers is to meet the Fire Marshall's safety requirements. The Department subtracted the cost of these items from the claimed facility cost under the *Facility Cost* section below.

**Method** Criteria  
 ORS 468.155 (1)(b)(B) The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

“Air-cleaning device” means any method, process or equipment that removes, reduces or renders less noxious air-contaminants prior to their discharge in the atmosphere.

“Air contaminate” means any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

Applied to this Application

Particulate matter **meets the definition of** an air contaminate as defined by ORS 468A.005. The refiner cyclone ducting project **meets the definition of** an air-cleaning device in ORS 468A.005.

**Exclusions** Criteria  
 ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a  
 OAR 340-016-0070(3) Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The application record does not indicate that there are additional excluded items other than the items subtracted in the *Purpose: Required* section above.

**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued seven certificates for air pollution controls to the applicant at this location. The claimed facility **did not replace** any one of the previously certified facilities.

**Maximum Credit Criteria**

ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 9/1/2000, completed construction on 1/1/2001, and submitted the application on 12/10/2001.

**Facility Cost**

Copies of invoices substantiated the facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$313,276
	<i>Purpose</i> Insulation, explosion and emergency by-pass dampers	-87,966
		<b>Certified \$225,310</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology. The Reviewers concur.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

**Compliance**

DEQ staff assigned to the source is Kenan Smith DEQ's Western Region office. He affirmed that the facility and the site are in compliance with Department regulations and with EQC orders. DEQ issued the following permits to the applicant at this site:

NPDES No. 400-J issued August 21, 1997;  
 NPDES No. 1200-Z, issued July 9, 1999;  
 Oregon Title V No. 10-0025, issued October 20, 1997.

Reviewers: PBS Engineering and Environmental  
 Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

PO Box 460  
Albany, OR 97321

Organized as: **C Corp**  
Taxpayer ID: **95-2316679**

#### *Technical Information*

TDY Industries, Inc., dba Wah Chang, produces pure zirconium (Zr), and hafnium (Hf) metals from naturally occurring zircon sand at its Albany, Oregon, facility. The Sand Chlorination process uses chlorine gas in a high-temperature reactor to convert a mixture of zircon sand and coke into zirconium tetrachloride (ZrCl<sub>4</sub>) powder, and silicon tetrachloride (SiCl<sub>4</sub>) liquid.

The conversion process produces waste metal chloride powders, un-reacted chlorine (Cl<sub>2</sub>), unreacted ore and coke dusts, and the reaction byproduct gases of phosgene (COCl<sub>2</sub>) and carbon monoxide (CO). The applicant installed a scrubber system that they refer to as the "Courtyard Scrubber," for the Sand Chlorination plant to remove criteria pollutants from the exhaust prior to discharge into the environment.

The claimed facility consists of two major components that were assembled from numerous smaller components.

- The **Vent Collection System** captures and removes Cl<sub>2</sub>, COCl<sub>2</sub>, SiCl<sub>4</sub>, ZrCl<sub>4</sub>, metal chlorides, and coke and zircon dust in fugitive emissions from the process equipment and piping during the production, maintenance, and cleaning operations. The system includes internal ductwork, two enclosures to capture fumes, a dry-cyclone separator, a wet-vent collection vessel, a Venturi scrubber, a surge tank with two Venturi scrubber circulation pumps, and a water seal tank.

#### *Director's Recommendation*

**Approve** Application No. **6138 @ Reduced Cost**

Applicant: **TDY Industries, Inc.**

Certification of:

Facility Cost		\$853,847
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$426,924</u>

Certificate Period: **10 years**

#### *Facility Identification*

1600 Old Salem Road  
Albany, OR 97321

The certificate will identify the facility as:

**Sand chlorination courtyard scrubber system**

- The **Acid and Caustic Scrubber System** removes acid vapors and Cl<sub>2</sub> from the process exhaust and the discharge from the **Vent Collection System**. The system includes a gas absorber, two absorber circulation pumps, and two area vent exhaust fans.

The new scrubber system replaces a failing scrubber system that the applicant installed in 1974. The old system did not include a dust collection system. The area ventilation picked up the dust, and it settled and accumulated inside the scrubber system. This plugged the ductwork, scrubber spray nozzles, pumps, and piping resulting in a dramatic reduction of fume and vapor removal. This caused off-site complaints of odors during periods of heavy fume and vapor loadings.

There have been fewer incidents of fugitive emissions of Cl<sub>2</sub> and COCl<sub>2</sub> since the applicant installed the new Courtyard Scrubber System. The Dust Collection System prevents the buildup of solids in the scrubber system. The claimed facility captures more than 98% of the emissions and it has eliminated off-site odor complaints.

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. **Owner**, including a contract purchaser, of the trade or **business that utilizes the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

#### Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

**Timely Filing** Criteria

ORS 468.173(1)  
OAR 340-016-0007

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

#### Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 6/21/2001 and submitted the application on 4/29/2002. The applicant submitted the application after they completed construction and placed the facility into operation on 5/16/2001.

**Purpose: Required** Criteria

ORS 468.155  
(1)(a)(A)  
OAR 340-016-0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ, EPA, or LRAPA to prevent, reduce, or control air pollution. That principal purpose must be the most important or primary purpose of the facility. The facility may have only one primary purpose.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

In 1995, a DEQ hazardous waste inspection report noted noncompliance issues. After six years of working together, Wah Chang, the Department of Environmental Quality and the Environmental Protection Agency Region 10 created a Mutual Agreement and Order (MAO) defining the actions required to resolve those issues. The MAO included a supplemental environmental project (SEP) to reduce the civil penalty and overall environmental impact to Wah Chang's production activities.

The SEP required the Vent Collection System and the Acid and Caustic Scrubber System. The SEP **complies** with the applicant's **Title V Air Contamination Discharge Permit** to limit the discharge of Toxic Air Contaminants to the environment as imposed by the DEQ. Therefore, the claimed facility meets the criteria of a **principal purpose** facility. The primary or most important purpose of the claimed facility is to reduce air pollution.

The primary and most important purpose of the ductwork is to meet the Uniform Fire Code, Section 8004.2.3.7 which requires ducting of hazardous fumes at the points of generation for indoor installations. PBS Engineering and Environmental estimated the associated cost of the internal ductwork to be 50% of the total cost of the ductwork. The Department subtracted the costs of these components from the claimed facility cost under the *Facility Cost* section below.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(B)	The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

"Air contaminants" means any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

Applied to this Application

The  $\text{Cl}_2$ ,  $\text{COCl}_2$ ,  $\text{SiCl}_4$ ,  $\text{ZrCl}_4$ , metal chloride gases and acid vapors **meet the definition of** air pollution because they are criteria air pollutants regulated by the DEQ. The coke and zircon dusts **meet the definition of** an air contaminate as defined by ORS 468A.005:

The scrubber system **meets the definition of** an air cleaning device because it removes criteria pollutants and air contaminants from the exhaust prior to discharge into the environment.



**Exclusions** Criteria  
 ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a  
 OAR 340-016- Pollution Control Facility. Items that do not meet the definition are ineligible  
 0070(3) for certification.

Applied to this Application

The applicant included the following costs that are specifically excluded from the definition of a pollution control facility:

- Purchased equipment used to install the facility - Digital Multimeter.
- Maintenance, operation, or repair of a facility – Paramount Supply and Professional Mechanical, Inc., charges for performed work incurred after startup date of 6/21/2001.

The Department subtracted the costs of these items from the claimed facility cost under the *Facility Cost* section below.

**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The claimed facility replaces the original scrubbing system that was installed in 1974. The old scrubber's capacity had decreased due to the corrosive and abrasive sand process.

The applicant installed the new scrubber in response to the MAO with DEQ and EPA as described under the *Purpose: Required* section above. The MAO requirement is different from the original requirement imposed under the issued certificates No. 839, 1396, 1590 and 1887 by the State. Therefore, the sand chlorination courtyard scrubber system is eligible for the difference between the cost of the new facility and the like-for-like replacement cost of the original facility as shown under the *Facility Cost* section below.

**Maximum Credit** Criteria  
 ORS 468.173(1) The applicable percentage of the certified cost of a facility is 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 3/8/2000, completed construction on 6/21/2001, and submitted the application on 4/29/2002.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
	Claimed	\$2,084,412
<i>Purpose</i>	Inside duct collection network @ 50% of total ductwork	-22,114
<i>Exclusions</i>	Granger – Digital Multimeter	-269
	Paramount Supply – Hex HD Plug, Hastalloy	-104
	Professional Mechanical, Inc. – Labor after startup	-85,056
	Subtotal	\$1,976,869
<i>Replacement</i>	The applicant correctly calculated the like-for-like replacement cost of the original certified facilities based on Consumer Price Index (CPI) as described in Department guidance.	
<b>Cert # 854</b>	Placed-in-Service 1977 Facility Cost	\$193,748
	Like-for-like Factor X	2.92244
	Like-for-like Replacement Cost	\$566,217
		-566,217
<b>Cert # 1319</b>	Placed-in-Service 1981 Facility Cost	\$14,768
	Like-for-like Factor X	1.94829
	Like-for-like Replacement Cost	\$28,772
		-28,772
<b>Cert # 1608</b>	Placed-in-Service 1983 Facility Cost	\$229,720
	Like-for-like Factor X	1.77811
	Like-for-like Replacement Cost	\$408,468
		-408,468
<b>Cert # 1941</b>	Placed-in-Service 1987 Facility Cost	\$76,694
	Like-for-like Factor X	1.55898
	Like-for-like Replacement Cost	\$119,564
		-119,564
	<b>Certified</b>	<b>\$853,847</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

<b>Factor</b>	<b>Applied to this Facility</b>
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology. The Reviewers concur.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

**Compliance**

The DEQ staff assigned to the source is Ali Nikukar from the Western Region Office. He affirmed the applicant's statement that the claimed facility is in compliance with the Department rules and statutes and with EQC orders. DEQ issued the following permits to the site:

Title V Air Contaminant Discharge Permit No. 22-0547, issued September 12, 2001

NPDES General Permit – Storm Water Permit No. 1200-Z, issued July 22, 1997

NPDES Wastewater Discharge Permit No. 100522, issued September 30, 1988

Reviewers: PBS Engineering and Environmental  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

PO Box 460  
Albany, OR 97321

Organized as: **C Corp**  
Taxpayer ID: **95-2316677**

### *Technical Information*

TDY Industries, Inc., dba Wah Chang, produces a sponge-like form of pure zirconium metal that they later melt into ingots. Since nitrogen and oxygen are contaminants that will react with zirconium metal in the hot reduction vessel, the purging of all air prior to initiating the reduction reaction is required.

Each reduction furnace is equipped with an oil vacuum pump to evacuate the air from the reduction vessel. Prior to the installation of the claimed facility, the oil vacuum pumps exhausted an oil vapor-laden stream directly into the environment. The intermittent visible emissions, or opacity, from the vacuum pumps did not comply with Condition 11 of the applicant's Title V Air Contaminate Discharge Permit.

The applicant installed the claimed facility to eliminate opacity discharged from the vacuum pumps. The major components of the claimed facility include a Tri-Mer oil mist collector with three stages of filters and a 4,500 cfm, 294 DH fan (SN F127548) with motor.

The applicant claims a Hilco brand oil mist eliminator that they installed on a vacuum for testing purposes. They tested the unit for one year but determined that the Tri-Mer oil mist collector was more cost effective than the Hilco oil mist eliminator. The applicant removed the Hilco unit and replaced it with the Tri-Mer system to treat the exhausts from all the reduction furnace vacuum pumps.

### *Director's Recommendation*

Approve Application No. **6244 @ Reduced Cost**

Applicant: **TDY Industries, Inc.**

Certification of:

Facility Cost		\$27,926
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$13,963</u>

Certificate Period: **7 years**

### *Facility Identification*

1600 Old Salem Road NE  
Albany, OR 97321

The certificate will identify the facility as:

**Tri-Mer Zr Reduction Oil Mist Removal Filter,  
Model OM-45, Serial # 215**

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

**Timely Filing** Criteria

ORS 468.173(1)  
OAR 340-016-0007

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 12/1/2000 and submitted the application on 8/12/2002. The applicant submitted the application after they completed construction and placed the facility into operation on 1/1/2001.

**Purpose: Required** Criteria

ORS 468.155  
(1)(a)(A)  
OAR 340-016-0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ, EPA, or LRAPA to prevent, reduce, or control air pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

The Tri-Mer oil mist collection system **complies** with the applicant's **Title V Air Contaminate Discharge Permit**, Condition 11, imposed by the DEQ. The permit does not allow opacity emissions to exceed 20% for more than three minutes in any one-hour period. The primary or most important purpose of the claimed facility is to reduce air pollution.

The applicant removed the Hilco mist eliminator system from service. It makes

an insignificant contribution to the principal purpose of the facility according to ORS 468.155(3)(d). The Department subtracted the cost of this unit from the claimed facility cost under the *Facility Cost* section below.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(B)	The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

“Air contaminate” means any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

”Air-cleaning device” means any method, process or equipment that removes, reduces or renders less noxious air-contaminants prior to their discharge in the atmosphere.

Applied to this Application

The oil mist **meets the definition of** an air contaminate as defined by ORS 468A.005.

The Tri-Mer oil collector **meets the definition of** an air-cleaning device because it removes the oil mist from the exhaust of the reduction furnace vacuum pumps and prevents it from entering the atmosphere.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016-0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

OAR 340-016-0070(3) specifically excludes maintenance, or repair of a facility, including spare parts. The applicant claims three spare Tri-Mer filter pads and shipping costs, six spare Hilco mist eliminator cartridges, and one stepladder. The Department subtracted the costs of the components from the claimed facility cost under the *Facility Cost* section below.

<b>Replacement</b>	<u>Criteria</u>
ORS 468.155(3)(e)	The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued 137 certificates to the applicant; 137 at this location and 62 for controlling air pollution. The claimed facility **did not replace** one of the previously certified facilities.

**Maximum Credit** Criteria

ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 12/1/2000, completed construction on 12/1/2000, and submitted the application on 8/12/2002.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$41,887
<i>Purpose</i>	Hilco Mist Eliminator System	-1,184
<i>Exclusions</i>	Rolling Ladder	-564
	Hilco Mist Eliminator Coalescer Cartridges (spare parts)	-1,248
	Tri-Mer Oil Mist Collector Filter Pads (spare parts)	-10,965
	<b>Certified</b>	<b>\$27,926</b>

**Facility Cost Allocable to Pollution Control**ORS 468.190(3) Criteria

If the cost of the facility does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

Applied to this Application

The certified facility cost is **\$27,926** and the applicant uses the facility 100% of the time for pollution control.

**Compliance**

The DEQ staff assigned to the source is Ali Nikukar in the Western Region Office. He has affirmed the applicant's statement that the claimed facility is in compliance with the Department rules and statutes and with EQC orders. DEQ issued the following permits to the site:

Title V Air Contamination Discharge Permit No. 22-0547, issued September 12, 2001  
 NPDES General Permit – Storm Water Permit No. 1200-Z, issued July 22, 1997  
 NPDES Wastewater Discharge Permit No. 100522, issued September 30, 1988

Reviewers: PBS Engineering and Environmental  
 Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

## Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

PO Box 460  
Albany, OR 97321

Organized as: **C Corp**  
Taxpayer ID: **95-2316677**

### *Technical Information*

TDY Industries, Inc., dba Wah Chang, produces pure zirconium (Zr), and hafnium (Hf) metals from naturally occurring zircon sand at its Albany, Oregon, facility. The manufacturing process uses aqua ammonia (NH<sub>4</sub>OH) to produce the pure metals.

The applicant claims an upgrade to its **air pollution control system** to prevent the discharge of ammonia emissions from the processing equipment and ductwork into the environment. The applicant relocated and upgraded an existing ammonia scrubbing system to ensure future compliance with its Title V air permit. The applicant installed the following upgrades.

- The applicant replaced a deteriorated wooden tank with a new **3,000-gallon fiberglass tank**. The applicant uses the new tank to store a dilute sulfuric acid solution that is used in the ammonia scrubber area. The wooden tank's failure would have caused the scrubber to release ammonia fumes to the atmosphere.
- The applicant replaced 80% of the **outdoor fiberglass ductwork** because it had deteriorated over 30 years and ambient air leaked in and interfered with the the scrubber's ability to function properly. If the applicant had not replaced the deteriorating ductwork and it continued to deteriorate, ammonia-based compounds would have discharged from the scrubber into the atmosphere.

### *Director's Recommendation*

Approve Application No. 6245 @ Reduced Cost

Applicant: **TDY Industries, Inc.**

Certification of:

Facility Cost		\$816,949
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<b>\$408,475</b>

Certificate Period: **5 years**

### *Facility Identification*

1600 Old Salem Road NE  
Albany, OR 97321

The certificate will identify the facility as:

### **Ammonia Scrubber Upgrade**



The new fiberglass ductwork includes:

- 30" diameter duct, 190 ft. including stack
  - 28" diameter duct, 40 ft.
  - 18" diameter duct, 170 ft.
  - 16" diameter duct, 10 ft.
  - 12" diameter duct, 10 ft.
  - 10" diameter duct, 80 ft.
  - 8" diameter duct, 130 ft.
  - 6" diameter duct, 80 ft.
- They replaced six blowers with **two Club-3000 centrifugal fans**, rated at 9256 cfm, driven by 25 horse power motors to eliminate fugitive emissions.
  - They relocated the Ammonia Scrubber Column from the roof to a new structural steel support. The replaced wooden support had deteriorated to the point that the integrity of the scrubber was in jeopardy. The new steel support structure elevated the column to allow the scrubbing solution to gravity-drain into the dilute sulfuric acid tank.

### ***Taxpayer Allowed Credit***

ORS 315.304(4)(b) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

As applied to this application:

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

**Timely Filing**

ORS 468.173(1)

OAR 340-016-0007

Criteria

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant filed the application **within the two-year filing** requirement because they completed construction on 10/18/2000 and submitted the application on 8/12/2002. The applicant submitted the application after they completed construction and placed the facility into operation on 9/28/2000.

**Purpose: Required**

ORS 468.155  
(1)(a)(A)  
OAR 340-016-  
0060(2)(a)

Criteria

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ, EPA, or LRAPA to prevent, reduce, or control air pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

The fiberglass ductwork on the roof, two new fans, the new sulfuric acid tank, the recirculation pumps and the scrubber supports **comply** with the applicant's **Title V Air Contaminant Discharge Permit**. The DEQ permit limits the discharge of ammonia to the environment. Horizon Engineering performed post installation tests that indicate the annual discharge is 96.4 lb of ammonia, which is within the compliance limits of the applicant's air permit.

**Method**

ORS 468.155  
(1)(b)(B)

Criteria

The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

"Air contaminant" means any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

"Air cleaning device" means any method, process or equipment that removes, reduces or renders less noxious air-contaminants prior to their discharge in the atmosphere.

Applied to this Application

Ammonia **meets the definition of** an air contaminant because it is a criteria air pollutant regulated by the DEQ. The ammonia scrubbing system upgrade **meets the definition of** an air cleaning device in ORS 468A.005.

**Exclusions**

ORS 468.155(3)  
OAR 340-016-  
0070(3)

Criteria

The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. The list includes insignificant contribution to the principal purpose of the facility, demolition costs, maintenance costs, and repair costs. These items are ineligible for certification.

Applied to this Application

The applicant included the cost for removing the old fiberglass ductwork. Demolition costs are not eligible. The applicant also included costs for

mobilizing the mechanical contractor's work force for work not directly related to the claimed facility and for relocating electrical conduits for the safety shower. The safety shower is an Oregon OSHA safety requirement. These items make insignificant contributions to the pollution control purpose of the facility described in the *Purpose: Required* section above. The Department subtracted the costs of these elements from the claimed facility cost under the *Facility Cost* section below.

**Replacement**  
ORS 468.155(3)(e)

Criteria

The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon certified 137 pollution control facilities at this location: 62 of the facilities controlled air pollution. The claimed facility **did not replace** one of the previously certified facilities.

**Maximum Credit**  
ORS 468.173(1)

Criteria

The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 5/22/2000, completed construction on 10/18/2000, and submitted the application on 8/12/2002.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost. The Department determined the ineligible costs for demolition, and the relocation of the electrical conduit and safety showers to be 50% of the invoiced amount. PBS Environmental and Engineering provided the percentage based on their estimating expertise after reviewing the applicant's project drawings.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$840,518
<i>Exclusions</i>	Fiberglass ductwork demolition	-10,257
	Mobilization of the mechanical contractor	-12,662
	Relocate conduits for safety shower	-650
		<b>Certified \$816,949</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>5</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control
ORS 468.190(1)(c)	Alternative Methods: Engineers consider the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

**Compliance**

DEQ staff assigned to the source is Ali Nikukar from the Western Region Office. He affirmed that the claimed facility is in compliance with Department rules and statutes and with EQC orders. DEQ issued the following permits to the site:

Title V Air Contamination Discharge Permit No. 22-0547, issued September 12, 2001  
 NPDES General Permit – Storm Water Permit No. 1200-Z, issued July 22, 1997  
 NPDES Wastewater Discharge Permit No. 100522, issued September 30, 1988

Reviewers: PBS Engineering  
 Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

## Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

PO Box 276  
Lyons, OR 97358

Organized as: **C Corp**  
Taxpayer ID: **93-0357299**

### *Technical Information*

Freres Lumber Company manufactures plywood at its mill in Lyons, Oregon. The manufacturing process generates particulate matter (PM) and fine particulate matter (PM<sub>10</sub>). Prior to installation of the claimed facility, the applicant used four cyclones to remove heavier chips from sawdust in the exhaust system. The exhausts from the four cyclones vented 4.8 tons per year of PM and 2.3 tons per year of PM<sub>10</sub> to the atmosphere. The applicant installed two new cyclones that replaced two of the four existing cyclones and a baghouse manufactured by Clarke Pneu-Aire, Model 100-200. The exhaust from the cyclones are ducted into the baghouse, which removes PM and PM<sub>10</sub> from the exhausted air. The baghouse has a capture efficiency of 99.9%, with a flowrate of 54,500 cubic feet per minute.

### *Director's Recommendation*

**Approve** Application No. 6333 @ **Reduced Cost**

Applicant: **Freres Lumber Co, Inc.**

Certification of:

Facility Cost		\$180,295
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit:		<u>\$63,103</u>

Certificate Period: **7 years**

### *Facility Identification*

47842 Lyons-Mill City Dr  
Mill City, OR 97360

The certificate will identify the facility as:

**One - Clarke Pneu-Aire Baghouse, Model 100-200**

### ***Taxpayer Allowed Credit***

ORS 315.304(4)(b) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

**Timely Filing** Criteria

OAR 340-016-0007

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 5/28/2002 and submitted the application on 10/28/2002. The applicant submitted the application after they completed construction and placed the facility into operation on 5/28/2002.

**Purpose: Voluntary** Criteria

ORS 468.155

(1)(a)(B)

OAR 340-016-

0060(2)(b)

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of air pollution.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

DEQ, EPA, or a regional air pollution authority regulations did not require the facility; therefore, the facility has a **sole purpose**. The baghouse reduces a substantial quantity of PM and PM<sub>10</sub> emissions: PM by 4.8 tons/year and PM<sub>10</sub> by 2.3 tons/year.

The applicant uses the cyclones for material handling purposes. It separates and conveys the chips and sawdust from one point to another. They installed the fire suppression system to comply with building and fire code requirements. These items do not have an exclusive pollution control purpose. The Department subtracted the costs of these items from the claimed facility cost under the *Facility Cost* section below.

**Method** Criteria  
ORS 468.155 (1)(b)(B) The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

Applied to this Application

PM and PM<sub>10</sub> **meet the definition of** air pollution. The baghouse **meets the definition of** an air cleaning device because it reduces and controls PM and PM<sub>10</sub> emissions.

The fire suppression equipment, the cyclones, catwalks, and related material handling equipment do not meet the definition of air pollution as defined in ORS 468A.005 because they do not remove particulate matter. The applicant installed the fire protection system to meet code requirements. The Department subtracted the costs of the fire protection system, the two cyclones, the airlocks for the cyclones, and the associated installation costs from the claimed cost under the *Facility Cost* section.

**Exclusions** Criteria  
ORS 468.155(3) OAR 340-016-0070(3) The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The claimed cost included cost for fire protection, material handling cyclones, a motor, catwalk materials, airlocks, and related installation costs. These items make an insignificant contribution to the sole purpose of the facility. The Department subtracted the costs of these components from the claimed facility cost under the *Facility Cost* section below.

**Replacement** Criteria  
ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued four certificates to the applicant at this location and one for controlling air pollution. The claimed facility **did not replace** one of the previously certified facilities.

**Maximum Credit** Criteria

ORS 468.173(3)(f) The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the certified cost does not exceed \$200,000.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 10/28/2002, and the certified facility would not exceed \$200,000.

**Facility Cost**

Copies of invoices and the installation contractor substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
	Claimed Cost	\$245,214
	<i>Purpose:</i> Cyclones and fire suppression	-42,823
	<i>Exclusions:</i> Catwalk	-1,459
	Material handling airlocks, motor, installation	-20,637
	<b>Certified Cost</b>	<b>\$180,295</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that 100% of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is 7 years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology. The Reviewers concur.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

**Compliance**

The DEQ staff assigned to the source is Barbara Michels from the Western region office. Ms. Michels affirmed that the claimed facility is in compliance with the Department rules and statutes and with EQC orders. DEQ issued a Title V Air Contamination Discharge Permit on October 21, 1998.

Reviewers: PBS Engineering and Environmental  
Maggie Vandehey, DEQ





State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

91320 Coburg Industrial Way  
Coburg, OR 97408

Organized as: **C Corp**  
Taxpayer ID: **35-1880244**

#### *Technical Information*

Monaco Coach Corporation manufactures motor homes. The primers and paints used in the process contain volatile organic compounds (VOC) and hazardous air pollutants (HAP). These emissions exited the building into the environment through 14 roof stacks. The applicant installed two RTO-95 regenerative thermal oxidizer (RTO) systems manufactured by Adwest Technologies to reduce emissions. The claimed facility includes the two RTOs and exterior connecting ducting to the 14 existing roof stacks. Each unit is designed for a 55,000 cubic feet per minute (cfm) exhaust flow rate. The destruction efficiency of each RTO is 95%; they burn the VOC at 1,500 °F which produces carbon dioxide and water vapor.

#### *Director's Recommendation*

Approve Application No. 6370

Applicant: **Monaco Coach Corporation**

Facility Cost		\$1,741,970
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit:		<u>\$870,985</u>

Certificate Period: 7 years

#### *Facility Identification*

91320 Coburg Industrial Way  
Coburg, OR 97408

The certificate will identify the facility as:

**Two - 55 scfm Regenerative Thermal Oxidizer  
(RTO) systems**

***Taxpayer Allowed Credit***ORS 315.304(4)(b) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing**

ORS 468.173(1)

OAR 340-016-0007

Criteria

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 12/9/2001 and submitted the application on 11/21/2002. The applicant submitted the application after they completed construction and placed the facility into operation on 12/10/2001.

**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

OAR 340-016-

0060(2)(b)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of air pollution.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

The applicant claims the facility has a **sole purpose**. The facility reduces and controls a substantial quantity of VOC and HAP emissions. Emissions prior to the installation of the claimed facility were 82.4 tons per year of VOC and 32.5 tons per year of HAP. The two RTOs reduced emissions to 4.1 tons of VOC per year and 1.6 tons of HAP per year – a 78.3 and 30.9 tons per year reduction, respectively. This is a **substantial** reduction compared to the absence of any control.

**Method** Criteria  
 ORS 468.155 (1)(b)(B) The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

“Air contaminate” means any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

”Air-cleaning device” means any method, process or equipment that removes, reduces or renders less noxious air-contaminants prior to their discharge in the atmosphere.

Applied to this Application

VOC and HAP emissions **meet the definition of** an air contaminate as defined by ORS 468A.005.

The RTOs meet **the definition of** an air-cleaning device in ORS 468A.005:

**Exclusions** Criteria  
 ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a  
 OAR 340-016-0070(3) Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The application record did not indicate that the applicant included any ineligible costs.

**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location; therefore, the facility is not a replacement facility.

**Maximum Credit** Criteria  
 ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the  
 OAR 340-016-0007 facility is certified under the 1999 Edition of ORS 468.155 to 468.190.

Applied to this Application

The maximum tax credit is **50%** because the applicant completed construction of the facility on 12/9/2001, and submitted the application on 11/21/2002.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed Cost \$1,741,970
		<b>Certified Cost \$1,741,970</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is 7 years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative because the claimed facility is the best available technology. The reviewers concur.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

**Compliance**

Daniel Wise and John Morrisee, LRAPA staff assigned to the source, affirmed that the facility and site comply with Department rules and statutes. DEQ issued the following permit to this site:

Oregon Title V permit, No. 205160, issued 12/17/2001

Reviewers: PBS Engineering and Environmental  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

7230 Evergreen Parkway  
Hillsboro, OR 97124

Organized as: **C Corp**  
Taxpayer ID: **93-1305731**

#### *Director's Recommendation*

Approve Application No. **6391**

Applicant: **Sumitomo Electric Semiconductor  
Materials, Inc.**

Certification of:

Facility Cost		\$120,833
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$60,417</u>

Certificate Period: **10 years**

#### *Facility Identification*

7230 Evergreen Parkway  
Hillsboro, OR 97124

The certificate will identify the facility as:

**One - Ammonia Scrubber, Indusco model SB-1000**

**Three - PrecisionAire HEPA filters, Model Alpha2000 CC-F housed in a Surelock SLB-P4 W-X unit**

Sumitomo Electric Semiconductor Materials, Inc. constructed a new plant to manufacture 6" gallium arsenide (GaAs) wafers that are used in wireless communications devices. The manufacturing process requires edge and surface grinding, cleaning, and polishing rough cut wafers. This process generates ammonia fumes. The applicant claims:

- One wet packed-bed scrubber to prevent approximately 1,600 pounds per year of ammonium hydroxide from being released into the atmosphere from the cleaning, etching, and polishing process. The scrubber releases less than 1.5 pounds of ammonium hydroxide per year. The inlet gas flow rate of the scrubber is 9,171 actual cubic feet per minute (acfm), the control efficiency is 99.9%, and the water re-circulation rate is 160 gallons per minute. The system adjusts the pH to 7.0 using sulfuric acid; and
- Three point-of-use particulate filter units are attached to an edge grinder, a surface grinder, and the laser marker tools to prevent GaAs particulate from being released to the atmosphere. The three collectors consist of a HEPA filter housed in a Surelock model SLB-P4 W-X unit. Each unit

prevents less than one pound of gallium arsenide particulate from being released to the atmosphere each year. No GaAs is released. Each unit has an inlet gas flow rate of 350 acfm and a control efficiency of 99.99% on >0.3 micron particles.

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. The owner, including a contract purchaser, of the trade or business that utilizes Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. A person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

#### Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

**Timely Filing** Criteria

ORS 468.173(1)  
OAR 340-016-0007

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

#### Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 3/15/2002 and submitted the application on 11/25/2002. The applicant submitted the application after they completed construction and placed the facility into operation on 3/15/2002.

**Purpose: Required** Criteria

ORS 468.155  
(1)(a)(A)  
OAR 340-016-0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ, EPA, or LRAPA to prevent, reduce, or control air pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

#### Applied to this Application

Sumitomo filed a Notice of Intent to Construct with DEQ according to the Department's Air requirements. The notice is for their Phase 1 construction of the ammonia scrubber and HEPA filter. They are currently ramping-up Phase 1

and they are not required to have a permit at this time. The primary or most important purpose of the claimed facility is to control air pollution.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(B)	The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

"Air-cleaning device" means any method, process or equipment that removes, reduces or renders less noxious air-contaminants prior to their discharge in the atmosphere.

Applied to this Application

Ammonium hydroxide and gallium arsenide **meets the definition of** an air pollutant as defined under the *Purpose: Required* section above. The scrubber and the point-of-use units **meet the definition of** an air-cleaning device in ORS 468A.005.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The application record, the site visit and conversations with the applicant indicated that the applicant did not include any ineligible costs.

<b>Replacement</b>	<u>Criteria</u>
ORS 468.155(3)(e)	The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Tax Credit Certificates to the applicant at this location. The facility is **not a replacement** facility.

<b>Maximum Credit</b>	<u>Criteria</u>
ORS 468.173(1)	The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 11/1/2000, completed construction on 3/15/2002, and submitted the application on 11/25/2002.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	\$120,833
		<b>Certified</b>	<b>\$120,833</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

<b>Factor</b>	<b>Applied to this Facility</b>
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

**Compliance**

The DEQ staff assigned to the source is Cory Ann Chang in the Northwest Region affirmed the applicant's statement that the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued the following document and permit to the applicant at this site:

Notice of Intent to Construct No. 018788, Air Quality, Issued August 10, 2001  
Industrial Wastewater, No. 133283, Issued October 19, 2001

Reviewer: Maggie Vandehey, DEQ





State of Oregon  
Department of  
Environmental  
Quality

## Director's Recommendation

Approve Application No 6399 @ Reduced Cost

Applicant: **United States Gypsum Company**

Facility Cost		<b>\$1,381,242</b>
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit:		<b>\$690,621</b>

Certificate Period: **10 years**

# Tax Credit Review Report

**Pollution Control Facility: Air  
Final Certification**

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### Applicant Identification

125 S Franklin Street  
Chicago, IL 60606

Organized as: **C Corp**  
Taxpayer ID: **930223-9**

### Facility Identification

29073 Dike Road  
Rainier, OR 97048

The certificate will identify the facility as:

**Eleven - dust collectors with fans and rotary valves**

### Technical Information

United States Gypsum Company manufactures gypsum wallboard. Gypsum wallboard manufacturing requires processing, metering, and combining gypsum rock with other dry raw materials. This process generates airborne particulate matter (PM) and fine particulate matter (PM<sub>10</sub>). The applicant claims a system of eleven dust collectors to control PM and PM<sub>10</sub> emissions, and ancillary fans, screw conveyors and rotary valves at their new gypsum wallboard manufacturing plant. The system, manufactured by Seneca Environmental, captures a total of 260 lbs of PM and PM<sub>10</sub> per hour and their average collection efficiency is 99.5%. The following list identifies each dust collector.

Equipment	Model Number	Serial Number	CFM	Blower Hp
Waste Reclaim Dust Collector	100-FMTHS-100	992924	5,000	30
Mill System A & B Dust Collector	1088-FMTHS-10	992885	153,870	1,500
Mill Stucco Dust Collector	1088-FMTHS-10	992897	4,400	25
Landplaster/HRA Bin Vent	9-FMBV-100	992807	400	1.5
Stucco Bin Vent	56-FMTHS-100	992812	5,000	20
Stucco & Dry Additive Dust Collector	154-FMTHS-100	992800	8,000	40
Starch Bin Vent	25-FMBV-100	1002942	1,200	5

Equipment	Model Number	Serial Number	CFM	Blower Hp
Starch Refill Bin Vent	9-FMBV-100	N/A	600	2
HRA Mill Vent	20-FMBV-100	992801	1,000	3
End Saw Dust Collector	196-FMTHS-100	992809	10,000	30
Dunnage Collector	196-FMTHS-100	992811	10,000	30

### ***Taxpayer Allowed Credit***

ORS 315.304(4)(b) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

**Timely Filing** Criteria

ORS 468.173(1)  
OAR 340-016-0007

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 12/4/2000 and submitted the application on 11/22/2002. The applicant submitted the application after they completed construction and placed the facility into operation on 12/22/2000.

**Purpose: Required** Criteria

ORS 468.155  
(1)(a)(A)  
OAR 340-016-0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ, EPA, or LRAPA to prevent, reduce, or control air pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

The facility **complies** with the required Plant Site Emission Limits for PM and PM<sub>10</sub> listed in the applicants **DEQ Air Contaminant Discharge Permit**.

The primary or most important purpose of the screw conveyors is for material handling. They transfer material from the baghouses back to the production area for reuse. The Department subtracted the cost of these components from the claimed facility cost under the *Facility Cost* section below.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(B)	The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

"Air-cleaning device" means any method, process or equipment that removes, reduces or renders less noxious air-contaminants prior to their discharge in the atmosphere.

Applied to this Application

The applicant's air discharge permit regulates PM and PM<sub>10</sub> that **meet the definition of** air pollution as stated in *Purpose: Required* section above.

The eleven dust collectors **meet the definition of** an air cleaning device because they remove PM and PM<sub>10</sub>.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The applicant claimed costs associated with the construction of their new manufacturing facility that were not part of the pollution control. The applicant requested that the Department subtract the associated costs from the claimed facility cost under the *Facility Cost* section below.

<b>Replacement</b>	<u>Criteria</u>
ORS 468.155(3)(e)	The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location; therefore, the facility is **not a replacement** facility.

**Maximum Credit Criteria**

ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 8/1/1999, completed construction on 12/4/2000, and submitted the application on 11/22/2002.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$2,055,408
<i>Purpose</i>	Screw conveyors	-68,290
<i>Exclusions</i>	Factory Construction not pollution control	-570,997
	Prorated share of Engineering and Construction Management	-34,879
		<b>Certified \$1,381,242</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility recovers gypsum particulate that the applicant reuses in the production of wallboard.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, <b>100%</b> of the facility cost is allocable to pollution control
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology. The Reviewers concur.
ORS 468.190(1)(d)	Savings/Increase Costs: The applicant provided the annual net savings of the recovered materials but requested that the Department keep the value and quantity of the material confidential. The Department considered the savings in the ROI calculation.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

**Compliance**

The DEQ staff assigned to the source is Randy Bailey from Northwest Region. Mr. Bailey affirmed the applicant's statement that the facility and site are in compliance with Department rules and statutes and with EQC orders. DEQ issued the following permits to the site: Air Contaminant Discharge Permit No. 05-0005, issued on 12/29/99; NPDES Storm Water Permit No. 1200-Z, issued on 8/24/01.

Reviewers: Dennis Cartier, PBS Engineering and Environmental  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

## Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

19547 NE 167th Ave  
Brush Prairie, WA 98606

Organized as: **S Corp**  
Taxpayer ID: **91-1542558**

### *Technical Information*

McCafferty-Whittle Construction Company, Inc. is a commercial paving contractor that manufactures asphalt and provides paving for ODOT projects throughout Oregon state. The applicant claims a portable triple drum hot mix asphalt plant manufactured in 2001 by CMI Terex with a Roto-Aire baghouse. Asphalt production produces a gas exhaust stream of particulate matter (PM), carbon monoxide, and nitrogen oxides from the aggregate drying and heating process. A system of baffles external to the baghouse slows the gas to let the heaviest fines drop out before they get to the bags. Those fines can be recirculated, stored, or removed. Suction within the bags pulls dust from the gas stream onto the bags' outer surfaces. A rotating device removes the suction and the bags drop the dust for removal.

The applicant states that the Roto-Aire baghouse is 99.9% efficient in removing particulates. The baghouse is designed to remove particulate to levels of 0.01 grains/dry standard cubic foot (dscf), or less. The applicant replaced a 1986 CMI PVM2000 portable asphalt plant with a Venturi wet scrubber. The old plant released .045 pounds per ton of asphalt mix or over 16 pounds of particulate per hour. The plant failed to meet DEQ emissions requirements. The new plant produces 0.016 pounds per ton of asphalt mix or 5.9 pounds of particulate per hour. The applicant incorporates the particulate back into the asphalt mixture.

### *Director's Recommendation*

**Approve Application No. 6436 @ Reduced Cost & Percentage**

**Applicant: McCafferty-Whittle Construction Company, Inc**

Certification of:

Facility Cost		<b>\$1,500,246</b>
Percentage Allocable	X	23%
Maximum Percentage	X	25%
Tax Credit		<b>\$86,264</b>

Certificate Period: **7 years**

### *Facility Identification*

The portable plant moves to various locations around the State.

The certificate will identify the facility as:

**Reverse Air Automatic Baghouse, Model RA418PT**

***Taxpayer Allowed Credit***ORS 315.304 (4) Criteria

The taxpayer who is allowed the credit is the:

- (a) The **owner**, including a contract purchaser, of the trade or **business** that **utilizes** Oregon property requiring a **pollution control facility** to prevent or minimize pollution;
- (b) A person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing** Criteria

OAR 340-016-0007

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 6/1/2002 and submitted the application on 1/22/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 6/1/2002.

**Purpose: Required** Criteria

ORS 468.155

(1)(a)(A)

OAR 340-016-

0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ, EPA, or LRAPA to prevent, reduce, or control air pollution. The principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

The baghouse and some components of the triple drum system **comply** with **Air Contaminant Permit**, number AQGP-007 issued by DEQ on January 1, 2002. The applicant's previous asphalt plant used a wet wash system and was unable to pass new DEQ requirements.

The primary and most important purpose of the other components of the portable plant is to produce hot mix asphalt. The portion of the plant that has no air

quality benefits is not eligible for the pollution control facilities tax credit. The Department prorated the portion of the eligible plant's cost under the *Facility Cost Allocable to Pollution Control* section below.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(B)	The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

“Air contaminate” means any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

”Air-cleaning device” means any method, process or equipment that removes, reduces or renders less noxious air-contaminants prior to their discharge in the atmosphere.

Applied to this Application

The emissions and fine particulate **meet the definition of air pollution** as defined in the *Purpose* section above. The baghouse and portions of the plant **meet the definition of** an air-cleaning device.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no exclusions under this section of the law.

<b>Replacement</b>	<u>Criteria</u>
ORS 468.155(3)(e)	The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location or for the old asphalt plant; therefore, the facility is **not a replacement** facility.

**Maximum Credit** Criteria

ORS 468.173(3)(g) The **maximum tax credit is 25%** if the applicant began construction or installation of the facility between January 1, 2001 and December 31, 2003, inclusively, submitted the application after December 31, 2001, and the facility or the applicant do not qualify for the 50% or the 35% maximum tax credit.

Applied to this Application

The applicant began construction or installation of the facility on 10/1/2001. The maximum tax credit is 25% because the applicant submitted the application on 1/22/2003; and DEQ required the air pollution control; and the facility or the applicant do not qualify for a higher percentage under ORS 468.173(1) or ORS 468.173(3).

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- the salvage value of a pre-existing facility if the applicant is replacing a facility;
- the amount of any government grants received to pay part of the facility cost;
- the present value of any other state tax credits for which the investment is eligible; and
- ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

The application record does not indicate any subtraction other than the trade-in value of the original portable asphalt plant manufactured in 1986.

**\$ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may **not exceed the taxpayer's own cash investment** in the facility or portion of the facility.

Applied to this Application

The invoice for the new asphalt plant shows a subtraction for the \$500,000 trade-in value of an older portable asphalt plant. The trade-in does not represent the applicant's "own cash investment"; therefore, the Department has subtracted the amount from the claimed facility cost.

Referenced	Description of Ineligible Cost	Cost
		Claimed
		2,000,246
<b>Facility Cost</b>	Trade-in of old asphalt plant	-500,000
		<b>Certified</b>
		<b>\$1,500,246</b>



### ***Facility Cost Allocable to Pollution Control***

The Department considered the following factors to determine that **23%** of the claimed facility is allocable to pollution control.

<b>Factor</b>	<b>Applied to this Facility</b>
ORS 468.190(1)(a)	Salable/Usable Commodity: The air pollution control devices do not produce a salable commodity. The applicant, however, uses the reclaimed particulate in their process. The savings are minimal and do not affect the return on investment calculation below.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is 7 years. The pollution control components of the asphalt plant do not have a positive ROI.
ORS 468.190(1)(c)	Alternative Methods: No alternative investigated. The claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increase Costs: There are minor changes in savings or increases in costs from the old plant to the new plant.
ORS 468.190(1)(e)	<u>Other Relevant Factors</u> : The vendor provided the cost of the pollution control components of the asphalt plant at \$444,012. This is <b>23%</b> of the cost of the plant.

### ***Compliance***

The claimed facility complies with Department rules and statutes according to Environmental Technical Services' source test conducted by on October 8, 2002. The service conducted the test according to DEQ guidelines set out in the Department's letter dated September 27, 2002 and signed by Mark Bailey of DEQ's Eastern Region.

DEQ issued a General Air Contaminant Discharge Permit, number AQGP-007 on January 1, 2002.

Reviewer: Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

Tax Department CH 1C28  
PO Box 9777  
Federal Way, WA 98063

Organized as: **C Corp**  
Taxpayer ID: **91-0470860**

### *Technical Information*

Weyerhaeuser Company manufactures medium-density fiberboard by processing hardwood and softwood chips and scrap wood at its mill in Eugene, Oregon. The company combines raw material with resins and then forms it and presses it into long boards. The applicant cuts the boards to size and then sands them. The hot press operation generates Volatile Organic Compound (VOC), particulate matter (PM), and fine particulate matter (PM<sub>10</sub>). The heat and pressure in the press causes the resins to polymerize which creates VOC and PM.

The applicant installed a press enclosure, two Torrit 848RF10 baghouses, and a GeoTherm Regenerative Thermal Oxidizer/Regenerative Catalytic Oxidizer (RTO/RCO) to control VOC, PM and PM<sub>10</sub> from the press. The RTO/RCO burns and oxidizes the VOC forming carbon dioxide and water. The baghouses contains 484 ten-foot bags that reduce PM and PM<sub>10</sub> emissions.

Prior to installing the claimed facility, the applicant vented the press operation's emissions directly to the atmosphere through the building roof vents. The emission levels were 70.9 tons per year of PM, 69.8 tons per year of PM<sub>10</sub> and approximately 95 tons per year of VOC. The new press enclosure captures PM, PM<sub>10</sub> and VOC emissions during the press operations. A 53-inch duct directs the emissions from

### *Director's Recommendation*

Approve Application No. 6444 @ Reduced Cost

Applicant: **Weyerhaeuser Company**

Certification of:

Facility Cost		\$2,166,153
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$1,083,077</u>

Certificate Period: **10 years**

### *Facility Identification*

50 North Danebo Avenue  
Eugene, OR 97402

The certificate will identify the facility as:

- One - Regenerative Thermal Oxidizer/Regenerative Catalytic Oxidizer (RTO/RCO)**
- One - Press Enclosure**
- Two - Used Baghouses**

the enclosure to the two baghouses which remove the PM and PM<sub>10</sub>. The discharge from the baghouse is ducted to the inlet of the RTO/RCO where the VOCs are converted to carbon dioxide and water. The claimed facility reduced the PM and PM<sub>10</sub> emissions to less than 0.10 tons per year. The VOC emissions reduced to less than 7 tons per year.

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) The **owner**, including a contract purchaser, of the trade or **business** that utilizes Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (b) A person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

#### Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

**Timely Filing** Criteria

ORS 468.173(1)  
OAR 340-016-0007

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

#### Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 1/30/2001 and submitted the application on 1/29/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 1/30/2001.

**Purpose: Required** Criteria

ORS 468.155  
(1)(a)(A)  
OAR 340-016-0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ, EPA, or LRAPA to prevent, reduce, or control air pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

#### Applied to this Application

The press enclosure, two baghouses and the RTO/RCO all have the **principal** purpose to comply with the Consent Decree issued by EPA, Clean Air Act, 42 U.S.C. 7413(b), No. CV 00-1001 HA; SFO #01-2295 dated 9/26/2001. The

consent decree states that the applicant's press enclosure must capture "all" VOC emissions from the process and the RTO/RCO must destroy at least 90% of the VOC emissions. LRAPA has confirmed these conditions have been satisfied.

The following components make an insignificant contribution toward the principal purpose of meeting the requirements of the Consent Decree:

- Fire protection systems - installed to comply with fire and building codes.
- Insulation - reduces system heat loss but does not impact the integrity of the system.
- Catwalks and staircase - installed to facilitate access and maintenance.

The Department subtracted the costs for these elements from the claimed facility cost under the *Facility Cost* section below.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(B)	The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

"Air-cleaning device" means any method, process or equipment that removes, reduces or renders less noxious air-contaminants prior to their discharge in the atmosphere.

Applied to this Application

Particulate matter and VOC emissions **meet the definition of** air pollution as defined in the *Purpose* section above.

The GeoTherm Regenerative Thermal Oxidizer/Regenerative Catalytic Oxidizer (RTO/RCO), press enclosure and baghouses **meet the definition of** air cleaning devices.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016-0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no additional excluded parts of the claimed facility other than those items subtracted in the *Purpose: Required* section above.

<b>Replacement</b>	<u>Criteria</u>
ORS 468.155(3)(e)	The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued five certificates to the applicant at this location. Two of those certificates were for air pollution controls. The claimed facility **did not replace** one of the previously certified facilities.

**Maximum Credit** Criteria

ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 10/1/2000, completed construction on 1/30/2001, and submitted the application on 2/4/2003.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$2,375,266
<i>Purpose</i>	Fire Protection systems	-92,060
	Catwalks, staircase	-30,053
	Insulation	<u>-87,000</u>
		<b>Certified \$2,166,153</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS 468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

***Compliance***

The LRAPA staff assigned to the source is Max Hueftle. Mr. Hueftle affirmed the applicant's statement that the facility and site are in compliance with Department rules and statutes and with EQC orders. The Department issued the following permit:

LRAPA issued a Title V Air Permit, No. 200529 on 11/28/2001.

Reviewers: PBS Engineering and Environmental  
Islay Robertson, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

PO Box 2522  
Eugene, OR 97402

Organized as: **C Corp**  
Taxpayer ID: **93-0626106**

### *Technical Information*

Scientific Developments, Inc. manufactures molded rubber products from used, recycled tires and tire chips. A cracker mill breaks down the tire chips into crumb rubber; a particulate about the size of sand. The process of breaking down the rubber produces dust particulate consisting of fiber, rubber and steel.

The applicant installed a dust collection system manufactured by Carothers and Son that includes a primary filter collector (baghouse), an airlock, 179 feet of ductwork, and a fan silencer. The baghouse is designed to remove particulate with a maximum particle size of 1" and a minimum particle size of 1 micron with 2,370 square feet of filter media. The baghouse has a capture efficiency of 99.9% with a flow rate of 20,000 cubic feet/minute. The applicant estimates the amount of dust particulate captured by the baghouse to be 9,600 lbs per month. The particulate from the baghouse empties into a dumpster and is taken to Short Mountain Landfill.

Previously, the applicant used a cyclone with approximately 83.5% efficiency. The applicant did not perform particulate testing prior to installing the new facility; however, based on the efficiency percentage of the cyclone and baghouse, the applicant estimates the system has reduced airborne dust particulate by 1,575 lbs. per month.

### *Director's Recommendation*

**Approve** Application No. **6489 @ Reduced Cost**

Applicant: **Scientific Developments, Inc.**

Certification of:

Facility Cost		\$52,435
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$18,352</u>

Certificate Period: **10 years**

### *Facility Identification*

175 South Danebo  
Eugene, OR 97402

The certificate will identify the facility as:

**Dust Collection System, including a primary filter collector, CSL 150TR10HEI FC, rotary airlock discharge, CSL FT24, ductwork, fan silencer, CSL SLR-26**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) The **owner**, including a contract purchaser, of the trade or **business** that utilizes Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (b) A person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing** Criteria

OAR 340-016-0007

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 2/1/2003 and submitted the application on 4/9/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 2/1/2003.

**Purpose: Voluntary** Criteria

ORS 468.155

(1)(a)(B)

OAR 340-016-

0060(2)(b)

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of air pollution.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

The applicant claims the facility has a **sole purpose**. The baghouse reduces a substantial quantity of air pollution. Based on the efficiency ratings of the previous control and the new facility, the applicant estimates that the baghouse reduces the amount of airborne dust particulate by 1,575 lbs per month over the previous control. The purpose of the 39 feet of external ductwork is to keep the particulate from entering the atmosphere between the manufacturing building and the baghouse.

The fan silencer and 140 feet of internal ductwork are not eligible for certification because they do not reduce, prevent, or control air pollution. The purpose of the fan silencer is to reduce the noise level. Of the 179 feet of ductwork, 140 feet is



located inside the production area. The purpose of the internal ductwork is material handling to remove particulates from the production area. The applicant would have to remove the particulate matter from inside the building for industrial hygiene purposes with or without the claimed facility. The Department subtracted the costs of these components from the claimed facility cost under the *Facility Cost* section below.

**Method** Criteria  
 ORS 468.155 (1)(b)(B) The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

“Air contaminate” means any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

”Air-cleaning device” means any method, process or equipment that removes, reduces or renders less noxious air-contaminants prior to their discharge in the atmosphere.

Applied to this Application

The baghouse with airlock and external ducting **meets the definition of** an air-cleaning device as defined in ORS 468A.005. Nylon, rubber and steel particulate **meet the definition of** an air contaminate.

**Exclusions** Criteria  
 ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a  
 OAR 340-016-0070(3) Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no additional excluded parts of the claimed facility other than the items subtracted in *Purpose: Voluntary*, section above.

**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued no previous certificates to the applicant; therefore, the claimed facility is **not a replacement**.

**Maximum Credit** Criteria  
 ORS 468.173(3)(f) The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the certified cost does not exceed \$200,000.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 4/9/2003, and the certified facility cost is \$52,435.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed
		\$57,835
<i>Purpose</i>	Internal ductwork	-8,500
<i>Facility Cost</i>	Method - Fan silencer	-1,900
	Erroneous calculation - No salvage of pre-existing facility	5,000
		<u>Certified</u>
		<u>\$52,435</u>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>15</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

**Compliance**

The applicant states that the facility and site are in compliance with Department rules and statutes, and with EQC orders. The Department issued the following permit to the applicant at this site: Waste Tire Storage Site, WTS1137, and Issued 1991.

Reviewers: PBS Engineering and Environmental  
 Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

10599 Old Hwy 99 South  
Dillard, OR 97432

Organized as: **C Corp.**  
Taxpayer ID: **93-1240670**

### *Technical Information*

Roseburg Forest Products manufactures particleboard, plywood, lumber, and engineered wood products at its Dillard mill. The edge-banding line generates airborne particulate matter (PM) and fine particulate (PM<sub>10</sub>). The applicant purchased and installed a used 22,000 cubic feet per minute (cfm) Carter Day baghouse, model 144RJ120 to reduce the PM and PM<sub>10</sub> emissions from 190 pounds per year to less than 0.5 pounds per year. The claimed facility has a collection efficiency of 99.5% for particulate greater than 3 micron in size. The baghouse achieves this efficiency with 3,800 square feet of filter cloth area with a 6.5:1 air-to-cloth ratio.

### *Director's Recommendation*

**Approve Application No. 6513 @ Reduced Cost**

**Applicant: Roseburg Forest Products**

Certification of:

Facility Cost		\$51,012
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<hr/> \$17,854

Certificate Period: **10 years**

### *Facility Identification*

10599 Old Hwy 99 South  
Dillard, OR 97432

The certificate will identify the facility as:

**One - Carter Day baghouse, Model 144RJ120**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. **Owner**, including a contract purchaser, of the trade or **business** that utilizes the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing** Criteria

OAR 340-016-0007

The applicant must file the application within one year after the date that it completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before it places the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because it completed construction on 7/1/2002 and submitted the application on 5/19/2003.

**Purpose: Required** Criteria

ORS 468.155

(1)(a)(A)

OAR 340-016-

0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ, EPA, or LRAPA to prevent, reduce, or control air pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

The applicant claimed the facility has a "sole purpose". The applicant's permit requires the applicant to reduce air pollution; therefore, the claimed facility has a **principal purpose**. The claimed facility reduces PM and PM<sub>10</sub> emissions by 190 pounds per year.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(B)	The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

“Air contaminate” means any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

”Air-cleaning device” means any method, process or equipment that removes, reduces or renders less noxious air-contaminants prior to their discharge in the atmosphere.

Applied to this Application

The Carter Day baghouse eliminates PM and PM<sub>10</sub>, which **meets the definition** of an air contaminant as defined by ORS 468A.005 and the baghouse **meets the definition of an air-cleaning device**

The 16" diameter screw conveyor and the high-speed abort gate **do not meet the definition of an air-cleaning device** as defined in ORS 468A.005. The screw conveyor transfers sawdust from the baghouse airlock valve to a transfer bin. The high-speed abort system is a Uniform Building Code and Fire Code requirement to minimize the impact of a dust explosion. The Department subtracted the costs associated with these elements from the claimed facility cost under the *Facility Cost* section below.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of more than 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no additional excluded parts of the claimed facility other than the items subtracted under the *Method* section above.

<b>Replacement</b>	<u>Criteria</u>
ORS 468.155(3)(e)	The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued 17 certificates to the applicant; 8 at this location and 7 for controlling air pollution. The claimed facility did not replace one of the previously certified facilities.

**Maximum Credit** Criteria  
 ORS 468.173(3)(f) The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the certified cost does not exceed \$200,000.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 5/19/2003, and the certified facility cost is \$51,012.

***Facility Cost***

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$ 65,512
	<i>Method</i> 16" Screw Conveyor per B & R Sheet Metal	-6,500
	High Speed Abort System per B & R Sheet Metal	-8,000
		<b>Certified \$ 51,012</b>

***Facility Cost Allocable to Pollution Control***

The applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increased Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

***Compliance***

The DEQ staff member assigned to the source is Kenan Smith in the DEQ Western region office. Mr. Smith affirmed the applicant's statement that the facility and site are in compliance with Department rules and statutes and with EQC orders. DEQ issued the following permits to the site:

NPDES No. 400-J issued August 21, 1997

NPDES No. 1200-Z, issued July 9, 1999

Oregon Title V No. 10-0025, issued October 20, 1997.

Reviewers: Dennis Cartier, PBS Engineering and Environmental  
Maggie Vandehey, Oregon DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

PO Box 83095  
Portland, OR 97283

Organized as: **S Corp.**  
Taxpayer ID: **93-0336095**

### *Technical Information*

Columbia Steel Casting manufactures alloy steel castings. The applicant installed a new vibrating attrition mill in Building 9 to reduce large lumps of sand to small particles. The process creates large amounts of airborne particulate matter (PM) emissions. The applicant claims 172 feet of new 18-inch diameter metal ducting. The ducting extends from the new attrition mill in Building 9 to an existing 26-inch diameter duct that is connected to an existing baghouse that removes PM. The connection point of the new ducting to the existing ducting is at Building 8. The applicant estimates that the claimed facility will prevent 14,000 pounds of PM from being discharged to the atmosphere every year.

### *Director's Recommendation*

**Approve** Application No. **6539 @ Reduced Cost**  
Applicant: **Columbia Steel Casting Co., Inc.**

#### Certification of:

Facility Cost		\$25,404
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<hr/> \$8,891

Certificate Period: **7 years**

### *Facility Identification*

10425 N. Bloss Avenue  
Portland, OR 97203

The certificate will identify the facility as:

**Dust collection ductwork between Buildings 8  
and 9**



***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing**

OAR 340-016-0007

Criteria

The applicant must submit the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 7/15/2002 and submitted the application on 7/8/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 11/1/2002.

**Purpose: Required** Criteria

ORS 468.155

(1)(a)(A)

OAR 340-016-

0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ, EPA, or LRAPA to prevent, reduce, or control air pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

The new ducting complies with the DEQ imposed requirement in the applicant's Air Contaminant Discharge Permit that prohibits the discharge of more than 0.1 grains of PM per cubic foot of exhausted air. The primary or most important purpose of the claimed facility is to prevent air pollution.

**Method** Criteria  
 ORS 468.155 (1)(b)(B) The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

“Air contaminant” means any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

"Air-cleaning device" means any method, process or equipment that removes, reduces or renders less noxious air-contaminants prior to their discharge in the atmosphere.

Applied to this Application

Particulate matter **meets the definition** of an air contaminant as defined by ORS 468A.005. The ductwork **meets the definition of** an air-cleaning device because it removes air contaminates prior to their discharge in the atmosphere.

The roof over the chillers, the ducting inside Building 9, and the offset fitting on the chiller do not dispose of or eliminate air contaminants, air pollutants, or an air contamination source. After discussing the pollution control purpose the applicant requested these items be removed from the application. The Department subtracted the costs associated with these items from the claimed facility cost below.

**Exclusions** Criteria  
 ORS 468.155(3) The regulations provide a list of more than 40 items excluded from the definition  
 OAR 340-016- of a Pollution Control Facility. Items that do not meet the definition are  
 0070(3) ineligible for certification.

Applied to this Application

The application record did not indicate that the applicant included any ineligible costs.

**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued 18 certificates to the applicant; 18 at this location and 17 for controlling air pollution. The claimed facility did not replace one of the previously certified facilities.

**Maximum Credit** Criteria

ORS 468.173(3)(g) The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively; and construction or installation of the facility is entirely voluntary and no portion of it is required in order to comply with a federal law administered by the United States Environmental Protection Agency, a state law administered by the Department of Environmental Quality or a law administered by a regional air pollution authority.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 7/8/2003, and the applicant voluntarily constructed or installed the facility.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed
		\$31,802
<i>Method</i>	Roof over chillers	-1,448
	Ducting inside Building #9	-3,150
	Offset fitting on chiller	-1,800
		<b>Certified</b>
		<b>\$25,404</b>

**Facility Cost Allocable to Pollution Control**ORS 468.190 (3) Criteria

If the cost of the facility (or facilities certified under one certificate) does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

Applied to this Application

The certified facility cost is **\$25,404** and the applicant uses the facility **100%** of the time for pollution control.

**Compliance**

The DEQ staff member assigned to the source is Gregg Dahmen in the Northwest region, who affirmed the applicant's statement that the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued the following permits to the applicant at this site: NPDES No 1200-COLS issued December 22, 1999 and Air Contaminant Discharge Permit No. 26-1869, issued September 24, 2002.

Reviewers: Dennis Cartier, PBS Engineering and Environmental  
Maggie Vandehey, DEQ

## BACKGROUND

### APPROVALS: Alternatives to Open Field Burning Facilities

The Department recommends the Commission approve **one** alternative to open field burning facility for certification as a pollution control facility. The Commission's certification could reduce taxes paid to the State of Oregon by a maximum of **\$8,804**.

The Department and the Commission have traditionally treated alternatives to open field burning as *principal purpose* facilities. This means that the applicant installed the facility to meet a DEQ or EPA requirement. DEQ required that the state reduce the maximum number of acres that are open-burned in compliance with acreage limitations and allocations under OAR 340-266-0060.

The grass-seed industry developed open-field burning as a solution to minimize seed-borne diseases that compromised seed quality and yield. Field burning was an effective and cheap way for farmers to sanitize their fields. Public concern over the air quality impact of the smoke resulted in legislative restrictions<sup>1</sup> on field burning. Open-field burning declined from its 1968 high of 315,000 acres<sup>2</sup> to the annual limitation of 65,000 acres<sup>3</sup> by 1996, two years ahead of schedule.

To adjust, Oregon's grass-seed industry invested heavily in straw-handling equipment to remove residue from their fields. Early on, producers sold residue if they could find a market. Many growers sanitized their grass seed fields by stack burning or propane flaming the fields after straw removal. Some growers flail chopped and plowed the residue under. The overseas sale of baled grass seed straw increased dramatically during the phase down of open field burning. Straw storage sheds and compressors allow the growers to store more straw until the market could accept it. New services such as custom balers and businesses that store, ship, or market straw met the demand to dispose of the straw. Since 1975, the State of Oregon has helped the industry by providing a tax credit for these activities.

Grass seed growers have open-field burned an average of 50,000 acres over the last five years. They have not used propane flaming because it has not been cost effective though regulations allow it on 75,000 acres per year.

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<sup>1</sup> Governor Barbara Roberts signed House Bill 3343-C into law on August 7, 1991.

<sup>2</sup> included some grain acreage

<sup>3</sup> 40,000 regular acres + 25,000 acres of identified species and steep terrain

Statutory Definition of an "Alternatives to Field Burning"

ORS 468.150 Field sanitation and straw utilization and disposal methods as "pollution control facilities"

After alternative methods for field sanitation and straw utilization and disposal are approved by the Department of Environmental Quality, "pollution control facility," as defined in ORS 468.155, shall include such approved alternative methods and persons purchasing and utilizing such methods shall be eligible for the benefits allowed by ORS 468.155 to 468.190 and 468.962. [1975 c.559 §15; 1999 c.59 §136]

Note: 468.150 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 468 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Eligibility

OAR 340-016-0060 Eligibility

...

(4) Eligible Activities. ...

...

(b) Alternatives to Open Field Burning. The facility shall reduce or eliminate:

- (A) Open field burning and may include equipment, facilities, and land for gathering, densifying, handling, storing, transporting and incorporating grass straw or straw based products;
- (B) Air quality impacts from open field burning and may include propane burners or mobile field sanitizers; or
- (C) Grass seed acreage that requires open field burning. The facility may include:
  - (i) Production of alternative crops that do not require open field burning;
  - (ii) Production of rotation crops that support grass seed production without open field burning; or
  - (iii) Drainage tile installations and new crop processing facilities.



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Field Burning Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

10400 NW Moores Valley Road  
Yamhill, OR 97148

Organized as: **Sole Proprietor**  
Taxpayer ID: **93-0820044**

#### *Technical Information*

Timothy Pfeiffer, dba Pfeiffer Farms, is a grass farmer. He claims a New Holland tractor and loader bucket used as an alternative to burning residual straw. The applicant needed to upgrade his equipment to handle straw baling. Of the 67 acres owned, and 1500 acres leased, Pfeiffer Farms cultivates approximately 800 acres in perennial grass seed. The farm flail-chops and bales approximately 1200 tons of grass straw annually which is sold for \$15-\$45 per ton.

Pfeiffer Farms has not registered or openly field burned any of their acres for the last three years but they have stack-burned their straw. The pledged acreage includes 713 acres in tall fescue, 76 acres in perennial rye grass and 16 acres of orchard grass. The applicant last burned 10 acres in 1993 according to the Oregon Department of Agriculture's database.

### *Director's Recommendation*

**Approve** Application No. **6531 @ Reduced Cost**

Applicant: **Timothy Pfeiffer**

Certification of:

Facility Cost		\$27,341
Percentage Allocable	X	92%
Maximum Percentage	X	35%
Tax Credit		<u>\$8,804</u>

Certificate Period: **10 years**

#### *Facility Identification*

10400 NW Moores Valley Road  
Yamhill, OR 97148

The certificate will identify the facility as:

- One - New Holland Tractor, Model TN75, Serial # 1264110**
- One - New Holland Loader, Model 32LA, Serial # S2CY011**

**Taxpayer Allowed Credit**ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

**Eligibility****Timely Filing** Criteria

OAR 340-016-0007

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant filed the application **within the one-year filing** requirement because they completed construction on 11/9/2002 and submitted the application on 6/11/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 1/1/2003.

**Purpose: Required** Criteria

ORS 468.155

(1)(a)(A)

OAR 340-266-0060

(4)(A)(B)(C)

The principal purpose of the claimed facility must be to reduce air pollution by reducing the maximum acreage to be open-burned in compliance with OAR 340-266-0060 (Acreage limitations, allocations).

The facility shall reduce or eliminate:

- Open field burning and may include equipment, facilities, and land for gathering, densifying, handling, storing, transporting and incorporating grass straw or straw based products;
- Air quality impacts from open field burning and may include propane burners or mobile field sanitizers; or
- Grass seed acreage that requires open field burning.

Applied to this Application

The applicant claims the facility has a sole purpose. However, due to an imposed requirement to reduce burning, which includes stack burning, the Department has determined the facility has a **principal purpose**. The New Holland tractor and loader comply with OAR 340-266-0060 by reducing the maximum acreage to be open field burned. The primary or most important purpose of the claimed facility is to prevent air pollution, by gathering and

densifying grass straw.

- |                     |   |
|---------------------|---|
| <b>Method</b>       | <u>Criteria</u>   |
| ORS 468.155         | The facility shall reduce or eliminate open field burning and its effects on air                  |
| OAR 340-016-0060(b) | quality and may include:  |
|                     | a. Production of alternative crops that do not require open field burning;                        |
|                     | b. Production of rotation crops that support grass seed production without open field burning; or |
|                     | c. Drainage tile installations and new crop processing facilities.                                |

Applied to this Application

The effects of field burning **meets the definition of** an air contaminant as defined by ORS 468A.005.

The New Holland tractor and loader **meets the definition of** an alternative to field burning by allowing the Pfeiffer Farms to sell the baled grass straw as defined in the *Method* section above.

- |                     |   |
|---------------------|---|
| <b>Exclusions</b>   | <u>Criteria</u>   |
| ORS 468.155(3)      | The regulations provide a list of over 40 items excluded from the definition of a                   |
| OAR 340-016-0070(3) | Pollution Control Facility. Items that do not meet the definition are ineligible for certification. |

Applied to this Application

The application included the claimed cost for one John Deere no-till drill and salvage value for a Ford Tractor and John Deere rake. The applicant also claimed these components on a separate Non-point source application No. 6532. The Department subtracted the costs of these components from the claimed facility cost under the *Facility Cost* section below.

- |                    |   |
|--------------------|---|
| <b>Replacement</b> | <u>Criteria</u>   |
| ORS 468.155(3)(e)  | The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life. |

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location; therefore, the facility is not a replacement facility.



**Maximum Credit Criteria**

ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 8/1/1999, completed construction on 12/4/2000, and submitted the application on 11/22/2002.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$2,055,408
<i>Purpose</i>	Screw conveyors	-68,290
<i>Exclusions</i>	Factory Construction not pollution control	-570,997
	Prorated share of Engineering and Construction Management	-34,879
		<b>Certified \$1,381,242</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that 100% of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility recovers gypsum particulate that the applicant reuses in the production of wallboard.
ORS 468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is 10 years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increase Costs: The applicant provided the annual net savings of the recovered materials but requested that the Department keep the value and quantity of the material confidential. The Department considered the savings in the ROI calculation.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

**Compliance**

The DEQ staff assigned to the source is Randy Bailey from Northwest Region. Mr. Bailey affirmed the applicant's statement that the facility and site are in compliance with Department rules and statutes and with EQC orders. DEQ issued the following permits to the site: Air Contaminant Discharge Permit No. 05-0005, issued on 12/29/99; NPDES Storm Water Permit No. 1200-Z, issued on 8/24/01.

Reviewers: Dennis Cartier, PBS Engineering and Environmental  
Maggie Vandehey, DEQ

## BACKGROUND

### APPROVALS: Material Recovery Facilities

The Department recommends that the EQC certify the 26 material recovery facilities summarized below and represented in the attached Review Reports. The pollution control certification of these facilities could reduce taxes paid to the State of Oregon by a maximum of \$1,028,850.

#### Summary of Material Recovery Facilities

App #	Applicant	Certified Cost	% Allocable	Maximum Allowable %	EQC Action
5564	A.G.G. Enterprises, Inc.	495,536	81%	50%	
5571	East County Recycling Company	123,612	100%	50%	
5601	Steven D. Terjeson - 50% Patrick K. Wright - 50%	476,617	100%	50%	
5838	S & H Logging, Inc.	143,507	69%	50%	
6498	Safeway, Inc.	39,342	100%	35%	
6499	Safeway, Inc.	34,298	100%	35%	
6500	Safeway, Inc.	23,702	100%	50%	
6515	New KAB IV, LLC	4,591	100%	35%	
6516	Kadel's Auto Body I, LLC	6,342	100%	35%	
6518	Loren's Sanitation Service, Inc.	356,827	100%	50%	
6519	Loren's Sanitation Service, Inc.	36,780	100%	50%	
6520	Loren's Sanitation Service, Inc.	13,324	100%	50%	
6521	Loren's Sanitation Service, Inc.	45,224	100%	50%	
6524	Clackamas Compost Products, LLC	230,300	94%	35%	
6529	Cottage Grove Garbage Service	27,413	86%	35%	
6535	Metro Metals Northwest, Inc	18,000	100%	35%	
6543	Metro Metals Northwest, Inc.	32,385	100%	35%	
6544	Metro Metals Northwest, Inc.	28,875	100%	35%	
6547	New KAB III LLC	7,391	100%	35%	
6548	Metro Metals Northwest, Inc.	49,665	100%	35%	
6549	Metro Metals Northwest, Inc.	20,782	100%	35%	
6550	Metro Metals Northwest, Inc.	29,770	100%	35%	
6551	Metro Metals Northwest, Inc.	46,592	100%	35%	
6552	Metro Metals Northwest, Inc.	48,766	100%	35%	
6553	Metro Metals Northwest, Inc.	48,144	100%	35%	
6554	Metro Metals Northwest, Inc.	32,452	100%	35%	

<b>Apps</b>	<b>Sum</b>	<b>2,420,227</b>
<b>26</b>	Average	93,086
	Minimum	4,591
	Maximum	495,536
	Median	35,539

### Integral Facilities

The reviews behind this tab now include an *Integral Facility* section. The discussion below explains the integral facility concept.

The EQC is responsible for certifying<sup>4</sup> the percentage of the facility cost that actually provides the pollution control. ORS 468.190(1) provides five factors for the Commission to consider in its certification but it **permits the EQC to establish methods<sup>5</sup> for determining the percentage.**

Taxpayers and the Department commonly call the percentage of the facility cost allocable to pollution control the "percentage allocable." Prior to 1993, there was only one method, referred to as the "standard method," for determining the percentage allocable. In 1993, the Commission established the integral facility concept by adopting two additional methods for determining the percentage allocable for "facilities that are integral to the operation of the applicant's business."

### Standard Method

The standard method for calculating the percentage allocable provided by OAR 340-016-0075(3) compares the profitability of the eligible facility to the profitability of all U.S. manufacturing corporations if the facility:

- Is not integral to the operation of the applicant's business; or
- Cost does not exceed \$50,000.

### Two Alternative Methods

The 1993 rule provides three examples that have in practice limited the application of the two methods to recycling and material recovery facilities. They are:

- commercial solid waste and hazardous waste landfills;
- solid and hazardous waste recycling businesses; and
- environmental service providers.

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<sup>4</sup> ORS 468.170(1)...The action of the commission shall include certification of the actual cost of the facility and the portion of the actual cost properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil...

<sup>5</sup> ORS 468.190(5) The commission may adopt rules establishing methods to be used to determine the portion of costs properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil.

The 1993 rule also provides a "test" to help determine if a pollution control facility is integral to the operation of the applicant's business. If one of the conditions provided by OAR 340-016-0075(4)(a) is true then the facility is integral:

- Does the facility represent 25% or more of the total assets of the applicant's business; or
- Was the facility constructed or installed in response to market demand for such pollution control facilities such as requirements imposed by DEQ, EPA or regional air pollution authority on parties unaffiliated with the applicant; or
- Does the facility allow the applicant to generate gross revenues at least 50% greater than could be or were without the claimed facility; or
- Are the facility's operating expenses at least 50% of the operating expenses for the applicant's business?

The two alternative methods are:

1. The **primary integral method** provided by OAR 340-016-0075(4) compares the applicant's industry profit to the profitability of all U.S. manufacturing for the year that the applicant completed constructing the claimed facility. This method uses the applicant's Standard Industrial Classification (SIC) to look up the industry's profitability in Robert Morris Associates (RMA), Annual Statement Studies. If the industry's profitability is greater than or equal to the profitability of U.S. manufacturing then the percentage allocable is zero. If not, then the rule provides an equation for determining the percentage.

Note: RMA has changed the meaning of the acronym to Risk Management Association. In the last two years, the relevancy of the SIC has diminished because the US Census Bureau replaced the SIC with North American Industry Classification System (NAICS). The Department plans to address the reference to Robert Morris Associates and the shift from SIC to NAICS in its triennial rule review.

2. OAR 340-016-0075(5) provides an **alternative integral method** if RMA does not provide a statement study for an appropriate SIC. The Department compares the profitability of the applicant's business to the average profitability of all U.S. manufacturing over three fiscal years. The regulations require that the applicant provide income statements, balance sheets, statement of cash flows, and federal and state tax returns for the business. If the businesses' profitability is greater than the profitability of U.S. manufacturing then the percentage allocable is zero percent. If not, then the rule provides an equation for determining the percentage allocable.

Statutory Definition of "Material Recovery"

ORS 468.155 Definitions for ORS 468.155 to 468.190 and 468.962

...

(b) Such prevention, control or reduction required by this subsection shall be accomplished by:

...

(D) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005, hazardous waste as defined in ORS 466.005, or used oil as defined in ORS 459A.555; or

...

Eligibility

OAR 340-016-0060 Eligibility

...

(4) Eligible Activities. The facility shall prevent, reduce, control, or eliminate:

...

(d) Hazardous Waste, Solid Waste and Used Oil Material Recovery. The facility shall eliminate or obtain useful material from material that would otherwise be solid waste as defined in ORS 459.005, hazardous waste as defined in ORS 466.005, or used oil as defined in ORS 468.850. The facility shall produce an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility shall produce the end product by mechanical processing, chemical processing; or through the production, processing, pre-segregation, or use of materials which:

(A) Have useful chemical or physical properties and which may be used for the same or other purposes; or

(B) May be used in the same kind of application as its prior use without change in identity.



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

## **Pollution Control Facility: Material Recovery**

### **Final Certification**

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

PO Box 17163  
Portland, OR 97217

Organized as: **S Corp**  
Taxpayer ID: **93-0726589**

### ***Technical Information***

A.G.G. Enterprises, Inc. collects commercial and industrial refuse and recycling throughout the Portland metropolitan area and southwest Washington. They do not participate in residential collection. The applicant claims three trucks and various styles of containers used to collect recyclable materials in Oregon. The company recycles approximately 41% of the materials collected. Prior to purchasing the claimed facility, the applicant disposed of the material as solid waste in the landfill.

### ***Director's Recommendation***

Application No. **5564 @ Reduced Cost &  
Percentage**

Applicant: **A.G.G. Enterprises, Inc.**

Claimed:

Facility Cost		<b>\$495,536</b>
Percentage Allocable	X	81%
Maximum Percentage	X	50%
Tax Credit		<b>\$200,692</b>

Certificate Period: **5 years**

### ***Facility Identification***

5555 N Channel Avenue  
Portland, OR 97217

The certificate will identify the facility as:

- One 2001 International 8100 Truck with rolloff boom, Serial # IHTHCADR5YH250634**
- One 1999 Peterbuilt 320 Frontloader, Serial # INPZXDOX8XD711092**
- One 1999 International 8100 Truck with rolloff boom, Serial # IHTHCAHRZXH684857**
- 247 – roll carts**
- 91 – collection containers**
- 36 – collection drop boxes**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing**ORS 468.173(1) Criteria

OAR 340-016-0007

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 12/9/1999 and submitted the application on 5/1/2001. The applicant submitted the application after they completed construction and placed the facility into operation on 12/9/1999.

**Purpose: Voluntary** Criteria

ORS 468.155

(1)(a)(B)

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to **prevent**, control, or **reduce a substantial quantity of solid waste**, hazardous waste, or used oil.

"Solid waste" as defined by ORS 459.005: All useless or **discarded** putrescible and non-putrescible **materials**, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and **construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Plastic, wood, concrete, paper, foam, cardboard, and food waste **meet the definition of solid waste**. The applicant recovered 37,768 tons of material in

1999. This is a substantial quantity compared to the 7,436 tons recovered in 1998. In the same period, the recovered material to disposed material rate increased from 27.9% to 41.2%.

The applicant uses both of the International trucks 50% of the time for material recovery and 50% of the time for other purposes. They also use 7 dropboxes 50% of the time for material recovery. The Department reduced the portions of the facility that do not have an "exclusive" pollution control purpose under the *Percentage Allocable to Pollution Control Section* below.

<b>Method</b>	<b>Criteria</b>
OAR 340-016-0010(7)(a)(b)	The applicant must prevent, control, or reduce the waste material using a material recovery process that obtains useful material from material that would otherwise be solid waste.

"Material Recovery" means any process, such as pre-segregation, for obtaining materials from solid waste, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end product of real economic value. The **material recovery process does not** include processes:

- |                        |   |
|------------------------|---|
| OAR 340-016-0060(4)(e) | <ul style="list-style-type: none"> <li>a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or</li> <li>b. That burns waste to <b>produce energy or to reduce the amount of waste</b>. However, it does not eliminate from eligibility a pollution control device associated with a process that burns waste if the device is otherwise eligible for pollution-control tax credit under these rules.</li> </ul> |
|------------------------|---|

Applied to this Application

The facility obtains recyclable material from solid waste. The recovered material is hauled to various facilities where it is made into competitive end products with similar properties, therefore, it qualifies as a material recovery facility.

<b>Exclusions</b>	<b>Criteria</b>
ORS 468.155(3) OAR 340-016-0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There were no exclusions.



**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location.

**Maximum Credit** Criteria  
 ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the  
 OAR 340-016-0007 facility is certified under the 1999 Edition of ORS 468.155 to 468.190.

Applied to this Application

The maximum tax credit is 50% because the applicant completed construction of the facility on 12/9/1999, and submitted the application on 5/1/2001.

**Facility Cost**

**Subtractions** Criteria  
 OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost **may not include**:

- a) the **salvage value** of a pre-existing facility if the applicant is replacing a facility;
- b) the amount of any government grants received to pay part of the facility cost;
- c) the present value of any other state tax credits for which the investment is eligible; and
- d) ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**\$ Certification** Criteria  
 ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost **may not exceed** the taxpayer's own **cash investment** in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost. The Department subtracted three items that do not represent the applicant's own cash investment in the claimed facility:

Referenced Section	Description of Ineligible Portion	Cost
		Adjusted Claim
		\$521,826
<i>Facility Cost</i>	Trade-in - 1986 Expeditor	-18,000
	Missing Invoice - 1999 Transfer Trailer	-5,600
	Addition error - dropboxes	-2,690
		<u><u>Certified</u></u>
		<u>\$495,536</u>

### ***Facility Cost Allocable to Pollution Control***

#### **% Certification** Criteria

ORS 468.170(1) The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the **prevention**, control, or **reduction of solid waste**, hazardous waste, or to recycling or appropriately disposing of used oil.

#### Applied to this Application

The applicant and the Department determined that **81%** of the facility cost is allocable to pollution control as described under the *Percentage* section below.

#### **Integral Facility** Criteria

OAR 340-016-0075(4)(a) Facilities that are integral to the applicant's business must use an alternate method for calculating the percentage of the facility cost that is allocable to pollution control if the **facility cost exceeds \$50,000**. Examples of integral facilities include commercial solid waste and hazardous waste landfills, **solid waste** and hazardous waste **recycling businesses**, and environmental service providers.

The Commission may determine that a pollution control facility is integral to the operation of the applicant's business if that business is unable to operate or is only able to operate at reduced income levels without the pollution control facility.

The Department may use the following factors to determine whether a pollution control facility is integral to the operation of the applicant's business.

- a. The facility represents 25 percent or more of the total assets of the applicant's business; or
- b. The facility was constructed or installed in response to market demand for such pollution control facilities such as requirements imposed by DEQ, EPA or regional air pollution authority on parties unaffiliated with the applicant; or
- c. Where the facility allows the applicant to generate gross revenues at least 50% greater than could be or were without the facility; or
- d. The applicant's operating expenses for the facility are at least 50% of the operating expenses for the applicant's entire business.

#### Applied to this Application

The Department determined that the claimed facility is **not integral** to the applicant's business because it does not meet any one of the factors listed above.

<b>Percentage</b>	<b>Criteria</b>
ORS 468.190(1)	<p>The following factors establish the portion of costs properly allocable to material recovery or recycling for facilities that cost more than \$50,000.</p> <ol style="list-style-type: none"><li>The extent to which the applicant uses the facility to recover and convert waste products into a salable or usable commodity;</li><li>The estimated annual percent return on the investment in the facility;</li><li>Any alternative methods, equipment, and costs for achieving the same pollution control objective;</li><li>Any related savings or increase in costs that occur or may occur as a result of the installation of the facility; and</li><li>Any <b>other relevant factors</b>.</li></ol>

#### Applied to this Application

The Department considered other relevant factors to reduce the percentage of the facility cost allocable to pollution control to **81%**. The percentage is proportionate to the time the applicant uses the trucks and bins for non-recoverable or non-recyclable solid waste activities. ( $\$400,355 \div \$495,536 = 81\%$ )

The applicant and the Department calculated the percentage of the facility cost allocable to pollution control according to OAR 340-016-0075(3) while considering the five factors listed above. The truck and bin allow the applicant to collect a substantial quantity of recyclable solid waste. The applicant based their estimated revenue from the recyclables and the expenditures associated with the claimed facility to determine the facility's return on investment (ROI). The resulting facility ROI is less than the National ROI for 1999, the facility's construction completion year, with a useful life of **5 years**. The applicant did not investigate an alternative technology.

#### ***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewer: Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

**Pollution Control Facility: Material Recovery**

**Final Certification**

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

## ***Applicant Identification***

PO Box 20096  
Portland, OR 97294

Organized as: **C Corp**  
Taxpayer ID: **93-0195760**

## ***Director's Recommendation***

**Approve Application No. 5571 @ Reduced Cost**

**Applicant: East County Recycling Company**

Certification of:

Facility Cost		\$123,612
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$ 61,806</u>

Certificate Period: **5 years**

## ***Facility Identification***

Nature's Needs  
NW 307<sup>th</sup>  
North Plains, OR 97294

The certificate will identify the facility as:

- One - Used Kobelco Excavator, Model SK09, Serial # LQ01629**
- One - Aeromaster PT-120 Compost Turner Serial # 379**
- One - WT-1400 Water Tank and Trailer Serial # 3282**
- One - John Deere 5510 Narrow 4WD Utility Cab Tractor Serial # LV 5510N157392**

## ***Technical Information***

East County Recycling Company owns Nature's Needs, an organic waste recycling and soil amendment manufacturing facility, located in North Plains, Oregon. The applicant produces organic humus that OMRI (Organic Materials Review Institute) approved. The company accepts vegetative food waste from grocery stores and food processors. They mix the material with a minor amount of yard debris and wood chips and place it into rows. The applicant claims an excavator and a tractor to move the material to the windrows. They claim a water tank, a trailer, and an aerator to make sure that the conditions within the windrows are conducive to producing compost. After the materials have "cooked", the applicant moves the material to piles for aging. The applicant also claims an office building, closed circuit TV, computers, a printer, soil stabilization, and a well.

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

East County Recycling Company owns Nature's Needs and the claimed facility. Nature's Needs uses the claimed facility in a material recovery process.

### ***Eligibility***

**Timely Filing** Criteria

ORS 468.173(1)  
OAR 340-016-0007 The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant completed construction on 12/14/1999 and **filed** the application on 05/11/2001, thereby filing the application **within** the two-year filing requirement. The applicant submitted the final application after they completed construction and placed the facility into operation on 12/14/1999.

**Purpose: Voluntary** Criteria

ORS 468.155 (1)(a)(B) The **sole purpose**, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or **reduce a substantial quantity of solid waste**.

“Solid waste” as defined by ORS 459.005: All useless or **discarded putrescible** and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, **vegetable** or animal solid and semisolid **materials**, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Nature's Needs is part of Metro's regional Solid Waste Plan. Every month the facility accepts over two million pounds of organic matter from food processors and grocery stores.

The applicant claims the costs associated with soil stabilization and the installation of their well. These items make an insignificant contribution to reducing a substantial quantity of solid waste. The Department subtracted the costs of these items from the claimed facility cost under the *Facility Cost* section below.

<b>Method</b>	<b>Criteria</b>
OAR 340-016-0010(7)(a)(b)	The prevention, control, or <b>reduction</b> must be accomplished by the <b>use of a material recovery process</b> which obtains useful material from material that would otherwise be solid waste:

"Material Recovery" means any process, such as pre-segregation, for obtaining materials from solid waste, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be **reused or recycled** for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive product of real economic value.

<b>OAR 340-016-0010(7)</b>	The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b> , or use of materials which:
OAR 340-016-0060(4)(e)	

- a. Have **useful chemical or physical properties** and which may be used for the same or other purposes: or
- b. May be used in the same kind of application as its prior use without change in identity.

Applied to this Application

Nature's Needs reduces vegetable solids by composting. The facility processes solid waste into humus that is used in agriculture and landscaping. The process obtains humus by composting vegetative feedstock. The facility meets the Method criteria.

<b>Exclusions</b>	<b>Criteria</b>
ORS 468.155(3) OAR 340-016-0070(3)	The regulations provide a list of over 40 items <b>excluded</b> from the definition of a Pollution Control Facility. Items that <b>do not meet the definition</b> are ineligible for certification.

Applied to this Application

The applicant claims an office building and its furnishings that the regulations specifically exclude. The applicant claims soil stabilization and a well but the regulations exclude items that make an "insignificant contribution" to the material recovery purpose of the claimed facility. The Department subtracted the cost of these items under the *Facility Cost* section below.

- Replacement** Criteria  
ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:
1. The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
  2. The applicant replaced the facility before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement facility** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this site.

- Maximum Credit** Criteria  
ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if  
OAR 340-016-0007 the facility is certified under the 1999 Edition of ORS 468.155 to 468.190.

Applied to this Application

The **maximum tax credit is 50%** because the applicant completed construction of the facility on 12/14/1999 and submitted the application on 5/11/2001.

***Facility Cost***

- Subtractions** Criteria  
OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost **may not include**:
- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
  - b. the amount of any government grants received to pay part of the facility cost;
  - c. the present value of any other state tax credits for which the investment is eligible; and
  - d. **ineligible costs** as set forth in OAR 340-016-0070(3).

Applied to this Application

The Department subtracted ineligible costs from the claimed facility cost on the following page.

**\$ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of their 1999 Asset Acquisition, Account's Payable log, and copies of invoices to substantiate the eligible facility cost.

NOTE: The EQC approved a tax credit for East County Recycling Company at their Portland location on May 9, 2003. At that time, the Commission asked questions regarding the \$154,477 subtraction for improvements at Natures Needs. The Department explained that Nature's Needs is located in North Plains and that the Department separated the claimed assets by location. This application represents the assets located in North Plains.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$154,477
<i>Purpose</i>	Soil Stabilization and well	-13,119
<i>Exclusions</i>	Office buildings & furnishings	-17,746
		<b>Certified \$ 123,612</b>

***Facility Cost Allocable to Pollution Control*****% Certification** Criteria

ORS 468.170(1) The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or reduction of solid waste, hazardous waste, or to recycling or appropriately disposing of used oil.

Applied to this Application

The applicant and the Department considered the factors to determine that **100%** of the facility cost is allocable to pollution control.

**Integral Facility** Criteria

OAR 340-016-0075 (4)(a) Facilities that are integral to the applicant's business must use an alternate method for calculating the percentage of the facility cost that is allocable to pollution control if the **facility cost exceeds \$50,000**. Examples of integral facilities include commercial solid waste and hazardous waste landfills, **solid waste** and hazardous waste **recycling businesses**, and environmental service providers.

The Commission may determine that a facility is integral to the operation of the applicant's business if the business is unable to operate or is only able to operate at reduced income levels without the claimed facility.

The Department may use the following factors to determine whether a pollution control facility is integral to the operation of the applicant's business.



- a. The facility represents 25 percent or more of the total assets of the applicant's business; or
- b. The facility was constructed or installed in response to market demand for such pollution control facilities such as requirements imposed by DEQ, EPA or regional air pollution authority on parties unaffiliated with the applicant; or
- c. Where the facility allows the applicant to generate gross revenues at least 50% greater than could be or were without the facility; or
- d. The applicant's operating expenses for the facility are at least 50% of the operating expenses for the applicant's entire business.

Applied to this Application

The Department determined that the claimed facility is **not integral** to the applicant's business because it does not meet any one of the factors listed above.

**Percentage**  
ORS 468.190(1)

Criteria

The following factors establish the portion of costs properly allocable to material recovery or recycling **for facilities that cost more than \$50,000.**

- a. The extent to which the applicant uses the facility to recover and convert waste products into a salable or usable commodity;
- b. The estimated return on the investment (ROI) in the facility;
- c. Any alternative methods, equipment, and costs for achieving the same pollution control objective;
- d. Any related savings or increase in costs that occur or may occur as a result of the installation of the facility; and
- e. Any other relevant factors.

Applied to this Application

The facility cost exceeds \$50,000; therefore, the applicant and the Department calculated the percentage of the facility cost allocable to pollution control according to OAR 340-016-0075(3) while considering the factors in this section.

The applicant uses the claimed facility to convert green waste into humus. The expenditures exceed the estimated revenue associated with the excavator; therefore, the facility does not have a positive ROI. This means the Facility ROI is considerably less than the National ROI for 1999 (the year the applicant constructed the facility.) The applicant did not investigate an alternative technology. The facility is **100%** allocable to material recovery or recycling.

***Compliance***

The applicant states that the facility and site are in compliance with Department rules and statutes and with EQC orders.

Reviewer: Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Material Recovery

#### Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

1609 Waterfront Street  
Newberg, OR 97132

Organized as: **Joint Venture**

Taxpayer ID: **542-46-4481**

#### *Technical Information*

Steven D. Terjeson and Patrick K. Wright, dba Advanced Bark Systems, recover waste materials from log yards owned by various lumber companies located in Western Oregon. The applicant claims equipment to recover log-yard debris that had previously been stock-piled, sent to a landfill, or sold as hog fuel.

The company claims a Cat loader, a 1996 CEC Screen-It II, a fifty-foot conveyor, and one Wittco Hydro Isolator. The equipment sorts log-yard debris that contains woody debris, rocks, dirt, and metal. The **loader** places log-yard debris on a vibrating screen that shakes out 1/2" material and then 3/8" material. The company then sells this material as base material for compost, soil amendments, and potting soil mixes. The larger pieces of rock and wood shake off the **screen**. The applicant then sells the wood as feedstock for manufacturing wafer-board and they sell the larger rock back to the log-yard owners for use on the traffic areas of their log yards. The medium sized rocks and wood waste pass onto the **conveyor** and then into the hydro-isolator. In the **hydro-isolator**, the bark and the sticks float to the top

### *Director's Recommendation*

Approve Application No. 5601

Applicants: **Steven D. Terjeson &  
Patrick K. Wright**

Issue two certificates: Steven D. Terjeson @ 50%  
Patrick K. Wright @ 50%

Certification of:

Facility Cost		\$476,617
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$238,309</u>

Certificate Period: **10 years**

#### *Facility Identification*

Advanced Bark Systems  
Trask River Mill - Stimpson  
Tillamook, OR 97141

The certificate will identify the facility as:

**One - CAT Model 980B Loader Serial #  
89P1766**

**One - 1996 CEC Screen-IT II Serial # 96359-13**

**One - CEC 50" radial conveyor**

**One - Wittco Hydro Isolator, Model P9300  
Serial # 32599-1**

of the large tank of water and the rocks fall to the bottom. The system grades the rocks that fall out of the hydro-isolator into 3 construction-grade sizes. The hydro-isolator then filters the water for reuse. The hammer mill, not part of the claimed facility, reduces the bark and the sticks to a size that may be used for ground cover.

### ***Taxpayer Allowed Credit***

#### **ORS 315.304(4) Criteria**

The taxpayer who is allowed the credit is the:

- a. Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

#### Applied to this Application

Applicant is the owner of the equipment used for recycling and material recovery.

### **Eligibility**

#### **Timely Filing Criteria**

ORS 468.173(1)  
OAR 340-016-0007

The applicant must submit the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

#### Applied to this Application

The applicant completed construction on 9/1/1999 and submitted the application on 7/30/2001, thereby **filing** the application **within** the two-year filing requirement. The applicant submitted the final application after they completed construction and placed the facility into operation on 12/1/1999.

#### **Purpose: Voluntary Criteria**

ORS 468.155  
(1)(a)(B)  
OAR 340-016-0010(7)(a)(b)

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to **prevent**, control, or **reduce a substantial quantity of solid waste**, hazardous waste, or used oil.

"Solid waste" as defined by ORS 459.005: All useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or **discarded commercial, industrial**, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid **materials**, dead

animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Organic material and gravel **meet the definition of** solid waste. The claimed facility separates approximately 70,000 cubic yards of debris into the following: 14,000 cubic yards of construction grade gravel; 54,000 cubic yards of bark dust products used for soil amendments, potting soil, and ground cover; 2,000 cubic yards of miscellaneous materials which are recycled.

<b>Method</b>	<u>Criteria</u>
<b>ORS 468.155 (1)(b)(D)</b>	The applicant must prevent, control, or reduce the waste material using a material recovery process that obtains useful material from material that would otherwise be solid waste.

"Material Recovery" means any process, such as pre-segregation, for obtaining materials from solid waste, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end product of real economic value. The **material recovery process does not** include processes:

- a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or
- b. That burns waste to **produce energy or to reduce the amount of waste**. However, it does not eliminate from eligibility a pollution control device associated with a process that burns waste if the device is otherwise eligible for pollution-control tax credit under these rules.

OAR 340-016-0010(7) OAR 340-016-0060(4)(e)	The facility produces an end product of utilization that is an item of real economic value that is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b> , or use of materials which: <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes; or</li> <li>b. The applicant may use in the same kind of application as its prior use without change in identity.</li> </ol>
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Applied to this Application

The applicant pre-segregates and processes solid waste to obtain material that has an economic value. The products are construction-grade gravel, soil amendments, ground cover, and a component of potting soil mixes.

**Exclusions** Criteria

ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.  
 OAR 340-016-0070(3)

Applied to this Application

There are no exclusions.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The claimed facility **does not replace** a previously certified facility. The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant.

**Maximum Credit** Criteria

ORS 468.173(1) The applicable percentage of the certified cost of a facility is 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed construction prior to January 1, 2004.

Applied to this Application

The **maximum tax credit is 50%** because the applicant began construction on 12/20/2000, completed construction on 1/12/2001, and submitted the application on 11/26/2001.

**Facility Cost**Subtractions Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b. the amount of any government grants received to pay part of the facility cost;
- c. the present value of any other state tax credits for which the investment is eligible; and
- d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**\$ Certification Criteria**  
 ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	
			<u>\$476,617</u>
		<b>Certified</b>	<b>\$476,617</b>

***Facility Cost Allocable to Pollution Control***

**% Certification Criteria**  
 ORS 468.170(1) The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or reduction of solid waste, hazardous waste, or to recycling or appropriately disposing of used oil.

Applied to this Application

The applicant and the Department determined that **100%** of the facility cost is allocable to pollution control as described under the *Percentage* section below.

**Integral Facility Criteria**  
 OAR 340-016-0075 (4)(a) Facilities that are integral to the applicant's business must use an **alternate method** for calculating the percentage of the facility cost that is allocable to pollution control if the **facility cost exceeds \$50,000**. Examples of integral facilities include commercial solid waste and hazardous waste landfills, **solid waste** and hazardous waste **recycling businesses**, and environmental service providers.

The Commission may determine that a pollution control facility is integral to the operation of the applicant's business if the business is unable to operate or is only able to operate at reduced income levels.

The Department may use the following factors to determine whether a pollution control facility is integral to the operation of the applicant's business.

- a. The facility represents **25% or more** of the total assets of the applicant's business; or
- b. The facility was constructed or installed in response to market demand for such pollution control facilities such as requirements imposed by DEQ, EPA or regional air pollution authority on parties unaffiliated with the applicant; or

- c. Where the facility allows the applicant to generate gross revenues **at least 50%** greater than could be or were without the facility; or
- d. The applicant's operating expenses for the facility are **at least 50%** of the operating expenses for the applicant's entire business.

Applied to this Application

The Department determined that the claimed facility **is integral** to the applicant's business because it meets one or more of the factors that are in bold face above, the facility cost exceeds \$50,000, and the applicant is a solid waste recycling business.

Percentage	<u>Criteria</u>
ORS 468.190(1)	<p>The following factors establish the portion of costs properly allocable to material recovery or recycling:</p> <ul style="list-style-type: none"> <li>a. The extent to which the applicant uses the facility to recover and convert waste products into a <b>salable or usable commodity</b>;</li> <li>b. The estimated annual percent <b>return on the investment</b> in the facility;</li> <li>c. Any alternative methods, equipment, and costs for achieving the same pollution control objective;</li> <li>d. Any related savings or <b>increase in costs</b> that occur or may occur as a result of the installation of the facility; and</li> <li>e. Any other relevant factors.</li> </ul>

Applied to this Application

RMA Statement of Studies does not include a study for the applicant's industry. The Department, therefore, used the method outlined in OAR 340-016-0075(5). The applicant started business in 1999. They provided the requisite financial documents including their federal tax returns for each tax-year that they have been in operation. The Department projected the trend shown on the company's Profit and Loss Statements forward through the remaining years of the claimed facility's **7-year useful life**. The trend shows that the businesses' Internal Rate of Return is less than National ROI. When calculated according to rule, the percentage of the facility cost allocable to pollution control is **100%**.

### ***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewer: Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

**Pollution Control Facility: Material Recovery**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

20200 SW Stafford Road  
Tualatin, OR 97062-9731

Organized as: **C Corp**  
Taxpayer ID: **93-0626236**

### ***Technical Information***

S & H Logging, Inc. manufactures and sells landscaping supplies. The company accepts yard debris and scrap wood from manufacturing processes. The waste material was previously burned or sent to the landfill. The applicant claims a Caterpillar 325B Excavator with enclosed cab, reach boom, 10.5 foot stick and belly pan to separate and process yard debris and waste wood. The applicant uses the excavator for processing materials that may be composted or used for hog fuel.

### ***Director's Recommendation***

**Approve Application No. 5838 @ Reduced Cost  
and Reduced Percentage**

**Applicant: S & H Logging, Inc.**

Certification of:

Facility Cost		\$143,507
Percentage Allocable	X	69%
Maximum Percentage	X	50%
Tax Credit		<u>\$49,510</u>

Certificate Period: **5 years**

### ***Facility Identification***

20200 SW Stafford Road  
Tualatin, OR 97062-9731

The certificate will identify the facility as:

**One - Caterpillar 325B Excavator  
Serial # 02JR02772**



***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

The applicant is the owner of S & H Logging, Inc. The business owns and uses the excavator, which they operate in Oregon property.

***Eligibility*****Timely Filing**

ORS 468.173(1)

OAR 340-016-0007

Criteria

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 1/12/2001 and submitted the application on 11/26/2001. The applicant submitted the application after they completed construction and placed the facility into operation on 1/12/2001.

**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

OAR 340-016-

0010(7)(a)(b)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to **prevent**, control, or **reduce a substantial quantity of solid waste**, hazardous waste, or used oil.

"Solid waste" as defined by ORS 459.005: All useless or **discarded** putrescible and non-putrescible **materials**, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and **construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

The applicant uses the excavator to prevent approximately 115,000 cubic yards of yard debris, and construction or industrial wood waste from being disposed of in the landfill.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(D)	The applicant must prevent, control, or reduce the waste material using a material recovery process that obtains useful material from material that would otherwise be solid waste.

"Material Recovery" means any process, such as pre-segregation, for obtaining materials from solid waste, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end product of real economic value. The **material recovery process does not** include processes:

- a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or
- b. That burns waste to **produce energy or to reduce the amount of waste**. However, it does not eliminate from eligibility a pollution control device associated with a process that burns waste if the device is otherwise eligible for pollution-control tax credit under these rules.

OAR 340-016-0010(7) OAR 340-016-0060(4)(e)	The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b> , or use of materials which: <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. The applicant may use in the same kind of application as its prior use without change in identity.</li> </ol>
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Applied to this Application

The applicant uses the excavator to sort and process **115,000** cubic yards of material on an annual basis. They reduce 79,000 cubic yards of yard debris and wood waste to 31,600 cubic yards of base material for compost used to produce garden mulch. The applicant also uses the excavator to process **36,000** cubic yards of hog fuel each year. Recovering wood waste for use as hog fuel, however, fails to meet the definition of a material recovery process. The Department reduced the percentage of the facility cost that is allocable to pollution by 31% ( $36,000 \div 115,000$ ) under the *Percentage Allocable* section below.

**Exclusions** Criteria

ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of  
 OAR 340-016-0070(3) a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The application record, the site visit, and conversations with the applicant did not indicate that the applicant included any ineligible costs other those costs discussed in the review.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement facility** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at the Tualatin location.

**Maximum Credit** Criteria

ORS 468.173(1) The applicable percentage of the certified cost of a facility is 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed construction prior to January 1, 2004.

Applied to this Application

The **maximum tax credit is 50%** because the applicant began construction on 12/20/2000, completed construction on 1/12/2001, and submitted the application on 11/26/2001.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost **may not include**:

- a) the **salvage value** of a pre-existing facility if the applicant is replacing a facility;
- b) the amount of any government grants received to pay part of the facility cost;
- c) the present value of any other state tax credits for which the investment is eligible; and
- d) ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

The applicant traded in a Caterpillar 325L Excavator.

**§ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost **may not exceed** the taxpayer's own **cash investment** in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost. The Department subtracted the cost of the trade-in from the claimed facility cost below.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$ 245,507
	<i>Facility Cost</i> Trade-in: excavator	-102,000
		<b>Certified \$ 143,507</b>

***Facility Cost Allocable to Pollution Control*****% Certification** Criteria

ORS 468.170(1) The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the **prevention**, control, or **reduction of solid waste**, hazardous waste, or to recycling or appropriately disposing of used oil.

Applied to this Application

The applicant and the Department considered the factors to determine that **69%** of the facility cost is allocable to pollution control.

**Integral Facility** Criteria

OAR 340-016-0075  
(4)(a) Facilities that are integral to the applicant's business must use an alternate method for calculating the percentage of the facility cost that is allocable to pollution control if the **facility cost exceeds \$50,000**. Examples of integral facilities include commercial solid waste and hazardous waste landfills, **solid waste** and hazardous waste **recycling businesses**, and environmental service providers.

The Commission may determine that a pollution control facility is integral to the operation of the applicant's business if the business is unable to operate or is only able to operate at reduced income levels without the claimed facility.

The Department may use the following factors to determine whether a pollution control facility is integral to the operation of the applicant's business.

- The facility represents 25 percent or more of the total assets of the applicant's business; or
- The facility was constructed or installed in response to market demand for such pollution control facilities such as requirements imposed by DEQ, EPA

or regional air pollution authority on parties unaffiliated with the applicant;  
or

- c. Where the facility allows the applicant to generate gross revenues at least 50% greater than could be or were without the facility; or
- d. The applicant's operating expenses for the facility are at least 50% of the operating expenses for the applicant's entire business.

Applied to this Application

The Department determined that the claimed facility is **not integral** to the applicant's business because it does not meet any one of the factors listed above.

<b>Percentage</b>	<u>Criteria</u>
ORS 468.190(1)	<p>The following factors establish the portion of costs properly allocable to material recovery or recycling for facilities that cost more than \$50,000.</p> <ol style="list-style-type: none"> <li>a. The extent to which the applicant uses the facility to recover and convert waste products into a salable or usable commodity;</li> <li>b. The estimated annual percent return on the investment in the facility;</li> <li>c. Any alternative methods, equipment, and costs for achieving the same pollution control objective;</li> <li>d. Any related savings or increase in costs that occur or may occur as a result of the installation of the facility; and</li> <li>e. Any <b>other relevant factors</b>.</li> </ol>

Applied to this Application

The applicant and the Department calculated the percentage of the facility cost allocable to pollution control according to OAR 340-016-0075(3) while considering the five factors above. The excavator processes a substantial quantity of solid waste into garden mulch. The applicant based their estimated revenue from the garden mulch and the expenditures associated with the excavator on the first two-year's actual revenues and expenditures to determine the facility's return on investment (ROI). The resulting facility ROI is less than the National ROI for 2001, the facility's construction completion year. The applicant did not investigate an alternative technology.

The Department reduced the percentage of the facility cost allocable to pollution control to **69%**. This reduction is proportionate to the excavator's use in an eligible material recovery process compared to the total yardage that it processes as described under the *Method* section above.

***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewer: Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

## **Pollution Control Facility: Material Recovery**

### **Final Certification**

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

5918 Stoneridge Mall Road  
Pleasanton, CA 94588

Organized as: **C Corp**  
Taxpayer ID: **94-3019135**

### ***Technical Information***

Safeway, Inc., a retail grocery store chain, installed six hydraulic balers at six retail store locations throughout Oregon to bale used, old corrugated cardboard (OCC). The new equipment bales the cardboard shipping cartons that their vendors use to ship grocery products to the store. The stores previously disposed of the OCC as regular trash. Safeway, Inc. now ships the baled OCC to one of their consolidation points for shipment to recycling mills.

### ***Director's Recommendation***

**Approve** Application No. **6498**

Applicant: **Safeway, Inc.**

Certification of:

Facility Cost		\$39,342
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$13,770</u>

Certificate Period: **8 years**

### ***Facility Identification***

Various retail grocery stores located throughout Oregon. The certificate will identify the facility as:

**Six – Model M60STD Hydraulic 60” Vertical Balers:**

**Store #1935 Salem - Serial #1914STD**  
**Store #1976 Woodburn - Serial #1922STD**  
**Store #2604 Canby - Serial #1921STD**  
**Store #2623 Newberg - Serial #1864STD**  
**Store #2631 Beaverton - Serial #1923STD**  
**Store #4288 Eugene - Serial #1915STD**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit must be:

- a. The owner, including a contract purchaser, of the trade or business that utilizes Oregon property requiring a pollution control facility to prevent or minimize pollution:
- b. A person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property;
- c. A person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005;

Applied to this Application

Applicant is the owner of the business that uses the claimed facilities.

***Eligibility*****Timely Filing**

OAR 340-016-0007

Criteria

The applicant must file the application within one year after the date they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

Safeway, Inc. **filed** the application **within** the one-year filing requirement because they completed construction on 9/8/2002 and submitted the application on 4/28/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 9/8/2002.

**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

Criteria

The **sole purpose**, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or **reduce a substantial quantity of solid waste**, hazardous waste: or used oil.

“Solid waste” as defined by ORS 459.005: All useless or **discarded** putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and **cardboard**, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Used old corrugated cardboard **meets the definition** of solid waste as defined in ORS 459.005.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(D) OAR 340-016- 0010(7)(a)(b)	<p>The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:</p> <p>"Material Recovery" means any process, such as pre-segregation, for <b>obtaining materials from solid waste</b>, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:</p> <ol style="list-style-type: none"> <li>a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or</li> <li>b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.</li> </ol>
OAR 340-016- 0060(4)(e)	<p>The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b>, or use of materials which:</p> <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. May be <b>used in the same kind of application</b> as its prior use without change in identity.</li> </ol>

Applied to this Application

The six hydraulic balers reduce a substantial quantity of solid waste, because the applicant diverts approximately 45-50% of each store's solid waste from the landfill. This represents approximately 390,000 pounds of OCC for each store every year. The baled OCC is Safeway, Inc.'s competitive end product that they sell to the paper products industry to use as secondary fiber.



**Exclusions** Criteria

ORS 468.155 (3) The regulations provide a list of over 40 items excluded from the definition of a  
 OAR 340-016-0070(3) Pollution Control Facility. Items that do not meet the definition are ineligible  
 for certification.

Applied to this Application

The application record did not indicate that the applicant included any ineligible costs.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

Of the six claimed balers, one baler located at the Eugene store (#4288) is a replacement of an older baler. The new baler performs better than the old baler by increasing capacity more than 57%. The claimed facility, however, is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at these sites.

**Maximum Credit** Criteria

ORS 468.170(3)(d) The **maximum tax credit is 35%** if the applicant submitted the application  
 OARS 468.155(1)(b)(D) between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for material recovery or recycling, as those terms are defined in ORS 459.005.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 4/28/2003, and the facilities are used in a material recovery process.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b. the amount of any government grants received to pay part of the facility cost;
- c. the present value of any other state tax credits for which the investment is eligible; and
- d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

The application record did not reveal any ineligible items.

**\$ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	
			\$39,342
		<b>Certified</b>	<b>\$39,342</b>

***Facility Cost Allocable to Pollution Control***

**% Certification** Criteria

ORS 468.170 (1) If the cost of the facility (or facilities certified under one certificate) does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

ORS 468.190(3) The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000.**

Applied to this Application

The applicant uses the hydraulic bailers **100%** of the time to reduce solid waste.

***Compliance***

The applicant states the facility and sites are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the identified sites.

Reviewers: Jeannette Freeman, DEQ  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

**Pollution Control Facility: Material Recovery**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

5918 Stoneridge Mall Road  
Pleasanton, CA 94588

Organized as: **C Corp**

Taxpayer ID: **94-3019135**

### ***Technical Information***

Safeway, Inc., a retail grocery store chain, installed six hydraulic balers at five retail store locations throughout Oregon to bale used, old corrugated cardboard (OCC). The new equipment bales the cardboard shipping cartons that their vendors use to ship grocery products to the store. The stores previously disposed of the OCC as regular trash. Safeway, Inc. now ships the baled OCC to one of their consolidation points for shipment to recycling mills.

### ***Director's Recommendation***

**Approve Application No. 6499**

**Applicant: Safeway, Inc.**

Certification of:

Facility Cost		\$34,298
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$12,004</u>

Certificate Period: **8 years**

### ***Facility Identification***

Various Grocery Retail Stores

The certificate will identify the facility as:

**Four – Hydraulic 60” Vertical Balers, Model # M60STD:**

**Store #0429 Salem, Serial #1981STD**

**Store #0382 Portland, Serial #1998STD**

**Store #4296 Roseburg, Serial #1982STD,**

**Store #1073 Beaverton, , Serial #2023STD**

**One - Hydraulic 60” Vertical Baler, Model M60MD:**

**Store #4395 Klamath Falls, Serial #1551MD**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit must be:

- a. The owner, including a contract purchaser, of the trade or business that utilizes Oregon property requiring a pollution control facility to prevent or minimize pollution:
- b. A person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property;
- c. A person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005

Applied to this Application

Applicant is the owner of the business that uses the claimed facilities.

***Eligibility*****Timely Filing** Criteria

OAR 340-016-0007

The applicant must file the application within one year after the date they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

Safeway, Inc. **filed** the application **within** the one-year filing requirement because they completed construction on 12/30/2002 and submitted the application on 4/28/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 12/30/2002.

**Purpose: Voluntary** Criteria

ORS 468.155(1)(a)(B)

The **sole purpose**, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or **reduce a substantial quantity** of solid waste, hazardous waste: or used oil.

“Solid waste” as defined by ORS 459.005: All useless or **discarded** putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and **cardboard**, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Used old corrugated cardboard **meets the definition of** solid waste as defined in ORS 459.005, because it is discarded non-putrescible material.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(D) OAR 340-016- 0010(7)(a)(b)	<p>The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:</p> <p>"Material Recovery" means any process, such as pre-segregation, for <b>obtaining materials from solid waste</b>, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:</p> <ol style="list-style-type: none"> <li>a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or</li> <li>b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.</li> </ol>
OAR 340-016- 0060(4)(e)	<p>The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b>, or use of materials which:</p> <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. May be <b>used in the same kind of application</b> as its prior use without change in identity.</li> </ol>

Applied to this Application

The five hydraulic balers reduce a substantial quantity of solid waste, because the applicant diverts approximately 45-50% of each store's solid waste from the landfill. This represents approximately 390,000 pounds of OCC for each store every year. The baled OCC is Safeway, Inc.'s competitive end product that they sell to the paper products industry to use as secondary fiber.

**Exclusions** Criteria

ORS 468.155 (3)  
OAR 340-016-0070(3) The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The application record did not indicate that the applicant included any ineligible costs.

**Replacement** Criteria

ORS 468.155 (3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

1. the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or
2. the facility was replaced before the end of its useful life.

Applied to this Application

All five claimed balers are replacements of much smaller balers located at the various stores. The new balers perform better than the old balers by increasing capacity more than 57%.

The claimed facility, however, is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at these sites.

**Maximum Credit** Criteria

ORS 468.170(3)(d)  
ORS 468.155(1)(b)(D) The **maximum tax credit is 35%** if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for material recovery or recycling, as those terms are defined in ORS 459.005.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 4/28/2003, and the facility is used in a material recovery process.

***Facility Cost*****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b. the amount of any government grants received to pay part of the facility cost;
- c. the present value of any other state tax credits for which the investment is

eligible; and

d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**\$ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	
			<u>\$34,298</u>
		<b>Certified</b>	<b>\$34,298</b>

***Facility Cost Allocable to Pollution Control***

**% Certification** Criteria

ORS 468.170 (1) If the cost of the facility (or facilities certified under one certificate) does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

ORS 468.190 (3) The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

Applied to this Application

The applicant uses the hydraulic bailers **100%** of the time to recover solid waste.

***Compliance***

The applicant states the facility and sites are in compliance with Department rules and statutes, and with EQC orders. DEQ has issued no permits to the identified sites.

Reviewers: Jeannette Freeman, DEQ  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Material Recovery

#### Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

5918 Stoneridge Mall Road  
Pleasanton, CA 94588

Organized as: **C Corp**  
Taxpayer ID: **94-3019135**

#### *Technical Information*

Safeway, Inc., a retail grocery store chain, claims an installed 2 cubic yard hydraulic organic waste compactor at their Clackamas retail store. The onsite compactor compresses the organic waste that would otherwise go to landfill. The new equipment compacts organic waste such as "date expired" bakery, over-ripened or culled produce and wilted floral goods. The applicant previously disposed of the organic waste in their regular trash. Safeway, Inc. now ships the compressed waste to one of their consolidation points for shipment to a composting facility.

#### *Taxpayer Allowed Credit*

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit must be:

- a. The owner, including a contract purchaser, of the trade or business that utilizes Oregon property requiring a pollution control facility to prevent or minimize pollution:
- b. A person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property;
- c. A person who, as an **owner**, including a contract purchaser, or lessee,

### *Director's Recommendation*

Approve Application No. **6500**

Applicant: **Safeway, Inc.**

Certification of:

Facility Cost		\$23,702
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$11,851</u>

Certificate Period: **5 years**

#### *Facility Identification*

16800 SE Evelyn Street  
Clackamas, OR 97015

The certificate will identify the facility as:

**One – Marathon Hydraulic Organic Waste  
Compactor, Model #TC-2 HD/HF,  
Serial #35733W**



**owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005; and

Applied to this Application

Applicant is the owner of the business that uses the claimed facilities.

**Eligibility**

**Timely Filing**

ORS 468.173(1)  
OAR 340-016-0007

Criteria

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

Safeway, Inc. **filed** the application **within** the two-year filing requirement because they completed construction on 7/17/2001 and submitted the application on 4/28/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 7/17/2001.

**Purpose: Voluntary**

ORS 468.155  
(1)(a)(B)

Criteria

The **sole purpose**, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or **reduce a substantial quantity of solid waste**, hazardous waste: or used oil.

“Solid waste” as defined by ORS 459.005: All useless or **discarded** putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and **cardboard**, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Organic waste **meets the definition of** solid waste as defined in ORS 459.005, because it is discarded putrescible material.

**Method** Criteria  
 ORS 468.155 (1)(b)(D) The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:  
 OAR 340-016-0010(7)(a)(b)

"Material Recovery" means any process, such as pre-segregation, for **obtaining materials from solid waste**, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:

- a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or
- b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.

OAR 340-016-0060(4)(e) The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, **processing, pre-segregation**, or use of materials which:

- a. Have **useful chemical or physical properties** and which may be used for the same or other purposes: or
- b. May be **used in the same kind of application** as its prior use without change in identity.

Applied to this Application

The organic compactor **reduces a substantial quantity** of solid waste because it diverts approximately 5,500 tons of green waste from the landfill every year. The applicant pre-segregates and compresses the green-waste. They ship the recovered material to manufacturers that use it as the base material in compost. The compost produces organic humus used as soil amendments and fertilizers.

**Exclusions** Criteria  
 ORS 468.155 (3) The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are  
 OAR 340-016-0070(3) ineligible for certification.

Applied to this Application

There are no exclusions.

- Replacement** Criteria  
 ORS 468.155 (3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:
1. the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or
  2. the facility was replaced before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates for a compactor at the Clackamas location.

- Maximum Credit** Criteria  
 ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The **maximum tax credit is 50%** because the applicant began construction on 4/30/2001, completed construction on 7/1/2001, and submitted the application on 4/28/2003.

**Facility Cost**

- Subtractions** Criteria  
 OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:
- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
  - b. the amount of any government grants received to pay part of the facility cost;
  - c. the present value of any other state tax credits for which the investment is eligible; and
  - d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

- § Certification** Criteria  
 ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	<u>\$23,702</u>
	<b>Certified</b>	<b>\$23,702</b>	

***Facility Cost Allocable to Pollution Control***

**% Certification**    Criteria

ORS 468.170 (1)    If the cost of the facility (or facilities certified under one certificate) does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

ORS 468.190(3)    The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

Applied to this Application

The applicant uses the hydraulic compactor **100%** of the time to recover solid waste.

***Compliance***

The applicant states the facility and sites are in compliance with Department rules and statutes, and with EQC orders. DEQ has issued no permits to the site.

Reviewers:    Jeannette Freeman, DEQ  
                  Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Material Recovery

#### Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

9350 SW Tigard Street  
Tigard, OR 97223

Organized as: LLC  
Taxpayer ID: 91-1833935

#### *Technical Information*

New KAB IV, LLC, dba Kadel's Lake Oswego Auto Body, is an automotive collision repair shop. Kadel's Auto Body uses lacquer-based solvents to clean their paint guns. The solvents contain toluene, petroleum distillates, isopropyl alcohol, and acetone.

The applicant claims a new solvent recycler capable of processing spent solvent in three-gallon batches. The system recovers solvent through a simple distillation process that separates solvent vapors from paint residue. The recycler condenses the vapors and stores the recovered liquid solvents for reuse. The applicant collects and disposes of the residue as hazardous waste. The system allows the company to reduce their consumption of new solvents and the amount of hazardous waste sent for disposal.

### *Director's Recommendation*

Approve Application No. 6515

Applicant: New KAB IV, LLC

Certification of:

Facility Cost		\$4,591
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$1,607</u>

Certificate Period: 5 years

#### *Facility Identification*

120 Foothills Road  
Lake Oswego, OR 97034

The certificate will identify the facility as:

**One - Omega Comb 3 Solvent Recycler, Model  
GWRS-3AS-1-B, Serial # 1100-62-0188**

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

New KAB IV, LLC owns and operates the claimed material recovery facility.

### ***Eligibility***

**Timely Filing** Criteria

ORS 468.165(6) The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant completed construction on 02/05/2001 and submitted the application on 01/29/2003, thereby **filing** the application **within** the two-year filing requirement. The applicant submitted the final application after they completed construction and placed the facility into operation on 02/05/2001.

**Purpose: Voluntary** Criteria

ORS 468.155 (1)(a)(B) The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to **prevent**, control, or **reduce a substantial quantity** of solid waste, **hazardous waste**: or used oil.

"Hazardous waste" as defined by ORS 466.005: Includes all of the following which are not declassified by the commission under ORS 466.015(3):

- a. Discarded, useless or unwanted materials or residues resulting from any substance or combination of substances intended for the purpose of defoliating plants or for the preventing, destroying, repelling or mitigating of insects, fungi, weeds, rodents, or predatory animals, including but not limited to defoliants, desiccants, fungicides, herbicides, insecticides, nematocides and rodenticides.
- b. **Residues resulting from any process of industry, manufacturing, trade or business or government or from the development or recovery of any natural resources**, if such residues are **classified as hazardous** by order of the commission, after notice and public hearing. For purposes of classification, the commission must find that the residue, because of its quantity, concentration, or physical, chemical or infectious characteristics may:
  - Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or:
  - Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- c. Discarded, useless or unwanted containers and receptacles used in the transportation, storage, use or application of the substances described in paragraphs (a) and (b) of this subsection.

Applied to this Application

Solvents containing residual toluene, petroleum distillates, isopropyl alcohol and acetone **meet the definition of** hazardous waste as defined in ORS 466.005. The solvent recycler has reduced the amount of hazardous waste that the applicant generates from 400 pounds to 100 pounds per month. The applicant reduced the amount of new solvent that they consume to 10 gallons per month down from the original 55 gallons.

**Method** Criteria

ORS 468.155 (1)(b)(D) OAR 340-016-0010(7)(a)(b) The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be hazardous waste, as listed below:

"Material Recovery" means any process, such as pre-segregation, for **obtaining materials** from solid waste, **hazardous waste** or used oil. The

recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end product of real economic value.

OAR 340-016-0060(4)(e)

The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, **processing**, pre-segregation, or use of materials which:

- a. Have **useful chemical** or physical **properties** and which may be used for the same or other purposes: or
- b. The material may be **use in the same kind of application** as its prior use without change in identity.

Applied to this Application

The applicant uses a material recovery process to obtain reusable solvent from hazardous waste. The applicant uses the recovered material in the same kind of application as its prior use.

**Exclusions** Criteria

ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.  
OAR 340-016-0070(3)

Applied to this Application

There are no exclusions.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at the Lake Oswego location; therefore, the claimed facility is **not a replacement**.



<b>Maximum Credit</b>	<u>Criteria</u>
ORS 468.170(3)(d)	The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for material recovery or recycling, as those terms are defined in ORS 459.005.
ORS 468.155(1)(b)	
(D)	

Applied to this Application

The **maximum tax credit is 35%** because the applicant submitted the application on 1/29/2003, and the facility is used in a material recovery process.

**Facility Cost**

<b>Subtractions</b>	<u>Criteria</u>
OAR 340-016-0070(1)	The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include: <ul style="list-style-type: none"> <li>a) the salvage value of a pre-existing facility if the applicant is replacing a facility;</li> <li>b) the amount of any government grants received to pay part of the facility cost;</li> <li>c) the present value of any other state tax credits for which the investment is eligible; and</li> <li>d) ineligible costs as set forth in OAR 340-016-0070(3).</li> </ul>

Applied to this Application

There are no subtractions.

<b>\$ Certification</b>	<u>Criteria</u>
ORS 468.170(1)	The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility. Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$4,591
		<b>Certified \$4,591</b>

### ***Facility Cost Allocable to Pollution Control***

<b>% Certification</b>	<u>Criteria</u>
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ORS 468.170 (1)	The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or reduction of solid waste, hazardous waste, or to recycling or appropriately disposing of used oil.
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ORS 468.190(3)	The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility <b>does not exceed \$50,000</b> .
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Applied to this Application

The applicant uses the solvent recycler **100% of the time** to recover hazardous waste.

### ***Compliance***

The applicant states that the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers: Jeannette Freeman, DEQ  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Material Recovery

#### Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

9350 SW Tigard Street  
Tigard, OR 97223

Organized as: **LLC**  
Taxpayer ID: **91-1833935**

#### *Technical Information*

New KAB I, LLC, dba Kadel's Hillsboro Auto Body, is an automotive collision repair shop. Kadel's Auto Body uses lacquer-based solvents to clean their paint guns. The solvents contain toluene, petroleum distillates, isopropyl alcohol, and acetone.

The applicant claims a new solvent recycler capable of processing spent solvent in three-gallon batches. The system recovers solvent through a simple distillation process that separates solvent vapors from paint residue. The recycler condenses the vapors and stores the recovered liquid solvents for reuse. The applicant collects and disposes of the residue as hazardous waste. The system allows the company to reduce their consumption of new solvents and the amount of hazardous waste sent for disposal.

#### *Director's Recommendation*

Approve Application No. **6516**

Applicant: **Kadel's Auto Body I, LLC**

Certification of:

Facility Cost		\$6,342
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$2,220</u>

Certificate Period: **5 years**

#### *Facility Identification*

960 SW Oak Street  
Hillsboro, OR 97123

The certificate will identify the facility as:

**One - Omega Combo 3 Solvent Recycler,  
Model RS3AS1, Serial # 1201-1-1636**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

The applicant is the owner New KAB I, LLC. The business owns and operates the solvent recycler in Oregon.

***Eligibility*****Timely Filing** Criteria

ORS 468.165(6)

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant completed construction on 10/15/2001 and filed the application on 05/15/2003, thereby **filing** the application **within** the two-year filing requirement. The applicant submitted the final application after they completed construction and placed the facility into operation on 10/15/2001.

**Purpose: Voluntary** Criteria

ORS 468.155

(1)(a)(B)

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to **prevent**, control, or **reduce a substantial quantity** of solid waste, **hazardous waste**: or used oil.

"Hazardous waste" as defined by ORS 466.005: Includes all of the following which are not declassified by the commission under ORS 466.015(3):

- a. Discarded, useless or unwanted materials or residues resulting from any substance or combination of substances intended for the purpose of defoliating plants or for the preventing, destroying, repelling or mitigating of insects, fungi, weeds, rodents, or predatory animals, including but not limited to defoliants, desiccants, fungicides, herbicides, insecticides, nematocides and rodenticides.
- b. **Residues resulting from any process of industry, manufacturing, trade** or business or government or from the development or recovery

of any natural resources, if such residues are **classified as hazardous** by order of the commission, after notice and public hearing. For purposes of classification, the commission must find that the residue, because of its quantity, concentration, or physical, chemical or infectious characteristics may:

- **Cause** or significantly contribute to an increase in **mortality** or an increase in serious irreversible or incapacitating reversible **illness**; or:
  - Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- c. Discarded, useless or unwanted containers and receptacles used in the transportation, storage, use or application of the substances described in paragraphs (a) and (b) of this subsection.

Applied to this Application

Solvents containing residual toluene, petroleum distillates, isopropyl alcohol and acetone **meet the definition of** hazardous waste as defined in ORS 466.005.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(D) OAR 340-016- 0010(7)(a)(b)	The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be hazardous waste below:  "Material Recovery" means any process, such as pre-segregation, for <b>obtaining materials</b> from solid waste, <b>hazardous waste</b> or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end product of real economic value.
OAR 340-016- 0060(4)(e)	The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing</b> , pre-segregation, or use of materials which: <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. The applicant may <b>use in the same kind of application</b> as its prior use without change in identity.</li> </ol>

Applied to this Application

The applicant uses a material recovery process to obtain reusable solvent from hazardous waste. The applicant uses the recovered material in the same kind of application as its prior use.

With the use of the solvent recycler, the applicant has reduced the amount of hazardous waste that they generate from 400 pounds to 100 pounds per month. They reduced amount of new solvent that they consume to 10 gallons per month down from the original 55 gallons.

**Exclusions** Criteria

ORS 468.155(3)  
OAR 340-016-  
0070(3) The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no exclusions.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at the Hillsboro location, therefore the claimed facility is **not a replacement**.

**Maximum Credit** Criteria

ORS 468.170(3)(d)  
ORS  
468.155(1)(b)(D) The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for material recovery or recycling, as those terms are defined in ORS 459.005.

Applied to this Application

The **maximum tax credit is 35%** because the applicant submitted the application on 5/15/2003, and the facility is used in a material recovery process.





State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Material Recovery

#### Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

1141 Chemawa Rd. N  
Keizer, OR 97303

Organized as: **S Corp**  
Taxpayer ID: **93-0606121**

### *Director's Recommendation*

Approve Application No. **6518**

Applicant: **Loren's Sanitation Service, Inc.**

Certification of:

Facility Cost		\$356,827
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$178,414</u>

Certificate Period: **9 years**

#### *Facility Identification*

1141 Chemawa Road, N  
Keizer, OR 97303

The certificate will identify the facility as:

**One - 2000 Volvo Truck Tractor Vin#  
4VID42VE7YN231977**

**One - 1999 Heil 33-yd Star System Trailer,  
Vin#IH9BCFFF2X8270205**

**2840 - 95 gallon wheeled blue carts w/lids,  
Model RC115BL05, Serial # 100,432-  
101,727, & Serial # 103,024-104,319 &  
104,752-104,999.**

**1900 - 95 gallon Universal wheeled green carts  
w/lids, Model RC115BL05, Serial #  
1,000-2899.**

#### *Technical Information*

Loren's Sanitation Service, Inc. collects solid waste, commingled recycling, and yard debris. The City of Keizer authorized the expansion of the existing residential solid waste collection service in 2001 to include curbside commingled-recycling and yard-debris collection. The applicant claims a 2000 Volvo Truck Tractor and a 1999 Heil trailer. Both the Volvo truck and the 33-yard bin Heil trailer, used with the Volvo truck, have hydraulic lift arms used to collect segregated recyclables and yard debris. They also claim 95-gallon blue carts to collect commingled recyclables and the 95-gallon green carts to collect yard debris on alternating weeks.



The on-route customers previously burned their yard debris or disposed of it in their trash container, which ended up in the landfill or in a waste-to-energy burner. Now the applicant ships the source-separated recycling to the appropriate recycling mill for additional processing.

### ***Taxpayer Allowed Credit***

#### ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

#### Applied to this Application

Loren's Sanitation Service, Inc. owns the truck, trailer, and bins that they use for recycling and material recovery.

### ***Eligibility***

#### **Timely Filing** Criteria

ORS 468.173(1)  
OAR 340-016-0007

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

#### Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 1/12/2001 and submitted the application on 11/26/2001. The applicant submitted the application after they completed construction and placed the facility into operation on 1/12/2001.

#### **Purpose: Voluntary** Criteria

ORS 468.155  
(1)(a)(B)  
OAR 340-016-  
0010(7)(a)(b)

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to **prevent**, control, or **reduce a substantial quantity of solid waste**, hazardous waste, or used oil.

"Solid waste" as defined by ORS 459.005: All useless or **discarded** putrescible and non-putrescible **materials**, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and **construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial

appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

As of June 1, 2001, the claimed facility helped to reduce the amount of solid waste that was burned or sent to the landfill by one-third (1,600 tons) over the previous 12-month period. In 2002, the applicant recovered more than 2,300 tons of yard debris and they processed over 1,200 tons of recycled materials.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(D)	The applicant must <b>prevent</b> , control, or <b>reduce</b> the waste material using a material recovery process that obtains useful material from material that would otherwise be solid waste.

"Material Recovery" means any process, such as pre-segregation, for **obtaining materials from solid waste**, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end product of real economic value. The material recovery process does not include processes:

- a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or
- b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process that burns waste if the device is otherwise eligible for pollution-control tax credit under these rules.

OAR 340-016-0010(7) OAR 340-016-0060(4)(e)	The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b> , or use of materials which: <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. May <b>use in the same kind of application</b> as its prior use without change in identity.</li> </ol>
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Applied to this Application

The new recycling program diverts approximately 800 tons of waste from the landfill or a waste-to-energy burner each year. The residential customers separated recyclable materials at the curb before the commingled program.

The applicant uses the truck and trailer for collecting and transporting recycling and yard debris from curbside to their facility. The new curbside

collection program has increased recycling participation by 30%.

Loren's Sanitation Service, Inc. sells the recovered material at market value to the respective recycling mills. The recyclable material becomes a competitive end product with similar properties.

**Exclusions** Criteria

ORS 468.155(3)  
OAR 340-016-0070(3) The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no exclusions.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

1. The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility;  
or
2. The applicant replaced the facility before the end of its useful life.

Applied to this Application

The State of Oregon issued one certificate for a Plastic Compactor to the applicant at this location. The claimed facility did **not replace** the previously certified facility.

**Maximum Credit** Criteria

ORS 468.173(1)  
OAR 340-016-0007 The applicable percentage of the certified cost of a facility is 50% if the facility is certified under the **1999 Edition** of ORS 468.155 to 468.190.

Applied to this Application

The **maximum tax credit is 50%** because the applicant began construction on 6/1/2001, and submitted the application on 5/30/2003.

**Facility Cost**

- Subtractions** Criteria  
 OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:
- a) the salvage value of a pre-existing facility if the applicant is replacing a facility;
  - b) the amount of any government grants received to pay part of the facility cost;
  - c) the present value of any other state tax credits for which the investment is eligible; and
  - d) ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

- \$ Certification** Criteria  
 ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	
			\$356,827
		<b>Certified</b>	<b>\$356,827</b>

**Facility Cost Allocable to Pollution Control**

- % Certification** Criteria  
 ORS 468.170(1) The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the **prevention**, control, or **reduction of solid waste**, hazardous waste, or to recycling or appropriately disposing of used oil.

Applied to this Application

The applicant and the Department determined that **100%** of the facility cost is allocable to pollution control as described under the *Percentage* section below.

- Integral Facility** Criteria  
 OAR 340-016-0075  
 (4)(a) Facilities that are integral to the applicant's business must use an alternate method for calculating the percentage of the facility cost that is allocable to pollution control if the **facility cost exceeds \$50,000**. Examples of integral

facilities include commercial solid waste and hazardous waste landfills, **solid waste** and hazardous waste **recycling businesses**, and environmental service providers.

The Commission may determine that a pollution control facility is integral to the operation of the applicant's business if that business is unable to operate or is only able to operate at reduced income levels without the pollution control facility.

The Department may use the following factors to determine whether a pollution control facility is integral to the operation of the applicant's business.

- a. The facility represents 25 percent or more of the total assets of the applicant's business; or
- b. The facility was constructed or installed in response to market demand for such pollution control facilities such as requirements imposed by DEQ, EPA or regional air pollution authority on parties unaffiliated with the applicant; or
- c. Where the facility allows the applicant to generate gross revenues at least 50% greater than could be or were without the facility; or
- d. The applicant's operating expenses for the facility are at least 50% of the operating expenses for the applicant's entire business.

Applied to this Application

The Department determined that the claimed facility is **not integral** to the applicant's business because it does not meet any one of the factors listed in the criteria above.

**Facility Cost**  
ORS 468.190(1)

Criteria

The following factors establish the portion of costs properly allocable to material recovery or recycling.

- a. The extent to which the applicant uses the facility to recover and convert waste products into a salable or usable commodity;
- b. The estimated annual percent return on the investment in the facility;
- c. Any alternative methods, equipment, and costs for achieving the same pollution control objective;
- d. Any related savings or increase in costs that occur or may occur as a result of the installation of the facility; and
- e. Any other relevant factors.

Applied to this Application

The applicant and the Department calculated the percentage of the facility cost allocable to pollution control according to OAR 340-016-0075(3) while considering the five factors in this section. When calculating the facility's

return on investment (ROI), the applicant included the projected revenue from the recovered materials and the expenditures associated with the truck and trailer. The resulting facility ROI, however, is less than the National ROI for 2001 (the year that the applicant completed the construction of the facility) and using a **9-year useful life**. The applicant did not investigate an alternative technology.

### ***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers: Jeannette Freeman, DEQ  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### **Pollution Control Facility: Material Recovery**

#### **Final Certification**

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### ***Applicant Identification***

1141 Chemawa Road, N  
Keizer, OR 97303

Organized as: **S Corp**  
Taxpayer ID: **93-0606121**

#### ***Technical Information***

Loren's Sanitation Service, Inc. collects solid waste, recyclable materials, and yard debris. The City of Keizer authorized the expansion of the existing residential solid waste collection service in 2001 to include curbside commingled-recycling and yard-debris collection. The applicant claims 95-gallon blue carts that they place with their residential customers to collect commingled recyclable materials.

### ***Director's Recommendation***

**Approve** Application No. **6519**

Applicant: **Loren's Sanitation Service, Inc.**

Certification of:

Facility Cost		\$36,780
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$18,390</u>

Certificate Period: **10 years**

#### ***Facility Identification***

1141 Chemawa Road, N  
Keizer, OR 97303

The certificate will identify the facility as:

**864 - 95 gallon Universal wheeled blue carts  
w/lids, Model RC115BL05, Serial #  
102,160-103,023**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit must be:

- a. The owner, including a contract purchaser, of the trade or business that utilizes Oregon property requiring a pollution control facility to prevent or minimize pollution:
- b. A person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; and
- c. A person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the business that uses the claimed facilities.

***Eligibility*****Timely Filing**

ORS 468.173(1)

OAR 340-016-0007

Criteria

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 6/1/2001 and submitted the application on 5/30/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 6/1/2001.

**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to **prevent**, control, or **reduce a substantial quantity of solid waste**, hazardous waste, or used oil.

"Solid waste" as defined by ORS 459.005: All useless or **discarded** putrescible and non-putrescible **materials**, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and **construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.



Applied to this Application

Commingled recyclables **meets the definition of** solid waste.

As of June 1, 2001, the claimed facility helped to reduce the amount of solid waste that was burned or sent to the landfill by one-third (1,600 tons) over the previous 12-month period. In 2002, the applicant recovered more than 2,300 tons of yard debris and they processed over 1,200 tons of recycled materials.

**Method** Criteria

ORS 468.155 (1)(b)(D) OAR 340-016-0010(7)(a)(b) The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:

"Material Recovery" means **any process**, such as pre-segregation, **for obtaining materials from solid waste**, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value.

OAR 340-016-0060(4)(e) The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, **processing, pre-segregation**, or use of materials which:

- a. Have **useful chemical or physical properties** and which may be used for the same or other purposes: or
- b. May **use in the same kind of application** as its prior use without change in identity.

Applied to this Application

The 95-gallon wheeled carts reduce a substantial quantity of solid waste because it diverts approximately 800 tons of waste from the landfill or to the Waste-to-Energy Facility every year. The previous service required the customer to separate the recyclable material. Customer participation increased by 30% with the new commingled curbside collection service.

Loren's Sanitation Service, Inc. sells the recovered material at market value to respective recycling mills. The recyclable material becomes a competitive end product with similar properties.

**Exclusions** Criteria

ORS 468.155 (3) The regulations provide a list of over 40 items excluded from the definition of  
 OAR 340-016-0070(3) a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no exclusions.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

1. The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
2. The applicant replaced the facility before the end of its useful life.

Applied to this Application

The State of Oregon issued one certificate for a Plastic Compactor to the applicant at this location. The claimed facility did **not replace** the previously certified facility.

**Maximum Credit** Criteria

ORS 468.173(1) The applicable percentage of the certified cost of a facility is 50% if the  
 OAR 340-016-0007 facility is certified under the **1999 Edition** of ORS 468.155 to 468.190

Applied to this Application

The **maximum tax credit is 50%** because the applicant completed construction of the facility on 6/1/2001 and submitted the application on 5/30/2003.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost.  
 The claimed cost may not include:

- a. the salvage value of a pre-existing facility if the applicant is replacing a facility,
- b. the amount of any government grants received to pay part of the facility cost,
- c. the present value of any other state tax credits for which the investment is eligible, and
- d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**§ Certification** Criteria  
 ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	\$36,780
	Certified	\$36,780	

***Facility Cost Allocable to Pollution Control***

**% Certification** Criteria

ORS 468.170(1) The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or **reduction of solid waste**, hazardous waste, or to recycling or appropriately disposing of used oil.

ORS 468.190(3) The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

Applied to this Application

The applicant uses the carts **100%** of the time to recover solid waste.

***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ has not issued any permits to the applicant at this site.

Reviewers: Jeannette Freeman, DEQ  
 Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

## Pollution Control Facility: Material Recovery

### Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

1141 Chemawa Road, N  
Keizer, OR 97303

Organized as: **S Corp**  
Taxpayer ID: **93-0606121**

### *Technical Information*

Loren's Sanitation Service, Inc. collects solid waste, commingled recycling, and yard debris. The City of Keizer authorized the expansion of the existing residential solid waste collection service in 2001 to include curbside commingled-recycling and yard-debris collection. The applicant claims 95-gallon blue Universal wheeled carts for commingled recyclables that they collect under a new bi-weekly curbside service. The commingled service and the more frequent collection schedule increased program participation.

### *Taxpayer Allowed Credit*

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, **owns** or

## *Director's Recommendation*

**Approve** Application No. **6520 @ Reduced Cost**

Applicant: **Loren's Sanitation Service, Inc.**

Certification of:

Facility Cost		\$13,324
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$6,662</u>

Certificate Period: **10 years**

leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the equipment that they use for recycling and material recovery.

**Eligibility**

**Timely Filing**

ORS 468.173(1)  
OAR 340-016-0007

Criteria

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within the two-year filing** requirement because they completed construction on 6/1/2001 and submitted the application on 5/30/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 6/1/2001.

**Purpose: Voluntary**

ORS 468.155  
(1)(a)(B)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste, hazardous waste: or used oil.

“Solid waste” as defined by ORS 459.005: All useless or **discarded** putrescible and non-putrescible materials, including but not limited to **garbage, rubbish**, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Commingled recyclables **meets the definition of** solid waste.

As of June 1, 2001, the claimed facility helped to reduce the amount of solid waste that was burned or sent to the landfill by one-third (1,600 tons) over the previous 12-month period. In 2002, the applicant recovered more than 2,300 tons of yard debris and they processed over 1,200 tons of recycled materials.

**Method**

ORS 468.155  
(1)(b)(D)  
OAR 340-016-  
0010(7)(a)(b)

Criteria

The **prevention**, control, or **reduction** must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:

"Material Recovery" means any process, such as pre-segregation, for

**obtaining materials from solid waste**, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:

- a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or
- b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.

OAR 340-016-0060(4)(e) The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, **processing, pre-segregation**, or use of materials which:

- a. Have **useful chemical or physical properties** and which may be used for the same or other purposes: or
- b. May be **used in the same kind of application** as its prior use without change in identity.

Applied to this Application

The 95-gallon wheeled carts annually divert 800 tons of waste from the landfill or a waste-to-energy burner. Residential customers previously separated their recyclables at the curb. Participation in curbside recycling increased by 30% due to the commingle program.

Loren's Sanitation Service, Inc. sells the recovered material at market value to respective recycling mills. The recyclable material becomes a competitive end product with similar properties.

**Exclusions** Criteria

ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.  
OAR 340-016-0070(3)

Applied to this Application

There are exclusions.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

1. The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility;  
or
2. The applicant replaced the facility before the end of its useful life.

Applied to this Application

The State of Oregon issued one certificate for a Plastic Compactor to the applicant at this location. The claimed facility **did not replace** the previously certified facility.

**Maximum Credit**Criteria

ORS 468.173(1)  
OAR 340-016-0007

The applicable percentage of the certified cost of a facility is 50% because the applicant filed the application according to the **1999 Edition** of ORS 468.155 to 468.190.

Applied to this Application

The maximum tax credit is 50% because the applicant completed construction of the facility on 6/1/2001, and submitted the application on 5/30/2003.

**Facility Cost****Subtractions**Criteria

OAR 340-016-  
0070(1)

The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b. the amount of any government grants received to pay part of the facility cost;
- c. the present value of any other state tax credits for which the investment is eligible; and
- d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**\$ Certification**Criteria

ORS 468.170(1)

The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	\$13,333
	<i>Facility Cost</i> Erroneous calculation (\$42.57 x 313 Carts)		-9
		<b>Certified</b>	<b>\$13,324</b>

### ***Facility Cost Allocable to Pollution Control***

#### **% Certification**    Criteria

- ORS 468.170 (1)    The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or **reduction of solid waste**, hazardous waste, or to recycling or appropriately disposing of used oil.
- ORS 468.190(3)    The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

#### Applied to this Application

The applicant uses the carts **100%** of the time to recover solid waste.

### ***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers:    Jeannette Freeman, DEQ  
                   Maggie Vandehey, DEQ





State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

**Pollution Control Facility: Material Recovery**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

## ***Applicant Identification***

1141 Chemawa Road, N  
Keizer, OR 97303

Organized as: **S Corp**

Taxpayer ID: **93-0606121**

## ***Technical Information***

Loren's Sanitation Service, Inc. collects solid waste, commingled recycling, and yard debris. The City of Keizer authorized the expansion of the existing residential solid waste collection service in 2001 to include curbside commingled-recycling and yard-debris collection. The applicant claims 14-gallon red bins, and 95-gallon blue wheeled carts for commingled recyclables. They collect the commingled recycling under their new bi-weekly curbside service. The commingled service and the new schedule promoted an increase in residential recycling.

## ***Director's Recommendation***

**Approve** Application No. **6521**

Applicant: **Loren's Sanitation Service, Inc.**

Certification of:

Facility Cost		\$45,224
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$22,612</u>

Certificate Period: **10 years**

## ***Facility Identification***

1141 Chemawa Road, N  
Keizer, OR 97303

The certificate will identify the facility as:

**1700 14-gallon red bins, Model RB003RE05**

**864 95-gallon Universal wheeled blue carts  
w/lids, Model RC115BL05, Serial #  
100,000-100,431: 101,728-102,159**

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

#### Applied to this Application

Applicant is the owner of the equipment that they use for recycling and material recovery.

### ***Eligibility***

#### **Timely Filing**

ORS 468.173(1)  
OAR 340-016-0007

#### Criteria

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

#### Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 6/1/2001 and submitted the application on 5/30/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 6/1/2001.

#### **Purpose: Voluntary**

ORS 468.155  
(1)(a)(B)

#### Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste, hazardous waste: or used oil.

“Solid waste” as defined by ORS 459.005: All useless or **discarded** putrescible and non-putrescible materials, including but not limited to **garbage, rubbish**, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

#### Applied to this Application

Commingled recyclables **meets the definition of** solid waste. As of June 1,

2001, the claimed facility help reduced the amount of solid waste that was burned or sent to the landfill by one-third (1,600 tons) over the previous 12-month period. In 2002, the applicant recovered more than 2,300 tons of yard debris and they processed over 1,200 tons of recycled materials.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(D) OAR 340-016- 0010(7)(a)(b)	<p>The <b>prevention</b>, control, or <b>reduction</b> must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:</p> <p>"Material Recovery" means any process, such as pre-segregation, for <b>obtaining materials from solid waste</b>, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:</p> <ol style="list-style-type: none"> <li>a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or</li> <li>b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.</li> </ol>
OAR 340-016- 0060(4)(e)	<p>The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b>, or use of materials which:</p> <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. May be <b>used in the same kind of application</b> as its prior use without change in identity.</li> </ol>

Applied to this Application

The new recycling program diverts approximately 800 tons of waste from the landfill or a waste-to-energy burner each year. The residential customers separated recyclable materials at the curb before the commingled program. The new curbside collection program has increased recycling participation by 30%.

Loren's Sanitation Service, Inc. sells the recovered material at market value to the respective recycling mills. The recyclable material becomes a competitive end product with similar properties.

**Exclusions** Criteria

ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of  
 OAR 340-016-0070(3) a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no exclusions.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

1. The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility;  
or
2. The applicant replaced the facility before the end of its useful life.

Applied to this Application

The State of Oregon issued one certificate for a Plastic Compactor to the applicant at this location. The claimed facility **did not replace** the previously certified facility.

**Maximum Credit** Criteria

ORS 468.173(1) The applicable percentage of the certified cost of a facility is 50% if the  
 OAR 340-016-0007 applicant filed the application under the **1999 Edition** of ORS 468.155 to 468.190.

Applied to this Application

The maximum tax credit is 50% because the applicant completed construction of the facility on 6/1/2001 and filed the application on 5/30/2003.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b. the amount of any government grants received to pay part of the facility cost;
- c. the present value of any other state tax credits for which the investment is eligible; and
- d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**§ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	
			\$45,224
		<b>Certified</b>	<b>\$45,224</b>

***Facility Cost Allocable to Pollution Control*****% Certification** Criteria

ORS 468.170 (1) The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or **reduction of solid waste**, hazardous waste, or to recycling or appropriately disposing of used oil.

ORS 468.190(3) The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

Applied to this Application

The applicant uses the carts **100%** of the time to recover solid waste.

***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers: Jeannette Freeman, DEQ  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

**Pollution Control Facility: Material Recovery**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

## ***Applicant Identification***

20200 SW Stafford Road  
Tualatin, OR 97062

Organized as: **LLC**

Taxpayer ID: **93-1277173**

## ***Director's Recommendation***

**Approve Application No. 6524 @ Increased Cost**

**Applicant: Clackamas Composting Products**

Certification of:

Facility Cost		\$230,300
Percentage Allocable	X	94%
Maximum Percentage	X	35%
Tax Credit		<u>\$75,769</u>

Certificate Period: **7 years**

## ***Facility Identification***

11620 SE Capps Road  
Clackamas, OR 97015

The certificate will identify the facility as:

**One - 2002 Link Belt Hydraulic Excavator,  
Model 330LXEX, Serial # K6J2-6114**

## ***Technical Information***

Clackamas Compost Products, LLC is a composting, and a yard-debris/wood-waste recycling center. The company claims a 2002 Link Belt hydraulic excavator. The excavator sorts and moves the organic material through the composting process. First, the applicant collects yard debris, scrap wood and other organic materials in a staging area. The excavator separates the waste that is appropriated for compost and loads it into the wood-grinder. The excavator moves the reduced organic material to windrows and turns the windrows five times during the composting process. The applicant sells the garden mulch to the general public onsite.

## ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or

- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

The applicant is the owner of Clackamas Compost Products, LLC. The business owns and uses the excavator that they operate in Oregon.

## Eligibility

### Timely Filing

OAR 340-016-0007

#### Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 6/24/2002 and submitted the application on 6/9/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 6/24/2002.

### Purpose: Voluntary

ORS 468.155

(1)(a)(B)

#### Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to **prevent**, control, or **reduce a substantial quantity of solid waste**, hazardous waste, or used oil.

"Solid waste" as defined by ORS 459.005: All useless or **discarded** putrescible and non-putrescible **materials**, including but not limited to garbage, **rubbish**, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

The excavator prevents approximately 78,000 cubic yards of yard debris and waste wood from use as hog fuel or from the landfill.

### Method

ORS 468.155

(1)(b)(D)

#### Criteria

The applicant must prevent, control, or reduce the waste material using a material recovery process that obtains useful material from material that would otherwise be solid waste.

"Material Recovery" means any process, such as pre-segregation, for obtaining materials from solid waste, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties

after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end product of real economic value. The **material recovery process does not** include processes:

- a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or
- b. That burns waste to **produce energy or to reduce the amount of waste**. However, it does not eliminate from eligibility a pollution control device associated with a process that burns waste if the device is otherwise eligible for pollution-control tax credit under these rules.

- OAR 340-016-0010(7) The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by **mechanical processing**, chemical processing; or through the production, processing, **pre-segregation**, or use of materials which:
- OAR 340-016-0060(4)(e)
- a. Have **useful chemical or physical properties** and which may be used for the same or other purposes; or
  - b. The applicant may use in the same kind of application as its prior use without change in identity.

#### Applied to this Application

The applicant uses the excavator to sort and process 78, 000 cubic yards of material on an annual basis. They reduce the 78,000 cubic yards of yard debris and wood waste to 43,000 cubic yards of base material for compost used to produce garden mulch. The applicant also uses the excavator to process hog fuel for retail sale. Recovering wood waste for use as hog fuel, however, fails to meet the definition of a material recovery process.

The Department reduced the percentage of the facility cost that is allocable to pollution by 6% under the *Percentage Allocable* section below. The applicant based this percentage on the number of hours that the equipment operated while processing hog fuel.

#### **Exclusions**

#### Criteria

- ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.
- OAR 340-016-0070(3)

#### Applied to this Application

There are no subtractions other those costs discussed in the review.



**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The applicant rented a smaller excavator before they purchased the new excavator. The new excavator processes double the amount of organic material than the rented excavator processed. The State of Oregon issued one Pollution Control Facilities Tax Credit Certificate No. 10186 to the applicant at the Clackamas location for a Caterpillar Loader, therefore the claimed facility is **not a replacement**.

**Maximum Credit** Criteria

ORS 468.170(3)(d) The maximum tax credit is 35% if the applicant submitted the application  
 ORS 468.155(1)(b)(D) between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for material recovery or recycling, as those terms are defined in ORS 459.005.

Applied to this Application

The **maximum tax credit is 35%** because the applicant submitted the application on 6/9/2003, and the facility is used in a material recovery process.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a) the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b) the amount of any government grants received to pay part of the facility cost;
- c) the present value of any other state tax credits for which the investment is eligible; and
- d) ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no further subtractions.

**\$ Certification** Criteria  
 ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost. Department included the erroneous calculation to the claimed facility cost below.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$230,000
Facility Cost	Erroneous calculation on claimed cost	\$300
		<b>Certified \$230,300</b>

***Facility Cost Allocable to Pollution Control***

**% Certification** Criteria

ORS 468.170(1) The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the **prevention**, control, or **reduction of solid waste**, hazardous waste, or to recycling or appropriately disposing of used oil.

Applied to this Application

The applicant uses the excavator to reduce solid waste **94%** of the time as described under the *Method* section of this report.

**Integral Facility** Criteria

OAR 340-016-0075 (4)(a) Facilities that are integral to the applicant's business must use an alternate method for calculating the percentage of the facility cost that is allocable to pollution control if the **facility cost exceeds \$50,000**. Examples of integral facilities include commercial solid waste and hazardous waste landfills, **solid waste** and hazardous waste **recycling businesses**, and environmental service providers.

The Commission may determine that a pollution control facility is integral to the operation of the applicant's business if that business is unable to operate or is only able to operate at reduced income levels without the pollution control facility.

The Department may use the following factors to determine whether a pollution control facility is integral to the operation of the applicant's business.

- a. The facility represents 25 percent or more of the total assets of the applicant's business; or
- b. The facility was constructed or installed in response to market demand for such pollution control facilities such as requirements imposed by DEQ, EPA or regional air pollution authority on parties unaffiliated with the applicant; or

- c. Where the facility allows the applicant to generate gross revenues at least 50% greater than could be or were without the facility; or
- d. The applicant's operating expenses for the facility are at least 50% of the operating expenses for the applicant's entire business.

Applied to this Application

The Department determined that the claimed facility is **not integral** to the applicant's business because it does not meet any one of the factors listed in a. through d. above.

**Percentage**    Criteria

ORS 468.190(1)    The following factors establish the portion of costs properly allocable to material recovery or recycling if the facility cost exceeds 50K.

- a. The extent to which the applicant uses the facility to recover and convert waste products into a salable or usable commodity;
- b. The estimated annual percent return on the investment in the facility;
- c. Any alternative methods, equipment, and costs for achieving the same pollution control objective;
- d. Any related savings or increase in costs that occur or may occur as a result of the installation of the facility; and
- e. Any **other relevant factors**.

Applied to this Application

The Department reduced the percentage of the facility cost allocable to pollution control to **94%** because the excavator is used 6% of the time for material that they sell as hog fuel. This reduction is in proportion to the excavator's use in performing an eligible material recovery process as described under the *Method* section above.

The applicant and the Department calculated the percentage of the facility cost allocable to pollution control according to OAR 340-016-0075(3). To determine the percentage allocable to pollution control, the applicant and the Department considered the revenue (garden mulch) and expenditures (labor, maintenance, other cash expenses, less the rental and disposal cost savings) associated with the excavator. The resulting Facility ROI is less than the National ROI for **2002**, the facility's construction-completion year. The useful life used in the calculation is the **7-year** useful life of the equipment.

**Compliance**

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers:    Jeannette Freeman, DEQ  
                   Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Material Recovery

#### Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

77932 Highway 99 South  
Cottage Grove, OR 97424

Organized as: **S Corp**  
Taxpayer ID: **93-1192884**

#### *Technical Information*

Cottage Grove Garbage Service, Inc. is a garbage and recycled material collection service. The company claims a 2003 Ford F-250 Pickup and a custom-built recycling trailer. The truck is one of two trucks that the company uses to collect commingled recycled materials from their residential and commercial customers. The trailer may be configured according to the collection requirements. The customers currently commingle plastic, tin, and paper but they separate glass by color and they bundle their cardboard.

### *Director's Recommendation*

**Approve** Application No. **6529 @ Reduced  
Percentage**

Applicant: **Cottage Grove Garbage Service, Inc.**

#### Certification of:

Facility Cost		\$27,413
Percentage Allocable	X	86%
Maximum Percentage	X	35%
Tax Credit		<hr/> \$8,251

Certificate Period: **5 years**

#### *Facility Identification*

77932 Highway 99 South  
Cottage Grove, OR 97424

The certificate will identify the facility as:

- One - 2003 Ford F-250 Pickup, VIN#  
1FTNF20L83EB87750**
- One - Custom Recycle Trailer, VIN#  
OR785386**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant owns the truck and the trailer that they use for material recovery.

***Eligibility*****Timely Filing**

OAR 340-016-0007

Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 5/1/2003 and submitted the application on 6/16/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 5/19/2003.

**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to **prevent**, control, or **reduce a substantial quantity of solid waste**, hazardous waste, or used oil.

"Solid waste" as defined by ORS 459.005: All useless or **discarded** putrescible and non-putrescible **materials**, including but not limited to garbage, **rubbish**, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Tin, glass, plastic, cardboard and mixed paper **meet the definition of solid waste** as defined in ORS 459.005 because it is discarded non-putrescible materials. The claimed facility diverts approximately 1,076 tons of solid waste from the landfill each year, as did the older truck.

The applicant uses the truck and trailer to collect recycled materials four out of the five days that the truck operates. They disconnect the trailer (used exclusively for recycling) from the truck, which they use on the fifth day for tasks unrelated to material recover. The Department addressed this under *Facility Cost Allocable to Pollution Control* below.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(D) OAR 340-016- 0010(7)(a)(b)	<p>The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste:</p> <p>"Material Recovery" means any process, such as pre-segregation, for <b>obtaining materials from solid waste</b>, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end product of real economic value. The material recovery process does not include processes:</p> <ol style="list-style-type: none"> <li>a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or</li> <li>b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process that burns waste if the device is otherwise eligible for pollution-control tax credit under these rules.</li> </ol>
OAR 340-016- 0060(4)(e)	<p>The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing</b>, pre-segregation, or use of materials which:</p> <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. May be <b>used in the same kind of application</b> as its prior use without change in identity.</li> </ol>

Applied to this Application

The truck and trailer are part of a material recovery process that obtains useful material from solid waste. The paper products industry uses the cardboard as secondary fiber. EcoSort Material Recover Facility further processes the

plastic, tin, glass, and paper before sending the material to the end-user to use in manufacturing products that have similar properties.

**Exclusions** Criteria

ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of  
OAR 340-016-0070(3) a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no exclusions.

**Replacement** The replacement or reconstruction of all or part of a facility that has previously  
ORS 468.155(3)(e) been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

1. the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or
2. the facility was replaced before the end of its useful life.

Applied to this Application

The new Ford pickup and the trailer replaced a 1974 International truck that serviced the same customers. The claimed facility, however, is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant.

**Maximum Credit** Criteria

ORS 468.170(3)(d) The **maximum tax credit is 35%** if the applicant submitted the application  
ORS 468.155(1)(b)(D) between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for material recovery or recycling, as those terms are defined in ORS 459.005.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 6/16/2003, and the facility is used in a material recovery process.

**Facility Cost**

- |  |  |
|--|--|
| <b>Subtractions</b><br>OAR 340-016-0070(1) | <u>Criteria</u><br>The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include: <ol style="list-style-type: none"> <li>a. the salvage value of a pre-existing facility if the applicant is replacing a facility;</li> <li>b. the amount of any government grants received to pay part of the facility cost;</li> <li>c. the present value of any other state tax credits for which the investment is eligible; and</li> <li>d. ineligible costs as set forth in OAR 340-016-0070(3).</li> </ol> |
|--|--|

Applied to this Application

The application record does not indicate any subtractions other than the trade-in value of the 1974 International truck.

- |  |   |
|--|---|
| <b>% Certification</b><br>ORS 468.170(1) | <u>Criteria</u><br>The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may <b>not exceed the taxpayer's own cash</b> investment in the facility or portion of the facility. |
|--|---|

Applied to this Application

The invoice for the new truck shows a \$3,046 trade-in for a 1974 International truck. This amount does not represent the applicant's "own cash investment"; therefore, the Department has subtracted the amount from the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
	Truck	\$22,733
	Trailer	\$7,726
	Total Claimed	\$30,459
<i>Facility Cost</i> 1974 International trade-in		-3,046
	<b>Certified</b>	<b>\$27,413</b>

**Facility Cost Allocable to Pollution Control**

- |   |  |
|---|--|
| <b>% Certification</b><br>ORS 468.170 (1) | <u>Criteria</u><br>The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or <b>reduction of solid waste</b> , hazardous waste, or to recycling or appropriately disposing of used oil. |
| ORS 468.190(3)                            | The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the                               |



cost of the facility **does not exceed \$50,000.**

Applied to this Application

The claimed facility is **86%** allocable to pollution control as shown in the table. The truck cost used in this table shows the subtraction for the trade-in amount.

	Cost	Time Used	
Truck	\$ 19,687	80%	15,750
Trailer	\$ 7,726	100%	7,726
Facility	\$ <b>27,413</b>	<b>86%</b>	23,476

The Department reduced the percentage because the applicant uses the truck 80% of the time as described under the *Eligibility, Purpose: Voluntary* section above.

***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site. EQC issued no certificates to this location.

Reviewers: Jeannette Freeman, DEQ  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

**Pollution Control Facility: Material Recovery**

**Final Certification**

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

5611 NE Columbia Blvd  
Portland, OR 97218

Organized as: **C Corp**  
Taxpayer ID: **93-1270871**

### ***Technical Information***

Metro Metals Northwest, Inc. (Metro Metals) is a scrap metal collection and recycling plant. The company collects ferrous and nonferrous metal from commercial sites in the Portland Metropolitan Area and Western Washington. The applicant claims a stationary drive-through radiation detector.

EPA standards prohibit reuse of radioactively contaminated metal; therefore, Metro Metals prescreens all incoming loads of metal for radiation. The incoming loads come from mills, foundries, and industries throughout the region. If the detector shows that a load is radioactively contaminated then the applicant immediately notifies the Radiation Protection Services of the Oregon Health Division for appropriate handling and disposal. The Health Division works directly with the vendor to identify the source of the contaminated items. The company also scans all outgoing loads to minimize radioactive contamination.

### ***Director's Recommendation***

**Approve** Application No. **6535 @ Reduced Cost**

Applicant: **Metro Metals Northwest, Inc**

Certification of:

Facility Cost		\$18,000
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$6,300</u>

Certificate Period: **5 years**

### ***Facility Identification***

5611 NE Columbia Blvd  
Portland, OR 97218

The certificate will identify the facility as:

**One - Gatemon Radiation Detector, Model  
3500-3000, Serial # PR161501 &  
PR161506**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing**

OAR 340-016-0007

Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 7/1/2002 and submitted the application on 6/26/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 7/1/2002.

**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste.

“Solid waste” as defined by ORS 459.005: All useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or **discarded commercial, industrial, demolition and construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Ferrous and nonferrous scrap metal **meets the definition of** solid waste as defined in ORS 459.005.

- | <b>Method</b>   | <u>Criteria</u>  |
|---|--|
| ORS 468.155<br>(1)(b)(D)<br>OAR 340-016-<br>0010(7)(a)(b) | <p>The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:</p> <p>"Material Recovery" means any process, such as pre-segregation, for <b>obtaining materials from solid waste</b>, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:</p> <ol style="list-style-type: none"><li>In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or</li><li>That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.</li></ol> |
| OAR 340-016-<br>0060(4)(e)                                | <p>The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b>, or use of materials which:</p> <ol style="list-style-type: none"><li>Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li><li>May be <b>used in the same kind of application</b> as its prior use without change in identity.</li></ol>   |

Applied to this Application

Metro Metals uses the Gatemon radiation detector to pre-segregate radioactive metals from non-radioactive metals. The applicant segregates the non-radioactive metals. The company recovers approximately 233,000 tons of scrap metal every year. They shred and bale the material that they sell for use as feedstock in the manufacture of new metal products.

**Exclusions** Criteria

ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of  
 OAR 340-016-0070(3) a Pollution Control Facility. Items that do not meet the definition are  
 ineligible for certification.

Applied to this Application

The application record included unsubstantiated labor costs which the Department subtracted from the claimed cost under the *Facility Cost* section below.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

1. the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or
2. the facility was replaced before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant.

**Maximum Credit** Criteria

ORS 468.170(3)(d) The **maximum tax credit is 35%** if the applicant submitted the application  
 ORS 468.155(1)(b)(D) between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for **material recovery or recycling**, as those terms are defined in ORS 459.005.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 6/26/2003, and the facility is used in a material recovery process.

***Facility Cost*****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b. the amount of any government grants received to pay part of the facility cost;
- c. the present value of any other state tax credits for which the investment is eligible; and
- d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no further subtractions.

**\$ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$18,938
	<i>Facility Cost</i> No cost documentation - ORS 468.165(2) for labor	-938
		<b>Certified</b> <u>\$18,000</u>

***Facility Cost Allocable to Pollution Control*****% Certification** Criteria

ORS 468.170 (1) If the cost of the facility (or facilities certified under one certificate) does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

ORS 468.190(3) The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

Applied to this Application

The applicant uses the detector **100%** of the time to recover solid waste.

***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ has not issued any permits to the site.

Reviewers: Jeannette Freeman, DEQ  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Material Recovery

#### Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

Organized as: **C Corp**

Taxpayer ID: **93-1270871**

#### *Technical Information*

Metro Metals Northwest, Inc. (Metro Metals) is a scrap metal collection and recycling plant. The company collects ferrous and nonferrous metal from commercial sites in the Portland Metropolitan Area and Western Washington. The company claims drop boxes that they place with their commercial customers to deposit their ferrous and nonferrous scrap metal. The applicant collects the boxes, and sort and process the scrap into reuseable metal.

#### *Director's Recommendation*

Approve Application No. **6543**

Applicant: **Metro Metals Northwest, Inc**

Certification of:

Facility Cost		\$32,385
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$11,335</u>

Certificate Period: **5 years**

#### *Facility Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

The certificate will identify the facility as:

- Four 4-yard heavy duty dropbox
- Four 40" x 96"x 60" blue dropboxes
- Two 40" x 54"x 60" dropboxes
- One 50"x 74"x 98" blue dropbox
- Seven 1 ½ yard 6'x 2' bins
- One 30-yard dropbox
- One 40-yard dropbox

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the equipment that they use for recycling and material recovery.

***Eligibility*****Timely Filing**

ORS 468.165(6)

Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this ApplicationThe applicant **filed** the application **within** the one-year filing requirement because they completed construction on 9/26/2002 and submitted the application on 7/15/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 9/26/2002.**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

CriteriaThe sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste.

“Solid waste” as defined by ORS 459.005: All useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or **discarded commercial, industrial, demolition and construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this ApplicationFerrous and nonferrous scrap metal **meets the definition of** solid waste as defined in ORS 459.005.



- | <b>Method</b>   | <u>Criteria</u>  |
|---|--|
| ORS 468.155<br>(1)(b)(D)<br>OAR 340-016-<br>0010(7)(a)(b) | <p>The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:</p> <p>"Material Recovery" means any process, such as pre-segregation, for <b>obtaining materials from solid waste</b>, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:</p> <ol style="list-style-type: none"> <li>a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or</li> <li>b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process, which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.</li> </ol> |
| OAR 340-016-<br>0060(4)(e)                                | <p>The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b>, or use of materials which:</p> <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. May be <b>used in the same kind of application</b> as its prior use without change in identity.</li> </ol>  |

Applied to this Application

Metro Metals uses the drop boxes to collect useable ferrous and nonferrous scrap metal from commercial waste. The applicant places the boxes at industrial and manufacturing sites in the Portland metropolitan area and collects them when they are full. The company separates the metal. They shred and bale approximately 233,000 tons of scrap metal every year. They sell the bales to a manufacturer use it as feedstock to produce new metal products.

**Exclusions** Criteria  
 ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of  
 OAR 340-016- a Pollution Control Facility. Items that do not meet the definition are  
 0070(3) ineligible for certification.

Applied to this Application

There are no exclusions.

**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously  
 been certified as a pollution control facility under ORS 468.170 is not eligible  
 for the tax credit with two exceptions:

1. the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or
2. the facility was replaced before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant.

**Maximum Credit** Criteria  
 ORS 468.170(3)(d) The **maximum tax credit is 35%** if the applicant submitted the application  
 ORS 468.155(1)(b)(D) between January 1, 2002 and December 31, 2008, inclusively, and the facility  
 is used for **material recovery or recycling**, as those terms are defined in ORS  
 459.005.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 7/15/2003, and the facility is used in a material recovery process.

**Facility Cost**

**Subtractions** Criteria  
 OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b. the amount of any government grants received to pay part of the facility cost;
- c. the present value of any other state tax credits for which the investment is eligible; and
- d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**§ Certification** Criteria  
 ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	
			\$32,385
		<b>Certified</b>	<b>\$32,385</b>

***Facility Cost Allocable to Pollution Control***

**% Certification** Criteria

ORS 468.170 (1) If the cost of the facility (or facilities certified under one certificate) does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

ORS 468.190(3) The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

Applied to this Application

The applicant uses the various drop boxes **100%** of the time to recover solid waste in the State of Oregon.

***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers: Jeannette Freeman, DEQ  
 Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

## Pollution Control Facility: Material Recovery

### Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### Applicant Identification

5611 NE Columbia Blvd  
Portland, OR 97218

Organized as: **C Corp**

Taxpayer ID: **93-1270871**

### Technical Information

Metro Metals Northwest, Inc. (Metro Metals) is a scrap metal collection and recycling plant. The company collects ferrous and nonferrous metal from commercial sites in the Portland Metropolitan Area and Western Washington. The applicant claims a Kenworth truck that they use to transport their scrap-metal bins to and from commercial sites. The truck bed and its chain-lift system pull the filled bins onto the tilting bed of the truck.

### Taxpayer Allowed Credit

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

## Director's Recommendation

Approve Application No. **6544**

Applicant: **Metro Metals Northwest, Inc.**

Certification of:

Facility Cost		\$28,875
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$10,106</u>

Certificate Period: **5 years**

### Facility Identification

5611 NE Columbia Blvd  
Portland, OR 97218

The certificate will identify the facility as:

**One – Used 1999 Kenworth T800 truck, Serial # 819415**

Applied to this Application

Applicant is the owner of the equipment that they use for recycling and material recovery.

**Eligibility**

**Timely Filing**  
ORS 468.165(6)

Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 7/19/2002 and submitted the application on 7/15/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 7/19/2002.

**Purpose: Voluntary**  
ORS 468.155  
(1)(a)(B)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a **substantial quantity** of solid waste.

"Solid waste" as defined by ORS 459.005: All useless or **discarded** putrescible and non-putrescible **materials**, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or **discarded commercial, industrial, demolition and construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Ferrous and nonferrous scrap metal **meets the definition of** solid waste as defined in ORS 459.005.

**Method**  
ORS 468.155  
(1)(b)(D)

Criteria

The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:

"Material Recovery" means any process, such as **pre-segregation**, for obtaining materials from **solid waste**, hazardous waste or used oil. The recovered material shall still have **useful physical or chemical properties** after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a

competitive end product of real economic value.

- OAR 340-016-0010(7) The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, **processing, pre-segregation**, or use of materials which:
- OAR 340-016-0060(4)(e)
- a. Have useful chemical or physical properties and which may be used for the same or other purposes: or
  - b. The applicant may used in the same kind of application as its prior use without change in identity.

Applied to this Application

Metro Metals uses the truck to collect useable ferrous and nonferrous scrap metal from commercial waste. The applicant collects the material from industrial and manufacturing sites in the Portland metropolitan area and brings material back to their recovery facility. The company separates the metal, and shreds and bales approximately 233,000 tons of scrap metal every year. They sell the bales to manufacturers that use it as feedstock for producing new metal products.

- |                     |   |
|---------------------|---|
| <b>Exclusions</b>   | <u>Criteria</u>   |
| ORS 468.155(3)      | The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification. |
| OAR 340-016-0070(3) |   |

Applied to this Application

There are no exclusions.

- |                    |   |
|--------------------|---|
| <b>Replacement</b> | <u>Criteria</u>   |
| ORS 468.155(3)(e)  | The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: |
|                    | 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or   |
|                    | 2) The applicant replaced the facility before the end of its useful life.   |

Applied to this Application

The claimed facility is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant.

**Maximum Credit** Criteria

ORS 468.170(3)(d) The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for material recovery or recycling, as those terms are defined in ORS 459.005.

Applied to this Application

The **maximum tax credit is 35%** because the applicant submitted the application on 7/15/2003, and the facility is used in a material recovery process.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a) the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b) the amount of any government grants received to pay part of the facility cost;
- c) the present value of any other state tax credits for which the investment is eligible; and
- d) ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**\$ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost **may not exceed** the taxpayer's own **cash investment** in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	
			\$28,875
		<b>Certified</b>	<b>\$28,875</b>

### ***Facility Cost Allocable to Pollution Control***

**% Certification**    Criteria

ORS 468.170(1)    The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or reduction of solid waste, hazardous waste, or to recycling or appropriately disposing of used oil.

ORS 468.190 (3)    The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

Applied to this Application

The applicant uses the truck 77% of the time in the State of Oregon but they did not include 23% of the cost of the truck in the amount claimed in their application. Therefore, the percent of the claimed cost is **100%** allocable to pollution control.

### ***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers:    Jeannette Freeman, DEQ  
                  Maggie Vandehey, DEQ





State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

## **Pollution Control Facility: Material Recovery**

### **Final Certification**

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### ***Applicant Identification***

Kadel's Beaverton Auto Body  
9350 SW Tigard Street  
Tigard, OR 97223

Organized as: **LLC**  
Taxpayer ID: **91-1833935**

### ***Technical Information***

New KAB III, LLC, dba Kadel's Beaverton Auto Body, is an automotive collision repair shop. Kadel's Auto Body uses lacquer-based solvents to clean their paint guns. The solvents contain toluene, petroleum distillates, isopropyl alcohol, and acetone.

The applicant claims a new solvent recycler capable of processing spent solvent in three-gallon batches. The system recovers solvent through a simple distillation process that separates solvent vapors from paint residue. The recycler condenses the vapors and stores the recovered liquid solvents for reuse. The applicant collects and disposes of the residue as hazardous waste. The system allows the company to reduce their consumption of new solvents and the amount of hazardous waste sent for disposal.

## ***Director's Recommendation***

**Approve** Application No. **6547**

Applicant: **New KAB III, LLC**

Certification of:

Facility Cost		\$7,391
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$2,587</u>

Certificate Period: **5 years**

### ***Facility Identification***

4400 SW Rose Lane  
Beaverton, OR 97005

The certificate will identify the facility as:

**One - Omega Combo 3 Solvent Recycler, Model  
GWRS-6AS-1B, Serial # 1001-620295**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

New KAB III, LLC owns and operates the solvent recycler.

***Eligibility*****Timely Filing** Criteria

ORS 468.165(6)

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant completed construction on 11/27/2001 and filed the application on 07/16/2003, thereby **filing** the application **within** the two-year filing requirement. The applicant submitted the final application after they completed construction and placed the facility into operation on 11/30/2001.

**Purpose: Voluntary** Criteria

ORS 468.155

(1)(a)(B)

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to **prevent**, control, or **reduce a substantial quantity** of solid waste, **hazardous waste**: or used oil.

"Hazardous waste" as defined by ORS 466.005: Includes all of the following which are not declassified by the commission under ORS 466.015(3):

- a. Discarded, useless or unwanted materials or residues resulting from any substance or combination of substances intended for the purpose of defoliating plants or for the preventing, destroying, repelling or mitigating of insects, fungi, weeds, rodents, or predatory animals, including but not limited to defoliants, desiccants, fungicides, herbicides, insecticides, nematocides and rodenticides.
- b. Residues resulting from any process of industry, manufacturing, trade or business or government or from the development or recovery of any natural resources, if such residues are classified as hazardous by order

of the commission, after notice and public hearing. For purposes of classification, the commission must find that the residue, because of its quantity, concentration, or physical, chemical or infectious characteristics may:

- **Cause** or significantly contribute to an increase in **mortality** or an increase in serious irreversible or incapacitating reversible **illness**; or:
  - Pose a substantial present or **potential hazard to human health or the environment** when improperly treated, stored, transported, disposed of, or otherwise managed.
- c. Discarded, useless or unwanted containers and receptacles used in the transportation, storage, use or application of the substances described in paragraphs (a) and (b) of this subsection.

Applied to this Application

Solvents containing residual toluene, petroleum distillates, isopropyl alcohol and acetone **meet the definition** of hazardous waste as defined in ORS 466.005. The solvent recycler has reduced the amount of hazardous waste generated from 400 pounds to 100 pounds per month; and the amount of new consumed from 55 gallons to 10 gallons per month.

<b>Method</b>	<b>Criteria</b>
ORS 468.155 (1)(b)(D) OAR 340-016-0010(7)(a)(b)	The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be hazardous waste below:  "Material Recovery" means any process, such as pre-segregation, for <b>obtaining materials</b> from solid waste, <b>hazardous waste</b> or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end product of real economic value.
OAR 340-016-0060(4)(e)	The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing</b> , pre-segregation, or use of materials which: <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. The applicant may <b>use in the same kind of application</b> as its prior use without change in identity.</li> </ol>

Applied to this Application

The applicant uses a material recovery process to obtain reusable solvent from hazardous waste. The applicant uses the recovered material in the same kind of application as its prior use.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no exclusions.

<b>Replacement</b>	<u>Criteria</u>
ORS 468.155(3)(e)	The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at the Beaverton location; therefore, the claimed facility is **not a replacement**.

<b>Maximum Credit</b>	<u>Criteria</u>
ORS 468.170(3)(d) ORS 468.155(1)(b)(D)	The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for material recovery or recycling, as those terms are defined in ORS 459.005.

Applied to this Application

The **maximum tax credit is 35%** because the applicant submitted the application on 7/16/2003, and the facility is used in a material recovery process.

**Facility Cost**

**Subtractions**    Criteria  
 OAR 340-016-0070(1)    The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a) the salvage value of a pre-existing facility if the applicant is replacing a facility,
- b) the amount of any government grants received to pay part of the facility cost,
- c) the present value of any other state tax credits for which the investment is eligible, and
- d) ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**\$ Certification**    Criteria  
 ORS 468.170(1)    The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed    \$7,391
		<b>Certified</b> <b>\$7,391</b>

**Facility Cost Allocable to Pollution Control**

**% Certification**    Criteria  
 ORS 468.170 (1)    The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or reduction of solid waste, hazardous waste, or to recycling or appropriately disposing of used oil.

ORS 468.190(3)    The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

Applied to this Application

The applicant uses the solvent recycler **100%** of the time to recover hazardous waste.

***Compliance***

The applicant states that, the facility and site comply with Department rules and statutes. DEQ has not issued any permits to the site.

Reviewers: Jeannette Freeman, DEQ  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Material Recovery

#### Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

Organized as: **C Corp**  
Taxpayer ID: **93-1270871**

### *Director's Recommendation*

Approve Application No. **6548**

Applicant: **Metro Metals Northwest, Inc**

Certification of:

Facility Cost		\$49,655
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$17,379</u>

Certificate Period: **5 years**

#### *Facility Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

The certificate will identify the facility as:

**One – 2003 Kenworth T-800 Truck, Vehicle  
Identification Number  
INKDLB9X33R383368**

#### *Technical Information*

Metro Metals Northwest, Inc. (Metro Metals) is a scrap metal collection and recycling plant. The company collects ferrous and nonferrous metal from commercial sites in the Portland Metropolitan Area and Western Washington. The company claims a 2003 Kenworth T-800 truck that they use to collect the scrap metal bins placed with their customers. The truck transports the full bins to their recycle facility where they sorted and processed the material into reuseable metal.

#### *Taxpayer Allowed Credit*

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or

- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the equipment that they use for recycling and material recovery.

**Eligibility**

**Timely Filing**  
ORS 468.165(6)

Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 9/6/2002 and submitted the application on 7/28/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 9/6/2002.

**Purpose: Voluntary**  
ORS 468.155  
(1)(a)(B)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste.

“Solid waste” as defined by ORS 459.005: All useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or **discarded commercial, industrial, demolition and construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Ferrous and nonferrous scrap metal **meets the definition of** solid waste as defined in ORS 459.005.

**Method**  
ORS 468.155  
(1)(b)(D)  
OAR 340-016-  
0010(7)(a)(b)

Criteria

The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:

"Material Recovery" means any process, such as pre-segregation, for **obtaining materials from solid waste**, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful



physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:

- a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or
- b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.

OAR 340-016-0060(4)(e) The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, **processing, pre-segregation**, or use of materials which:

- a. Have **useful chemical or physical properties** and which may be used for the same or other purposes: or
- b. May be used in the **same kind of application** as its prior use without change in identity.

Applied to this Application

Metro Metals uses the truck to collect useable ferrous and nonferrous scrap metal from commercial waste. The applicant collects the material from industrial and manufacturing sites in the Portland metropolitan area and brings material back to their recovery facility. The company separates the metal, and shreds and bales approximately 233,000 tons of scrap metal every year. They sell the bales to manufacturers that use it as feedstock for producing new metal products.

**Exclusions** Criteria

ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.  
OAR 340-016-0070(3)

Applied to this Application

There are no exclusions.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant.

**Maximum Credit** Criteria

ORS 468.170(3)(d) The **maximum tax credit is 35%** if the applicant submitted the application  
 ORS 468.155(1)(b)(D) between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for **material recovery or recycling**, as those terms are defined in ORS 459.005.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 7/28/2003, and the facility is used in a material recovery process.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost.  
 The claimed cost may not include:

- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b. the amount of any government grants received to pay part of the facility cost;
- c. the present value of any other state tax credits for which the investment is eligible; and
- d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**\$ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	Certified
		\$49,655	\$49,655

### ***Facility Cost Allocable to Pollution Control***

<b>% Certification</b>	<u>Criteria</u>
------------------------	-----------------

ORS 468.170 (1)	The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or <b>reduction of solid waste</b> , hazardous waste, or to recycling or appropriately disposing of used oil.
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ORS 468.190(3)	The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility <b>does not exceed \$50,000</b> .
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Applied to this Application

The applicant uses the truck 64% of the time in the State of Oregon but they did not include 36% of the cost of the truck in the amount claimed in their application. Therefore, the percent of the claimed cost is **100%** allocable to pollution control.

### ***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers: Jeannette Freeman, DEQ  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Material Recovery

#### Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

Organized as: **C Corp**  
Taxpayer ID: **93-1270871**

#### *Technical Information*

Metro Metals Northwest, Inc., (Metro Metals) a scrap metal collection and recycling plant, claims a Cascon heavy hauler end-dump trailer for use as pickups of on-site depository from commercial sites. The trailer is used along with a truck that transports bins to haul ferrous and nonferrous metal scrap back to the recycle facility. Once there, the recovered material is sorted and processed into reuseable metal.

### *Director's Recommendation*

Approve Application No. **6549**

Applicant: **Metro Metals Northwest, Inc**

Certification of:

Facility Cost		\$20,782
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$7,274</u>

Certificate Period: **5 years**

#### *Facility Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

The certificate will identify the facility as:

**One – Cascon heavy hauler end-dump trailer,  
Model 360-2A, Vin#TC9RS36262R337079**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the equipment that they use for recycling and material recovery.

***Eligibility***

**Timely Filing**  
ORS 468.165(6)

Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 7/31/2002 and submitted the application on 7/28/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 7/31/2002.

**Purpose: Voluntary**

ORS 468.155  
(1)(a)(B)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste.

“Solid waste” as defined by ORS 459.005: All useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or **discarded commercial, industrial, demolition and construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Ferrous and nonferrous scrap metal **meets the definition of** solid waste as defined in ORS 459.005.

- | <b>Method</b>   | <u>Criteria</u>   |
|---|---|
| ORS 468.155<br>(1)(b)(D)<br>OAR 340-016-<br>0010(7)(a)(b) | <p>The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:</p> <p>"Material Recovery" means any process, such as pre-segregation, for <b>obtaining materials from solid waste</b>, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:</p> <ol style="list-style-type: none"> <li>a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or</li> <li>b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.</li> </ol> |
| OAR 340-016-<br>0060(4)(e)                                | <p>The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b>, or use of materials which:</p> <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. May be <b>used in the same kind of application</b> as its prior use without change in identity.</li> </ol>   |

Applied to this Application

The trailer allows Metro Metals to collect useable ferrous and nonferrous scrap metal from commercial waste. The applicant picks up collected material at industrial and manufacturing sites in the Portland metropolitan area and transports it back to their recovery facility. The company separates the metal, and shreds and bales approximately 233,000 tons of scrap metal every year. They sell the bales to a manufacturer that incorporates it as feedstock when they produce new metal products.

**Exclusions**    Criteria  
ORS 468.155(3)    The regulations provide a list of over 40 items excluded from the definition of  
OAR 340-016-    a Pollution Control Facility. Items that do not meet the definition are  
0070(3)    ineligible for certification.

Applied to this Application

There are no exclusions.

**Replacement**    Criteria  
ORS 468.155(3)(e)    The replacement or reconstruction of all or part of a facility that the State of  
Oregon previously certified as a pollution control facility under ORS 468.170  
is not eligible for the tax credit with two exceptions:  
1) The applicant replaced the facility because DEQ or EPA imposed a different  
requirement than the requirement to construct the original facility; or  
2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement** because the State of Oregon has not  
issued any Pollution Control Facilities Tax Credit Certificates to the applicant.

**Maximum Credit**    Criteria  
ORS 468.170(3)(d)    The **maximum tax credit is 35%** if the applicant submitted the application  
ORS 468.155(1)(b)(D)    between January 1, 2002 and December 31, 2008, inclusively, and the facility  
is used for **material recovery or recycling**, as those terms are defined in ORS  
459.005.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the  
application on 7/28/2003, and the facility is used in a material recovery  
process.

### ***Facility Cost***

**Subtractions**    Criteria  
OAR 340-016-    The applicant must provide documents that substantiate the claimed facility cost.  
0070(1)    The claimed cost may not include:  
a. the salvage value of a pre-existing facility if the applicant is replacing a  
facility;  
b. the amount of any government grants received to pay part of the facility  
cost;  
c. the present value of any other state tax credits for which the investment is  
eligible; and  
d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**\$ Certification**    Criteria  
 ORS 468.170(1)    The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	
			\$20,782
		<b>Certified</b>	<b>\$20,782</b>

***Facility Cost Allocable to Pollution Control***

**% Certification**    Criteria

ORS 468.170 (1)    The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or **reduction of solid waste**, hazardous waste, or to recycling or appropriately disposing of used oil.

ORS 468.190(3)    The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

Applied to this Application

The applicant considered the use of the trailer in the State of Oregon at 49%, and adjusted the cost accordingly before filing the application. The Department concurs. Therefore, the percent allocable is **100%** for the claimed cost to recover solid waste in Oregon.

***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers:    Maggie Vandehey, DEQ  
                   Jeannette Freeman, DEQ





State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

**Pollution Control Facility: Material Recovery**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

## ***Applicant Identification***

5611 NE Columbia Blvd  
Portland, OR 97218

Organized as: **C Corp**

Taxpayer ID: **93-1270871**

## ***Technical Information***

Metro Metals Northwest, Inc., (Metro Metals) a scrap metal collection and recycling plant, claims various-sized drop boxes for use as on-site depositories at commercial sites. The bins, once full of ferrous and nonferrous metal scrap, are picked up by company trucks for sorting and processing into reuseable metal.

## ***Director's Recommendation***

**Approve** Application No. **6550**

Applicant: **Metro Metals Northwest, Inc**

Certification of:

Facility Cost		\$29,770
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$10,420</u>

Certificate Period: **5 years**

## ***Facility Identification***

5611 NE Columbia Blvd  
Portland, OR 97218

The certificate will identify the facility as:

- Twelve – 4' x 6' dropboxes
- Twelve – 4' x 4' x 4' (16-gal) boxes with lids
- Two – 10 yard dropboxes with lids
- Two – 40 yard dropboxes

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (A) Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (B) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (C) Person who, as **an owner**, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the equipment that they use for recycling and material recovery.

***Eligibility*****Timely Filing**

ORS 468.165(6)

Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this ApplicationThe applicant **filed** the application **within** the one-year filing requirement because they completed construction on 8/23/2002 and submitted the application on 7/28/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 8/23/2002.**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

CriteriaThe sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste.

“Solid waste” as defined by ORS 459.005: All useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or **discarded commercial, industrial, demolition and construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this ApplicationFerrous and nonferrous scrap metal **meets the definition of** solid waste as defined in ORS 459.005.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(D) OAR 340-016- 0010(7)(a)(b)	<p>The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:</p> <p>"Material Recovery" means any process, such as pre-segregation, for <b>obtaining materials from solid waste</b>, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:</p> <ol style="list-style-type: none"> <li>a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or</li> <li>b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.</li> </ol>
OAR 340-016- 0060(4)(e)	<p>The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b>, or use of materials which:</p> <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. May be <b>used in the same kind of application</b> as its prior use without change in identity.</li> </ol>

Applied to this Application

The drop boxes allow Metro Metals to collect useable ferrous and nonferrous scrap metal from commercial waste. The applicant places the bins at industrial and manufacturing sites in the Portland metropolitan area and collects them when they are full. The company separates the metal, and shreds and bales approximately 233,000 tons of scrap metal every year. They sell the bales to a manufacturer who incorporates it as feedstock when they produce new metal products.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	<p>The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.</p>

Applied to this Application

There are no exclusions.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant.

**Maximum Credit** Criteria

ORS 468.170(3)(d) The **maximum tax credit is 35%** if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for **material recovery or recycling**, as those terms are defined in ORS 459.005.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 7/28/2003, and the facility is used in a material recovery process.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a) the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b) the amount of any government grants received to pay part of the facility cost;
- c) the present value of any other state tax credits for which the investment is eligible; and
- d) ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**§ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	\$29,770
		Certified	\$29,770

### ***Facility Cost Allocable to Pollution Control***

#### **% Certification**    Criteria

ORS 468.170 (1)    The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or **reduction of solid waste**, hazardous waste, or to recycling or appropriately disposing of used oil.

ORS 468.190(3)    The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

#### Applied to this Application

The applicant uses the various drop boxes **100%** of the time to recover solid waste.

### ***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers:    Maggie Vandehey, DEQ  
                   Jeannette Freeman, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

**Pollution Control Facility: Material Recovery**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

Organized as: **C Corp**

Taxpayer ID: **93-1270871**

### *Technical Information*

Metro Metals Northwest, Inc., (Metro Metals) a scrap metal collection and recycling plant, claims various-sized drop boxes for use as on-site depositories at commercial sites. The bins, once full of ferrous and nonferrous metal scrap, are picked up by company trucks for sorting and processing into reuseable metal.

### *Director's Recommendation*

Approve Application No. **6551**

Applicant: **Metro Metals Northwest, Inc**

Certification of:

Facility Cost		\$46,592
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$16,307</u>

Certificate Period: **5 years**

### *Facility Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

The certificate will identify the facility as:

Six – 4' x 6' dropboxes

Twelve – 30 yard 20"x 66" red/white dropboxes

One – 20 yard 18' x 49" red dropbox

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the equipment that they use for recycling and material recovery.

***Eligibility*****Timely Filing**  
ORS 468.165(6)Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this ApplicationThe applicant **filed** the application **within** the one-year filing requirement because they completed construction on 12/31/2002 and submitted the application on 7/28/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 12/31/2002.**Purpose: Voluntary**  
ORS 468.155  
(1)(a)(B)CriteriaThe sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste.

“Solid waste” as defined by ORS 459.005: All useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or **discarded commercial, industrial, demolition and construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this ApplicationFerrous and nonferrous scrap metal **meets the definition of** solid waste as defined in ORS 459.005.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(D) OAR 340-016- 0010(7)(a)(b)	The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:

"Material Recovery" means any process, such as pre-segregation, for **obtaining materials from solid waste**, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:

- a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or
- b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.

OAR 340-016- 0060(4)(e)	The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b> , or use of materials which: <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. May be <b>used in the same kind of application</b> as its prior use without change in identity.</li> </ol>
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Applied to this Application

The drop boxes allow Metro Metals to collect useable ferrous and nonferrous scrap metal from commercial waste. The applicant places the bins at industrial and manufacturing sites in the Portland metropolitan area and collects them when they are full. The company separates the metal, and shreds and bales approximately 233,000 tons of scrap metal every year. They sell the bales to a manufacturer who incorporates it as feedstock when they produce new metal products.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no exclusions.



**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant.

**Maximum Credit** Criteria

ORS 468.170(3)(d) The **maximum tax credit is 35%** if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for **material recovery or recycling**, as those terms are defined in ORS 459.005.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 7/28/2003, and the facility is used in a material recovery process.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b. the amount of any government grants received to pay part of the facility cost;
- c. the present value of any other state tax credits for which the investment is eligible; and
- d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**§ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	\$46,592
	<b>Certified</b>	<b>\$46,592</b>	

### ***Facility Cost Allocable to Pollution Control***

#### **% Certification**    Criteria

ORS 468.170 (1)    The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or **reduction of solid waste**, hazardous waste, or to recycling or appropriately disposing of used oil.

ORS 468.190(3)    The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

#### Applied to this Application

The applicant uses the various drop boxes **100%** of the time to recover solid waste.

### ***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers:    Maggie Vandehey, DEQ  
                   Jeannette Freeman, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Material Recovery

#### Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

Organized as: **C Corp**  
Taxpayer ID: **93-1270871**

#### *Technical Information*

Metro Metals Northwest, Inc., (Metro Metals) a scrap metal collection and recycling plant, claims various-sized drop boxes for use as on-site depositories at commercial sites. The bins, once full of ferrous and nonferrous metal scrap, are picked up by company trucks for sorting and processing into reuseable metal.

#### *Director's Recommendation*

**Approve** Application No. **6552**

Applicant: **Metro Metals Northwest, Inc.**

Certification of:

Facility Cost		\$48,766
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$17,068</u>

Certificate Period: **5 years**

#### *Facility Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

The certificate will identify the facility as:

- Two – ½ yard red hopper dropboxes
- Two – ½ yard red hopper dropboxes with casters
- Two – 30 yard 20'x 66" dropboxes w/reversible solid lid
- Seven – 30 yard 20'x 66" red open dropboxes
- Two – 30 yard heavy duty 20'x 66" red dropboxes
- Two – 20 yard 18'x 49" side hinge dropboxes w/crank, lids

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the equipment that they use for recycling and material recovery.

***Eligibility*****Timely Filing**  
ORS 468.165(6) Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this ApplicationThe applicant **filed** the application **within** the one-year filing requirement because they completed construction on 12/31/2002 and submitted the application on 7/28/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 12/31/2002.**Purpose: Voluntary** CriteriaORS 468.155  
(1)(a)(B) The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste.

“Solid waste” as defined by ORS 459.005: All useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or **discarded commercial, industrial**, demolition and construction **materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this ApplicationFerrous and nonferrous scrap metal **meets the definition of** solid waste as defined in ORS 459.005.

<u>Method</u>	<u>Criteria</u>
ORS 468.155 (1)(b)(D) OAR 340-016- 0010(7)(a)(b)	The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:

"Material Recovery" means any process, such as pre-segregation, for **obtaining materials from solid waste**, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:

- a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or
- b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.

OAR 340-016- 0060(4)(e)	The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b> , or use of materials which: <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. May be <b>used in the same kind of application</b> as its prior use without change in identity.</li> </ol>
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Applied to this Application

The drop boxes allow Metro Metals to collect useable ferrous and nonferrous scrap metal from commercial waste. The applicant places the bins at industrial and manufacturing sites in the Portland metropolitan area and collects them when they are full. The company separates the metal, and shreds and bales approximately 233,000 tons of scrap metal every year. They sell the bales to a manufacturer who incorporates it as feedstock when they produce new metal products.

<u>Exclusions</u>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no exclusions.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant.

**Maximum Credit** Criteria

ORS 468.170(3)(d) The **maximum tax credit is 35%** if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for **material recovery or recycling**, as those terms are defined in ORS 459.005.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 7/28/2003, and the facility is used in a material recovery process.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a) the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b) the amount of any government grants received to pay part of the facility cost;
- c) the present value of any other state tax credits for which the investment is eligible; and
- d) ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**§ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	\$48,766
		<b>Certified</b>	<b>\$48,766</b>

### ***Facility Cost Allocable to Pollution Control***

#### **% Certification**    Criteria

ORS 468.170 (1)    The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or **reduction of solid waste**, hazardous waste, or to recycling or appropriately disposing of used oil.

ORS 468.190(3)    The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

#### Applied to this Application

The applicant uses the various drop boxes **100%** of the time to recover solid waste.

### ***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers:    Maggie Vandehey, DEQ  
                  Jeannette Freeman, DEQ



State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

## Pollution Control Facility: Material Recovery

### Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

Organized as: **C Corp**  
Taxpayer ID: **93-1270871**

### *Technical Information*

Metro Metals Northwest, Inc., (Metro Metals) a scrap metal collection and recycling plant, claims various-sized drop boxes for use as on-site depositories at commercial sites. The bins, once full of ferrous and nonferrous metal scrap, are picked up by company trucks for sorting and processing into reuseable metal.

### *Director's Recommendation*

**Approve** Application No. **6553**

Applicant: **Metro Metals Northwest, Inc**

Certification of:

Facility Cost		\$48,144
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$16,850</u>

Certificate Period: **5 years**

### *Facility Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

The certificate will identify the facility as:

- 55 – 4' x 4' x 4' (16-gal) boxes
- Two – 4' x 4' x 4' (16-gal) boxes with lids
- Six – 4' x 6' dropboxes
- Three – 4' x 6' dropboxes with lids
- Two – 20 yard dropboxes with cranks, lids



***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the equipment that they use for recycling and material recovery.

***Eligibility*****Timely Filing**  
ORS 468.165(6) Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this ApplicationThe applicant **filed** the application **within** the one-year filing requirement because they completed construction on 2/21/2003 and submitted the application on 7/28/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 2/21/2003.**Purpose: Voluntary** CriteriaORS 468.155  
(1)(a)(B) The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste.

“Solid waste” as defined by ORS 459.005: All useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or **discarded commercial, industrial, demolition and construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this ApplicationFerrous and nonferrous scrap metal **meets the definition of** solid waste as defined in ORS 459.005.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(D) OAR 340-016- 0010(7)(a)(b)	The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:

"Material Recovery" means any process, such as pre-segregation, for **obtaining materials from solid waste**, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:

- a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or
- b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.

OAR 340-016- 0060(4)(e)	The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b> , or use of materials which: <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. May be <b>used in the same kind of application</b> as its prior use without change in identity.</li> </ol>
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Applied to this Application

The drop boxes allow Metro Metals to collect useable ferrous and nonferrous scrap metal from commercial waste. The applicant places the bins at industrial and manufacturing sites in the Portland metropolitan area and collects them when they are full. The company separates the metal, and shreds and bales approximately 233,000 tons of scrap metal every year. They sell the bales to a manufacturer that incorporates it as feedstock when they produce new metal products.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no exclusions.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

- 1) The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility; or
- 2) The applicant replaced the facility before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant.

**Maximum Credit** Criteria

ORS 468.170(3)(d) The **maximum tax credit is 35%** if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for **material recovery or recycling**, as those terms are defined in ORS 459.005.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 7/28/2003, and the facility is used in a material recovery process.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b. the amount of any government grants received to pay part of the facility cost;
- c. the present value of any other state tax credits for which the investment is eligible; and
- d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**§ Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	\$48,144
		<b>Certified</b>	<b>\$48,144</b>

### ***Facility Cost Allocable to Pollution Control***

- | <b>% Certification</b> | <u>Criteria</u>   |
|------------------------|---|
| ORS 468.170 (1)        | The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or <b>reduction of solid waste</b> , hazardous waste, or to recycling or appropriately disposing of used oil.   |
| ORS 468.190(3)         | The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility <b>does not exceed \$50,000</b> . |

#### Applied to this Application

The applicant uses the various drop boxes **100%** of the time to recover solid waste.

### ***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers: Maggie Vandehey, DEQ  
Jeannette Freeman, DEQ

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that the State of Oregon previously certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions:

1. The applicant replaced the facility because DEQ or EPA imposed a different requirement than the requirement to construct the original facility;  
or
2. The applicant replaced the facility before the end of its useful life.

Applied to this Application

The claimed facility is **not a replacement** because the State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant.

**Maximum Credit** Criteria

ORS 468.170(3)(d) The **maximum tax credit is 35%** if the applicant submitted the application  
ORS 468.155(1)(b)(D) between January 1, 2002 and December 31, 2008, inclusively, and the facility is used for **material recovery or recycling**, as those terms are defined in ORS 459.005.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 7/28/2003, and the facility is used in a material recovery process.

**Facility Cost****Subtractions** Criteria

OAR 340-016-0070(1) The applicant must provide documents that substantiate the claimed facility cost. The claimed cost may not include:

- a. the salvage value of a pre-existing facility if the applicant is replacing a facility;
- b. the amount of any government grants received to pay part of the facility cost;
- c. the present value of any other state tax credits for which the investment is eligible; and
- d. ineligible costs as set forth in OAR 340-016-0070(3).

Applied to this Application

There are no subtractions.

**S Certification** Criteria

ORS 468.170(1) The certified cost is limited to the actual cost of the material recovery portion of the facility. The certified cost may not exceed the taxpayer's own cash investment in the facility or portion of the facility.

Applied to this Application

The applicant provided copies of invoices that substantiate the claimed cost of the material recovery facility.



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Material Recovery

#### Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

Organized as: **C Corp**

Taxpayer ID: **93-1270871**

#### *Technical Information*

Metro Metals Northwest, Inc., (Metro Metals) a scrap metal collection and recycling plant, claims various-sized drop boxes for use as on-site depositories at commercial sites. The bins, once full of ferrous and nonferrous metal scrap, are picked up by company trucks for sorting and processing into reuseable metal.

#### *Director's Recommendation*

**Approve** Application No. **6554**

Applicant: **Metro Metals Northwest, Inc**

Certification of:

Facility Cost		\$32,452
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$11,358</u>

Certificate Period: **5 years**

#### *Facility Identification*

5611 NE Columbia Blvd  
Portland, OR 97218

The certificate will identify the facility as:

Ten – 4' x 4' x 4' (16-gal) boxes

Twelve – 4' x 6' dropboxes

Four – 30 yard heavy-duty dropboxes

Two – 30 yard open-top red dropboxes

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- a. Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- c. Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a pollution control **facility** that is **used for** recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the equipment that they use for recycling and material recovery.

***Eligibility*****Timely Filing**  
ORS 468.165(6) Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this ApplicationThe applicant **filed** the application **within** the one-year filing requirement because they completed construction on 11/20/2002 and submitted the application on 7/28/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 11/20/2002.**Purpose: Voluntary** CriteriaORS 468.155  
(1)(a)(B) The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste.

“Solid waste” as defined by ORS 459.005: All useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or **discarded commercial, industrial, demolition and construction materials**, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this ApplicationFerrous and nonferrous scrap metal **meets the definition of** solid waste as defined in ORS 459.005.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(D) OAR 340-016- 0010(7)(a)(b)	The <b>prevention</b> , control, or <b>reduction</b> must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:

"Material Recovery" means any process, such as pre-segregation, for **obtaining materials from solid waste**, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process does not include processes:

- a. In which the major purpose is the production of fuel from solid waste, hazardous waste or used oil which can be utilized for heat content or other forms of energy; or
- b. That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit under these rules.

OAR 340-016- 0060(4)(e)	The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, <b>processing, pre-segregation</b> , or use of materials which: <ol style="list-style-type: none"> <li>a. Have <b>useful chemical or physical properties</b> and which may be used for the same or other purposes: or</li> <li>b. May be <b>used in the same kind of application</b> as its prior use without change in identity.</li> </ol>
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Applied to this Application

The drop boxes allow Metro Metals to collect useable ferrous and nonferrous scrap metal from commercial waste. The applicant places the bins at industrial and manufacturing sites in the Portland metropolitan area and collects them when they are full. The company separates the metal, and shreds and bales approximately 233,000 tons of scrap metal every year. They sell the bales to a manufacturer that incorporates it as feedstock when they produce new metal products.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

There are no exclusions.



Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	\$32,452
		<b>Certified</b>	<b>\$32,452</b>

### ***Facility Cost Allocable to Pollution Control***

#### **% Certification**    Criteria

ORS 468.170 (1)    The certified "percentage allocable" is limited to the portion of the actual facility cost that is properly allocable to the prevention, control, or **reduction of solid waste**, hazardous waste, or to recycling or appropriately disposing of used oil.

ORS 468.190(3)    The percentage of the cost allocable to pollution control is equal to the portion of time that the applicant uses the facility to prevent, control or reduce solid waste, hazardous waste, or to recycle or appropriately dispose of used oil if the cost of the facility **does not exceed \$50,000**.

#### Applied to this Application

The applicant uses the various drop boxes **100%** of the time to recover solid waste.

### ***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers:    Maggie Vandehey, DEQ  
                   Jeannette Freeman, DEQ

**BACKGROUND**

**APPROVALS: Nonpoint Source Pollution Control Facilities**

The Department recommends that the Commission approve the certification of **three** facilities presented behind this tab. The Commission's certification could reduce taxes paid to the State of Oregon by a maximum of **\$54,906**.

**Summary of NPS Pollution Control Facilities**

App #	Applicant	Certified Cost	% Allocable	Maximum Allowable %	EQC Action
6526	Charlie Waterman	23,434	100%	35%	
6533	Snow-McElligott	68,139	100%	50%	
6536	Donald G & Cynthia Jo Smith	36,100	100%	35%	
<b>3</b>	<b>Sum</b>	<b>127,673</b>			
<b>Apps</b>	Average	42,558			
	Minimum	23,434			
	Maximum	68,139			
	Median	36,100			

The law defines nonpoint source pollution control facilities as "...a facility that the Environmental Quality Commission has identified by rule as reducing or controlling significant amounts of nonpoint source pollution."<sup>6</sup> The Commission adopted rules that define "nonpoint source pollution"<sup>7</sup> and identify eligible "nonpoint source pollution control facilities"<sup>8</sup> as shown.

Statutory Definition of a "Nonpoint Source Pollution Control"

ORS 468.155 Definitions for ORS 468.155 to 468.190 and 468.962

- ...
- (b) Such prevention, control or reduction required by this subsection shall be accomplished by:
    - ...
    - (2)(a) As used in ORS 468.155 to 468.190 and 468.962, "pollution control facility" or "facility" includes a nonpoint source pollution control facility.
    - (b) As used in this subsection, "nonpoint source pollution control facility" means a facility that the Environmental Quality Commission has identified by rule as reducing or controlling significant amounts of nonpoint source pollution.

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<sup>6</sup> ORS 468.155(2)(b)  
<sup>7</sup> OAR 340-016-0010(8)  
<sup>8</sup> OAR 340-016-0060(4)(h)

...

OAR 340-016-0010 provides the following pertinent definitions.

"Nonpoint Source Pollution" means pollution that comes from numerous, diverse, or widely scattered sources of pollution that together have an adverse effect on the environment. The meaning includes:

- (a) The definition provided in OAR 340-041-0006(17): "Nonpoint Sources" refers to diffuse or unconfined sources of pollution where wastes can either enter into or be conveyed by the movement of water to public waters; or
- (b) Any sources of air pollution that are:
  - (A) Mobile sources that can move on or off roads; or
  - (B) Area sources.

Eligibility

340-016-0060 Eligibility

...

(4) Eligible Activities. The facility shall prevent, reduce, control, or eliminate:

...

(h) Nonpoint Source Pollution. Pursuant to ORS 468.155(2)(b), the EQC has determined that the following facilities reduce, or control significant amounts of nonpoint source pollution:

- (A) Any facility that implements a plan, project, or strategy to reduce or control nonpoint source pollution as documented:
  - ...
  - (B) Any facility effective in reducing nonpoint source pollution as documented in supporting research by:
    - ...
    - (C) Wood chippers used to reduce openly burned woody debris; or
    - (D) The retrofit of diesel engines with a diesel emission control device, certified by the U.S. Environmental Protection Agency.

...



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

**Pollution Control Facility: NPS**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

87518 Davis Creek Lane  
Bandon, OR 97411

Organized as: **Sole Proprietor**

Taxpayer ID: **541-52-9630**

### *Technical Information*

Charlie Waterman owns and operates a cattle and sheep ranch in the Coquille Valley of Coos County. The applicant has approximately 370 yearling cattle and 400 lambs on his 280-acre farmed wetlands and grazing pastures. The cattle occupy the land approximately 150 days and the sheep 100 days during the year.

The applicant claims improvements designed to reduce water pollution from animal waste. The improvements follow the guidelines found in the Coos and Coquille Area Agriculture Water Quality Management Plan. The implementation of the plan is based on the voluntary efforts of agricultural land owners. Improvements include:

- 13,100 feet of three and four strand electric cross fencing and 6,400 feet of woven-wire cross fence to protect riparian zones from livestock encroachment.
- 670 cubic yards of shale rock to reduce erosion in heavy livestock traffic areas around gates. They did not include any rock for roadways.
- 390 cubic yards of shale rock was placed around four new culverts with bulkheads to prevent erosion. The applicant installed the claimed culverts and bulkheads at drainage ditch crossings for farm equipment and cows. They did not include culverts or bulkheads for roadways.

### *Director's Recommendation*

**Approve Application No. 6526 @ Reduced Cost**

Applicant: **Charlie Waterman**

Certification of:

Facility Cost		\$23,434
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$8,202</u>

Certificate Period: **9 years**

### *Facility Identification*

Milepost 8, Highway 42  
Coquille, OR

The certificate will identify the facility as:

**Culvert replacement, riparian and pasture improvements, and cross fencing**

- four tide gates to prevent river water influenced by high tide from entering the pasture. Without the tide gates, sediments, and animal wastes from the pasture would flow into the river with the ebb tide.
- lotus seed planting in an existing canary grass pasture using the no-till-drill method. The applicant did not claim a no-till drill. Lotus withstands periodic flooding, and adds nitrogen to the soil which enhances the growth of the canary grass and establishes a pasture more capable of filtering and taking up the nutrients from animal waste.

The applicant purchased the property in 1999. The existing culverts were collapsed and silted. The existing fencing was non-functional and not repairable. China Creek borders the applicant's land on the north and partially on the east side. The creek discharges directly into the Coquille River, which is less than three-eighths of a mile from the property.

The applicant made all improvements according to the Coos and Coquille Area Agricultural Water Quality Management Plan (AgWQM.) A local advisory committee and the Oregon Department of Agriculture (ODA) developed the plan. ODA recognizes the improvements as Best Management Practices to reduce erosion, sediments, and animal waste runoff into the Coquille River.

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- Owner**, including a contract purchaser, of the trade or **business** that **uses** the Oregon property requiring a **pollution control facility** to prevent or minimize pollution; or
- Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property;

#### Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

**Timely Filing**  
OAR 340-016-0007

#### Criteria

The applicant must file the application within one year after the date that he completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before he places the facility into operation.

#### Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because he completed construction on 10/1/2002 and submitted the application on 6/12/2003. The applicant submitted the application after he completed construction and placed the facility into operation on 10/1/2002.

**Purpose: Voluntary**  
ORS 468.155(1)(a)(B)  
OAR 340-016-

#### Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of Nonpoint Source

## 0060(2)(b) Pollution (NPS).

OAR 340-041-0006(17)

"Nonpoint Source Pollution" means pollution that comes from numerous, diverse, or widely scattered sources of pollution that together have an adverse effect on the environment. The meaning includes: the definition provided in OAR 340-041-0006(17), "refers to diffuse or unconfined sources of pollution where wastes can either enter into or be conveyed by the movement of water to public waters."

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. ORS 468B.005

Applied to this Application

The cross fencing protects riparian zones from animal pollutants. Rock placed in heavy livestock traffic areas around gates reduce erosion. The culverts and their bulkheads, and ditches with tide gates control precipitation runoff. The pasture improvements using an existing no-till drill to plant lotus seed in a canary grass pasture reduces a substantial quantity of nonpoint source pollution. Sediments and animal wastes entering the Coquille River impact the decline of native populations of salmon, by increasing the bacteria count, reducing dissolved oxygen and increasing turbidity of the river. Due to the nature of nonpoint source pollution, the Department cannot immediately measure the environmental benefit of the claimed facility.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (2)(b) OAR 340-016-0060(4)(h)(B)(i)	Nonpoint source pollution must be reduced or eliminated through one of the methods the EQC determined to reduce, or control significant amounts of nonpoint source pollution.

This includes:

- A. Any facility that implements a plan, project, or strategy to reduce or control nonpoint source pollution as documented by one or more partners listed in the Oregon Nonpoint Source Control Program Plan.
- B. Any facility effective in reducing nonpoint source pollution as documented in supporting research by:
  - a. Oregon State University, Agricultural Experiment Station; or
  - b. The United States Department of Agriculture, Agriculture Research Service; or

c. The Oregon Department of Agriculture.

Applied to this Application

The applicant has implemented methods in the Oregon Nonpoint Source Control Program Plan. Amy Peters, Livestock Agent and staff member with Oregon State University Extension Service, states in a letter dated May 19, 2003, that the applicant has met all of the requirements of AgWQM, ODA, and the guidelines in Senate Bill (SB) 1010. The Oregon Legislature enacted SB 1010 to meet a number of federal water quality requirements.

**Exclusions** Criteria

ORS 468.155(3)  
OAR 340-016-0070(3) The regulations provide a list of more than 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The applicant included the cost of permits that are specifically excluded from the definition of a pollution control facility. The permits were from DEQ and Coos County Planning Department for water quality 401 certification projects related to dredging and culvert replacement. The Department subtracted the costs associated with these items from the claimed facility cost under the *Facility Cost* section below.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location; therefore, the facility is not a replacement facility.

**Maximum Credit** Criteria

ORS 468.173(3)(c)  
ORS 468.155(1)(b)(A) The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the facility is regulated as a confined animal feeding operation under ORS 468B.200 to 468B.230.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 6/12/2003, and the facility controls sediment and animal waste in a ranching operation.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
	Claimed	\$24,047
<i>Exclusions</i>	Permits	-613
	<b>Certified</b>	<b>\$23,434</b>

**Facility Cost Allocable to Pollution Control**

ORS 468.190 (3) Criteria

If the cost of the facility (or facilities certified under one certificate) does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

Applied to this Application

The certified facility cost is **\$23,434** and the applicant uses the facility **100%** of the time for nonpoint source pollution control.

**Compliance**

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers: Dennis Cartier, PBS Engineering and Environmental  
Maggie Vandehey, DEQ





State of Oregon  
Department of  
Environmental  
Quality

# Tax Credit Review Report

**Pollution Control Facility: NPS**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

## *Applicant Identification*

PO Box 4  
Ione, OR 97843

Organized as: **Partnership**

Taxpayer ID: **93-0889395**

## *Technical Information*

Snow-McElligott, a wheat grain farming partnership, claims a used 1999 Case tractor and a no-till drill. The applicant uses the no-till drill for planting crops in the drylands of the Columbia Basin Plateau of Morrow county. Before purchasing the no-till drill, the applicant tilled the fields several times to prepare the land for planting crops. The no-till drill provides one-pass planting without any ground tillage. This practice reduces the risk of wind and water erosion of the soil by retaining crop residue at the soil's surface.

## *Taxpayer Allowed Credit*

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business** that **uses** the Oregon property requiring a **pollution control facility** to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

## *Director's Recommendation*

**Approve Application No. 6533 @ Reduced Cost**

Applicant: **Snow-McElligott**

Certification of:

Facility Cost		\$68,139
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$34,070</u>

Certificate Period: **10 years**

## *Facility Identification*

60760 Zinter Road  
Ione, OR 97843

The certificate will identify the facility as:

- One - Used 1999 Case Steiger Quadtrac Tractor, Model 9380, Serial# JJE0074220**
- One - Conserva Pak No-Till Drill, Model CP5112, Serial# 51120101**

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

**Eligibility****Timely Filing**

ORS 468.173(1)

OAR 340-016-0007

Criteria

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 7/10/2001 and submitted the application on 6/18/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 10/1/2001.

**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

OAR 340-016-

0060(2)(b)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of Nonpoint Source Pollution (NPS).

"Nonpoint Source Pollution" means pollution that comes from numerous, diverse, or widely scattered sources of pollution that together have an adverse effect on the environment. The meaning includes:

- a. The definition provided in OAR 340-041-0006(17); or
- b. Any sources of air pollution that are:
  - Mobile sources that can move on or off roads; or
  - Area sources.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby.

ORS 468A.005

OAR 340-041-  
0006(17)

"Nonpoint Sources" refers to diffuse or unconfined sources of pollution where wastes can either enter into -- or be conveyed by the movement of water to -- public waters.

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance

into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. ORS 468B.005

Applied to this Application

The use of a no-till planter on arid land greatly reduces the risk of wind and water erosion of the soil by retaining crop residue at the soil's surface. Increased crop residue means more nutrients and improved infiltration rates. It also means that fewer attached chemical compounds could be transported with the erosion.

<b>Method</b>	<b>Criteria</b>
<p>ORS 468.155(2)(b) OAR 340-016- 0060(4)(h)(B)(i)</p>	<p>Nonpoint source pollution must be reduced or eliminated through one of the methods the EQC determined to reduce, or control significant amounts of nonpoint source pollution (ORS 468.155(2)(b)).</p>

This includes:

- A. Any facility that implements a plan, project, or strategy to reduce or control nonpoint source pollution as documented by one or more partners listed in the Oregon Nonpoint Source Control Program Plan.
- B. Any facility effective in reducing nonpoint source pollution as documented in supporting research by:
  - a. Oregon State University, Agricultural Experiment Station; or
  - b. The United States Department of Agriculture, Agriculture Research Service; or
  - c. The Oregon Department of Agriculture.

Nonpoint Source Pollution means pollution that comes from numerous, diverse, or widely scattered sources of pollution that together have an adverse effect on the environment.

Applied to this Application

Airborne particulates and sediment runoff **meets the definition of** nonpoint source pollution. Larry Lutcher, Extension Agronomist for Oregon State University in Morrow County and Thomas Bennett, District Conservationist for Natural Resources Conservation Service documented the qualifications on the applicant's behalf.

**Exclusions** Criteria  
 ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a  
 OAR 340-016-0070(3) Pollution Control Facility. Items that do not meet the definition are ineligible  
 for certification.

Applied to this Application

The applicant included the financing costs that are specifically excluded from the definition of a pollution control facility. The Department subtracted the costs associated with these items from the claimed facility cost under the *Facility Cost* section below.

The applicant only included 50.7% of the tractor's invoice cost because they use it that percentage of the time (640 hours) to tow the no-till drill. The Department concurs.

**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location; therefore, the facility is **not a replacement** facility.

**Maximum Credit** Criteria  
 ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the  
 OAR 340-016-0007 facility is certified under the 1999 Edition of ORS 468.155 to 468.190.

Applied to this Application

The maximum tax credit is 50% because the applicant completed construction of the facility on 7/10/2001, and submitted the application on 6/18/2003.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$68,190
<i>Exclusions</i>	Tractor financing costs	-51
		<b>Certified \$68,139</b>

***Facility Cost Allocable to Pollution Control***

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

<b>Factor</b>	<b>Applied to this Facility</b>
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The percentage of the cost allocable to pollution control is <b>100%</b> when calculated according to rule.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers: Jeannette Freeman, DEQ  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

**Pollution Control Facility: NPS**

**Final Certification**

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

30736 Peoria Road  
Shedd, OR 97377

Organized as: **Individual**

Taxpayer ID: **93-0877767**

### *Technical Information*

Donald and Cynthia Jo Smith, dba Smith Brothers Farms, are grain and grass seed farmers. They claim a new John Deere No-till drill to seed their 600 acres. The no-till drill method allows the applicant to seed without breaking the plant crown and to keep the soil on the field. Prior to purchasing the claimed facility, the applicant made up to six passes over the fields to prepare them for planting. The new method reduces airborne particulates and surface runoff.

### *Director's Recommendation*

Approve Application No. **6536**

Applicant: **Donald G. & Cynthia Jo Smith**

Certification of:

Facility Cost		\$36,100
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$12,635</u>

Certificate Period: **5 years**

### *Facility Identification*

30736 Peoria Road  
Shedd, OR 97377

The certificate will identify the facility as:

**One - John Deere No-till drill, Model 1590,  
Serial # N01590X701269**

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business** that **uses** the Oregon property requiring a **pollution control facility** to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

#### Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

#### **Timely Filing**

OAR 340-016-0007

#### Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

#### Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 5/30/2003 and submitted the application on 6/26/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 5/30/2003.

#### **Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

OAR 340-016-

0060(2)(a)

#### Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of Nonpoint Source Pollution (NPS).

"Nonpoint Source Pollution" means pollution that comes from numerous, diverse, or widely scattered sources of pollution that together have an adverse effect on the environment. The meaning includes:

- a. The definition provided in OAR 340-041-0006(17); or
- b. Any sources of air pollution that are:
  - 1. Mobile sources that can move on or off roads; or
  - 2. Area sources.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere

unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

OAR 340-041-  
0006(17)

"Nonpoint Sources" refers to diffuse or unconfined sources of pollution where wastes can either enter into -- or be conveyed by the movement of water to -- public waters.

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. ORS 468B.005

Applied to this Application

The John Deere no-till drill reduces airborne particulates and soil runoff. Oregon State University Extension office documented the method as a means of reducing nonpoint source pollution.

**Method** Criteria

ORS 468.155(2)(b) Nonpoint source pollution must be reduced or eliminated through one of the  
OAR 340-016- methods the EQC determined to reduce, or control significant amounts of  
0060(4)(h)(B)(i) nonpoint source pollution (ORS 468.155(2)(b)).

This includes:

(A) Any facility that implements a plan, project, or strategy to reduce or control nonpoint source pollution as documented by one or more partners listed in the Oregon Nonpoint Source Control Program Plan.

(B) Any facility effective in reducing nonpoint source pollution as documented in supporting research by:

- (i) Oregon State University, Agricultural Experiment Station; or
- (ii) The United States Department of Agriculture, Agriculture Research Service; or
- (iii) The Oregon Department of Agriculture.

Nonpoint source pollution means pollution that comes from numerous, diverse, or widely scattered sources of pollution that together have an adverse effect on the environment.

Applied to this Application

The no-till drill reduces wind and water erosion of the field soils. Increased plant residue allows more water to be retained in the soil and reduces sediment



in field runoff. Increased carbon storage in the plants increases organic matter levels and decreases greenhouse gasses. Mark Mellbye, Extension Field Crops Agent for Oregon State University in Linn County provides documented research on the applicant's behalf.

**Exclusions** Criteria  
 ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a  
 OAR 340-016- Pollution Control Facility. Items that do not meet the definition are ineligible  
 0070(3) for certification.

Applied to this Application

The application record did not indicate that the applicant included any ineligible costs.

**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location; therefore, the facility is **not a replacement** facility.

**Maximum Credit** Criteria  
 ORS 468.173(3)(c) The maximum tax credit is 35% if the applicant submitted the application  
 ORS 468.155(2) between January 1, 2002 and December 31, 2008, inclusively, and the facility controls nonpoint source pollution.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 6/26/2003, and the facility is defined as a nonpoint source pollution control facility.

***Facility Cost***

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	Certified
		\$36,100	\$36,100

***Facility Cost Allocable to Pollution Control***

ORS 468.190 (3)

Criteria

If the cost of the facility (or facilities certified under one certificate) does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

Applied to this Application

The certified facility cost is **\$36,100** and the applicant uses the facility 100% of the time for pollution control.

***Compliance***

The applicant states the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued no permits to the site.

Reviewers: Jeannette Freeman, DEQ  
Maggie Vandehey, DEQ

## BACKGROUND

### APPROVALS: Water Pollution Control Facilities

The Department recommends that the Environmental Quality Commission approve **11** water pollution control facilities installed to dispose of or eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005. The Commission's certification of these facilities could reduce taxes paid to the State of Oregon by a maximum of **\$2,246,340**.

**Nine** applicants constructed facilities in response to a Department of Environmental Quality or a federal Environmental Protection Agency requirement. These **principal purpose** facilities' primary and most important purposes are to comply with requirements to prevent, reduce, control, or eliminate water pollution.

**Two** applicants voluntarily installed facilities not required by DEQ, EPA or a regional water pollution authority. These facilities have a **sole purpose**, meaning an exclusive pollution control purpose. Additionally, these facilities control a substantial quantity of water pollution. The Department has subtracted any portions of these facilities that serve other purposes.

#### Summary of Water Pollution Control Facilities

App #	Applicant	Certified Cost	% Allocable	Maximum Allowable %	EQC Action
6136	Intel Corporation	238,379	100%	50%	
6137	Intel Corporation	2,293,400	100%	50%	
6390	Sumitomo Electric Semiconductor Materials	774,668	100%	50%	
6405	Rexius Forest By-Products, Inc.	289,372	100%	25%	
6464	Eric & Roy Peterson Farm	120,307	100%	35%	
6480	Gary Yates	25,050	100%	35%	
6482	Fort James Operating Company, GP	292,219	100%	50%	
6483	Fort James Operating Company, GP	41,300	100%	35%	
6502	Teri Georgette Andrews	128,402	100%	35%	
6509	TDY Industries, Inc.	76,130	100%	35%	
6523	TDY Industries, Inc.	475,495	100%	50%	
<b>Apps</b>	<b>Sum</b>	<b>4,754,722</b>			
<b>11</b>	Average	432,247			
	Minimum	25,050			
	Maximum	2,293,400			
	Median	238,379			

#### Statutory Definition of a "Water Pollution Control Facility"

ORS 468.155 provides the definition of a pollution control facility. Part of that definition describes how the applicant must accomplish the pollution control. For water pollution control facilities, the prevention, control, or reduction must be accomplished by "The disposal or

elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468B.005."

ORS 468.155 Definitions for ORS 468.155 to 468.190 and 468.962

...

(b) Such prevention, control or reduction required by this subsection shall be accomplished by:

...

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

...

ORS 468B.005 provides the following pertinent definitions.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

"Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive or other substances which will or may cause pollution or tend to cause pollution of any waters of the state.

"water pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.

### Eligibility

OAR 340-016-0060 Eligibility

...

(4) Eligible Activities. The facility shall prevent, reduce, control, or eliminate:

...

(d) Industrial Waste. The facility shall dispose of, eliminate or be redesigned to eliminate industrial waste and the use of treatment works for industrial wastewater as defined in ORS 468B.005; ...



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

2200 Mission College Drive SC4-26  
Santa Clara, CA 95052

Organized as: **C Corp**  
Taxpayer ID: **94-1672743**

### *Director's Recommendation*

Approve Application No. **6136 @ Reduced Cost**

Applicant: **Intel Corporation**

Certification of:

Facility Cost		\$238,379
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$119,190</u>

Certificate Period: **10 years**

### *Facility Identification*

Ronler Acres D1C Facility  
2501 NW 229th Avenue  
Hillsboro, OR 97124

The certificate will identify the facility as:

- One - 6,000-gallon concentrated copper waste storage tank,**
- Two - 5,000-gallon spent organic solvent tanks**
- One - 5,000-gallon waste ethylene glycol tank**
- One - 5,000-gallon nMP waste storage tank**

### *Technical Information*

Intel Corporation manufactures semiconductors. The manufacturing process generates concentrated copper, various solvents, ethylene glycol and n-methyl pyrrolidone (nMP).

The applicant installed the tanks to store concentrated copper waste, spent organic solvents, waste ethylene glycol and waste n-methyl pyrrolidone (nMP). The applicant stores these liquid wastes for transport to an off-site EPA permitted hazardous waste treatment facility, because Clean Water Services prohibits the chemicals' discharge to the publicly-owned wastewater treatment works. The applicant claims four tanks: one 6,000-gallon concentrated copper waste storage tank, two 5,000-gallon spent organic solvent tanks, one 5,000-gallon waste ethylene glycol tank, one 5,000-gallon nMP waste storage tank and discharge pumps and piping.

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, owns or leases a pollution control facility that is used for recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

**Timely Filing**

ORS 468.173(1)  
OAR 340-016-0007

Criteria

The applicant must file the application within two years after the date that they completed construction of the facility.

Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 8/1/2000 and submitted the application on 4/25/2002. The applicant submitted the application after they completed construction and placed the facility into operation on 8/1/2000.

**Purpose: Required**

ORS 468.155  
(1)(a)(A)  
OAR 340-016-0060(2)(a)

Criteria

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ or EPA to prevent, reduce, or control water pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. ORS 468B.005

Applied to this Application

The applicant claims the facility has a **principal** purpose. The facility **complies** with the industrial pretreatment discharge **rules imposed by Clean Water Services** that prohibit the applicant from discharging acid wastes into the industrial sewer system.

**Method** Criteria  
 ORS 468.155 (1)(b)(A) The prevention, control, or reduction must be accomplished by disposal or elimination of industrial wastewater and the use of a treatment works for industrial waste as defined in ORS 468B.005.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

Concentrated copper waste, spent organic solvents, waste ethylene glycol and n-methyl pyrrolidone **meet the definition of** industrial waste as defined by ORS 468B.005.

The five tanks and discharge pumps and piping **meet the definition of** a treatment works because they hold industrial wastes prior to to off-site disposal.

**Exclusions** Criteria  
 ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a  
 OAR 340-016-0070(3) Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The application record does not indicate that the applicant included any ineligible costs. The applicant adjusted the claimed facility cost on May 16, 2003 to eliminate ineligible costs related to the manufacturing process rather than pollution control. The Department subtracted this amount from the claimed facility cost under the *Facility Cost* section below.

**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued nineteen certificates to the applicant, and of the four issued for this location, one was for water. The claimed facility **does not replace** a previously certified control on the same waste stream. Intel Corporation installed the storage tanks as part of a new expansion project; therefore, the facility is not a replacement facility.

**Maximum Credit Criteria**

ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 4/1/1999, completed construction on 8/1/2000, and submitted the application on 4/25/2002.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$1,451,529
<i>Facility Cost</i>	The applicant amended their application on May 16, 2003 to subtract costs related to the manufacturing process, not pollution control.	-1,213,150
		<b>Certified</b> <u>\$238,379</u>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology. The Reviewers concur.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.



***Compliance***

Kathy Caldwell of Clean Water Services stated the facility complies with the applicant's industrial wastewater pretreatment permit. DEQ issued Air Contaminant Discharge Permit, No. 34-2809 to the applicant at this site on November 18, 1994.

Reviewers: Dennis Cartier, PBS Engineering and Environmental  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Water

#### Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

2200 Mission College Drive SC4-26  
Santa Clara, CA 95052

Organized as: **C Corp**

Taxpayer ID: **94-1672743**

#### *Technical Information*

Intel Corporation manufactures semiconductors. The manufacturing process generates liquid waste stream of mixed acid waste at the rate of 810,000 gallons per day and a phosphoric acid waste at the rate of 30 gallons per day. Clean Water Services prohibits the discharge of these chemicals to its wastewater treatment facility. The applicant installed the new acid waste neutralization (AWN) system to pretreat the waste stream prior to discharge to the Clean Water Services' sewer system.

The AWN system includes:

- a sulfuric acid and a sodium hydroxide distribution system to neutralize the acid waste streams. These systems include pumps, piping and control valves;
- a pH control system, three 7½-horsepower tank agitators and piping;
- pipe insulation and heat tracing, due to the claimed facility being located outdoors; and
- a 5,000-gallon holding tank with a 100-gallon per minute (gpm) pump, piping and containment sump pump to provide collection and storage of phosphoric acid for off-site reclamation.

### *Director's Recommendation*

Approve Application No. 6137 @ Reduced Cost

Applicant: **Intel Corporation**

Certification of:

Facility Cost		\$2,293,400
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<b>\$1,146,700</b>

Certificate Period: **10 years**

#### *Facility Identification*

Ronler Acres D1C Facility  
2501 NW 229th Avenue  
Hillsboro, OR 97124

The certificate will identify the facility as:

**An acid waste neutralization system**

### ***Taxpayer Allowed Credit***

ORS 315.304(4) The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, owns or leases a pollution control facility that is used for recycling, material recovery or energy recovery as defined in ORS 459.005.

#### Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

#### **Timely Filing**

ORS 468.173(1)  
OAR 340-016-0007

#### Criteria

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

#### Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 8/1/2000 and submitted the application on 4/25/2002. The applicant submitted the application after they completed construction and placed the facility into operation on 8/1/2000.

#### **Purpose: Required**

ORS 468.155  
(1)(a)(A)  
OAR 340-016-0060(2)(a)

#### Criteria

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ or EPA to prevent, reduce, or control water pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.  
ORS 468B.005

Applied to this Application

The applicant claims the facility has a **principal** purpose. The facility **complies** with the industrial pretreatment discharge **rules imposed by Clean Water Services** that prohibit the applicant from discharging acid wastes into the industrial sewer system.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(A)	The prevention, control, or reduction must be accomplished by disposal or elimination of industrial wastewater and the use of a treatment works for industrial waste as defined in ORS 468B.005.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

General acid waste and spent phosphoric acid **meet the definition of** industrial waste. The AWN treatment system **meets the definition of** a treatment works because it treats the acid waste streams.

The 5,000-gallon spent phosphoric acid storage tank also **meets the definition of** a treatment works because it **holds industrial wastes** prior to being sent off-site for recycling. Western Farms transports the spent phosphoric acid to their facility in Albany where they convert the acid into fertilizer.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

Invoices, project plans, and applicant statements did not indicate that any ineligible costs were included. The applicant did request an adjustment to the facility costs on May 16, 2003 as shown under the *Facility Cost* section below.

<b>Replacement</b>	<u>Criteria</u>
ORS 468.155(3)(e)	The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued nineteen certificates to the applicant, with one of the four issued for this location for water. The facility is **not a replacement** facility.

**Maximum Credit** Criteria

ORS 468.173(1) The applicable percentage of the certified cost of a facility will be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 4/1/1999, completed construction on 8/1/2000, and submitted the application on 4/25/2002.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$2,470,603
<i>Exclusions</i>	Costs withdrawn by applicant 5/16/2003	-177,203
		<b>Certified \$2,293,400</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces spent phosphoric acid that is converted into fertilizer by Western Farms. The applicant does not receive payment for the spent acid.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology. The Reviewers concur.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

***Compliance***

Kathy Caldwell of Clean Water Services stated the facility is in compliance with the applicant's industrial wastewater pretreatment permit. DEQ issued Air Contaminant Discharge Permit, No. 34-2809 to the applicant at the site on November 18, 1994.

Reviewers: PBS Engineering and Environmental  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

7230 Evergreen Parkway  
Hillsboro, OR 97214

Organized as: **C Corp**  
Taxpayer ID: **93-1305731**

### *Technical Information*

Sumitomo Electric Semiconductor Materials, Inc. constructed a new plant to manufacture 6" gallium arsenide (GaAs) wafers that are used in wireless communication devices. The manufacturing process requires edge and surface grinding, cleaning, and polishing rough cut wafers. This results in generating a wastewater that contains arsenic compounds and fine gallium arsenide particles.

The applicant claims a wastewater treatment system and a GaAs filtration unit. The treatment system precipitates the arsenic compounds at an elevated pH using ferric chloride. This results in the formation of concentrated insoluble ferric arsenate. The applicant pumps this concentration from the clarifier through a filter press that produces a dense cake, which they dispose of as a non-hazardous waste. The major components of the system are: three 15,000-gallon polypropylene accumulation tanks, two 12,500-gallon polypropylene equalization tanks, two 2,400-gallon polypropylene treatment tanks, two 1,400-gallon fiberglass pH adjustment tanks, one 600-gallon fiberglass flocculation tank, one 2,100-gallon polypropylene clarifier, one 800-gallon polypropylene holding tank, one 5 cubic foot filter press, one 6 cubic foot filter press, one 500-gallon polypropylene filtrate tank, one lime mixing/pumping station, four chemical additive tanks, controls, secondary containment, pumps and tank agitators.

### *Director's Recommendation*

Approve Application No. **6390**

Applicant: **Sumitomo Electric Semiconductor  
Materials, Inc.**

Certification of:

Facility Cost		\$774,668
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$387,334</u>

Certificate Period: **10 years**

### *Facility Identification*

7230 Evergreen Parkway  
Hillsboro, OR 97124

The certificate will identify the facility as:

**Wastewater treatment facility and gallium  
arsenide filtration unit, Model CF-PC020, Serial  
# 3040420**

The gallium arsenide filtration unit is a stand alone system that removes the very fine gallium arsenide particles from the surface and edge grinding process. The water-cooled grinding process collects the fine particulate matter. The filtration unit concentrates the particles and returns the clean water back to the grinders. The applicant did not claim the clean water reuse portion of the system.

### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business** that **uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, owns or leases a pollution control facility that is used for recycling, material recovery or energy recovery as defined in ORS 459.005.

#### Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

**Timely Filing** Criteria

ORS 468.173(1)  
OAR 340-016-0007

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

#### Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 12/15/2001 and submitted the application on 11/25/2002. The applicant submitted the application after they completed construction and placed the facility into operation on 1/15/2002.

**Purpose: Required** Criteria

ORS 468.155  
(1)(a)(A)  
OAR 340-016-0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ or EPA to prevent, reduce, or control water pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or



to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. ORS 468B.005

Applied to this Application

The applicant's Wastewater Permit limits the amount of total arsenic that can be discharged to 0.42 milligrams per liter (mg/l.) If the wastewater was not treated, the arsenic concentration would be approximately 35-40 mg/l. The treated wastewater has an arsenic concentration of 0.12 to 0.30 mg/l. The facility **complies** with **Industrial Wastewater Discharge Permit** number 133283 issued by Clean Water Services.

**Method**

ORS 468.155 Criteria

(1)(b)(A) The prevention, control, or reduction must be accomplished by disposal or elimination of industrial wastewater and the use of a treatment works for industrial waste as defined in ORS 468B.005.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

Arsenic compounds and fine gallium arsenide particles **meet the definition of** industrial waste. The Gallium Arsenide Filtration Unit and the Wastewater Treatment Facility **meet the definition of** a treatment works.

**Exclusions** Criteria

ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a  
OAR 340-016- Pollution Control Facility. Items that do not meet the definition are ineligible  
0070(3) for certification.

Applied to this Application

The application documents, the site visit, and discussions with the applicant did not indicate that there were any items for exclusion.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location; therefore, the facility is **not a replacement** facility.

**Maximum Credit** Criteria

ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 11/1/2000, completed construction on 12/15/2001, and submitted the application on 11/25/2002.

***Facility Cost***

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed <u>\$774,668</u>
		<b>Certified</b> <u>\$774,668</u>

***Facility Cost Allocable to Pollution Control***

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

***Compliance***

The DEQ staff assigned to the source is Mark Brogen at Clean Water Services affirmed the applicant's statement that the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued the following permits to the applicant at this site:

NC No. 018788, Air Quality, Issued August 10, 2001; No. 133283  
Industrial Wastewater, Clean Water Services issued on October 19, 2001

Reviewer: Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

1275 Bailey Hill Road  
Eugene, OR 97402

Organized as: **S Corp**  
Taxpayer ID: **93-0925466**

### *Technical Information*

Rexius Forest By-Products, Inc. has a solid waste composting facility. The applicant claims paving on 2.61 acres that are used in their composting activities. To reduce leachates, the applicant installed a gravel base and liner under the paving to maintain separation of the compost material and the subsurface. The new surface slopes at a 1% grade into an existing bio-swale that channels the contaminated runoff into an existing retention pond measuring approximately 75' x 200'. The water in the retention pond discharges to the sanitary sewer. The applicant also claims electrical service to support the aeration system for the compost windrows.

Before the applicant installed the new composting surface, they performed their composting activities on a clay liner that had a hog-fuel cap. The surface absorbed stormwater. This in conjunction with standing water caused odor, leachate, and vector problems. The improvements allow the applicant to operate in all weather conditions. It prevents the compost from mixing with the subsurface and it directs stormwater away from the compost.

### *Director's Recommendation*

Approve Application No. **6405 @ Reduced Cost**

Applicant: **Rexius Forest By-Products, Inc.**

Certification of:

Facility Cost		\$289,372
Percentage Allocable	X	100%
Maximum Percentage	X	25%
Tax Credit		<u>\$72,343</u>

Certificate Period: **10 years**

### *Facility Identification*

1250 Bailey Hill Road  
Eugene, OR 97402

The certificate will identify the facility as:

**A yard-cap on a 2.61-acre composting area that includes gravel, a liner, asphaltic paving, and a trench drain.**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business** that **uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, owns or leases a pollution control facility that is used for recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing** Criteria

OAR 340-016-0007

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 11/1/2002 and submitted the application on 12/12/2002. The applicant submitted the application after they completed construction and placed the facility into operation on 11/1/2002.

**Purpose: Required** Criteria

ORS 468.155

(1)(a)(A)

OAR 340-016-

0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ or EPA to prevent, reduce, or control water pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. ORS 468B.005

Applied to this Application

The compost yard-cap **complies** with the applicant's NPDES-1200Z general **storm water permit imposed by DEQ**. The primary or most important purpose of the claimed facility is to reduce water pollution.

The primary and most important purpose of the electrical service is to support the aeration system used to produce compost, not to control water pollution. The Department subtracted the cost of the system from the claimed facility cost below.

<b>Method</b> ORS 468.155 (1)(b)(A)	<u>Criteria</u> The prevention, control, or reduction must be accomplished by disposal or elimination of industrial wastewater and the use of a treatment works for industrial waste as defined in ORS 468B.005.
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"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

Storm water mixed with yard debris, composting materials, and soil **meets the definition of** industrial wastewater. The composting yard-cap **meets the definition of** a treatment works because it will stabilize and hold industrial waste.

<b>Exclusions</b> ORS 468.155(3) OAR 340-016- 0070(3)	<u>Criteria</u> The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.
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Applied to this Application

The application record did not indicate that the applicant included any ineligible costs.

<b>Replacement</b> ORS 468.155(3)(e)	<u>Criteria</u> The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.
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Applied to this Application

The State of Oregon issued five certificates to the applicant; two of which were

for controlling water pollution. The claimed facility **did not replace** any of the previously certified facilities.

**Maximum Credit** Criteria

ORS 468.170(2)(a) The maximum tax credit is 25% if the applicant began construction or installation of the facility between January 1, 2001 and December 31, 2003, inclusively; submitted the application after December 31, 2001; and the facility or the applicant do not qualify for the 50% or the 35% maximum tax credit.

Applied to this Application

The applicant began construction or installation of the facility on 7/1/2002. The maximum tax credit is 25% because the applicant submitted the application on 12/12/2002; and DEQ required the water pollution control; and the facility or the applicant do not qualify for a higher percentage under ORS 468.173(1) or ORS 468.173(3).

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed
		\$291,656
	<i>Purpose: Required</i> Electrical Service for Aeration System	-\$2,284
		<b>Certified</b>
		<b>\$289,372</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increase Costs: The application pays a low strength rate for controlling suspended solids pumped into the sanitary sewer.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

***Compliance***

Gary Cloyes with the City of Eugene affirmed that the applicant, the facility, and site comply with Department rules and statutes. DEQ issued the following permits to the applicant at this site:

NPDES 1200Z, 106920, Issued 1/7/1998;

SW General Permit – Compost, C2-001/#8001, issued 12/28/1998.

The City of Eugene issued a waiver to the applicant from monitoring two of their outfall areas. The City granted the waiver after the applicant met the benchmarks at those areas during four consecutive sampling events in a 24-month period.

Reviewer: Maggie Vandehey, DEQ





State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

105 Bayocean Road West  
Tillamook, OR 97141

Organized as: **Partnership**  
Taxpayer ID: **93-1326028**

### *Technical Information*

Eric & Roy Peterson Farm is a dairy farm with 200 milking cows and 160 heifers. The 1996 flood raised the bottom of the Tillamook River and, as a result, the applicant's pastureland has a shorter dry period. The applicant claims an animal waste management system that allows them to contain and treat animal waste and land-apply the manure to the farm's pastureland in the drier months. The applicant constructed:

- a new above-ground 100' diameter by 16' high liquid manure storage tank;
- a balloon roof to cover an existing 60' X 10' above-ground liquid manure storage tank;
- a 90' X 80' roof to cover a previously certified 30' diameter by 8' deep below-ground liquid manure storage tank and the surrounding solid/liquid manure separation slab. This roof increases the dry manure storage space by one-third to approximately 15,450 square feet. The applicant estimates that the roof structure prevents over 2,000 gallons of stormwater from mixing with manure and running off the slab.

### *Director's Recommendation*

**Approve Application No. 6464 @ Reduced Cost**

**Applicant: Eric & Roy Peterson Farm**

Certification of:

Facility Cost		\$120,307
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$42,107</u>

Certificate Period: **10 years**

### *Facility Identification*

105 Bayocean Road West  
Tillamook, OR 97141

The certificate will identify the facility as:

**One - 100' diameter above-ground liquid  
manure storage tank**

**One - Balloon roof over existing 60' x 10' above-  
ground liquid manure storage tank**

**One - Covered roof over existing 30' x 8' below-  
ground liquid manure storage tank**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business** that **uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, owns or leases a pollution control facility that is used for recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing**

OAR 340-016-0007

Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 10/20/2002 and submitted the application on 3/7/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 1/7/2003.

**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

OAR 340-016-

0060(2)(b)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of water pollution.

“Pollution” or “water pollution” means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.

Applied to this Application

The manure tank and covered storage areas have the **sole** purpose to prevent and control a substantial quantity of manure from mixing with stormwater and runoff

to the Tillamook River during the wettest months of the year.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(A)	The prevention, control, or reduction must be accomplished by disposal or elimination of industrial wastewater and the use of a treatment works for industrial waste as defined in ORS 468B.005.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

Manure **meets the definition of** industrial waste. The manure storage tanks and dry manure storage area **meet the definition of** a treatment works because they contain the animal waste and prevent it from reaching the Tillamook River.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Any distinct portion of a pollution control facility that makes an insignificant contribution to the principal or sole purpose of the facility is ineligible for certification.

Applied to this Application

The applicant included costs for road improvements and electrical costs for installing a hot water heater. The law specifically excludes road improvements from the definition of a pollution control facility. The electrical costs make an insignificant contribution to the water pollution control purpose of the facility. The Department subtracted the costs of these elements from the claimed facility cost under the *Facility Cost* section below.

<b>Replacement</b>	<u>Criteria</u>
ORS 468.155(3)(e)	The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location; therefore, the facility is **not a replacement** facility.

**Maximum Credit** Criteria

ORS 468.173(3)(f) The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the certified cost does not exceed \$200,000.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 3/7/2003, and the certified facility cost is \$120,307.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion		Cost
		Claimed	\$121,371
<i>Exclusions</i>	Roadway Improvements		-864
	Water heater hook up		-200
		<b>Certified</b>	<b>\$120,307</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility stores manure that the applicant uses for soil amendment on their own pastureland during the dry season.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

**Compliance**

The applicant states that the facility and site are in compliance with Department rules and statutes and with EQC orders.

Reviewer: Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

487 Char Street  
Roseburg, OR 97470

Organized as: **S Corp**  
Taxpayer ID: **93-0957891**

### *Technical Information*

Gary Yates is the owner of Yates Green Valley Diesel, a diesel truck repair shop. The applicant uses a steam cleaner and a wash rack to clean the trucks and parts. They had washed the trucks in different locations, sometimes in the shop area and sometimes outside. The applicant installed a wash system to protect groundwater and surface water from becoming contaminated with debris and petroleum products during the cleaning process.

The claimed facility is a concrete floor that is sloped toward a grilled collector pit. A gravity drain from the pit directs the wastewater to filters that remove oil, fuel, coolant, paint, polymers, alcohol, solvent, and other toxics. The applicant also installed a 9'4" X 30" X 4' concrete sediment tank and a 30' X 50' canopy over the wash area to prevent stormwater from entering the system. The cleaned water flows to a 1,500 gallon holding tank for reuse.

### *Director's Recommendation*

**Approve** Application No. **6480 @ Reduced Cost**

Applicant: **Gary Yates**

Certification of:

Facility Cost		\$25,050
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$8,768</u>

Certificate Period: **10 years**

### *Facility Identification*

1473 Austin Road  
Roseburg, OR 97470

The certificate will identify the facility as:

**A protected truck wash area with a Hydrocare  
2002R water cleaning and recycling system,  
serial # 2002RF00016A**

***Taxpayer Allowed Credit***

ORS 315.304(4) The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the **trade** or business that **uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, owns or leases a pollution control facility that is used for recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

The applicant is the owner of the trade that uses the claimed facility.

***Eligibility*****Timely Filing**

OAR 340-016-0007

Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 11/28/2002 and submitted the application on 3/21/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 11/28/2002.

**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

OAR 340-016-

0060(2)(b)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of water pollution.

“Pollution” or “water pollution” means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.

Applied to this Application

The applicant claims the facility has a **sole** purpose. The water recycler system and truck wash area prevents a **substantial quantity** of wastewater from entering the stormwater system. Previously, there was little or no control.

**Method** Criteria  
 ORS 468.155 (1)(b)(A) The prevention, control, or reduction must be accomplished by disposal or elimination of industrial wastewater and the use of a treatment works for industrial waste as defined in ORS 468B.005.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

Wastewater from washing diesel trucks **meets the definition of** industrial wastewater as defined by ORS 468B.005. The treatment portion of the water recycling system **meets the definition of** treatment works.

**Exclusions** Criteria  
 ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a  
 OAR 340-016-0070(3) Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The Hydro Care system includes pollution control components and components for reusing the cleaned water. The 1,500-gallon cleaned water storage tank and the claimed plumbing beyond that tank make an insignificant contribution to pollution control. The Department subtracted the costs of these components from the claimed facility cost under the *Facility Cost* section below.

**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location; therefore, the facility is **not a replacement** facility.

**Maximum Credit** Criteria

ORS 468.173(3)(f) The maximum tax credit is **35%** if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the certified cost does not exceed \$200,000.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 3/21/2003, and the certified facility cost is less than \$200,000.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
		Claimed \$25,747
<i>Exclusions</i>	1,500-gallon tank and associated reuse plumbing	-697
		<b>Certified</b> <u>\$25,050</u>

**Facility Cost Allocable to Pollution Control**ORS 468.190(3) Criteria

If the cost of the facility (or facilities certified under one certificate) does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

Applied to this Application

The certified facility cost is \$25,050 and the applicant uses the facility 100% of the time for pollution control.

**Compliance**

The applicant states that the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ has issued no permits to the applicant at this site.

Reviewer: Maggie Vandehey, DEQ





State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

92326 Taylorville Road  
Clatskanie, OR 97016

Organized as: **C Corp.**  
Taxpayer ID: **541237819**

#### *Director's Recommendation*

Approve Application No. 6482

Applicant: **Fort James Operating Company -  
Georgia-Pacific Wauna**

Facility Cost		\$292,219
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit:		<u>\$146,110</u>

Certificate Period: **10 years**

#### *Facility Identification*

92326 Taylorville Road  
Clatskanie, OR 97016

The certificate will identify the facility as:

**29 - Secondary containment systems**

#### *Technical Information*

Fort James Operating Company, Georgia Pacific Wauna, manufactures paper towels and tissue products at its mill in Clatskanie, Oregon. The applicant installed secondary containment under and around the transformers and tanks listed below. Each secondary containment installation holds 110% of the volume of liquid transformer or tank within its boundaries.

- The applicant constructed thirteen concrete containment systems around fifteen transformers. They constructed concrete walls on an existing concrete transformer pad. Eleven of the systems were around individual transformers and two were around two pairs of transformers. Each containment system includes a valve that the applicant keeps closed except to drain storm water to a dry well. The transformers have liquid capacities ranging from 96 to 1,340 gallons.
- The applicant constructed six secondary containment systems located in the secondary treatment plant. The systems collect spills and divert them to new sumps that connect to the process sewer. The applicant constructed concrete walls on existing concrete tank pads for the alum tank and the polymer tank. They added concrete floors inside existing containment walls for the ammonia tank, sulfuric acid tank, caustic tank, and the phosphoric tank. Each containment system includes a valve that the applicant keeps closed

except to drain storm water to a dry well. The tanks range in size from 4,500 to 36,200 gallons.

- The applicant constructed eight secondary containment systems located in the recausticizing area to collect spills and divert them to the process sewer. The applicant constructed concrete walls on existing concrete tank pads for the two dregs washer tanks. They added a concrete floor inside existing containment walls for the remaining six liquor and lime tanks. The tanks range in size from 44,000 to 640,000 gallons. Each containment system includes a valve that the applicant keeps closed except to drain storm water to a dry well.
- The applicant constructed two secondary containment systems for two 320-gallon diesel tanks that included concrete walls on existing concrete tank pads. One diesel tank is located near the main gate and the other tank is located on the wharf.

### ***Taxpayer Allowed Credit***

ORS 315.304(4)(b) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, owns or leases a pollution control facility that is used for recycling, material recovery or energy recovery as defined in ORS 459.005.

#### Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility*** Criteria

#### **Timely Filing**

ORS 468.173(1)  
OAR 340-016-0007

The applicant must file the application within two years after the date that construction of the facility is complete. The final application, however, is not valid if the applicant submits the application before construction is completed or before the facility is placed into operation.

#### Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 12/31/2001 and submitted the application on 3/25/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 12/31/2001.

### **Purpose: Required** Criteria

ORS 468.155  
(1)(a)(A)  
OAR 340-016-  
0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ or EPA to prevent, reduce, or control water pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. ORS 468B.005

Applied to this Application

The secondary containment systems **comply** with the applicant's **DEQ Storm Water Permit**. The permit requires that the applicant provide secondary containment if there is a possibility of any contaminants mixing with stormwater. In compliance with environmental regulations, the secondary containments hold 110% of the industrial liquids in the transformers and tanks. The secondary containment systems prevent any spills from contaminating the Columbia River.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(A)	The prevention, control, or reduction must be accomplished by disposal or elimination of industrial wastewater and the use of a treatment works for industrial waste as defined in ORS 468B.005.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

Transformer oil, alum, aqua ammonia, sulfuric acid, sodium hydroxide, phosphoric acid, and several process chemicals in the recausticizing area **meet the definition of** industrial waste if spilled. The secondary containment systems **meet the definition of** treatment works in ORS 468B.005.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of more than 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The application record did not indicate that the applicant included any ineligible costs.

**Replacement Criteria**  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued 23 certificates to the applicant. Nine were for controlling water pollution and 14 were for controlling air pollution. The claimed facility **did not replace** any of the previously certified facilities.

**Maximum Credit Criteria**  
 ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the  
 OAR 340-016-0007 facility is certified under the 1999 Edition of ORS 468.155 to 468.190.

Applied to this Application

The maximum tax credit is 50% because the applicant completed construction of the facility on 12/31/2001, and submitted the application on 3/25/2003.

**Facility Cost**

Copies of invoices substantiated the claimed facility.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	
			\$292,219
		<b>Certified</b>	<b>\$292,219</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increased Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

ORS 468.190(1)(e) Other Relevant Factors: The application record does not indicate there are any other relevant factors.

### ***Compliance***

The DEQ staff assigned to the source is Dennis Jurries in the Northwest region who affirmed the applicant's statement that the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued the following permits to the applicant at this site: NPDES No. 100716, Oregon Title V No. 04-0004, issued May 10, 2002, and solid waste permits, No. 1148, 1032, and 1171.

Reviewers: Dennis Cartier, PBS Engineering and Environmental  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

92326 Taylorville Road  
Clatskanie, OR 97016

Organized as: **C Corp.**  
Taxpayer ID: **54-1237819**

### *Technical Information*

Fort James Operating Company, Georgia Pacific Wauna, manufactures paper towels and tissue at its Clatskanie mill. The production machinery requires a large quantity of lubricating oil. The applicant claimed three distinct projects on the same application.

- Project I      The applicant constructed a 42' x 61' concrete slab to store lubricating oil. They installed a slotted drain pipe around the perimeter of the slab that discharges to the mill's wastewater treatment system. If an oil spill were to occur, the mill's wastewater treatment system will contain the oil. The claimed facility does not include the piping to the treatment system.
- Project II      The applicant installed a metal roof over the slab claimed in Project I. The roof was installed to reduce the amount of stormwater discharged to the mill's wastewater treatment system.
- Project III     Hazardous Waste Storage Facility Remodel. The applicant claims an 8' by 19.5' concrete secondary containment with 4' high concrete walls for a 3,000-gallon used oil holding tank. They also claim a 15' by 20' concrete slab that slopes to a 200-gallon concrete open sump with grating for hazardous waste storage and to house the spent oil-filter crushing

### *Director's Recommendation*

**Approve** Application No. 6483 @ **Reduced Cost**

Applicant: **Fort James Operating Company -  
Georgia-Pacific Wauna**

Facility Cost		\$41,300
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit:		<u>\$14,455</u>

Certificate Period: **10 years**

### *Facility Identification*

92326 Taylorville Road  
Clatskanie, OR 97016

The certificate will identify the facility as:

### **Hazardous Waste and Used Oil Spill Containment**

machine. The sump is 3' by 6' ft and it is 2.5' deep.

Prior to constructing the claimed facilities, the applicant stored lube oil and used oil throughout the mill. DEQ approved oil recycling companies to remove used oil from the site.

### ***Taxpayer Allowed Credit***

ORS 315.304(a)(b) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business** that **uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, owns or leases a pollution control facility that is used for recycling, material recovery or energy recovery as defined in ORS 459.005.

#### Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

### ***Eligibility***

#### **Timely Filing**

OAR 340-016-0007

#### Criteria

The application must be filed within:

- **two years** of the date that construction of the facility was completed if construction was completed on or before December 31, 2001; or
- **one year** of the date that the applicant completed construction of the facility if that date is on or after January 1, 2002.

#### Applied to this Application

The applicant completed Project I on 2/01/00. The applicant would have had to submit the application on or before 2/01/2002 to meet the two-year filing requirement. The applicant completed Project II on 10/23/2000. The applicant would have had to submit the application on or before 10/23/2002 to meet the two-year filing requirement. The applicant, however, submitted the application on 3/25/2003. The Department subtracted the costs associated with the Projects I and II from the claimed facility cost under the *Facility Cost* section below.

The applicant completed Project III on 4/15/2002. The applicant **filed** the application **within** the one-year filing requirement on 3/25/2003.

**Purpose: Required** Criteria

ORS 468.155 (1)(a)(A) OAR 340-016-0060(2)(a) The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ or EPA to prevent, reduce, or control water pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. ORS 468B.005

Applied to this Application

The Hazardous Waste Storage Facility Remodel has a **principal** purpose because it **complies** with **DEQ** (OAR 340-100 through 120) and **EPA hazardous waste rules** [40 CFR 262.34(a)]. The primary or most important purpose of the claimed facility is to prevent water pollution.

**Method** Criteria

ORS 468.155 (1)(b)(A) The prevention, control, or reduction must be accomplished by disposal or elimination of industrial wastewater and the use of a treatment works for industrial waste as defined in ORS 468B.005.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

The Hazardous Waste Storage Facility Remodel **meets the definition of a** treatment works. The claimed facility consists of secondary containment which holds wastes in the event of a tank failure.

Used oil and hazardous waste discharged to the industrial sewer system **meets the definition of** an industrial wastewater as defined by ORS 468B.005.



**Exclusions** Criteria

ORS 468.155(3) The regulations provide a list of more than 40 items excluded from the definition of a Pollution Control Facility. Insignificant contributions to the facility's pollution control purpose are ineligible for certification.

OAR 340-016-0070(3)

Applied to this Application

The shipping scales and fencing make an insignificant contribution to the principal purpose of the facility. The applicant uses the scales to document the quantity of hazardous waste shipped off-site. They use the fencing to prevent unauthorized entry into the hazardous waste area. The Department subtracted the costs of these items from the claimed facility cost under the *Facility Cost* section below.

**Replacement** Criteria

ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued 23 certificates to the applicant. Nine were for controlling water pollution and 14 were for controlling air pollution. The claimed facility **did not replace** any of the previously certified facilities.

**Maximum Credit** Criteria

ORS 468.173(1) The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively; and if construction or installation of the facility is less than \$200,000.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application on 3/25/2003, and the certified cost is \$41,300.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Claimed	Cost
			\$147,070
<i>Other</i>	Stormwater containment wall - omission		3,500
<i>Timely Filing</i>	Project I		-38,700
	Project II		-66,770
<i>Exclusions</i>	Shipping scale		-1,600
	Fencing		-2,200
		<b>Certified</b>	<b>\$41,300</b>

***Facility Cost Allocable to Pollution Control***ORS 468.190(3) Criteria

If the cost of the facility (or facilities certified under one certificate) does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

Applied to this Application

The certified facility cost is \$41,300 and the applicant uses the facility 100% percent of the time for pollution control.

***Compliance***

The DEQ staff member assigned to the source is Dennis Jurries from the Northwest regional office. Mr. Jurries affirmed the applicant's statement that the facility and site are in compliance with Department rules and statutes, and with EQC orders. DEQ issued the following permits to the applicant at this site:

NPDES Storm Water Permit 1200-Z issued on 6/30/02

NPDES Storm Water Permit 1200-C issued on 8/12/02

Air Contaminant Discharge Permit Numbers 04-0004 and 04-003 issued on 6/10/02 and 6/6/02.

Reviewers: Dennis Cartier, PBS Engineering and Environmental  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

Teri Georgette Andrews  
dba CG Industries, Inc.  
1282 Commerical Way SE  
Albany, OR 97322

Organized as: **S Corp**  
Taxpayer ID: **543-74-0120**

#### *Technical Information*

CG Industries, Inc. is a metal finishing business that specializes in anodizing parts for various industries. Anodizing produces industrial waste laden with heavy metals. The applicant claims a pre-treatment system that reduces nickel, lead and zinc before they discharge the wastewater to the City of Albany's treatment works. The system includes the following components.

##### Advance Filter Press

The applicant installed a filter press on their Electroless Nickel plating line. Chelators added to the solution allow the applicant to achieve uniform nickel plating. The waste stream contains nickel metallic waste held in suspension by the chelators. The system adjusts the pH to break down the chelators and to allow the nickel to settle in the bottom of the claimed 200-gallon treatment tank. The applicant then pumps the metal-laden sludge to the claimed filter press.

##### Metals Pretreatment Process

The applicant claims a second 200-gallon tank to treat wastewater from the zincate plating and the nickel acetate processes. The wastewaters contain acidic metal. The system adds lye to adjust the pH of the combined wastes, which allows the heavy metals to precipitate out of solution. The system then pumps the solution through a filter to remove the metals to be disposed of appropriately.

### *Director's Recommendation*

Approve Application No. **6502 @ Reduced Cost**

Applicant: **Teri Georgette Andrews**

Certification of:

Facility Cost		\$128,402
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<u>\$44,941</u>

Certificate Period: **7 years**

#### *Facility Identification*

1282 Commercial Way SE  
Albany, OR 97322

The certificate will identify the facility as:

**Wastewater treatment system  
Advance Filter Press, Model 630 MM**

Acid/Alkali Waste Neutralization Process

The third treatment process treats acidic waste without metals. The acidic rinse waters from the non-metal plating lines are treated for PH balance prior to discharge to the city's sewer system. The applicant claims one 550-gallon neutralization tank with agitators.

The claimed filter, tanks and pumps are located in an existing 8 ft. by 12 ft. shed with a newly sealed berm that acts as secondary containment.

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business** that **uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property;

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing** Criteria

OAR 340-016-0007

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 1/1/2003 and submitted the application on 4/24/2003. The applicant submitted the application after they completed construction and placed the facility into operation on 1/1/2003.

**Purpose: Required**

- ORS 468.155 Criteria  
(1)(a)(A) The **principal purpose** of the claimed facility must be to comply with a requirement imposed by DEQ or EPA to prevent, reduce, or control water pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.  
OAR 340-016-0060(2)(a)

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. ORS 468B.005

Applied to this Application

The advance filter, metal pretreatment, and the neutralization treatment systems **comply with wastewater discharge permit # 3471-01** imposed by the City of Albany.

The applicant claims the cost of their previous K-2000 water filtration system; which they installed in 1999 to meet the City of Albany's discharge requirement. The resin filter bed, however, failed to bring the applicant into compliance. The applicant incorporated some of the plumbing and the sediment filter from this previous system into the claimed facility but removed the resin bed itself. The Department subtracted the cost associated with the previous system from the claimed facility cost under the *Facility Cost* section below.

- Method** Criteria  
ORS 468.155 The prevention, control, or reduction must be accomplished by disposal or elimination of industrial wastewater and the use of a treatment works for industrial waste as defined in ORS 468B.005.  
(1)(b)(A)

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

Heavy metals such as nickel, lead, copper and zinc and acidic wastewater **meet the definition of** water pollution as defined under the *Purpose: Required* section above.

The wastewater treatment system **meets the definition of** treatment works in ORS 468B.005.

- Exclusions** Criteria  
 ORS 468.155(3) The regulations provide a list of over 40 items excluded from the definition of a  
 OAR 340-016- Pollution Control Facility. Items that do not meet the definition are ineligible  
 070(3) for certification.

Applied to this Application

The applicant included the **start-up costs and training**, which regulations specifically exclude from the definition of a pollution control facility. The Department subtracted the costs of these items from the claimed facility cost under the *Facility Cost* section below.

- Replacement** Criteria  
 ORS 468.155 (3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location; therefore, the facility is not a replacement facility.

- Maximum Credit** Criteria  
 ORS 468.173(1) The applicable percentage of the certified cost of a facility is 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed construction prior to January 1, 2004.
- ORS 468.173(3)(f) The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the certified cost does not exceed \$200,000.

Applied to this Application

The applicant expected the facility would be eligible for the 50% maximum by virtue of the previous wastewater treatment system, which they installed in 1999. The Department provides a discussion of this system under the *Purpose: Required* section above.

The maximum tax credit is 35% because the applicant submitted the application on 4/24/2003, and the certified facility cost is **\$128,402**.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion		Cost
		Claimed	\$141,337
<i>Timely</i>	K2000 ceramic filtration system		-9,935
<i>Exclusions</i>	Start-up costs and training		-3,000
		<b>Certified</b>	<b>\$128,402</b>

**Facility Cost Allocable to Pollution Control**

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is 7 years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

**Compliance**

The DEQ staff assigned to the source, Ben Maynard for Western Region, affirmed the applicant's statement that the facility and site are in compliance with Department rules and statutes, and with EQC orders. The City of Albany issued a wastewater discharge permit on July 15, 2000 for the site.

Reviewers: Maggie Vandehey, DEQ  
Jeannette Freeman, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Water

#### Final Certification

ORS 468.150 -- 468.190

OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

PO Box 460  
Albany, OR 97321

Organized as: **C Corp.**

Taxpayer ID: **95-2316677**

### *Technical Information*

TDY Industries, Inc. , dba Wah Chang, produces, refines, and forms zirconium and other non-ferrous metals. The process risks spills of sulfuric acid, hydrochloric acid, ammonium chloride, ammonium hydroxide and methyl isobutyl ketone. The existing spill containment area collects any spill from the Separations process and directs it to the Spills Treatment System via a 350-foot underground drain line. The old drainage system was originally constructed of clay tiles that had broken sections.

The applicant installed a drain line system manufactured by Anchor-Lok inside the existing drain line. The system is a chemical-resistant epoxy material that uses the old tile for structural support. The applicant lined approximately 350 feet of six-and eight-inch diameter tile. Without the liner system, chemicals could leak into the surrounding soil and groundwater.

### *Director's Recommendation*

**Approve** Application No. **6509**

Applicant: **TDY Industries, Inc.**

Certification of:

Facility Cost		\$76,130
Percentage Allocable	X	100%
Maximum Percentage	X	35%
Tax Credit		<hr/> \$26,646

Certificate Period: **10 years**

### *Facility Identification*

1600 Old Salem Road, NE  
Albany, OR 97321

The certificate will identify the facility as:

### **Separations Spill Treatment Area Drainpipe Liner**



***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business** that **uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, owns or leases a pollution control facility that is used for recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing**

OAR 340-016-0007

Criteria

The applicant must file the application within one year after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the one-year filing requirement because they completed construction on 9/20/2002 and submitted the application on 5/9/2003. The facility was placed into operation on 9/23/2002.

**Asset** Criteria

ORS 468.155(1)(a) A "pollution control facility" or "facility" means any land, structure, building, installation, excavation, machinery, equipment or device, or any addition to, reconstruction of or improvement of, land or an existing structure, building, installation, excavation, machinery, equipment or device reasonably used, erected, constructed or installed by any person.

ORS 340-016-0010 (10) "Reconstruction or Replacement" means the provision of a new facility with qualities and pollution control characteristics equivalent to the facility that is being replaced. This does not include repairs or work done to maintain the facility in good working order.

ORS 340-016-0060 (1) Eligible facilities include any land, structure, building, installation, excavation, machinery, equipment or device, or alternative methods for field sanitation and straw utilization and disposal. An eligible facility may be a new facility; an addition or improvement to an existing facility; or the reconstruction or replacement of an existing facility.

Applied to this Application

The applicant did not repair the existing clay tile but used it as support for the claimed facility. The claimed facility is a complete reconstruction of an existing facility.

**Purpose: Required**Criteria

ORS 468.155 (1)(a)(A) OAR 340-016-0060(2)(a) The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ or EPA to prevent, reduce, or control water pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. ORS 468B.005

Applied to this Application

The applicant claims the facility has a **principal** purpose. The drain line system **complies** with the applicant's 1200Z **Storm Water permit** imposed by DEQ.

**Method**Criteria

ORS 468.155 (1)(b)(A) The prevention, control, or reduction must be accomplished by disposal or elimination of industrial wastewater and the use of a treatment works for industrial waste as defined in ORS 468B.005.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

Spills of sulfuric acid, hydrochloric acid, ammonium chloride, ammonium hydroxide and methyl isobutyl ketone **meet the definition of** industrial waste as defined by ORS 468B.005.

The drain line system **meets the definition of** treatment works in ORS 468B.005.

**Exclusions** Criteria  
 ORS 468.155 (3) The regulations provide a list of more than 40 items excluded from the definition  
 OAR 340-016- of a Pollution Control Facility. Items that make an insignificant contribution to  
 0070(3) the pollution control purpose do not meet the definition and are ineligible for  
 certification.

Applied to this Application

The application record did not indicate that the applicant included any ineligible costs.

**Replacement** Criteria  
 ORS 468.155(3)(e) The replacement or reconstruction of all or part of a facility that has previously  
 been certified as a pollution control facility under ORS 468.170 is not eligible  
 for the tax credit with two exceptions: 1) the facility was replaced due to a  
 requirement imposed by DEQ or EPA that is different than the requirement to  
 construct the original facility; or 2) the facility was replaced before the end of its  
 useful life.

Applied to this Application

The State of Oregon certified 137 pollution control facilities at this location: 72  
 were for controlling water pollution. The claimed facility **did not replace** any  
 of the previously certified facilities.

**Maximum Credit** Criteria  
 ORS 468.173(3)(g) The maximum tax credit is 35% if the applicant submitted the application  
 between January 1, 2002 and December 31, 2008, inclusively, and the certified  
 cost does not exceed \$200,000.

Applied to this Application

The maximum tax credit is 35% because the applicant submitted the application  
 on 5/9/2003, and the certified facility cost is \$76,130.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	
			\$76,130
		<b>Certified</b>	<b>\$76,130</b>

***Facility Cost Allocable to Pollution Control***

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

<b>Factor</b>	<b>Applied to this Facility</b>
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>30</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increased Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

***Compliance***

The DEQ staff member assigned to the source is Raghu Namburi for water quality from the Western Region Office. Mr. Namburi has affirmed that the claimed facility is in compliance with its NPDES General Permit – Stormwater Permit No. 1200-Z. DEQ issued the following permits to the site:

Title V Air Contaminant Discharge Permit No. 22-0547, issued September 12, 2001

NPDES General Permit – Storm Water Permit No. 1200-Z, issued July 22, 1997

NPDES Wastewater Discharge Permit No. 100522, issued September 30, 1988.

Reviewers: Dennis Cartier, PBS Engineering and Environmental  
Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

PO Box 460  
Albany, OR 97321

Organized as: **C Corp**  
Taxpayer ID: **95-2316679**

### *Technical Information*

TDY Industries, Inc., dba Wah Chang, uses zircon sand as raw material for producing zirconium and hafnium metal products at its Albany, Oregon plant. The Sand Chlorination process uses chlorine gas in a high-temperature reactor to convert a mixture of zircon sand and coke to zirconium tetrachloride ( $ZrCl_4$ ) powder, silicon tetrachloride ( $SiCl_4$ ) liquid, and waste metal chloride powders. This production takes place in enclosures that pick up the fumes. Chemical buildup on the equipment inside the enclosures need to be washed periodically resulting in highly concentrated acidic wastewater.

Prior to installing the claimed facility the washwater discharged directly to the applicant's Central Wastewater Treatment System and overloaded the treatment system. The periodic high loading of the acidic wastewater created operational problems resulting in poor control of pH.

The applicant installed the claimed waste treatment system that includes two 5,000-gallon fiberglass pre-treatment tanks, a pH control system, and two waste acid circulation pumps. Existing trenches carry the wastewater to the tanks at a pH of <2.0. The pH control system adds caustic to start neutralizing the acidic wastewater and adjusts the pH to approximately 5.0 before slowly discharging it to the Central Wastewater Treatment System for further pH adjustment. The claimed facility eliminated the wastewater permit pH violations.

### *Director's Recommendation*

Approve Application No. 6523

Applicant: **TDY Industries, Inc.**

Certification of:

Facility Cost		\$475,495
Percentage Allocable	X	100%
Maximum Percentage	X	50%
Tax Credit		<u>\$ 237,748</u>

Certificate Period: **10 years**

### *Facility Identification*

1600 Old Salem Road  
Albany, OR 97321

The certificate will identify the facility as:

**A Wastewater Treatment System**

***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) **Owner**, including a contract purchaser, of the trade or **business that uses the Oregon property** requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, owns or leases a pollution control facility that is used for recycling, material recovery or energy recovery as defined in ORS 459.005.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing**

ORS 468.173(1)

OAR 340-016-0007

Criteria

The applicant must file the application within two years after the date that they completed construction of the facility. The final application, however, is not valid if the applicant submits the application before they complete construction or before they place the facility into operation.

Applied to this Application

The applicant **filed** the application **within** the two-year filing requirement because they completed construction on 6/21/2001 and submitted the application on 4/29/2002. The applicant submitted the application after they completed construction and placed the facility into operation on 5/16/2001.

**Purpose: Required** Criteria

ORS 468.155

(1)(a)(A)

OAR 340-016-

0060(2)(a)

The principal purpose of the claimed facility must be to comply with a requirement imposed by DEQ or EPA to prevent, reduce, or control water pollution. That principal purpose must be the most important or primary purpose of the facility. The facility must have only one primary purpose.

"Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof. ORS 468B.005

Applied to this Application

The applicant claims the facility has a sole purpose, however, the facility was installed to **comply** with the applicant's NPDES **Wastewater Discharge Permit** No. 100522 issued by the DEQ on 09/30/1988. Therefore, the facility has a **primary** purpose to reduce water pollution.

<b>Method</b>	<u>Criteria</u>
ORS 468.155	The prevention, control, or reduction must be accomplished by disposal or
(1)(b)(A)	elimination of industrial wastewater and the use of a treatment works for
	industrial waste as defined in ORS 468B.005.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

Concentrated acidic rinse water **meets the definition of** industrial wastewater as defined by ORS 468B.005. The wastewater treatment system **meets the definition of** treatment works in ORS 468B.005.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3)	The regulations provide a list of over 40 items excluded from the definition of a
OAR 340-016-	Pollution Control Facility. Items that do not meet the definition are ineligible
0070(3)	for certification.

Applied to this Application

The application record did not indicate that the applicant included any ineligible costs.

<b>Replacement</b>	<u>Criteria</u>
ORS 468.155(3)(e)	The replacement or reconstruction of all or part of a facility that has previously
	been certified as a pollution control facility under ORS 468.170 is not eligible
	for the tax credit with two exceptions: 1) the facility was replaced due to a
	requirement imposed by DEQ or EPA that is different than the requirement to
	construct the original facility; or 2) the facility was replaced before the end of its
	useful life.

Applied to this Application

The State of Oregon issued 137 certificates to the applicant at this location; 72 for controlling water pollution. The claimed facility **did not replace** one of the previously certified facilities.

**Maximum Credit** Criteria

ORS 468.173(1) The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit is 50% because the applicant began construction on 3/08/2000, completed construction on 6/21/2001, and submitted the application on 4/29/2002.

***Facility Cost***

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	
			\$475,495
		<b>Certified</b>	<b>\$475,495</b>

***Facility Cost Allocable to Pollution Control***

The Applicant and the Department considered the following factors to determine that **100%** of the facility cost is allocable to pollution control.

<b>Factor</b>	<b>Applied to this Facility</b>
ORS 468.190(1)(a)	Salable/Usable Commodity: The facility produces no salable or usable commodities.
ORS468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years. The claimed facility does not have a return on the investment; therefore, 100% of the facility cost is allocable to pollution control.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology. The Reviewers concur.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The application record does not indicate there are any other relevant factors.

***Compliance***

The DEQ staff assigned to the source is Raghu Namburi in the Western Region Office. He affirmed the applicant's statement that the claimed facility is in compliance Department rules and statutes and with EQC orders. DEQ issued the following permits to the applicant at this site:

Title V Air Contaminant Discharge Permit No. 22-0547, issued September 12, 2001  
 NPDES General Permit – Storm Water Permit No. 1200-Z, issued July 22, 1997  
 NPDES Wastewater Discharge Permit No. 100522, issued September 30, 1988

Reviewers: PBS Engineering and Environmental  
 Maggie Vandehey, DEQ



# Attachment E

## Background and References for Denials

The Department recommends that the Environmental Quality Commission deny the 3 applications presented in this attachment.

App #	Applicants	Claimed Cost	Media	EQC Action
5912	Clackamas Compost Products, LLC	111,778	SW	
6421	Whittier Wood Products Company	49,550	Air	
6484	Terrain Tamers Chip Hauling Inc.	18,574	Water	
<b>Apps</b>	<b>Sum</b>	<b>179,902</b>		
3	Average	59,967		
	Minimum	18,574		
	Maximum	11,778		
	Median	49,550		

The two common reasons why the Department recommends that the Commission deny certification are:

- The applicant failed to file their application within the required filing period; and
- The facility does not meet the definition of a pollution control facility and is therefore an ineligible facility.

The tax credit regulations use the words "rejection" and "denial" interchangeably as noted in the following authorities.

Statutory Provision for Denying Certification - Filing Period

ORS 468.165 As applied to ORS 468.155 to 468.190

...

- (6) The application shall be submitted after construction of the facility is substantially completed and the facility is placed in service and within one year after construction of the facility is substantially completed. **Failure to file a timely application shall make the facility ineligible for tax credit certification.** An application may not be considered filed until it is complete and ready for processing. The commission may grant an extension of time to file an application for circumstances beyond the control of the applicant that would make a timely

filing unreasonable. However, the period for filing an application may not be extended to a date beyond December 31, 2008.

By rule, the Department has authority to reject applications that the applicant failed to file within the required period. In practice, the Department has not rejected these applications but presented them to the Commission for action.

#### OAR 340-016-0055 Application Procedures

...

- (2) Application for Final Certification. The applicant shall submit all information, exhibits and substantiating documents requested on the application for final certification. The Department shall **reject** the application for final certification if the applicant fails to submit the application:
- (a) After the construction of the facility is substantially complete and the facility is placed in service;
  - (b) Within two years<sup>9</sup> after construction of the facility is substantially completed; and
  - (c) On or before December 31, 2003.

#### One-year, Two-year Filing Period

The 2001 Legislature passed Senate Bill 764-B (Oregon Laws, 2001, Chapter 928), which made a number of changes to the Pollution Control Facilities Tax Credit law. One of the changes was a reduction in the filing period from two years to one year.

The EQC adopted the following rule in order to clarify effective dates of Senate Bill 764-B. Section 6(1) of the Act was ambiguous with respect to facilities certified under the 1999 edition of ORS 468.155 to 468.190 when considered in conjunction with the effective date and other language in the Act. The EQC determined that a restrictive and unintended interpretation of the 2001 Act would withhold the tax credit from some applicants that constructed or installed facilities under the provisions of the 1999 edition.

#### OAR 340-016-0007 Facilities certified under the 1999 Edition

For the purposes of Oregon Revised Statute 468.173(1), a facility may be certified under the 1999 edition of ORS 468.155 to 468.190 if the facility was substantially completed on or

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<sup>9</sup> The Department will change the filing period to one year during the triennial pollution control facilities tax credit rules review.

before December 31, 2001, and an application was filed with the Department within two years after the date of substantial completion. Adopted 10-4-02; effective 11-01-02

Statutory Provision for Denying Certification - General

ORS 468.170 Action on application; rejection; appeal; issuance of certificate; certification.

...

- (2) If the commission **rejects** an application for certification, or certifies a lesser actual cost of the facility or a lesser portion of the actual cost properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil than was claimed in the application for certification, the commission shall cause written notice of its action, and a concise statement of the findings and reasons therefore, to be sent by registered or certified mail to the applicant before the 120th day after the filing of the application.

ORS 468.190 Allocation of costs to pollution control.

...

- (2) The portion of actual costs properly allocable shall be from zero to 100 percent in increments of one percent. If zero percent, the commission shall issue an order **denying** certification.



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### **Pollution Control Facility: Material Recovery**

#### **Final Certification**

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### ***Applicant Identification***

20200 SW Stafford Road  
Tualatin, OR 97062

Organized as: **LLC**  
Taxpayer ID: **93-1277173**

### ***Director's Recommendation***

**Deny** Application No. **5912** - Untimely Filing

Applicant: **Clackamas Compost Products, LLC**

#### Claimed:

Facility Cost	\$111,778
Percentage Allocable	100%
Maximum Percentage	50%

#### ***Facility Identification***

11620 SE Capps Road  
Clackamas, OR 97015

The applicant identified the facility as:

#### **Yard Cap Facility**

#### ***Technical Information***

Clackamas Compost Products, LLC is a composting and recycling yard that provides hog fuel and garden mulch for sale to the public. The applicant installed a paved yard cap to prevent rain water from mixing with yard debris and other organic material, and contaminating the local groundwater. With the installation of the yard cap, the wastewater run-off is now channelled directly into the settling ponds.

#### ***Taxpayer Allowed Credit***

ORS 315.304(4) Criteria

The taxpayer who is allowed the credit is the:

- (a) Owner, including a contract purchaser, of the trade or business that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- (b) Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or
- (c) Person who, as an owner, including a contract purchaser, or lessee, **owns** or leases a **pollution control facility** that is used for **recycling, material recovery** or energy recovery as defined in ORS 459.005.

Applied to this Application

The applicant owns the recycling and material recovery facility.

**Eligibility****Timely Filing**

1999 Edition

ORS 468.165(6)

OAR 348-016-0070

Criteria

The applicant must file the final application **after** they complete construction **and after** they place the facility into operation. Under the 1999 edition, the applicant must file the application **within two years** after the date that they complete construction of the facility.

Applied to this Application

The applicant filed the application after they completed construction and after they placed the facility into operation on 12/22/1999. The applicant completed construction before January 1, 2002; therefore, the applicant filed the application under the 1999 edition of ORS 468.155 to 468.190. The Department recommends the Commission deny certification because the applicant **filed** the application on 12/17/2001, which is **more than two years** after they completed construction on 10/29/1999.

**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

OAR 340-016-

0010(7)(a)(b)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of solid waste, hazardous waste: or used oil.

"Material Recovery" means any process, such as pre-segregation, for obtaining materials from solid waste, hazardous waste or used oil. The recovered material shall still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. The recovered material shall have useful physical or chemical properties that yield a competitive end-product of real economic value. The material recovery process **does not include** processes in which the major purpose is the **production of fuel** from solid waste, hazardous waste or used oil which can be **utilized for heat content** or other forms of energy.

Applied to this Application

The applicant claims the facility reduces, prevents, or controls a substantial quantity of solid waste. The facility produces garden mulch and a minor amount of hog fuel.

**Method**

ORS 468.155

(1)(b)(D)

Criteria

The prevention, control, or reduction must be accomplished by the use of a material recovery process which obtains useful material from material that would otherwise be solid waste below:

"Solid waste" as defined by ORS 459.005 means all useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded

commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined by ORS 459.386.

Applied to this Application

Yard debris and scrap wood **meets the definition** of solid waste as defined in ORS 459.005.

OAR 340-016-0010(7)  
OAR 340-016-0060(4)(e)

Criteria

The facility produces an end product of utilization that is an item of real economic value and is competitive with an end product produced in another state. The facility produces the end product by mechanical processing, chemical processing; or through the production, processing, pre-segregation, or use of materials which:

- (A) Have useful chemical or physical properties and which may be used for the same or other purposes: or
- (B) May be used in the same kind of application as its prior use without change in identity.

Applied to this Application

A portion of the facility produces the garden mulch through sorting and composting yard debris and scrap wood from solid waste.

OAR 340-016-0010(7)

Criteria

Burning solid waste, hazardous waste, or used oil **fails to meet the definition** of "Material Recovery" if the facility includes processes:

- (a) In which the major purpose is the **production of fuel from solid waste**, hazardous waste, or used oil which can be utilized for heat content or other forms of energy; or
- (b) That burns waste to produce energy or to reduce the amount of waste. However, it does not eliminate from eligibility a pollution control device associated with a process which burns waste if such device is otherwise eligible for pollution control tax credit.

Applied to this Application

A portion of the facility produces material that the applicant sells as hog fuel. The Department would have excluded this portion of the facility.

**Replacement**  
ORS 468.155 (3)(e)

Criteria

The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has issued two Pollution Control Facilities Tax Credit Certificates for equipment to the applicant at this location. However, the claimed facility did **not replace** any of the previously certified facilities.

**Maximum Credit**  
ORS 468.173(1)Criteria

The applicable percentage of the certified cost of a facility shall be 50% if the applicant began construction or installation of the facility prior to January 1, 2001, and completed prior to January 1, 2004.

Applied to this Application

The maximum tax credit would have been 50% because the applicant began construction on 9/17/1999, completed construction on 10/29/1999, and submitted the application on 12/17/2001.

**Facility Cost**

Copies of invoices substantiated the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost	
		Claimed	\$111,778

**Facility Cost Allocable to Pollution Control**

The Applicant claims that **100%** of the facility cost is allocable to pollution control. The Department would have adjusted the percentage according to the following factors.

Factor	Applied to this Facility
ORS 468.190(1)(a)	Saleable/Useable Commodity: The facility produces mulch and hog fuel. The applicant sells the mulch for approximately \$6.67 to \$16.00 a yard. The applicant did not include this revenue in the ROI calculation.
ORS 468.190(1)(b)	Return on Investment (ROI): The functional life of the facility used in considering the ROI is <b>10</b> years.
ORS 468.190(1)(c)	Alternative Methods: The applicant did not investigate an alternative technology because the claimed facility is the best available technology.
ORS 468.190(1)(d)	Savings/Increase Costs: The application record does not show there are any savings or increases in costs.
ORS 468.190(1)(e)	Other Relevant Factors: The Department would have reduced the percentage of the facility cost that is allocable to pollution by 6%. The percentage compares the hours that the applicant operated the equipment while processing hog fuel compared to the total hours they operated the equipment.

**Compliance**

The applicant states the facility and site comply with Department rules and statutes, and with EQC orders. DEQ has not issued any permits to the site.

Reviewer: Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Air Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

#### *Applicant Identification*

PO Box 2827  
Eugene, OR 97402

Organized as: **S Corp**  
Taxpayer ID: **93-0623728**

#### *Technical Information*

Whittier Wood Products Company produces alder chairs and tables along with plywood home office furniture. The furniture manufacturing process generates particulate matter (PM) and fine particulate matter (PM<sub>10</sub>). The applicant replaced an existing baghouse with a new Carter Day Baghouse to collect and reduce PM and PM<sub>10</sub> emissions created by the various manufacturing equipment. The applicant estimates that the baghouse collects 8,716 pounds of wood waste per day. They truck the wood waste off-site for recycling. Carter Day, the baghouse manufacturer, guarantees that the system will emit less than 0.005 grains per cubic foot of exhaust gas, resulting in emissions of 58.5 pounds per month and a collection efficiency of 99.97%.

#### *Director's Recommendation*

Deny Application No. 6421 - Ineligible Replacement

Applicant: **Whittier Wood Products Company**

#### Claimed:

Facility Cost		\$49,550
Percentage Allocable	X	0%
Maximum Percentage	X	50%

#### *Facility Identification*

3787 West 1st  
Eugene, OR 97402

The applicant identified the facility as:

**Wood Dust Collection System, Carter Day  
Model 376-RF-10**



***Taxpayer Allowed Credit***ORS 315.304(4) Criteria

The taxpayer allowed the credit is the:

- a. **Owner**, including a contract purchaser, **of the trade or business** that uses the Oregon property requiring a pollution control facility to prevent or minimize pollution; or
- b. Person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property.

Applied to this Application

Applicant is the owner of the business that uses the claimed facility.

***Eligibility*****Timely Filing**

1999 Edition

ORS 468.165(6)

Criteria

The applicant must file the final application **after** they complete construction **and after** they place the facility into operation. Under the 1999 edition, the applicant must file the application **within two years** after the date that they complete construction of the facility.

Applied to this Application

The applicant filed the application after they completed construction and after they placed the facility into operation on 1/1/2001. The applicant completed construction before January 1, 2002; therefore, the applicant filed the application under the 1999 edition of ORS 468.155 to 468.190. The applicant completed construction on 1/1/2001 and filed the application on 12/30/2002, which is **within** the two-year filing requirement.

**Purpose: Voluntary**

ORS 468.155

(1)(a)(B)

OAR 340-016-

0060(2)(a)

Criteria

The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of air pollution.

"Air Pollution" is the presence in the outdoor atmosphere of one or more air contaminants, or any combination thereof, in sufficient quantities and of such characteristics and of a duration as are or are likely to be injurious to public welfare, to the health of human, plant or animal life or to property or to interfere unreasonably with enjoyment of life and property throughout such area of the state as shall be affected thereby. ORS 468A.005

Applied to this Application

The claimed facility replaced an existing, less energy-efficient baghouse. The Oregon Office of Energy provided an \$18,539.75 business energy tax credit and Eugene Water and Electric Board provided \$82,252 in checks to the applicant for the energy conservation. The new baghouse provides the applicant with an annual **energy savings of \$10,660** per year.

The new baghouse uses the same filter media (replaceable filter “socks”) as the replaced baghouse. The filtering efficiency of the socks did not increase significantly and the method of operation did not change appreciably with the new baghouse. The new baghouse, therefore, **does not reduce a substantial quantity** particulate emissions (PM) compared to the old baghouse.

The facility does not meet the sole and exclusive purpose requirement to reduce a substantial quantity of air pollution because it provided energy savings and other financial benefits

The Department subtracted the entire cost of the claimed facility cost under the *Facility Cost* section below.

<b>Method</b>	<u>Criteria</u>
ORS 468.155 (1)(b)(B)	The prevention, control, or reduction must be accomplished by the disposal or elimination of air contaminants, air pollution, or air contamination sources; and the use of an air cleaning device as defined in ORS 468A.005.

Applied to this Application

Particulate matter **meets the definition of** air pollution. The baghouse **meets the definition of** an air cleaning device because it controls and reduces particulate matter emissions.

<b>Exclusions</b>	<u>Criteria</u>
ORS 468.155(3) OAR 340-016- 0070(3)	The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. Items that do not meet the definition are ineligible for certification.

Applied to this Application

The fire protection system makes an insignificant contribution to the purpose of the facility under the *Purpose: Voluntary* section.

<b>Replacement</b>	<u>Criteria</u>
ORS 468.155(3)(e)	The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon issued tax credits to the applicant for three baghouses at this site. The claimed facility replaced a Clark baghouse that the state certified on February 24, 1984 for \$48,558 (certificate number 1731.)

The new facility **is not eligible** for certification because **it replaced** a previously certified facility and it does not qualify for one of the two exceptions:

1. The new baghouse did not replace the previously certified baghouse due to a DEQ, EPA, or LRAPA requirement. Max Hueftle, the LRAPA air permit writer, stated the previous baghouse met the requirements of LRAPA's current air quality rules; and
2. The applicant is not eligible for the remaining value of the original tax credit because the original facility's useful life expired on January 15, 1999; 15-years after the applicant placed it into operation.

**Maximum Credit**    Criteria  
 ORS 468.173(1)    The applicable percentage of the certified cost of a facility shall be 50% if the  
 OAR 340-016-0007    facility is certified under the 1999 Edition of ORS 468.155 to 468.190.

Applied to this Application

The maximum tax credit would have been 50% because the applicant completed construction of the facility on 11/1/2001, and submitted the application on 12/30/2002.

***Facility Cost***

Copies of invoices substantiated the claimed facility cost:

Referenced Section	Description of Ineligible Portion	Cost
		Claimed    \$49,550
<b><i>Replacement</i></b>	The claimed baghouse replaces a previously certified facility	<u>-\$49,550</u>
		<b>Certified    \$0</b>

***Facility Cost Allocable to Pollution Control***

ORS 468.190 (3)    Criteria

If the cost of the facility (or facilities certified under one certificate) does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

Applied to this Application

The applicant uses the claimed facility **100%** of the time for pollution control.

***Compliance***

The applicant states that the facility and site are in compliance with Department rules and statutes and with EQC orders. LRAPA issued the following permits to the site: LRAPA air permit, No. 208894, issued 8/2002; LRAPA air permit, No. 208927, issued 12/2001. DEQ issued a Stormwater Permit, No. 106674 to the applicant at this site.

Reviewers:    PBS Engineering and Environmental  
                   Maggie Vandehey, DEQ



State of Oregon  
Department of  
Environmental  
Quality

## Tax Credit Review Report

### Pollution Control Facility: Water Final Certification

ORS 468.150 -- 468.190  
OAR 340-016-0005 -- 340-016-0080

### *Applicant Identification*

PO Box 366  
Dillard, OR 97432

Organized as: **S Corp**  
Taxpayer ID: **93-0900137**

### *Technical Information*

Terrain Tamers Chip Hauling Inc. is a trucking company. The applicant claims a recirculating water processor manufactured by Hydro Care Systems. They installed the system in their new truck washing facility to filter the wastewater for reuse. The system collects the wastewater in a grilled pit and a gravity drain feeds the wastewater to an oil separation filter. The filter removes oil, grease, copper, zinc, lead, and other metals. The water then flows to a holding tank until the truck washer demands cleaned water. This is a closed loop system that does not discharge waste water. Without this facility, thousands of gallons of wastewater would be discharged to the South Umpqua River.

### *Director's Recommendation*

**Deny** Application No. **6484** - Untimely Filing

Applicant: **Terrain Tamers Chip Hauling Inc.**

#### Claimed:

Facility Cost	\$18,574
Percentage Allocable	100%
Maximum Percentage	35%

### *Facility Identification*

533 Dyke Road  
Dillard, OR 97432

The applicant identified the facility as a:

**Water recycling filtration system, Model 2002R,  
Serial # 4590006 17995**

**Taxpayer****Allowed Credit**

ORS 315.304(4)

Criteria

The taxpayer who is allowed the credit must be:

- (a) The **owner**, including a contract purchaser, of the trade or **business** that utilizes Oregon property requiring a pollution control facility to prevent or minimize pollution:
- (b) A person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property;

Applied to this Application

Applicant is the owner of the business that requires the facility.

**Eligibility****Timely Filing**

2001 Edition

OAR 340-016-0007

Criteria

The applicant must file the final application **after** they complete construction **and after** they place the facility into operation. Under the 2001 edition, the applicant must file the application **within one year** after the date that they complete construction of the facility.

Applied to this Application

On the application, the applicant states they completed constructing the facility on 3/31/2002. The applicant filed the application on 3/27/2003. Based on the application filing date, the applicant would have to have completed construction of the facility on or after 3/27/2002. Invoices do not support either completion date. Invoices presented with the application show the following dates.

Purchase date:	12/20/01
Installation:	02/19/02 and 02/21/02

The applicant submitted the following invoices in the amount of \$5,898 to support a later construction completion date.

Flocking system installation:	3/05/02
Maintenance and service invoices:	3/03/02, 3/06/02, 3/18/02, 7/1/02

The applicant provided a letter from Hydro Care Systems, Inc., dated 4/02/03, stating that the system was not fully functioning as designed until the end of April of 2002 due to the later installation of the sediment flocking system, service to the unit, and trouble-shooting. Only one Hydro Care Systems, Inc. invoice has a date that is after the 3/27/02 date to complete construction. The 7/1/02 invoice stated it was for system maintenance and the replacement of a chitosan sock. 468.155 (3) and OAR 340-016-070(3) specifically exclude maintenance from tax credit eligibility as discussed in the *Exclusions* section below.

The applicant did not file additional information to the application record that supports the timely filing of this application. The Department recommends the Commission deny certification of the claimed facility.

**Purpose: Voluntary** Criteria

ORS 468.155 (1)(a)(B) The sole purpose, meaning the 'exclusive' purpose, of the claimed facility must be to prevent, control, or reduce a substantial quantity of water pollution.

OAR 340-016-0060(2)(a)

“Pollution” or “water pollution” means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.

Applied to this Application

The claimed facility prevents a substantial quantity of water pollution from reaching the South Umpqua River.

**Method** Criteria

ORS 468.155 (1)(b)(A) The prevention, control, or reduction must be accomplished by disposal or elimination of industrial wastewater and the use of a treatment works for industrial waste as defined in ORS 468B.005.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources.

"Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes.

Applied to this Application

Wastewater containing oil, grease, copper, zinc, lead and other metals **meets the definition of** industrial wastewater as defined by ORS 468B.005. The water recycling filtration system **meets the definition of** treatment works in ORS 468B.005.

**Exclusions** Criteria

ORS 468.155 (3) The regulations provide a list of over 40 items excluded from the definition of a Pollution Control Facility. The list includes maintenance, operation, and repair of a facility, including spare parts. Items that do not meet the definition are ineligible for certification.

OAR 340-016-070(3)

Applied to this Application

The applicant included the costs for the maintenance and repair of the filtration system. The regulations specifically exclude these costs from the definition of a pollution control facility. The Department would have subtracted the associated

costs from the claimed facility cost had the facility been filed within the required filing period.

**Replacement** Criteria  
 ORS 468.155 (3)(e) The replacement or reconstruction of all or part of a facility that has previously been certified as a pollution control facility under ORS 468.170 is not eligible for the tax credit with two exceptions: 1) the facility was replaced due to a requirement imposed by DEQ or EPA that is different than the requirement to construct the original facility; or 2) the facility was replaced before the end of its useful life.

Applied to this Application

The State of Oregon has not issued any Pollution Control Facilities Tax Credit Certificates to the applicant at this location; therefore, the facility is **not a replacement facility**.

**Maximum Credit** Criteria  
 ORS 468.173(3)(f) The maximum tax credit is 35% if the applicant submitted the application between January 1, 2002 and December 31, 2008, inclusively, and the certified cost does not exceed \$200,000.

Applied to this Application

The maximum tax credit would have been 35% because the applicant submitted the application on 3/27/2003 and the facility cost is less than \$200,000.

***Facility Cost***

Copies of invoices substantiate the claimed facility cost.

Referenced Section	Description of Ineligible Portion	Cost
	Claimed	\$18,574

***Facility Cost Allocable to Pollution Control***

ORS 468.190 (3) Criteria  
 If the cost of the facility does not exceed \$50,000, the portion of the actual costs properly allocable shall be in the proportion that the ratio of the time the facility is used for prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil bears to the entire time the facility is used for any purpose.

Applied to this Application

The applicant claims they use the facility 100% of the time for pollution control.

***Compliance***

The applicant states that the facility and site are in compliance with Department rules and statutes and with EQC orders. DEQ has not issued any permits to the applicant at this site.

Reviewer: Maggie Vandehey

# Attachment F

## Certified Wood Chipper Report

### 4/1/03 - 8/13/03

On October 4, 2002, the Commission OAR 340-016-0009. The rule delegates the Commission's authority to certify wood chippers for tax credit purposes to the Department. The Commission requested that the Department periodically provide a listing of the wood chipper certifications.

The Department issued the certificates according to OAR 340-016-0009. The Department's certification of these 36 wood chippers will reduce taxes paid to the State of Oregon by a maximum of \$50,673.

#### **OAR 340-016-0009 Certification of wood chippers**

For the purpose of subdelegating authority to approve and issue final certification of pollution control facilities under OAR 340-016-0080(2):

- 1) The Environmental Quality Commission authorizes the Director of the Department of Environmental Quality or the Director's delegate to certify wood chippers as provided in OAR 340-016-0060(4)(h)(C) if:
  - a) The Department determines the facility is otherwise eligible under OAR 340-016-0060; and
  - b) The claimed facility cost does not exceed \$50,000 as set forth in OAR 340-016-0075(1).
- 2) The Department may elect to defer certification of any facility to the Environmental Quality Commission.
- 3) If the Department determines the facility cost, the percentage of the facility cost allocable to pollution control, or the applicable percentage under ORS 468.173 is less than the applicant claimed on the application then the Department shall:
  - a) Notifying the applicant in writing; and
  - b) Include a concise statement of the reasons for the proposed certification of a lesser amount or percentage; and
  - c) Include a statement advising the applicant of their rights under section (4).
- 4) Applicants that receive a notification under section (3) may elect to defer certification to the Environmental Quality Commission by notifying the Department within 30 days of the notification date.
- 5) The Department shall defer certification to the Environmental Quality Commission according to sections (2) and (4).
- 6) The Director or the Director's delegate shall certify facilities that otherwise qualify under this rule and have not been deferred according to sections (2) or (4).

**Adopted 10-4-02; effective 11-01-02**



# Certified Wood Chipper Report

This listing by certification date then in application ascending order.

Certification Date	App #	Applicant	Claimed	Certified	Difference	% Allocable	Maximum Tax Credit	GF Liability	Fac City
4/10/2003	6459	Brian D. Wright	1,599	1,599	0	100%	35%	560	Dundee
4/10/2003	6460	David Silveira	6,700	6,700	0	100%	35%	2,345	Monroe
4/10/2003	6461	Susan F. Mitchell	2,239	2,298	59	100%	50%	1,149	Sisters
4/10/2003	6462	Michael W. Adams	719	719	0	100%	35%	252	Gresham
4/10/2003	6463	Charles Dwyre	2,488	2,488	0	100%	35%	871	Gold Beach
7/9/2003	6466	John H. Albert	2,164	2,124	(40)	100%	50%	1,062	Oregon City
4/10/2003	6467	Darrel Croucher	1,650	1,650	0	100%	35%	578	Eagle Point
4/10/2003	6470	Robert M. Musil	1,499	1,499	0	100%	35%	525	Albany
4/10/2003	6471	Charles B. Bird	4,995	5,190	195	100%	35%	1,817	Siletz
4/10/2003	6472	Randy Merrick	2,100	2,100	0	100%	50%	1,050	Ashland
4/10/2003	6473	Wilber C. and Beverly Owen	2,429	2,489	60	100%	35%	871	Coquille
6/9/2003	6475	Warren A. Hatch	2,065	1,950	(115)	100%	35%	683	Portland
4/10/2003	6476	Bernard Adamson	2,900	2,900	0	100%	35%	1,015	Seaside
4/10/2003	6477	Thomas D. Millard	29,452	29,452	0	100%	35%	10,308	Waldport
4/10/2003	6478	Robert M. Foulk	3,400	3,400	0	100%	35%	1,190	Langlois
4/10/2003	6481	Bettina and Loren Davis	6,000	6,000	0	100%	35%	2,100	Hillsboro
6/9/2003	6485	Umpqua Riverview Farms, LLC	3,577	3,477	(100)	100%	35%	1,217	Umpqua
6/9/2003	6486	James Crum	2,280	2,150	(130)	100%	35%	753	Salem
4/10/2003	6487	Jerald Morse	580	580	0	100%	35%	203	Rogue River
6/9/2003	6488	Larry Parksion	1,499	1,499	0	100%	35%	525	Salem
6/9/2003	6492	Mustafa T. Kasubhai	2,200	2,200	0	100%	35%	770	Junction City
6/9/2003	6493	Peter Torres/Multnomah Tree Experts, Ltd.	10,545	10,545	0	100%	35%	3,691	Portland
6/9/2003	6494	John D. Intihar	1,700	1,700	0	100%	35%	595	Grants Pass
6/9/2003	6497	Donald T. DuBose	630	630	0	100%	35%	221	Grants Pass
6/9/2003	6503	Kim Russell, LLC	15,900	15,900	0	100%	35%	5,565	LaPine
6/9/2003	6504	Norelen Kampmann	1,797	1,797	0	100%	35%	629	Grants Pass
6/9/2003	6505	Joan Chipman	1,029	1,029	0	100%	35%	360	Eugene
6/9/2003	6506	Chad Finn	1,550	1,550	0	100%	35%	543	Corvallis
7/9/2003	6507	K.L. Hawley	1,500	2,072	572	100%	35%	725	North Bend
6/9/2003	6508	James R. Weaver	11,676	11,676	0	100%	35%	4,087	Bend

Certified Wood Chipper Report

Continued...

Certification Date	App #	Applicant	Claimed	Certified	Diff.	% Allocable	Maximum Tax Credit	GF Liability	Fac City
6/9/2003	6510	Robert Gaertig	1,500	1,500	0	100%	35%	525	Portland
6/9/2003	6511	Daniel Saurman	580	580	0	100%	35%	203	Talent
7/9/2003	6522	Daniel Laury	2,699	2,759	60	100%	35%	966	Medford
7/9/2003	6525	F. Irl Towle	1,599	1,599	0	100%	35%	560	Portland
7/9/2003	6528	Leroy B. Miller	3,035	3,035	0	100%	35%	1,062	Hubbard
7/9/2003	6534	John Mayse	3,149	3,149	0	100%	35%	1,102	Corvallis

<b>Apps</b>	<b>Sum</b>	<b>141,424</b>	<b>141,985</b>	<b>561</b>		<b>50,673</b>
<b>36</b>	Average	3,928	3,944	16		1,408
	Minimum	580	580	(130)		203
	Maximum	29,452	29,452	572		10,308
	Median	2,182	2,137	0		820

# **Attachment G**

## **Tax Expenditure Liability Report**

When the Environmental Quality Commission issues a Pollution Control Facilities Tax Credit Certificate, the State of Oregon incurs a tax expenditure liability. The table in this attachment shows the maximum potential fiscal impact associated with the Commission's decision to certify the facilities presented in this staff report.

This report shows the maximum amount of credit that each applicant may use to reduce their Oregon taxes in any one year if the Commission certifies their facility. The annual limitation is equal to the tax credit divided by the "remaining useful life" of the facility but no more than ten years. The remaining useful life is the useful life of the facility less the expired period between the date the applicant placed the facility into operation and the date the Commission approved certification.

## Tax Expenditure Liability Report

App. #	Tax Credit	Placed in Operation	UL	Remaining UL	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
5564	200,692	1999	5	1	200,692	0	0	0	0	0	0	0	0	0
5571	61,806	1999	5	1	61,806	0	0	0	0	0	0	0	0	0
5601	238,309	1999	15	10	23,831	23,831	23,831	23,831	23,831	23,831	23,831	23,831	23,831	23,831
5838	49,510	2001	5	3	16,503	16,503	16,503	0	0	0	0	0	0	0
5853	1,452,728	2000	7	4	363,182	363,182	363,182	363,182	0	0	0	0	0	0
5885	112,655	2001	10	8	14,082	14,082	14,082	14,082	14,082	14,082	14,082	14,082	0	0
6113	329,013	2000	10	7	47,002	47,002	47,002	47,002	47,002	47,002	47,002	0	0	0
6136	119,190	2000	10	7	17,027	17,027	17,027	17,027	17,027	17,027	17,027	0	0	0
6137	1,146,700	2000	10	7	163,814	163,814	163,814	163,814	163,814	163,814	163,814	0	0	0
6138	426,924	2001	10	8	53,365	53,365	53,365	53,365	53,365	53,365	53,365	53,365	0	0
6244	13,963	2001	7	5	2,793	2,793	2,793	2,793	2,793	0	0	0	0	0
6245	408,475	2000	5	2	204,237	204,237	0	0	0	0	0	0	0	0
6333	63,103	2002	7	6	10,517	10,517	10,517	10,517	10,517	10,517	0	0	0	0
6370	870,985	2001	7	5	174,197	174,197	174,197	174,197	174,197	0	0	0	0	0
6390	387,334	2002	10	9	43,037	43,037	43,037	43,037	43,037	43,037	43,037	43,037	43,037	0
6391	60,417	2002	10	9	6,713	6,713	6,713	6,713	6,713	6,713	6,713	6,713	6,713	0
6399	690,621	2000	10	7	98,660	98,660	98,660	98,660	98,660	98,660	98,660	0	0	0
6405	72,343	2002	10	9	8,038	8,038	8,038	8,038	8,038	8,038	8,038	8,038	8,038	0
6436	86,264	2002	7	6	14,377	14,377	14,377	14,377	14,377	14,377	0	0	0	0
6444	1,083,077	2001	10	8	135,385	135,385	135,385	135,385	135,385	135,385	135,385	135,385	0	0
6464	42,107	2003	10	10	4,211	4,211	4,211	4,211	4,211	4,211	4,211	4,211	4,211	4,211
6480	8,768	2002	10	9	974	974	974	974	974	974	974	974	974	0
6482	146,110	2001	10	8	18,264	18,264	18,264	18,264	18,264	18,264	18,264	18,264	0	0
6483	14,455	2002	10	9	1,606	1,606	1,606	1,606	1,606	1,606	1,606	1,606	1,606	0
6489	18,352	2003	10	10	1,835	1,835	1,835	1,835	1,835	1,835	1,835	1,835	1,835	1,835
6498	13,770	2002	8	7	1,967	1,967	1,967	1,967	1,967	1,967	1,967	0	0	0
6499	12,004	2002	8	7	1,715	1,715	1,715	1,715	1,715	1,715	1,715	0	0	0
6500	11,851	2001	5	3	3,950	3,950	3,950	0	0	0	0	0	0	0
6502	44,941	2003	7	7	6,420	6,420	6,420	6,420	6,420	6,420	6,420	0	0	0
6509	26,646	2002	10	9	2,961	2,961	2,961	2,961	2,961	2,961	2,961	2,961	2,961	0
6513	17,854	2002	10	9	1,984	1,984	1,984	1,984	1,984	1,984	1,984	1,984	1,984	0
6515	1,607	2001	5	3	536	536	536	0	0	0	0	0	0	0
6516	2,220	2001	5	3	740	740	740	0	0	0	0	0	0	0

## Tax Expenditure Liability Report

App. #	Tax Credit	Placed in Operation	UL	Remaining UL	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
6518	178,414	2001	9	7	25,488	25,488	25,488	25,488	25,488	25,488	25,488	0	0	0
6519	18,390	2001	10	8	2,299	2,299	2,299	2,299	2,299	2,299	2,299	2,299	0	0
6520	6,662	2001	10	8	833	833	833	833	833	833	833	833	0	0
6521	22,612	2001	10	8	2,827	2,827	2,827	2,827	2,827	2,827	2,827	2,827	0	0
6523	237,748	2001	10	8	29,718	29,718	29,718	29,718	29,718	29,718	29,718	29,718	0	0
6524	75,769	2002	7	6	12,628	12,628	12,628	12,628	12,628	12,628	0	0	0	0
6526	8,202	2002	9	8	1,025	1,025	1,025	1,025	1,025	1,025	1,025	1,025	0	0
6529	8,251	2003	5	5	1,650	1,650	1,650	1,650	1,650	0	0	0	0	0
6531	8,804	2003	10	10	880	880	880	880	880	880	880	880	880	880
6533	34,070	2001	10	8	4,259	4,259	4,259	4,259	4,259	4,259	4,259	4,259	0	0
6535	6,300	2002	5	4	1,575	1,575	1,575	1,575	0	0	0	0	0	0
6536	12,635	2003	5	5	2,527	2,527	2,527	2,527	2,527	0	0	0	0	0
6539	8,891	2002	7	6	1,482	1,482	1,482	1,482	1,482	1,482	0	0	0	0
6543	11,335	2002	5	4	2,834	2,834	2,834	2,834	0	0	0	0	0	0
6544	10,106	2002	5	4	2,527	2,527	2,527	2,527	0	0	0	0	0	0
6547	2,587	2001	5	3	862	862	862	0	0	0	0	0	0	0
6548	17,379	2002	5	4	4,345	4,345	4,345	4,345	0	0	0	0	0	0
6549	7,274	2002	5	4	1,818	1,818	1,818	1,818	0	0	0	0	0	0
6550	10,420	2002	5	4	2,605	2,605	2,605	2,605	0	0	0	0	0	0
6551	16,307	2002	5	4	4,077	4,077	4,077	4,077	0	0	0	0	0	0
6552	17,068	2003	5	5	3,414	3,414	3,414	3,414	3,414	0	0	0	0	0
6553	16,850	2003	5	5	3,370	3,370	3,370	3,370	3,370	0	0	0	0	0
6554	11,358	2002	5	4	2,840	2,840	2,840	2,840	0	0	0	0	0	0
\$ 8,982,220					1,822,303	1,559,805	1,355,567	1,332,976	947,174	759,224	720,219	358,126	96,070	30,757

# **Attachment H**

## **Letter of Delegation**

The tax credit regulations do not designate the authority responsible for signing the Pollution Control Facilities Tax Credit Certificates. Historically, the Chair of the Environmental Quality Commission has signed the certificates. At the request of the Chair, Mark Reeve, the Department presents the attached order delegating this signature authority to the Director for the Commission's approval.









State of Oregon  
Department of  
Environmental  
Quality

**Umatilla Chemical Demilitarization Program  
Status Update  
Environmental Quality Commission  
October 10, 2003  
(Agenda Item H)**

**Umatilla Chemical Demilitarization Program (CDP)**

**Permit Modification Request:**

On September 16 the Umatilla Chemical Agent Disposal Facility (UMCDF) submitted a Permit Modification Request (PMR) to change the point of compliance for its air emissions from the inlet to the carbon filters to the exit of the carbon filters. A copy of this Class 3 PMR has been provided to each of the EQC members with an anticipated schedule for public comment and final action by the EQC.

**Umatilla Chemical Depot (UMCD) Draft Storage Permit:**

Based upon a request from GASP for a 120 day extension, a 30 day extension was granted on the public comment period for the UMCD Draft Storage Permit. The comment period now ends on October 15, 2003. The only comments received to date have been oral comments made by a representative of Morrow County at the August 28, 2003 public hearing.

**Closure Plan for Building 659 (Mustard Shed) at UMCD:**

On September 3, a closure plan was submitted by UMCD for Building 659, the former "mustard shed," previously used for storage of one-ton containers of mustard agent. Following the events of September 11, 2001, all mustard containers were moved into igloos. UMCD intends to close out the building as a hazardous waste management unit and reuse it to park empty Enhanced On-site Containers (EONCs) out of the weather. A public hearing regarding the closure plan will be held on October 15 and the public comment period ends on October 20, 2003.

**Staff Recruitment:**

We are very pleased to report that Shelly Ingram has accepted the position of Permit Coordinator/Public Information Representative 1 position with the CDP staff. Shelly is presently a reporter with the East Oregonian and has covered CSEPP and Depot activities. She will begin the position on November 3, 2003.

The vacant Senior Hazardous Waste Specialist position with the CDP has been posted with an October 22 deadline for applications. Ads were run in the Sunday, October 5, editions of the Oregonian and Tri-City Herald. In addition to the DEQ website, the position announcement has been posted on the Air & Waste Management Association website and

has been shared with the Chemical Demilitarization Workgroup, our counterparts with the other seven states who have chemical depots.

**Federal Fiscal Year 2004 Funding:**

The Army has informed us that full funding for DEQ's oversight activities at UMCDF for federal fiscal year 2004 should be available by the end of October. Based upon our anticipated carryover of unexpended funds from 2003, this would avoid any gaps in federal funding necessary to support DEQ's Umatilla activities.

**Meeting with U.S. Senator Gordon Smith's Staff:**

On September 17, Dennis Murphey and Sue Oliver met with three members of Senator Smith's staff in his Pendleton office: James Nelson, Legislative Assistant from Washington, D.C.; Richard Krikava, Field Representative in Portland; and Larry Bartee, Field Representative in Pendleton. Mr. Nelson is Senator Smith's new primary liaison for the Umatilla project and he toured UMCD and UMCDF for the first time. The meeting provided an opportunity for the three staff members to hear from DEQ regarding the status of the project and Mr. Nelson assured us that Senator Smith will work hard to ensure full funding of the demilitarization program in the Army's budget for FFY 2005.

**Surrogate Trial Burn (STB) Status**

The STB for the Deactivation Furnace System (DFS) began on September 27, 2003. UMCDF completed the four Low Temperature Test runs on September 30. The STB also includes three sets of High Temperature Tests (HTT) with four runs each. The four runs of the first HTT were completed on October 5.

UMCDF hopes to begin the STB for the Metal Parts Furnace approximately three weeks after completion of the DFS STB.

**Other Topics of interest**

**Legal Proceedings**

Courtroom proceedings in the GASP III trial concluded on August 15, 2003. On September 19 (three days before their closing brief was due), the Petitioners submitted a "Motion for Sanctions" against the Army's attorney for intimidation of one of their witnesses, a monitoring technician from CAMDS in Utah. The relief requested by the Petitioners includes: 1) a protective order for the witness, preventing the Army from taking any adverse action against him, 2) a delay in submittal of written closing arguments in GASP III until a decision is rendered on the Motion for Sanctions, 3) a partial default against the Army, revoking the UMCDF permit until "monitoring defects" identified by the witness have been remedied and an additional requirement for the use of FTIR monitors has been included in the permit, and 4) payment of Petitioners' attorney fees and expenses by the Army. The hearing for oral arguments on the Motion for Sanctions has been scheduled for December 11, 2003. The briefing schedule for written closing arguments has been tolled until Judge Marcus rules on the Motion for Sanctions.

In addition to the issues specifically identified by the Petitioners in their original filing, Judge Marcus has requested that the legal counsel for all parties address the issue of agent monitoring (in the exhaust stack, in the workplace, and in the ambient air at the perimeter of the site). It now appears likely that no decision on GASP III will be issued until mid-2004, at the earliest.

### **CSEPP/ERP**

On August 21, 2003 the 20-member Executive Review Panel (ERP) reconvened at Governor Kulongoski's request to assess the current status of the local emergency response program to protect the general population in the vicinity of UMCD in the event of a release of chemical agent. Commissioner Hampton represented EQC on the ERP and Director Hallock represented the DEQ. The ERP heard presentations regarding the results of the June 3, 2003 Annual CSEPP Exercise, the status of the 450 MHz tactical radio system, the evacuation project for Hermiston, and recent results of a survey to assess awareness of local citizens regarding emergency response procedures.

On September 19 the ERP sent a report to Governor Kulongoski, signed by all of the ERP members, with one exception: Umatilla County. Umatilla County took exception to the following portion of the report: "It was explained at the August 21 ERP meeting that the final decision to authorize start of agent operations lies with the EQC. In the event that the EQC has to make that decision before the 450 MHz system is completely in place, it is anticipated that the first responders and other members of the ERP will request the EQC postpone authorizing the start of agent operations until the radio system is entirely completed." Umatilla County's position is that "agent incineration should begin at the earliest possible time; and that start-up should not be delayed, even if the 450 MHz system is not completed."

Notwithstanding the concerns regarding the 450 MHz system, the ERP report concludes that most of the emergency response capabilities have improved measurably over the past 15 months. It also concluded that the Umatilla CSEPP continues to meet the adequacy standard required by the UMCD hazardous waste permit. A copy of the full text of the ERP report to the Governor, with the dissenting letter from Umatilla County, is included with this update.

### **Potential Worker Exposure at the Umatilla Chemical Depot**

In the August 15 status update to EQC we noted a potential exposure to mustard agent by a worker at UMCD. The individual had been a member of a decontamination team for a leaking container of mustard agent in one of the igloos at UMCD. All medical tests showed no indications of exposure to chemical agent by the worker who had exhibited a small blister on his arm.

### **Status of other Chemical Demilitarization Sites**

The Tooele Chemical Agent Disposal Facility (TOCDF) in Utah just completed a month-long shutdown due to results of a PCB emissions test that did not meet the required 99.9999% destruction efficiency. TOCDF believes it was a laboratory contamination issue, since PCBs were also detected during fuel-only runs and in field blanks of the sampling trains. TOCDF has only 1,000 VX rockets remaining and it looks like they will all be destroyed during additional PCB emissions tests that are being required by the EPA to

demonstrate PCB destruction efficiency. (EPA would not agree to correct the test results for the blank contamination.)

The Anniston Chemical Agent Disposal Facility (**ANCDF**) in Alabama has processed approximately 4,000 GB rockets as of two weeks ago. They are having many mechanical problems, according to the Alabama Department of Environmental Management (ADEM), especially with the rocket lines (which, according to UDEQ have been high maintenance units at TOCDF also). ADEM expects ANCDF to initiate their GB agent trial burns for the liquid incinerator and the deactivation furnace system on or about November 6 – 7.

The Pine Bluff Chemical Agent Disposal Facility (**PBCDF**) in Arkansas is curing the refractory in their deactivation furnace.

The Aberdeen Chemical Agent Disposal Facility (**ABCDF**) in Maryland has been shut down since August 16 when a fire occurred in the carbon filter on a vent line of a decontamination solution tank. They continue to have problems in “clearing” the exterior of the ton containers after they drain them. They are detecting agent on the exterior of the tanks and believe it is related to agent in the threads and agent penetrating under the paint on the exterior of the containers. After implementing design changes and facility modifications, the facility hopes to restart slowly by mid-October and be back to normal operations by mid-November.

The Newport Chemical Agent Disposal Facility (**NECDF**) in Indiana has been delayed by analytical problems that have interfered with their ability to demonstrate adequate destruction efficiency and by local opposition to the treatment of their hydrolysate at the Perma-Fix facility near Dayton, OH. It appears they will build a tank farm to store the hydrolysate in anticipation of starting neutralization next spring.

The Pueblo Chemical Agent Disposal Facility (**PUCDF**) in Colorado is being designed by Bechtel. The Colorado Department of Public Health and the Environment (CDPHE) anticipates submittal of a Phase I permit (that will merely address site grading) in November or December. An issue is arising with the Sierra Club and local members of the public who want to attend all meetings with PUCDF and the CDPHE.

The Blue Grass Chemical Agent Disposal Facility (**BGCDF**) in Kentucky is approximately two months behind PUCDF and recently held their permit kickoff meeting, a community forum, and a team building partnership meeting.



# Oregon

Theodore R. Kulongoski, Governor

## Oregon Emergency Management Chemical Stockpile Emergency Preparedness Program

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Pendleton, OR 97801

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csepp@oem.state.or.us

www.osp.state.or.us/oem/

September 19, 2003

The Honorable Governor Theodore R. Kulongoski  
Office of the Governor  
160 State Capitol  
900 Court Street  
Salem, OR 97301-4047



Dear Governor Kulongoski:

At the request of the Chemical Stockpile Emergency Preparedness Program (CSEPP) Executive Review Panel (ERP), I am providing this report on the status of the emergency response program to protect the general population in the vicinity of the Umatilla Chemical Depot (UMCD).

### Purpose:

As you requested, members of the ERP met in Hermiston on August 21, 2003, for the purpose of reviewing results of the June 2003 Annual CSEPP Exercise and evaluating further progress in development of the local emergency response program. Based upon the ERP's unanimous recommendation in 2002, then Governor Kitzhaber informed the Environmental Quality Commission (EQC) that "an adequate emergency response program is in place and fully operational to protect the general population surrounding the UMCD"—a condition required under the Section ILHL4 of the Umatilla Chemical Agent Disposal Facility (UMCDF) Hazardous Waste Permit prior to beginning surrogate trial burn testing, which is currently underway.

At its August meeting, the ERP heard presentations regarding the annual exercise, the status of the 450 MHz tactical radio project, the evacuation project for Hermiston, recent results of a CSEPP survey to assess awareness of local citizens, and a review of the CSEPP project tracking tool which identifies action items necessary to improve current response capabilities. This ERP meeting also provided time for public comment.

### Evaluation of the June 3 Annual CSEPP Exercise

This year's annual response exercise was evaluated by more than 100 federal (FEMA/Army) staff and contractor personnel, utilizing 15 performance measures previously established by the Umatilla CSEPP Community and endorsed by the ERP. Due to a variety of factors (including the use of actual weather conditions, the large number of participating organizations with numbers of simulated victims, and the overall length of the exercise) evaluators indicated this was the most advanced CSEPP exercise done to date in Oregon and one of the most rigorous CSEPP exercises performed nationwide.

Eleven of thirteen performance measures were given passing marks by the evaluators (two measures were not evaluated which involved schools that were not in session and have passed previous exercises). For the two measures that failed, the shortcomings were minor (e.g. failure to put blue bands on the wrists of victims who had been properly decontaminated, and excessive time working in personal protective gear by some of the emergency response personnel) and can be resolved with additional training and drills by exercise participants.

The evaluators highlighted numerous strengths of the local emergency response program, identified areas for further improvement, and noted a few specific corrective actions that should be implemented. The good news is that the Umatilla program continues to set the standard for CSEPP readiness on a national basis and that the local first responders performed well during the recent exercise.

#### 450 MHz Tactical Communications Project

One item highlighted as an essential element of the emergency preparedness program during last year's ERP report is the 450 MHz tactical communications project. At this year's ERP meeting, a spokesperson for the first responders indicated that completion of the 450 MHz system is absolutely critical and must be completed (meaning operationally ready for field use, user training finished, and system acceptance signed off) prior to commencement of agent destruction activities at UMCDF. Under the project lead of Umatilla County, the 450 MHz system is now scheduled for completion by March 2004, and it is generally assumed that agent incineration will also begin sometime in 2004.

It was explained at the August 21 ERP meeting that the final decision to authorize start of agent operations lies with the EQC. In the event that the EQC has to make that decision before the 450 MHz system is completely in place, it is anticipated that the first responders and other members of the ERP will request the EQC postpone authorizing the start of agent operations until the radio system is entirely completed.

#### Federal Funding for the Hermiston Evacuation Project and Other CSEPP Requirements

Another item that is extremely important to the Umatilla CSEPP Community is the City of Hermiston evacuation project that recently received federal funding (\$1.5 million) in order to complete Phase One of a three phase project. Phase One involves linking of traffic signals and installation of video cameras at key intersections on Highway 395. Funding for Phase Two (\$3.0 million) is in the Oregon CSEPP budget request for Fiscal Year (FY) 04. Phase Three will require additional federal funding (approximately \$6.0 million) and is not expected to be completed prior to 2005, or sooner if funding can be accelerated. Due to the Department of Defense (DoD) budgeting process, the actual amount of the FY04 award most likely won't be known here in Oregon until January 2004, therefore, it remains to be seen whether this high priority project will be funded or not. Evacuation as a protective action strategy has become an increasingly important option, with the goal of being able to evacuate Hermiston (the largest city in proximity to

UMCDF) within a two hour period. Without funding for those community enhancements requested in the completed evacuation project, that will not be possible.

As discussed at the ERP meeting, funding for the Hermiston evacuation project is an example of ongoing concern local communities have about necessary federal funding to support current and future CSEPP requirements to protect first responders and citizens from a potential off-site release of chemical agent at the Umatilla Chemical Depot. Funding has been previously provided to complete the 450 MHz tactical communications project (total cost is approximately \$9.0 million). However, the total Oregon CSEPP funding request already submitted to FEMA for approval in FY04 is approximately \$12.9 million, \$7 million more than Oregon expects to receive at this point. Indications are that CSEPP funding is in "dire" budget situation nationally, and there are no assurances as to the final award amount for Oregon. Therefore, the ERP requests that you support Oregon's FY04 CSEPP request for \$12.9 million with a letter to federal agency stakeholders and the Oregon Congressional delegation.

Summary:

In conclusion, after reviewing CSEPP progress over the past fifteen months, including the issues discussed above, the ERP determined that most of the emergency response capabilities have improved measurably. They also concluded that the Umatilla CSEPP Community continues to meet the adequacy standards required by permit, while remaining prepared to handle emergencies that might occur related to a chemical incident. However, the 450 MHz tactical radio system is a critical project to be completed and the ERP anticipates this necessary component will be in place prior to start of agent operations. Likewise, commitment of federal funding to support the City of Hermiston evacuation project and other CSEPP requirements is required to assure the continued and enhanced protection of our citizens and responders living and working in the vicinity of the Umatilla Chemical Depot. The ERP hopes that your support will assist in ensuring that those necessary dollars come to Oregon.

The ERP membership looks forward to continuing to work with you in providing your office this annual written report on the status of the emergency response program and genuinely appreciates your support.

Sincerely,



Chris E. Brown  
State CSEPP Manager  
Department of State Police

Enclosures

**ENCLOSURE: Attached Letter of Non-Concurrence Re: ERP Report Final Draft (September 10, 2003)**

As of this date, signatures were collected from ERP membership following their review and are on file in the Pendleton Eastern Regional OEM Office.

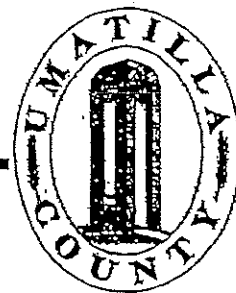
Only one signatory non-concurred with the contents of the signed letter and it was the from the entire Umatilla County Board of Commissioners (Commissioner Dennis Doherty is the ERP member who represents Umatilla County).

That letter is also provided for your information and consideration.



# Umatilla County

## Board of County Commissioners



September 17, 2003

**Commissioners**

Bill Hansell  
541-278-6201

Emile Holeman  
541-278-6203

Dennis Doherty  
541-278-6202

Office Manager  
Marcia Wells  
541-278-6204

County Counsel  
Douglas Olsen  
541-278-6206

Budget Officer  
Bob Heffner  
541-278-6209

Director of  
Economic  
Development  
Hugh Johnson  
541-278-6305

Director of  
Human Resources  
James R. Barrow  
541-278-6206

Oregon Emergency Management  
Eastern Oregon Office  
125 S.E. First Street  
Pendleton, Oregon 97801

Attention Chris Brown

*CB sep 17, '03*

Re: ERP Report, Final Draft (as of September 10, 2003)

Dear Chris:

Umatilla County does not concur with language appearing in the middle of Page 2 under the caption of "450 MHz Tactical Communication Project."

The target date for system completion is March 2004. The project is fully funded and all signs point toward completion by that date. But first responder training and "acceptance", whatever that means, are outside Umatilla County's control.

The site expects to be at operational readiness for agent incineration by the end of CY 2003. There is reason to believe that Department of Army and EQC will have approved agent incineration, also by March 2004.

Umatilla County's position is that agent incineration should begin at the earliest possible time; and that start-up should not be delayed, even if the 450 MHz system is not completed. That was the intent of the ERP in 2002. No substantiation has been presented to justify a conclusion that the VHF and interdependent systems have become inadequate in the interim and no inadequacy was noted in the June '03 annual exercise.

So, Umatilla County does not concur with any indication that there would be ERP consensus to request that the EQC postpone agent incineration. Frankly, even that inference would simply invite mischief.

Also, we want to note that the Evacuation Plan is not limited to the City of Hermiston. If built out, it would include infrastructure components for other stakeholders.

Umatilla County Board of Commissioners

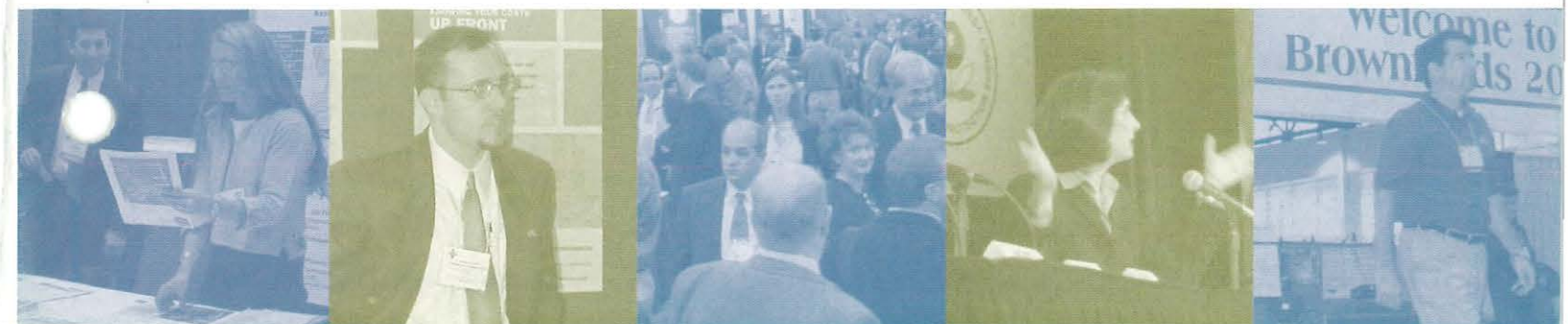
*William S. Hansell*     *Dennis D. Doherty*     *Emile M. Holeman*  
William S. Hansell     Dennis D. Doherty     Emile M. Holeman

# Brownfields 2003

GROWING A GREENER AMERICA

OCTOBER 27-29, 2003

THE OREGON CONVENTION CENTER  
PORTLAND, OREGON



# Brownfields 2003: Growing a Greener America



Punchbowl Falls,  
Columbia River Gorge

The annual Brownfields Conference is the official, EPA-cosponsored conference on brownfields. Now in its 8th year, it continues to be the premier national event for discovering solutions to cleanup and redevelopment challenges, examining lessons from the field, and exploring new opportunities presented by recently signed federal legislation. Registration is FREE for this premier, one of a kind event.

Join the thousands of experts and practitioners for a full three days of innovative sessions, mobile workshops, and a wealth of networking and information-sharing opportunities.

The city of Portland, Oregon, a model of sustainability, is the perfect backdrop for the 2003 National Brownfields Conference. Proclaimed by *Money* magazine as North America's "Best Big City," Portland

combines striking natural beauty, the panorama of majestic Mount Hood, and 37,000 acres of open space and parkland with a sophisticated, cosmopolitan atmosphere complete with state-of-the-art mass transit. For more information on Portland's open spaces and vibrant local scene, access the "Visitors" page at [www.pova.org](http://www.pova.org), or check out the Oregon Tourism Commission site at [www.traveloregon.com](http://www.traveloregon.com).

## Schedule at a Glance

### Exhibit Hall Hours

Monday, October 27	9:00 a.m.–2:30 p.m. 5:15–7:15 p.m. (Grand Opening Reception)
Tuesday, October 28	9:00 a.m.–4:00 p.m.
Wednesday, October 29	9:00 a.m.–1:00 p.m.

### Sunday, October 26

8:00 a.m.	Exhibitor registration opens
3:00–6:00 p.m.	General registration opens
3:00–6:00 p.m.	Organizational meetings/mobile workshops

**Day Trips** Several planned day-long tours and activities (for details, visit the conference Web site, [www.brownfields2003.org](http://www.brownfields2003.org))

### Monday, October 27

7:30 a.m.	Registration opens
9:00–10:30 a.m.	Special session and/or educational sessions and Marketplace of Ideas
10:45 a.m.–12:15 p.m.	Educational sessions and Marketplace of Ideas
10:45 a.m.–12:15 p.m.	Mobile workshop
12:15–1:30 p.m.	Lunch
1:30–3:00 p.m.	Educational sessions and Marketplace of Ideas
1:15–3:00 p.m.	Mobile workshop
3:15–5:15 p.m.	Opening plenary
5:15–7:15 p.m.	Grand Opening Reception—Exhibit Hall

## Conference Program

### Educational Sessions

*Brownfields 2003: Growing a Greener America* offers attendees a variety of interactive sessions to enhance their knowledge for practical application and successful reuse of brownfield properties. Starting in August, check the conference Web site, [www.brownfields2003.org](http://www.brownfields2003.org), for regular updates to the conference program.

### Mobile Workshops

Mobile workshops offer a unique venue for examining successful brownfields projects in and around Portland. Pre-registration information and descriptions of each mobile workshop can be found at [www.brownfields2003.org](http://www.brownfields2003.org). Pre-registration is strongly encouraged, but participants may also sign up for Mobile Workshops when they arrive in Portland. (Note: You must register for a Mobile Workshop at least one hour prior to its scheduled departure. Space is not guaranteed.) For more information, please contact Tad McGalliard at 202/962.3563 or [mcgalliard@icma.org](mailto:mcgalliard@icma.org).

### General Sessions

**Opening Plenary**—The eighth annual National Brownfields Conference begins with opening remarks from the EPA

Administrator, and other federal, state, and local government leaders. Don't miss out on this first chance to hear about new programs and initiatives that can help your brownfields efforts.

**Town Meeting Plenary**—Have a brownfields question? Ask the experts! The interactive Town Meeting Plenary will be moderated by Ira Flatow, Science and Technology Reporter for National Public Radio, and the panel will feature the best and brightest in the brownfields disciplines.

Successful brownfields cleanup and redevelopment projects yield many benefits. Communities can attest to the environmental and economic improvements brought about by the return of blighted properties to productive reuse. *Brownfields 2003: Growing a Greener America* will help maintain this forward momentum by providing beginner, intermediate, and advanced educational sessions on subjects like:

- remediation technologies
- legal liability
- real estate transactions
- local, state, and tribal programs
- insurance and financing
- land conservation and land use planning
- environmental justice



### Tuesday, October 28

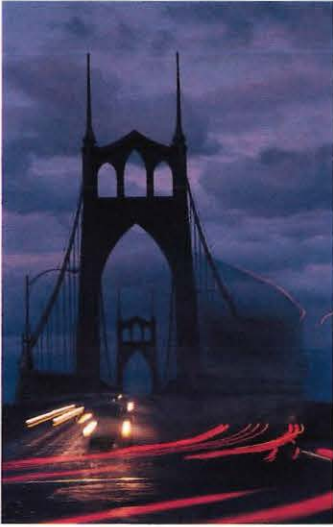
8:00–9:30 a.m.	Educational sessions and Marketplace of Ideas
8:30–10:00 a.m.	Mobile workshop
10:00–10:45 a.m.	"Meet the Poster Presenters" coffee break—Exhibit Hall
10:10 a.m.–12:10 p.m.	Mobile workshop
10:45 a.m.–12:15 p.m.	Educational sessions and Marketplace of Ideas
12:15–1:30 p.m.	Lunch
1:30–3:00 p.m.	Educational sessions and Marketplace of Ideas
3:15–4:45 p.m.	Town meeting plenary
5:15–7:15 p.m.	*Mayoral Reception

### Wednesday, October 29

8:00–9:00 a.m.	Regional Open Houses
9:15–10:45 a.m.	Phoenix Awards Ceremony
11:00 a.m.–12:30 p.m.	Educational Sessions and Marketplace of Ideas
12:30–2:00 p.m.	Lunch
2:00–4:30 p.m.	Closing Session
4:30 p.m.	Brownfields 2003 adjourns

\*Times will be adjusted to accommodate travel time to the Mayoral Reception.

continuing education credits to their members. Visit the Web site to discover if this opportunity may apply to you in your area.



View of the St. Johns Bridge, Portland

### Lunch on the Go!

Avoid long lunch lines and spend more time networking at the conference, reserve box lunches when you register for the conference. Box lunches may be purchased for each conference day, Monday-Wednesday, October 27-29, and must be reserved and pre-paid by October 10. Vegetarian and Kosher box lunches are available, please see the registration form for the box lunch menus. A dining area will be available during the lunch breaks. Box lunch purchase is not required to attend an event. Concessions and restaurants are also available within the Oregon Convention Center. Fast food and full service restaurants are available within 6 blocks of the convention center, as is the

Lloyd Center Shopping Center, which has a Food Court and a full service restaurant.

### Registration is FREE

All registrations are requested in advance of the conference dates. Conference attendees may register online using the Online Registration Form found at [www.brownfields2003.org](http://www.brownfields2003.org), or by filling out and returning the attached registration form by U.S. mail or by fax no later than October 10, 2003. Advanced registration is required by September 26th in order to be included in the published list of participants provided at the conference. Registrants will receive confirmation of registration by e-mail or fax within 7 days after registering. If you do not receive confirmation of your advance registration within 7 days, please call the Brownfields 2003 Hotline at 1-877-343-5374.

### Hotel Chart

Hotel	Government Rate <sup>1</sup>	Non- Government/ Group Rate	Distance to Oregon Convention Center	Distance to "MAX" Light-rail	Parking Rates <sup>2</sup>	
	S/D	S/D			Self	Valet
Lloyd District/Oregon Convention Center Properties						
Doubletree Hotel Portland Lloyd Center	\$91/\$106	\$119/\$129	4 blocks	Adjacent	\$18	\$22
Radisson Hotel by Convention Center	\$91	\$95	3 blocks	3 blocks	\$6	N/A
Courtyard by Marriott Lloyd	N/A	\$109	3 blocks	3 blocks	\$9	N/A
Red Lion Convention Center	\$91	\$106	1 block	Adjacent	\$8	N/A
Downtown Properties On "MAX" Light Rail						
Hilton Portland	\$91	\$129	1 mile	1 block	\$18	\$21
Embassy Suites Downtown	N/A	\$139	.75 miles	2 blocks	\$15	\$22
The Paramount Hotel	\$91	\$124	1.5 miles	3 blocks	N/A	\$20
Hotel Lucia	\$91	\$135	1.5 miles	3 blocks	N/A	\$23
5th Avenue Suites	\$91	\$119	1.5 miles	3 blocks	N/A	\$23
Marriott City Center	\$91	\$125	1.5 miles	3 blocks	N/A	\$22

S – Single Occupancy; D – Double Occupancy; N/A – Not Available  
Triple and quad occupancy rates are available on request.

<sup>1</sup> The government-lodging rate is subject to change. The Prevailing Federal Government Lodging Rate will be in effect in October 2003.

<sup>2</sup> Parking rates are subject to change.

Remove here and complete

PLACE  
STAMP  
HERE

DynCorp Systems & Solutions LLC  
Attention Brownfields 2003  
6101 Stevenson Avenue  
Alexandria, VA 22304

# BROWNFIELDS 2003 REGISTRATION



## REGISTRATION:

**Conference registration is FREE.** All registrations are requested in advance of the conference dates. Conference attendees may register online using the Online Registration Form found at [www.brownfields2003.org](http://www.brownfields2003.org), or by filling out and returning the attached form by U.S. mail (see address at the bottom of the form) or fax (703-461-2020). In order to be included in the published list of participants provided at the conference, advanced registration is required by September 26, 2003. However, registrations will be accepted through October 10, 2003. Registrants will receive confirmation of registration by e-mail or fax within 7 days after registering. If you do not receive confirmation of your advance registration within 7 days, please call the Brownfields 2003 Hotline at 1-877-343-5374. Based on availability, on-site registration will be conducted at the Oregon Convention Center beginning at 3:00 p.m. on Sunday, October 26, 2003.

NAME (FOR BADGE) \_\_\_\_\_

TITLE \_\_\_\_\_

COMPANY/ORGANIZATION \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_ COUNTRY \_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_

E-MAIL  Please check box if you do not want your e-mail address included in the Brownfields 2003 *Participants List*

Please check your stakeholder group:

Community Group

Academia

Scientific or Technical

Real Estate Industry

Banking/Finance/Insurance

Federal Government

State and Tribal Government

Local Government

Other \_\_\_\_\_

Are you an exhibitor in the exhibit hall?

Are you a conference co-sponsor member? If so, which one?

\_\_\_\_\_

## MEALS:

Meals must be ordered in advance and will require pre-payment. You are not required to purchase a meal to attend an event. Concessions and restaurants will also be available. Written requests for refunds will be accepted through **October 10, 2003**.

Standard and Vegetarian lunch selections will be served with: Kettle Chips, Seasonal Fruit, and Bottled Water or Soda on October 27 and 29; and with Chef's Choice of Salad, a Cookie, and Bottled Water or Soda on October 28. Kosher lunch selections will be served with Sliced Veggies, Dessert, and Bottled Water or Soda on October 27-29.

\_\_\_\_\_ **BOX LUNCH MONDAY, OCTOBER 27** ..... \$13 or \$15

\_\_\_\_\_ **BOX LUNCH TUESDAY, OCTOBER 28** ..... \$13 or \$15

\_\_\_\_\_ **BOX LUNCH WEDNESDAY, OCTOBER 29** ..... \$13 or \$15

**TOTAL \$** \_\_\_\_\_

## BOX LUNCH NUMBERS AND MENUS:

1. Black Forest Ham, Havarti Cheese, Lettuce, Tomatoes, Spicy Brown Mustard on a Hearth Roll (\$13)
2. Herb Crusted Roast Beef, Muenster Cheese, Spicy Cabbage Slaw, Stone-ground Beer Mustard on a Rustic Baguette (\$13)
3. Grilled Garlic & Rosemary Chicken, Caramelized Onion Marmalade, Sun-dried Tomato Aioli served on an Herb Focaccia (\$13)
4. Vegetarian Meal – Grilled Portabella Mushroom, Spinach and Red Pepper Hummus, on Fresh Focaccia Bread (\$13)
5. Vegetarian Meal – Garden Burger (\$13)
6. Kosher Meal – Chicken Sandwich (\$15)
7. Kosher Meal – Roast Beef Sandwich (\$15)

## SCHOLARSHIP INFORMATION:

The International City/County Management Association (ICMA) will take applications for the Brownfields 2003 Scholarship Program until July 18, 2003. Visit the Brownfields 2003 website at [www.brownfields2003.org/scholarships.aspx](http://www.brownfields2003.org/scholarships.aspx), or call 202-962-3674 for more information.

## METHOD OF PAYMENT (FOR MEALS):

Check (made payable to Brownfields 2003)  Visa\*\*  Mastercard\*\*  AMEX\*\*

Please note: DynCorp I&ET will appear on the credit card statement.

\_\_\_\_\_ AUTHORIZED SIGNATURE

\_\_\_\_\_ ACCOUNT NUMBER EXP. DATE \_\_\_\_\_

\_\_\_\_\_ NAME AS IT APPEARS ON CARD

\*\*Due to fraud protection measures, credit card payments must include the correct billing address for payment processing. If credit card billing address is different from the address listed above, please provide billing address below.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If you have any special needs or requirements (e.g., wheelchair facilities, ASL, interpreter), please specify below, or notify us by September 26, 2003.

Special needs: \_\_\_\_\_

\_\_\_\_\_

How did you hear about the Brownfields 2003 conference?

Attended previous conference

Brownfields 2003 website

Conference brochure/postcard

Co-sponsor newsletter/website

Other \_\_\_\_\_

## Questions:

Email Brownfields 2003: [brownfields2003@dyncorp.com](mailto:brownfields2003@dyncorp.com)

Phone Brownfields 2003: 1-877-343-5374 (toll free)

**Photocopy this form and submit it by one of the following methods:**

**Mail to:** DynCorp Systems & Solution LLC (A CSC Company)  
**ATTENTION: BROWNFIELDS 2003**  
**6101 STEVENSON AVENUE**  
**ALEXANDRIA, VA 22304**

**Fax to:** 703-461-2020  
 Attention Brownfields 2003



**Brownfields 2003 Conference Housing Registration**  
**October 27 – 29, 2003**  
**Oregon Convention Center – Portland, OR**

**GUEST INFORMATION**

Use one form for each room requested – make copies of this form as needed.

**Instructions**

Reservation requests can be submitted by ONE of the following methods:

**INTERNET:** To reserve on-line, visit the Brownfields 2003 web site at <http://www.brownfields2003.org>.

**TELEPHONE:** Call the Brownfields Housing Bureau, 9am-7pm EST, Monday-Friday toll free at (866) 887-6697 or (506) 433-7985 (for International).

**FAX:** (506) 433-3033

**MAIL:** Brownfields – POVA Housing  
 1000 SW Broadway, Suite 2300  
 Portland, OR 97205

**QUESTIONS ONLY:** Send an e-mail to: [housing@pova.com](mailto:housing@pova.com), or call the Brownfields Housing Bureau.

**Acknowledgements**

The Housing Bureau automatically sends acknowledgements once the request has been processed. You will not receive a confirmation from the hotel. Acknowledgements are sent via e-mail (immediately after being processed), fax (within 24 hours of processing) or mail (up to 7 business days). Please review all information for accuracy. If you do not receive your acknowledgement within 15 business days, please contact the Housing Bureau.

**Rates/Taxes & Special Requests**

To take advantage of the special convention rates, please book your reservation by **September 26, 2003**. After that date, room blocks will be released and hotels may charge higher rates.

All rates are per room and do not include 11.5% occupancy tax (subject to change).

Special requests can not be guaranteed, however hotels will do their best to honor all requests. Hotels will assign specific room types upon check-in, based on availability.

**Changes & Cancellations**

Before **October 22, 2003**: Changes to name, stay dates, address, or special requests can be made on-line at <http://www.brownfields2003.org> - OR - contact the Brownfields Housing Bureau to modify or cancel your reservation.

After **October 21, 2003**: All changes and cancellations must be made directly with the assigned hotel. **Do not contact a hotel directly until after October 21, 2003.**

**Arrival Date** \_\_\_\_\_ **Departure Date** \_\_\_\_\_

First Name: \_\_\_\_\_ M.I. \_\_\_\_\_ Last Name: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Daytime Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

\* If providing international telephone numbers, please include country and city access numbers

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Address 2: \_\_\_\_\_

City/State/Province: \_\_\_\_\_

Zip/Postal Code, Country: \_\_\_\_\_

**HOTEL and ROOM INFORMATION**

Please list the **names** of four hotels in order of preference.

First: \_\_\_\_\_ Second: \_\_\_\_\_

Third: \_\_\_\_\_ Fourth: \_\_\_\_\_

**If all requested hotels are unavailable, a reservation will be made at the next available hotel.**

Please check this box if you are requesting a room at the **government rate**. Please note that Federal, State, and local government picture identifications will be required for all government room requests, and will be requested at hotel check-in.

Circle # of beds requested:    1    2    Due to limited availability, select 2 beds only if necessary.

List all room occupants: \_\_\_\_\_ Circle # of occupants:    1    2    3    4

Check here if you have a disability requiring special services.     Non-smoking request

Special requests: \_\_\_\_\_

**GUARANTEE INFORMATION**

All reservation requests must include guarantee information. Requests received without proper guarantee information will NOT be processed. The preferred and easiest method of guarantee is with a credit card (valid at least through the dates of the convention). If you do not have a credit card to use for guarantee, check deposits in the amount of \$91 for government rooms and \$125 for non-government rooms (per room requested) will be accepted via mail only. This deposit will be applied toward your hotel room(s).

American Express                       Discover                       Diner's Club  
 MasterCard                               Visa

Card Number: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Name on Credit Card: \_\_\_\_\_

Cardholder's Signature\* \_\_\_\_\_

\* Necessary to process reservation

**Check deposit enclosed in the amount of \$\_\_\_\_\_ (per room requested) made payable to: "POVA Housing."** Refunds for cancelled reservations that are guaranteed with a check deposit will be mailed within 10 business days upon receipt of written notification.

Mail check deposit along with the completed housing form(s) to: Brownfields 2003- POVA Housing, 1000 SW Broadway, Suite 2300, Portland, OR 97205

**Do not mail housing forms that were previously sent via FAX or that were made on-line.**



Remove here and complete

PLACE  
STAMP  
HERE

Brownfields 2003-POVA Housing  
1000 SW Broadway, Suite 2300  
Portland, OR 97205

## Lodging

The Portland Oregon Visitors Association's Housing Bureau, POVA Housing, is the official reservation service for Brownfields 2003. Reservations may be made online, by telephone, fax, or mail. Please do not call the hotels to request a reservation. Government and non-government room blocks have been established with the hotels listed on page 6. Government participants will be required to show an agency-issued picture identification to receive the government rate.

Rooms are assigned on a first-come, first serve basis. If your hotel choices are not available, you will be assigned to the next available hotel. All guest room rates are subject to tax. All room rates quoted are special net, non-commissionable group rates and are exclusive of the current occupancy tax of 11.5%. This occupancy tax is subject to change.

*"MAX" Light Rail Service Is FREE from the Convention Center To Downtown Corridor Hotels!*

The hotels are within walking distance to the Oregon Convention Center, or to a "MAX" station, Portland's mass transit light rail line, which stops at the front door of the Oregon Convention Center **262 times per day**. All TriMet MAX trains and buses are accessible to people with special needs. Portland is known for its short city blocks, approximately one-half the distance of a normal city block.

## Reservation Instructions

Lodging reservations for Brownfields 2003 opened on June 27, 2003. Reservations must be made through Brownfields 2003—POVA Housing by September 26, 2003, to receive the discounted rates shown in the list of hotels. To reserve hotel accommodations, use one of the following options:

### Online Reservations at [www.brownfields2003.org](http://www.brownfields2003.org)

- Select Government or Non-government Reservations
- Complete the hotel reservation information

### By Telephone:

Monday-Friday, 9:00 A.M. – 7:00 P.M. EST  
866-887-6697 (toll free)  
506-433-7985 International Callers

### By Fax to Brownfields 2003—POVA Housing:

506-433-3033

### By Mail:

Brownfields 2003 – POVA Housing  
1000 SW Broadway, Suite 2300  
Portland, OR 97205

*(Make checks payable to "POVA Housing" for one night's room deposit, \$91 for a government room and \$125 for a non-government room.)*

For fax and mail reservations, photocopy the Brownfields 2003 – POVA Housing Reservation Form provided in the brochure or download the PDF form available at: [www.brownfields2003.org](http://www.brownfields2003.org).

**Reservation deposits/guarantees** are required for each reservation and are accepted by credit card or check. An amount equal to **\$91 for a government room and \$125 for a non-government room** must accompany your online, fax or telephone reservation. Purchase orders are not accepted. If you are guaranteeing your reservation by credit card, you may make your reservation online, by fax or telephone. Credit cards will not be charged until your scheduled arrival date. The selected hotel will charge "No-shows," guaranteed reservations not canceled in accordance with the hotels' cancellation policy. If you are guaranteeing your reservation by check, make your check payable to "POVA Housing," and mail it with your completed reservation form to POVA Housing, 1000 SW Broadway, Suite 2300, Portland, OR 97205. Checks will be deposited on receipt. All deposits will be credited to the individual's room account.

**Acknowledgments** will be sent by POVA Housing by e-mail (immediately after processing), fax (within a few hours of processing), or mail (up to 10 business days). The hotels will not send acknowledgments. Please review all acknowledgment information for accuracy. If you do not receive an acknowledgment within



Portland skyline with Mount Hood



Portlandia Sculpture,  
Downtown Portland

15 days after making your reservation, please contact POVA Housing. Only one acknowledgment will be sent for each reservation. E-mailed acknowledgments should be printed. Providing a copy of your acknowledgment at hotel check-in is recommended.

**Changes/Cancellations on or before October 21, 2003.** Cancellations and changes to name, stay dates, address, or special requests can be requested online at [www.brownfields2003.org](http://www.brownfields2003.org) or contact the Brownfields 2003—POVA Housing by fax to (503) 433-3033 or telephone to (866) 887-6697 (toll free) or to (506) 433-7985 (International). After October 21, 2003, all changes and cancellations must be made directly with the assigned hotel. Reservation acknowledgment numbers must be referenced on all requests for changes and cancellations. Cancellations requested after the hotel's individual cancellation date will result in forfeiture of your entire deposit.

## Special Airfare

The official carriers for Brownfields 2003 are:

**Delta Airlines** 800-241-6760 (toll free)  
Monday-Sunday, 8:00 A.M.– 11:00 P.M.  
Eastern Standard Time

**Refer to Delta File Number 196900A**  
(Travel agents must include the meeting identifier code "DMN196900A" in the tour code box on all tickets issued in conjunction with this event.)

**US Airways** 877-874-7687 (toll free)  
Monday-Sunday, 8:00 A.M.– 9:30 P.M.  
Eastern Time

### Refer to Gold File Number 66112806

To obtain airfare discounts, you or your professional travel consultant must call the Group and Meeting Reservation Office telephone numbers for the airlines listed above and provide the Delta File or Gold File Number. The above discounts are not combinable with other discounts or promotions, and are

valid between October 24–November 7, 2003. A minimum 2-night stay is required for discounted airfare. Additional restrictions may apply on international travel.

## Automobile Rental

The official rental car agencies for Brownfields 2003 are **AVIS** and **Budget**. Discounted daily and weekly rates are available. Reservations may be made by telephone or online. Please refer to the AWD or the BCD Codes to obtain the discounted rates.

**AVIS – AWD Code: A266199** Discounted rates are available beginning October 24–November 1, 2003.

- **Online at:** [www.brownfields2003.org](http://www.brownfields2003.org) or [www.avis.com/AvisWeb/html/meetings/webpage.html?2291](http://www.avis.com/AvisWeb/html/meetings/webpage.html?2291)
- **By Telephone:** 800-331-1600 (toll free)

**Budget Rent A Car – BCD Code: U651005** Discounted rates are available beginning October 20–November 7, 2003.

- **Online at:** [www.brownfields2003.org](http://www.brownfields2003.org) or [www.budget.com/](http://www.budget.com/)
- Complete "Make A Reservation" Section (right side of screen)
- Complete "Location" Section
- On all screens—select pick-up and drop-off locations
- Complete "Rate Choice" Section—Select BCD Code—Enter BCD Code U651005
- Select proceed to step 2 of 3 (at the bottom of the screen)
- Complete Steps 2 & 3
- Select "complete reservation" (to submit your reservation)
- **By Telephone:** 800-772-3773 (toll free)

The discounted rates do not include taxes, loss damage waiver (LDW), personal accident insurance (PAL), personal effects protection (PEP), refueling service charges, airport related fees, drop charges, similar optional service fees, or any other extra service fees not specifically included in the rates. Renters must meet the individual rental agencies' age, driver, and credit requirements.

Biking on the  
Eastbank Esplanade



## Airport Transportation

TriMet's MAX light rail system offers direct service to downtown Portland for a \$1.55 cash fare one-way. The MAX station at the airport terminal is approximately 150 feet from baggage claim. Tickets must be purchased prior to boarding the MAX. Ticket machines are available in the baggage claim area. Approximate travel time to downtown is 38 minutes.

The taxi fare from the airport to the downtown hotels averages \$30.00 for one passenger (fares are subject to change). Approximate travel time is 30 to 40 minutes during rush hour and 15 to 20 minutes during non-rush hours.

Airport shuttles are available on a reservation basis. Reservations are required prior to arriving in Portland and are required for return trips to the airport. Discounts are available for groups traveling together. To make shuttle reservations, please contact one of the following companies:

Green Shuttle  
503-234-1414  
877-853-3577 (toll free)  
www.greentrans.com

White Van Shuttle, Inc.  
503-774-9755  
877-774-9750 (toll free)  
www.whitevanshuttle.com

## Amtrak

The train station is located at the edge of downtown at 800 N.W. 6th Avenue, Portland, OR 97209. The Portland station is staffed and provides the following services: Quik-Trak ticket machine, checked baggage service, help with baggage, enclosed waiting area, restrooms, pay-phones, paid short and long term parking, fully accessible to persons using wheelchairs, taxi service, and a restaurant. Trains serving this station include:

- Amtrak Cascades providing service to Eugene, OR; Portland, OR; Seattle, WA; and Vancouver, BC.
- Coast Starlight providing service to Seattle, WA; Portland, OR; Oakland, CA; and Los Angeles, CA.

- Empire Builder providing service from Chicago, IL to Portland, OR and Seattle, WA.

Reservations may be made online at [www.amtrak.com](http://www.amtrak.com) or by telephone to 1-800-USA-RAIL (1-800-872-7245).

## Local Transportation via MAX Light Rail

TriMet's MAX light rail service is "FREE" from the Oregon Convention Center to the Downtown corridor and Lloyd Center hotels. "MAX" trains stop at the front door of the Oregon Convention Center 262 times per day. All TriMet MAX trains and buses are accessible to people with special needs. Portland is known as a "great walking city" and for its short city blocks, approximately one-half the distance of a normal city block.

## Driving Directions

The Oregon Convention Center (OCC) is eight miles from the Portland International Airport and is accessible via Interstate Freeway I-5 North, Exit 302A (Rose Quarter), and I-84 West, Exit 1 (Lloyd Blvd.). The OCC is bound by Holladay Street, Martin Luther King Jr. Blvd., Lloyd Blvd., and NE First Avenue.

### I-5 Northbound:

Take Rose Quarter, Broadway/Weidler Street Exit (Exit 302A). Go right on Weidler, and right on Martin Luther King Jr. Blvd.

### I-5 Southbound:

Take Rose Quarter/City Center Exit (Exit 302A). Go across Broadway, then left on Weidler, and right on Martin Luther King Jr. Blvd.

### From I-84:

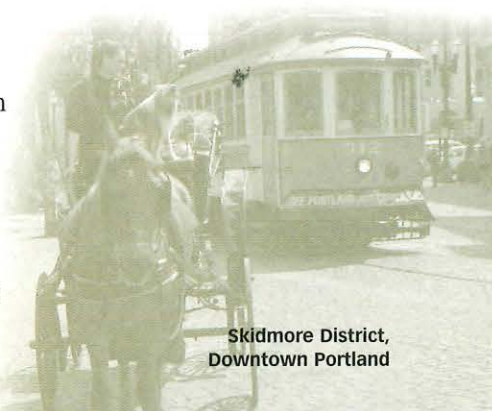
Take Lloyd Blvd. Exit (Exit 1); stay on Lloyd Blvd. all the way to the convention center.

### From Portland International Airport (PDX):

Take 205 South to I-84 West to Portland. From I-84, take Lloyd Blvd. Exit (Exit 1); stay on Lloyd Blvd. all the way to the convention center.



MAX light rail, Downtown Portland



Skidmore District, Downtown Portland

## OCC Parking

Onsite parking is available in OCC's new **Underground Parking Garage**. 800 spaces are available on 2 levels. The parking garage entrance is on First Avenue. Turn RIGHT on Oregon Street heading EAST or LEFT off Lloyd Blvd. heading WEST. The daily parking rate is \$8.00 with no in/out privileges.

**OCC's Satellite Parking Lot** is located EAST of the OCC directly across the street. The entrance is on NE Martin Luther King Jr. Blvd. and Pacific Street. The daily parking rate is \$8.00 with no in/out privileges.

The **Metro Regional Garage** is located at 600 NE Grand. The entrance is on NE Grand and Irving Streets. The daily parking rate is \$6.00 with no in/out privileges.

Privately owned parking lots are available in the vicinity of the OCC. Parking

fees at these lots range from \$10 and up. These lots may promote "convention center parking", however they are not affiliated with the OCC.

Parking for the disabled, on a first come first served basis, is available in the OCC parking garage, the OCC Satellite Parking Lot, and the Metro Regional garage.

## General Information

Weather information can be obtained by calling 503/275-9792 or 503/225-5555, access code 8051. Road conditions can be obtained by calling 503/222-6721.

For more information on Portland, visit [www.pova.org/visitors](http://www.pova.org/visitors). For more information on things to do and see in Oregon, visit [www.traveloregon.com](http://www.traveloregon.com).

### Important Dates

#### May 30:

Registration opens

#### June 27:

Hotel and Travel Reservations open

#### July 18:

Travel scholarship application deadline

#### July 18:

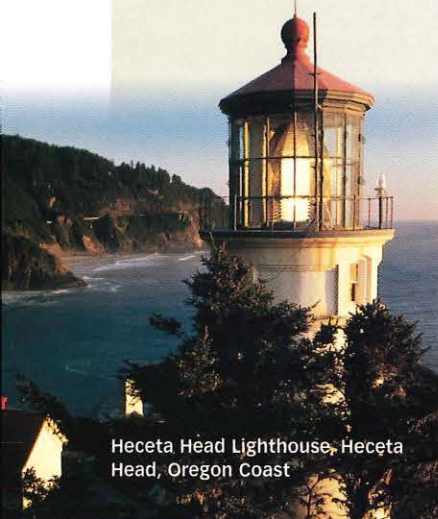
Phoenix Award nomination deadline

#### September 26:

Hotel reservation and Conference pre-registration deadline

#### October 27-29:

Brownfields 2003

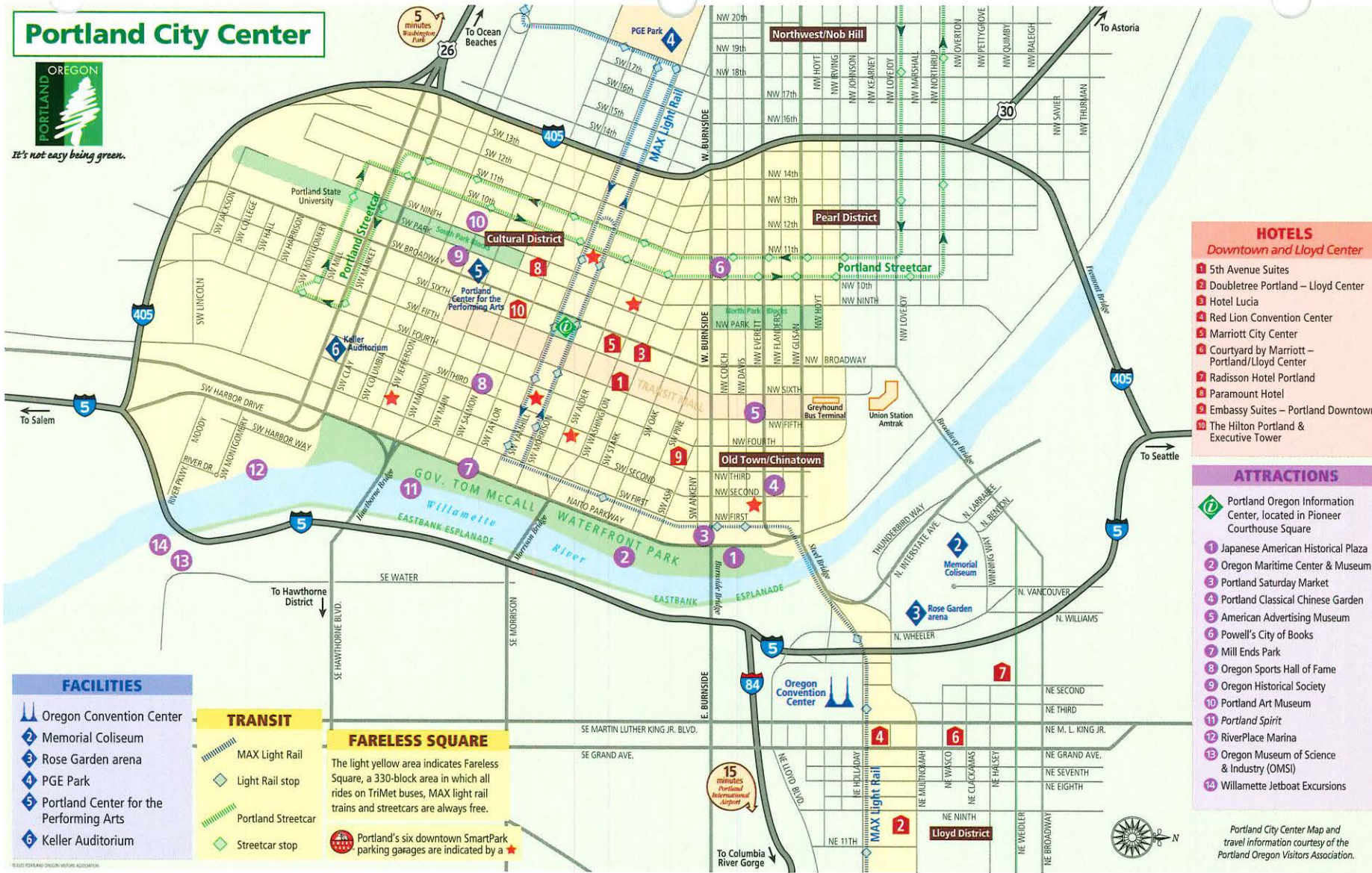


Heceta Head Lighthouse, Heceta Head, Oregon Coast

# Portland City Center



It's not easy being green.



- ### HOTELS Downtown and Lloyd Center
- 1 5th Avenue Suites
  - 2 Doubletree Portland – Lloyd Center
  - 3 Hotel Lucia
  - 4 Red Lion Convention Center
  - 5 Marriott City Center
  - 6 Courtyard by Marriott – Portland/Lloyd Center
  - 7 Radisson Hotel Portland
  - 8 Paramount Hotel
  - 9 Embassy Suites – Portland Downtown
  - 10 The Hilton Portland & Executive Tower

- ### ATTRACTIONS
- 1 Portland Oregon Information Center, located in Pioneer Courthouse Square
  - 2 Japanese American Historical Plaza
  - 3 Oregon Maritime Center & Museum
  - 4 Portland Saturday Market
  - 5 Portland Classical Chinese Garden
  - 6 American Advertising Museum
  - 7 Powell's City of Books
  - 8 Mill Ends Park
  - 9 Oregon Sports Hall of Fame
  - 10 Oregon Historical Society
  - 11 Portland Art Museum
  - 12 Portland Spirit
  - 13 RiverPlace Marina
  - 14 Oregon Museum of Science & Industry (OMSI)
  - 15 Willamette Jetboat Excursions

Portland City Center Map and travel information courtesy of the Portland Oregon Visitors Association.

- ### FACILITIES
- 1 Oregon Convention Center
  - 2 Memorial Coliseum
  - 3 Rose Garden arena
  - 4 PGE Park
  - 5 Portland Center for the Performing Arts
  - 6 Keller Auditorium

- ### TRANSIT
- MAX Light Rail
  - Light Rail stop
  - Portland Streetcar
  - Streetcar stop

### FARELESS SQUARE

The light yellow area indicates Fareless Square, a 330-block area in which all rides on TriMet buses, MAX light rail trains and streetcars are always free.

Portland's six downtown SmartPark parking garages are indicated by a ★

For additional information or specific details, visit the 2003 Brownfields Conference Web site at [www.brownfields2003.org](http://www.brownfields2003.org)



# PRESENTED BY

U.S. Environmental Protection Agency  
International City/County Management Association (ICMA)

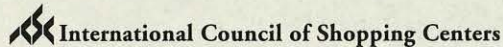


# COSPONSORED BY

Agency for Toxic Substances and Disease Registry  
American Bar Association  
American Planning Association  
Association of State and Territorial Solid Waste Management Officials  
Center for Public Environmental Oversight  
City of Portland, Office of the Mayor  
City of Portland Bureau of Housing and Community Development  
Department of Housing and Urban Development  
Economic Development Administration

International Council of Shopping Centers  
International Economic Development Council  
National Association of Industrial and Office Properties  
National Association of Local Government Environmental Professionals  
National Brownfields Association  
National Conference of Black Mayors  
National Forum for Black Public Administrators  
National Governors Association  
National Institute of Environmental Health Sciences

National Oceanic and Atmospheric Administration  
Northeast-Midwest Institute  
Oregon Department of Environmental Quality  
Oregon Economic & Community Development Department  
Pennsylvania Department of Environmental Protection  
Portland Development Commission  
Trust for Public Land  
United States Conference of Mayors  
US Department of Agriculture




Conserving Land for People

03-291

International City/County Management Association  
777 North Capitol Street, NE  
Suite 500  
Washington, DC 20002

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Land Quality Program



## Land Quality Program Overview

Environmental Quality Commission  
October 10, 2003

Dick Pedersen  
Division Administrator

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Land Quality Program



### Overview



- History
- Current Activities
- Emerging Issues

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Land Quality Program



### History



- **Federal Legislation**
  - Resource Conservation & Recovery Act (1976)
  - Comprehensive Environmental Response Compensation & Liabilities Act (1980)
  - Oil Pollution Act (1990)
- **State Legislation**
  - Oregon specific issues
    - Bottle Bill (1971)
    - Opportunity to Recycle Act (1983)
    - State Environmental Cleanup (1987, 1995)
    - Toxics Use Reduction (1989)
    - Oil and Hazardous Material Spillage (1991)

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**Land Quality Program**



**Current Activities**

**Land Quality Program**  
 Working to protect human health and the environment by:

- Preventing,
- Safely managing, and
- Effectively cleaning up.



*Big Lake, Woodoo Ski Bowl*

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**Land Quality Program**



**Current Activities**




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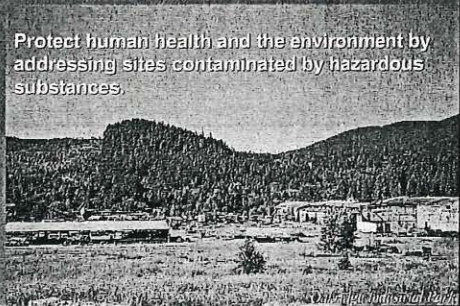
**Land Quality Program**



**Cleanup**

**CLEANUP**

Protect human health and the environment by addressing sites contaminated by hazardous substances.




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Land Quality Program

**DEQ** **CLEANUP**

**Cleanup Tools**

Brownfields  
Site Response  
Orphan Fund  
Independent Cleanup  
Voluntary Cleanup  
Prospective Purchaser Agreement  
Dry Cleaner Fund  
Superfund

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Land Quality Program

**DEQ** **CLEANUP**

**Cleanup - Facts**

- 2,945 sites in Environmental Cleanup Site Information (ECSI) database
- 584 sites listed on Confirmed Release List (CRL)
- 289 sites in Voluntary Cleanup Program (VCP)
- 16 sites on VCP waiting list
- 173 sites in Site Response Program (SRP)
- 50 signed Prospective Purchaser Agreements (PPAs)
- 760 total "No Further Actions"
- 44 Orphan Sites
- 11 Superfund Sites

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Land Quality Program

**DEQ** **HAZARDOUS WASTE**

**Hazardous Waste**

- Delegated program.
- Conduct inspections.
- Issues permits.
- Provides business assistance.
- Implements the state's toxic use reduction requirements.

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Land Quality Program



**Hazardous Waste - Facts**

**HAZARDOUS WASTE**

- **Regulates**
  - 3,700 registered generators
    - 200 Large Quantity Generators (LQG)
    - 400 Small Quantity Generators (SQG)
    - 3,100 Conditionally Exempt Generators (CEG)
  - 160 commercial transporters
  - 3 permitted commercial treatment/storage/disposal facilities




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Land Quality Program



**Underground Storage Tanks**

**TANKS**

- Regulated tank registration and compliance.
- Cleanup of releases.




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Land Quality Program



**Underground Storage Tanks (UST)**

**TANKS**

- 6,095 tanks with operating permits
- 96.8% of tanks with operating permits

**Leaking Underground Storage Tanks (LUST)**

- 6,737 releases reported
- 6,312 cleanups initiated
- 5,060 cleanups completed

*UST pit, Baker City*

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Land Quality Program

**DEQ** **EMERGENCY RESPONSE**

**Emergency Response**

Prevent and respond to spills of oil and hazardous materials.

*Oil Spill Containment Boom and Boats, June 2006 - Hwy 38*

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Land Quality Program

**DEQ** **EMERGENCY RESPONSE**

**Emergency Response - Facts**

- In 2002...
  - 2,358 calls to Oregon Emergency Response System (OERS)
  - 2,000 vessel trips

*Oil Spill Containment, Detroit Lake, Hwy 22*

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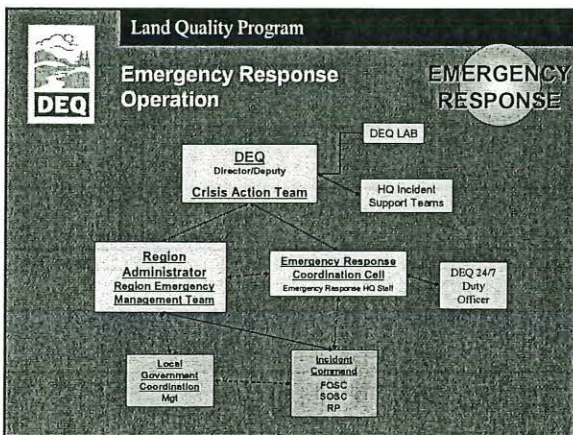
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Land Quality Program

**DEQ**

**SOLID WASTE**

**Solid Waste**

- Prevent the generation of waste.
- Reuse.
- Recycle.
- Compost.
- Energy Recovery.
- Safe disposal permitting.

*Columbia George Organic, Hood River*

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Land Quality Program

**DEQ**

**SOLID WASTE**

**Solid Waste - Facts**

*Total Solid Waste Disposed, Recovered, and Generated  
Pounds Per Person Per Day  
1992 - 2002*

Year	Generated (lbs/ppd)	Recovered (lbs/ppd)	Disposed (lbs/ppd)	Total (lbs/ppd)
1992	1.5	4.2	5.7	
1994	2.0	4.1	6.1	
1996	2.3	4.3	6.6	
1998	2.7	4.5	7.2	
2000	2.8	4.4	7.2	
2001	3.1	4.2	7.3	
2002	3.2	4.3	7.5	

KEY: = Generated, = Recovered, = Disposed

*Recovery + Disposal = Generation*

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Land Quality Program

**DEQ**

**SOLID WASTE**

**Solid Waste - Facts**

- 266 facilities under permit
- 28 municipal landfills
- 121 transfer stations
- 17 material recovery facilities
- 43 commercial composters
- 2 burners
- 55 closed landfills

*Columbia Ridge Landfills, Adirondack*

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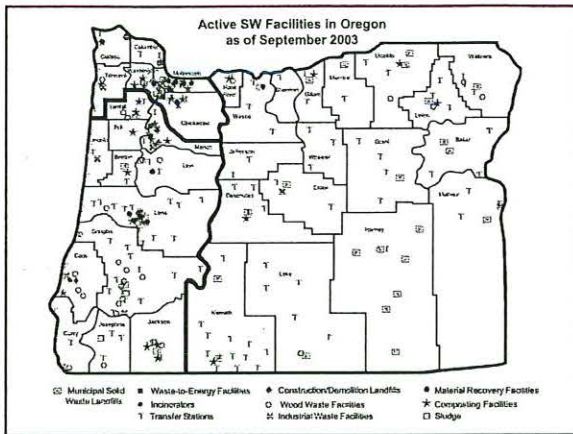
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**Land Quality Program**

**Emerging Issues**

- **Multi-media – Cross Program**
  - Abandoned and Inactive Mines
  - Sediments
  - Toxics

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**Land Quality Program**

**Business Assistance – Classroom Instruction**

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Land Quality Program



**Business Assistance – Site Visits**

- Results: Over a 2 year period, Western Region business assistance resulted in...
  - 43 tons of waste and toxics eliminated;
  - 21 tons of waste and wastewater discharges diverted from environmentally degrading practices; and
  - 70 tons of waste more safely managed.




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Land Quality Program



**Brownfields**

**Before...**




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Land Quality Program



**Umatilla Depot**




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Land Quality Program



Homeland Security



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Land Quality Program



Compost Rulemaking

- 43 facilities with registrations, full, or general permits.
- Outdated rules
- Some agricultural facilities



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Land Quality Program



Reuse & Recycling



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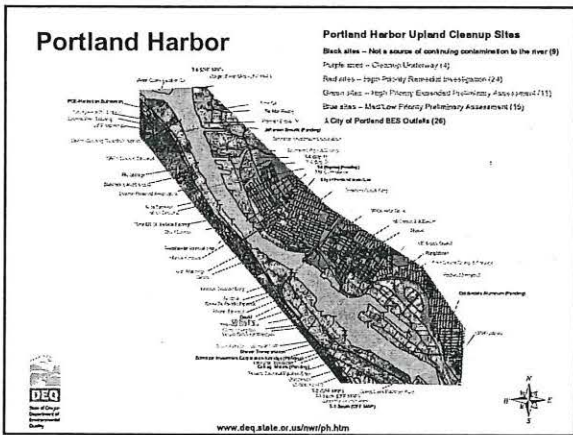
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## Site Assessment Program

### Introduction

Site Assessment (SA) is an integral part of DEQ's Cleanup Program. As the entry point into DEQ's Voluntary Cleanup and Site Response Programs, SA performs a critical "gatekeeping" function. SA staff examine sites where releases of hazardous substances have occurred or may have occurred, to determine if these sites have the potential to impact human health or the environment.

The SA Program evaluates many property types, from small commercial lots to roadside chemical spills to large industrial facilities. The program assesses all hazardous substances that can contaminate soil, surface water, sediments, groundwater, or air.

### Program Components

The main Site Assessment components are:

- Discovery
- Evaluation/Ranking
- Recommending Further Action
- Listing Decisions

Each of these program elements is discussed below.

### Discovery

Discovery refers to how SA staff learn of contaminated or potentially contaminated properties. There are many ways this can occur, such as:

1. referral from other DEQ programs or from other public agencies;
2. reports of chemical spills;
3. citizen complaints;
4. contamination appearing on adjacent properties;
5. data submitted voluntarily by property owners or their representatives; or
6. SA staff research to discover sites that could affect Vulnerable Areas in Oregon.

SA staff perform quick reviews of all new site information and focus first on those sites with the greatest potential to threaten human health and/or the environment. At this time, SA adds new sites to DEQ's Environmental Cleanup Site Information (ECSI) database. ECSI is an electronic tracking system for contaminated or potentially contaminated

sites, which is updated as sites progress through different stages of the cleanup process.

### Evaluation/Ranking

Site Assessment's first documented action at a site is called a screening. A screening is a brief review of readily available information on site history, contamination, and ways that human environmental receptors could be exposed to site contamination. Screenings are primarily desktop exercises that occasionally include site visits, but rarely involve DEQ sampling. Screenings culminate in general recommendations for further site action that include priority rankings (low, medium, or high). Priorities are assigned based on the threats posed by contamination and the urgency in implementing further actions. SA staff use a ranking tool developed within DEQ, the *Site Assessment Prioritization System* (SAPS) to guide their assignment of site priorities. Screenings are usually documented in written *Strategy Recommendations*.

At certain sites, DEQ staff will conduct a Preliminary Assessment (PA). This involves a detailed evaluation of facility operational history, waste management practices, past sampling data (if available), and potential exposure pathways. PAs incorporate site visits and sometimes include limited sampling. However, sampling at this stage more commonly occurs during an Expanded Preliminary Assessment (XPA), which is designed to confirm the presence of contamination when a previously completed PA lacks such information.

Information from SA evaluations is summarized in the ECSI database, which is available to the public.

### Recommending Further Action

Depending on the amount of information available and the nature of site contamination, SA may recommend that the property owner conduct a PA, an XPA, a remedial investigation (RI), or an RI with a feasibility study (FS) to evaluate cleanup options. At some sites, all that is needed is further documentation or analysis indicating that hazardous substances pose no significant threats. At a few other sites, SA staff may be able to determine from existing documentation that no further action is necessary. Depending on site conditions and the assigned priority, SA may offer facility owners



State of Oregon  
Department of  
Environmental  
Quality

Land Quality Division  
DEQ Headquarters  
811 SW 6<sup>th</sup> Avenue  
Portland, OR 97204  
Phone: (503) 229-5512  
(800) 452-4011  
Fax: (503) 229-6954  
Contact: Gil Wistar  
[www.deq.state.or.us](http://www.deq.state.or.us)

necessary. Depending on site conditions and the assigned priority, SA may offer facility owners and operators the following options for further action: 1) participate in DEQ's Voluntary Cleanup Program or Independent Cleanup Pathway; 2) conduct further actions independently (i.e., without any DEQ involvement); or 3) wait for DEQ's Site Response Section to initiate further action under the state's enforcement authority.

The SA Program tracks its costs in performing site evaluations, and notifies property owners or operators of this policy at the beginning of the screening process. DEQ seeks to recover these costs when SA recommends further investigation or cleanup at a site.

### **Listing**

For public notification purposes, state law requires DEQ to maintain a Confirmed Released List (CRL) and an Inventory of Hazardous Substance Sites (Inventory). The CRL is a list of sites with documented releases of hazardous substances. The Inventory is a subset of the CRL, consisting of contaminated sites where a PA (or equivalent) has been completed and where further investigation or cleanup is needed to protect human health and the environment. In most cases, DEQ listing decisions originate from SA staff recommendations.

If a site meets the criteria for listing, DEQ notifies owners/operators of its proposal to add the site to the CRL and/or Inventory, and permits comments on the proposed listing. In its listing decision letter, DEQ responds to all substantive issues raised in comment letters. DEQ may decide not to list a site if new information demonstrating that the site does not meet the criteria for listing is submitted during the 45-day comment period.

### **For more information please contact:**

*Gil Wistar, Land Quality (503) 229-5512*

### **Alternative Formats**

*Alternative formats of this document can be made available. Contact DEQ Communication & Outreach for more information (503) 229-5696.*

## How to Find Site Information in DEQ's ECSI Database

### What is ECSI?

ECSI stands for "Environmental Cleanup Site Information". It's a database used by DEQ to keep track of information on contaminated and potentially contaminated sites throughout Oregon. This data includes, at a minimum, where the site is located, what hazardous substances are or were present at the site, and what actions DEQ has taken to investigate and clean up the site.

Not all sites listed in ECSI are contaminated. Some were thought to be contaminated, but further investigations found that they weren't. Other sites were contaminated but have been cleaned up. These sites remain in ECSI to provide a record of DEQ's activities.

### How Can I Find Information in ECSI?

Information recorded in ECSI can be accessed through DEQ's web pages. A Query feature on the web pages can be used to bring up a list of all the ECSI sites in a particular area, and show detailed information on each individual site. To reach this feature, simply follow this three-step process:

- Step 1: Log on to [www.deq.state.or.us](http://www.deq.state.or.us)
- Step 2: Click on [Databases] (near the bottom of the page).
- Step 3: Click on [Environmental Cleanup Site Information \(ECSI\)](#).

This will take you to a page that lists various ways of searching for sites listed in ECSI. For now, go ahead and click on the first option, [Search complete ECSI database](#). This will take you to the Query feature.

### How Should I Use the ECSI Query?

The Query feature is a chart with boxes for entering query data. To be sure you don't miss any sites in your area, it's best to start with a wide search and narrow it down. For sites in rural counties, you may just want to enter the county name (click on the down arrow to the right of the box) to bring up a list of all the sites in the county. Or just enter a city name or zip code. When you have entered your data, click on the "Submit" button in the lower left-hand corner of the feature.

A search engine will create a list of all of the sites in ECSI that match the search criteria. The sites will be listed in alphabetical order by site name. The location of each site (street address, city, zip code, and county) will be given, along with an indication of the site's status in DEQ's investigation and cleanup process. The [Definition of Actions](#) link, just above the list, provides more information on the terminology used in the Status field.

To see detailed information on an individual site, click on the site's ID number on the left-hand side of the chart.

If you want to conduct a new query, use the "Back" button on your browser to go back to the Query feature.

### For More Information:

Detailed information on ECSI and how to use the Query feature can be found on the ECSI fact sheet and the ECSI Query Detailed Instructions Form. Both of these pages can be reached by following the three-step process outlined above. Their links are just above the list of ECSI search options.



State of Oregon  
Department of  
Environmental  
Quality

Land Quality Division

Site Assessment  
Program

811 SW 6<sup>th</sup> Avenue  
Portland, OR 97204  
Phone: (503) 229-5512  
Toll Free: (800) 452-4011  
Contact: Gil Wistar

[www.deq.state.or.us](http://www.deq.state.or.us)

## Orphan Site Program Questions and Answers

### What is an Orphan Site?

A property or area that has been contaminated by a release of hazardous substances becomes an Orphan Site when no one is willing or able to clean up the contamination.

Often when hazardous substances are released, DEQ can determine how the release occurred, and the persons legally responsible for the release can be made to pay to clean it up. Sometimes, however, it is not known how the contamination occurred. Other times, the persons responsible for the release may be unwilling or unable to pay to clean it up. Since no one is available to take responsibility for these sites, they are considered to be "orphaned", and the state must pay to clean them up.

### What types of sites are Orphan Sites?

A common type of Orphan Site is a property with soil and/or groundwater contamination, where the company responsible for the contamination has gone out of business. The company may also have left behind hazardous substances in tanks or drums on the property. Or, the company may still be operating, but be too small to afford the cleanup. Another type of site is an area where drinking water supply wells have been contaminated, and the source of the contaminated groundwater is not known.

### How does DEQ determine if someone is able to pay to clean up a site?

If a person indicates an inability to pay, DEQ will request detailed financial information from them. DEQ uses the information to determine if the person is able to pay for some or all of the investigation and cleanup. The financial information is kept confidential.

A person does not have to be bankrupt in order to be found to have an inability to pay. Typical Orphan Site cleanups are expensive, and most individuals are unable to pay the full cleanup costs. DEQ may recover a portion of its cleanup costs by negotiating a lump sum payment from an individual or business, or work out a payment plan so DEQ's costs can be paid back over time.

### Why would DEQ pay for a cleanup if the person(s) responsible were merely "unwilling" to pay?

Individuals and companies identified by DEQ as being potentially responsible for contamination have the right to challenge that determination. At seriously contaminated sites, however, it may not be prudent for DEQ to wait for months or years while trying to force a party to conduct a cleanup. In these cases, DEQ may use state funds to clean up the site first, then seek to recover the costs afterwards.

### How are Orphan Site cleanups funded?

Orphan Site cleanups are currently funded in one of two ways. Landfill cleanups are financed by the solid waste orphan site account, which relies on a special assessment on solid waste disposal. Other Orphan Sites, which are known as industrial orphans, are funded through the sale of long-term bonds. Since 1992, DEQ has issued bonds totaling \$33.3 million (as of March 2002). Debt on these bonds has been repaid with a variety of funds. The current budget finances the debt with state general funds and hazardous substance possession fees. For both solid waste and industrial orphans, when funds are recouped, either from identified responsible parties or through agreements with persons who wish to purchase Orphan Sites, they may then be spent on other orphan cleanups.

### How are sites referred to the Orphan Site Program?

Sites are usually referred to the Orphan Site Program from DEQ's Site Assessment Program. Site Assessment reviews information on potentially contaminated sites and prioritizes those sites according to the threat the contamination poses to public health and the environment. If a site is determined to be a high priority for further action, and it appears that no persons are willing or able to pay to clean the site up, Site Assessment will refer the site to the Orphan Site Program.



State of Oregon  
Department of  
Environmental  
Quality

Land Quality Division

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Phone: (503) 229-6530  
Toll Free: (800) 452-4011  
Contact: Bill Dana

[www.deq.state.or.us](http://www.deq.state.or.us)

**Does a site have to be a high priority to be referred to the Orphan Site Program?**

DEQ must determine that an immediate cleanup is necessary to protect public health or the environment before Orphan funds can be spent at sites with "unwilling" responsible parties. There are no similar restrictions for sites where the responsible parties are unknown or unable to pay for cleanup.

However, because both Orphan funding and staffing are limited, DEQ has decided to only fund the highest priority sites. All sites currently being cleaned up by the Orphan Site Program rank as high priorities under the Site Assessment Prioritization System.

**What happens when a site is referred to the Orphan Site Program?**

If hazardous substances have been dumped or abandoned at a site, the Orphan Site Program will arrange to remove or contain the hazards. At other sites, the program may collect soil

and groundwater samples to more accurately determine the amount and extent of contamination. At all sites, the Orphan Site Program will seek to identify the person(s) responsible for the contamination and determine if they are willing and able to pay for the investigation and cleanup.

**What if I want to purchase an Orphan Site?**

You can purchase an Orphan Site at any time, but if the site hasn't been cleaned up yet, DEQ strongly urges you to negotiate a Prospective Purchaser Agreement first. Knowingly purchasing a contaminated site without such an Agreement may leave you liable for the full costs of cleaning up the site.

**For more information contact**

*Bill Dana*  
*(503) 229-6530*  
*dana.bill@deq.state.or.us*

## OREGON'S PROSPECTIVE PURCHASER PROGRAM (PPA)



State of Oregon  
Department of  
Environmental  
Quality

Land Quality Division  
811 SW. 6<sup>th</sup> Avenue  
Portland, OR 97204  
Contact:  
Charlie Landman  
Phone: (503) 229-6461  
Fax: (503) 229-6977

[www.deq.state.or.us](http://www.deq.state.or.us)

The Department of Environmental Quality (DEQ) uses Prospective Purchaser Agreements (PPA's) as a tool to facilitate the cleanup and productive use of properties contaminated with hazardous substances. Investment in properties with existing contamination can be uncertain because of the strict liability scheme under State and Federal laws. Prospective Purchaser Agreements benefit buyers by limiting their liability, and benefit the State and local jurisdiction by facilitating the cleanup, returning the property to productive use, and allowing the purchaser to provide *substantial* public benefits to the community.

### Who is a Prospective Purchaser?

A prospective purchaser can be an individual, business, government body, or any other entity with the interest and ability to purchase contaminated property, where the contamination was neither caused nor aggravated by the "prospective purchaser."

### What is a Prospective Purchaser Agreement?

A Prospective Purchaser Agreement (PPA) is a legally binding agreement between the Department of Environmental Quality (DEQ) and a prospective purchaser, which limits the purchaser's liability to DEQ for environmental cleanup at the property in exchange for providing a "substantial public benefit."

### How do I know if I want a PPA and what are the benefits of having one?

If you are thinking about buying property that you know or suspect to be contaminated with hazardous substances, you may be interested in a PPA. The liability protections clarify and limit your responsibility to the State for the existing contamination. PPAs often make obtaining financing for the property purchase easier. Also, PPAs can be passed on to subsequent owners who will benefit from the protections provided for in the agreement, so

long as they adhere to its terms.

**If I just purchased a contaminated property, and didn't cause the contamination, can I still enter into a PPA?**

*No. PPAs must be negotiated and finalized before the property is purchased.*

**If I'm buying contaminated property, do I automatically get a PPA from DEQ?**

*No. Every property presents a unique set of circumstances, therefore, not all properties are appropriate for PPAs. As a starting point, the minimum requirements in the law are:*

- The prospective purchaser isn't responsible for cleaning up existing contamination at the property;
- There is contamination at the property and the law requires that it be cleaned up;
- The prospective purchaser's proposed use for the property will not make contamination worse or interfere with necessary cleanup; and
- A *substantial* public benefit will result from the agreement.

### What is a *substantial* public benefit?

The law provides the framework for DEQ's evaluations by listing examples of substantial public benefit, including:

- Generation of *substantial* funding or other resources to be used for environmental cleanup at the property.
- Commitment to perform *substantial* environmental cleanup activities at the property.
- *Productive reuse* of a vacant or abandoned industrial or commercial facility.
- Development of the property by a governmental entity or non-profit to address an *important* public purpose.

These are typical "substantial public benefits" that are generated as a result of the PPA's, DEQ has negotiated. However, DEQ evaluates each PPA individually to determine substantial public benefit. There is a wide range of potential "substantial public benefits" and DEQ encourages prospective purchasers to be creative.

### **How do I apply for a PPA? Is there an application fee?**

You complete the Prospective Purchaser Application and submit a \$2,500 deposit to DEQ to begin formal negotiation of the agreement. The steps are as follows:

- Begin the process by contacting DEQ's Prospective Purchaser Program Coordinator to obtain the **program packet** and schedule an initial assessment meeting.
- During the **initial meeting** DEQ staff will ask questions to determine whether a PPA is appropriate for this property.
- If you and DEQ decide to move forward, you must first submit an **application** along with a **\$2,500 deposit**. The deposit is required for DEQ to start working on the PPA; it does not ensure that a final agreement will be reached.
- You then **begin negotiations**, share technical information about the contamination of the property, and strive to reach an agreement which meets the needs of both you and the State. If, as part of the PPA, you agree to conduct the cleanup actions at the property, you will do so through DEQ's Cleanup Programs.
- When the PPA is completed, or negotiations cease, any balance remaining from the deposit is refunded.

### **How long does it take to get a PPA?**

Average time to complete a PPA is 8 to 12 weeks. The length of time depends on: (1) how much DEQ knows about the contamination at the property; (2) whether DEQ needs to modify the standard PPA language to accommodate unique circumstances; and (3) the number of PPA,s that DEQ staff is currently working on.

### **What happens after the PPA is finalized?**

You have an obligation to properly record the

PPA and related documents in the appropriate County office, and must meet all of the conditions of the PPA. Failure to do either of these may void the PPA and the liability protections it provides.

### **For More Information**

Call Prospective Purchaser Program Coordinator, Charlie Landman at 503-229-6461 for a program packet which includes an application and other program information. For toll free in Oregon call 1-800-452-4011.

### **Alternative Formats**

*Alternative formats of this document can be made available. Contact DEQ Public Affairs for more information (503) 229-5696.*



Printed on Recycled Paper



## Brownfields

### What is a brownfield?

Recent federal legislation defines a brownfield as real property where expansion, redevelopment or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

### Why should I care about brownfields?

Contaminated property may pose health and safety risks to the surrounding community. Even if a property is only *perceived* to be contaminated it can impact the neighborhood by lowering property values.

On the other hand, cleaning up and redeveloping brownfields helps communities by removing blight and providing needed services, such as industrial or commercial development, housing, or open space for playing fields and parks. Redeveloping and reusing land that is already urbanized also helps to reduce sprawl.

### What are the barriers to redeveloping brownfields?

Simply put — fear of the unknown. A prospective purchaser may fear that the cost of investigating and cleaning up a property will end up being too high to make it a profitable investment. And until the property is investigated, the cost of cleaning it up is unknown. There may turn out to be no contamination, but lenders are reluctant to finance properties with unknown risk.

In addition, municipalities may fear becoming liable for properties that are often abandoned and an eyesore. There may be community pressure to “do something”, but often there is a lack of expertise in knowing how to get started.

### How does DEQ help with brownfield redevelopment?

DEQ can help remove the barriers to redevelopment by providing assistance for the investigation of potentially-contaminated properties and clean up of those properties that are in fact contaminated. A number of programs and services are available through DEQ's Land Quality Division.

DEQ's **Site Assessment Program** can conduct a Targeted Brownfield Assessment to determine if a property is contaminated or not. If the property turns out to be contaminated, Site Assessment can also provide an estimate of the costs needed to clean it up. These investigations are available for publicly-owned properties and for private properties with cooperative owners whose goals for redevelopment have community support.

Brownfields can also be investigated by municipalities or private parties under the supervision of DEQ's **Voluntary Cleanup Program**. Generally, the parties will hire an environmental cleanup contractor to conduct the actual work, and the VCP will review the work. The VCP will also oversee any cleanup work that may be necessary. Alternatively, a party may choose to seek DEQ approval only after an investigation or cleanup has been completed, through the Independent Cleanup Pathway.

For many parties who want to purchase a brownfield property, DEQ offers the option of negotiating a **Prospective Purchaser Agreement**. Under a PPA, a prospective purchaser of contaminated property will agree, prior to purchasing the property, to contribute a certain amount of money or effort towards cleaning up the property. In return, DEQ will agree to limit the purchaser's liability to that amount, even if the property may require additional cleanup work.

Finally, and perhaps most importantly, DEQ strives to work with communities, quasi-public organizations, and other government agencies to facilitate and encourage the redevelopment of brownfields. For example, DEQ works with the Oregon Economic and Community Development Department to find funding sources that can be tapped to investigate and/or clean up brownfields.

### For more information:

Contact Christopher Blakeman (Portland Metro Area and North Coast) at 503-229-6036; Katie Robertson (Eastern Oregon) at 541-278-4620; or Bryn Thoms (Western Oregon) at 541-686-7838, x254.



State of Oregon  
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Contact: Brooks Koenig

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## Voluntary Cleanup Program Independent Cleanup Pathway



State of Oregon  
Department of  
Environmental  
Quality

**Environmental  
Cleanup Program**  
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### Introduction

The Department of Environmental Quality (DEQ) has formalized an Independent Cleanup Pathway (ICP) to assist parties interested in cleaning up contaminated sites without ongoing DEQ oversight. If a cleanup is completed to a level that is protective of human health and the environment consistent with Oregon's cleanup law, DEQ will issue a No Further Action (NFA) letter to the responsible party when the cleanup activities are completed, reviewed and approved following the public comment period. The ICP is specifically designed for low and medium priority sites and is not applicable to high priority sites that present greater risk.

### Benefits and risks of independent cleanups:

The greatest benefits of independent cleanups to the responsible party (RP) are:

- RPs can set their own schedule for investigation and cleanup.
- RPs can save money by not incurring DEQ oversight charges during the project.
- RPs can dove-tail the project work to other development activities at the site

The main risks of independent cleanups are:

- RPs may have to spend more time and money if DEQ determines that the investigation or cleanup actions are inadequate or inappropriate.
- RPs unintentionally may spend money cleaning up a site to a level greater than DEQ would have required.
- DEQ will list the site in the Environmental Cleanup Information System.

### Site priority

The ICP is an alternative to traditional Voluntary Cleanup Program (VCP) oversight. This option is available for sites ranked as low and medium priority for

further investigation or cleanup. The main reasons for restricting ICP participation are:

- Low and medium priority sites generally pose less significant risk to human health or the environment and can generally be cleaned up without DEQ oversight to a level protective of human health and the environment.
- More complex or higher priority sites generally require significant DEQ review time, and would not meet the rapid response time we are providing for the ICP.

### Site Eligibility

There are two ways to determine if your site is eligible for the ICP. First, complete the Initial Site Screening form. This form has five questions that are designed to identify good candidates for the ICP. Sites that pass this initial screening can move directly into the ICP and RPs do not need to provide additional information to DEQ up front. If your site does not pass this initial screening the ICP may still be an option. To make that determination, you will need to provide enough information for DEQ to complete the Site Assessment Prioritization System score sheet.

### Site-specific technical consultation

DEQ will continue to provide, as it has in the past, non site-specific technical assistance at no cost for general questions related to the cleanup program. For answers to general questions, call the VCP Program Representative in the regional offices or Program and Policy Development staff in DEQ headquarters at the numbers listed at the end of this fact sheet.

DEQ offers Site-Specific Technical Consultation on a cost recovery basis for participants in the ICP who want some level of DEQ input during their cleanup activities. Site-Specific Technical Consultation can range from draft work, product review (e.g.,

work plans, site investigation reports, and beneficial use determinations) to advice on how to manage unanticipated findings at the site.

RPs interested in Site-Specific Technical Consultation, enter a Cost Recovery Agreement with DEQ. Once the Agreement is executed, DEQ will assign one staff person to act as a point of contact for the duration of the Agreement. That point of contact will discuss and review work products and provide either verbal or written non-binding advice as requested. The DEQ point of contact may involve other DEQ staff in support of the Site-Specific Technical Consultation.

For moderately complex projects or projects which require a time-critical NFA determination, DEQ strongly recommends that the RP seek Site-Specific Technical Consultation at key project decision points to reduce the risk of submitting an incomplete Final Report.

#### **Advantages of the ICP**

The ICP provides a more expeditious cleanup path for low and medium priority sites and more certainty to RPs on DEQ's final report review time. If the RP gives DEQ 90 days notice before submitting the final report for an ICP project, DEQ intends to review the final report within 60 days.

#### **Permit exemptions**

Sites participating in the ICP are not eligible for permit exemptions as described in ORS 465.315(3). To be eligible for permit exemptions, a cleanup project must be taking place with DEQ oversight. If your project would benefit from a permit exemption, consider signing up for the Voluntary Cleanup Pathway. The regional program representatives can help you select the appropriate pathway for your project.

#### **Insurance note**

Before beginning an independent cleanup, RPs should evaluate their insurance coverage – including present and past policies – to determine if the insurance might cover part or all of the cleanup costs. RPs should be sure to discuss cleanup plans with their insurance agent **before** beginning cleanup activities. At a minimum, many

insurers require notice and an opportunity to review cleanup plans before action is taken, as a condition for coverage of cleanup expenses.

#### **Contacts for further information**

Additional information and materials related to the Independent Cleanup Pathway may be obtained through DEQ's web site at <http://www.deq.state.or.us> or from the headquarters and regional contacts shown below.

##### ***Headquarters***

*Ann Levine  
VCP Coordinator  
811 SW Sixth Ave.  
Portland OR 97204  
(503) 229-6258  
levine.ann@deq.state.or.us*

##### ***Northwest region***

*Rod Struck  
VCP Program Representative  
2020 SW Fourth Ave  
Portland OR 97201  
(503) 229-5562  
struck.rodney@deq.state.or.us*

##### ***Western region***

*Geoff Brown  
VCP Program Representative  
1102 Lincoln St. Suite 210  
Eugene OR 97401  
(541) 686-7828 ext. 272  
brown.geoff@deq.state.or.us*

##### ***Eastern region***

*Bob Schwarz  
VCP Program Representative  
400 East Scenic Dr. Suite 307  
The Dalles OR 97058  
(541) 298-7255 ext. 30  
schwarz.bob@deq.state.or.us*

## Oregon Dry Cleaner Program Overview for Dry Cleaners

### Background

In 1995, the Oregon Legislature passed House Bill 3216. This bill created Oregon's dry cleaner statute (ORS 465.500), which led to the formation of what is now known as the Oregon Dry Cleaner Program. The legislation was proposed by the dry cleaning industry because of concerns that historic spills of dry cleaning solvents may have contaminated soils and groundwater. The expense of cleaning up historic contamination could put individual dry cleaners out of business. In addition, property owners were finding it difficult to get loans from lending institutions and dry cleaning businesses were finding it increasingly difficult to obtain and renew leases because of concerns about historic spills. House Bill 3216 created a funding source to help pay for dry cleaner cleanups.

### What does the Statute require?

The statute focuses on three requirements, 1) prevent future contamination by minimizing waste and requiring safe waste management, 2) require dry cleaners to pay fees into the Dry Cleaner Response Account (Account) to help fund cleaning up contamination, and 3) require DEQ to use the Account to pay for dry cleaner cleanups.

### How do sites become contaminated?

Environmental contamination at a dry cleaner site can occur from spills and leaks of solvent. The most common dry cleaning solvent, perchloroethylene, can penetrate concrete and can sink through floor cracks because it is denser than water. In addition, historic disposal practices, such as disposing into the sanitary sewer, throwing spent filters and sludge into the trash, or dumping wastewater on the ground may have contaminated soils and groundwater.

### How can we prevent future contamination?

In order to prevent future contamination, the statute requires all dry cleaners in Oregon to implement waste minimization and hazardous waste management practices designed to eliminate future leaks and spills of dry cleaning solvent to the environment.

Waste minimization practices reduce air emissions from solvents, reduce the potential for spills and leaks of solvents, protect groundwater and promote more efficient use of dry cleaning solvent, all of which help prevent future contamination.

Dry cleaners must meet the following "waste minimization" requirements:

- Use only acceptable types of dry cleaning equipment.
- Manage dry cleaning waste as hazardous waste.
- Manage solvent-contaminated wastewater according to state rules. Do not discharge solvent-contaminated wastewater to a sanitary sewer, septic system, boiler, on the ground, or to waters of the state.
- Provide containment under and around dry cleaning equipment and solvent-containing items.
- Submit annual reports detailing waste minimization and hazardous waste management practices.
- Report leaks and spills of dry cleaning solvent to the Oregon Emergency Response System at 1-800-452-0311.
- Use only closed, direct-coupled delivery systems for delivering perchloroethylene solvent (perc or PCE) into a dry cleaning machine.
- Meet air quality monitoring and recordkeeping requirements for perc dry cleaners.

*Complying with these requirements is necessary for a facility to be eligible for cleanup funding from the Dry Cleaner Environmental Response Account.*

For more information on the environmental regulations that apply to dry cleaners, see the DEQ Fact Sheet, *Dry Cleaners: Overview of Environmental Regulations* at [www.deq.state.or.us/wmc/cleanup/dry0.htm](http://www.deq.state.or.us/wmc/cleanup/dry0.htm)



State of Oregon  
Department of  
Environmental  
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### Environmental Cleanup Program

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(800) 452-4011  
Fax: (503) 229-6954  
Contact: Dick DeZeeuw  
[www.deq.state.or.us](http://www.deq.state.or.us)

### Oregon Department of Revenue

955 Center St. NE,  
Salem, OR 97310  
Phone: (503) 945-8356  
(800) 356-4222  
Fax: (503) 945-8738  
Contact: Linda Rodgers  
[www.dor.state.or.us](http://www.dor.state.or.us)

Last Updated: 2/20/03  
By: E. Glendening

### **How are the fees assessed and collected?**

Since January 1, 1996, dry cleaners have been paying fees that DEQ uses to fund the cleanup of existing contamination and to manage the program. The fees are collected by the Oregon Department of Revenue (DOR) and deposited in the Dry Cleaner Environmental Response Account. Fees paid to the Account include:

Annual dry cleaner payment of:

- An operating fee of \$500 for each dry cleaning store, or \$250 for each dry store,
- A risk fee ranging from \$100 to \$400, depending on the history of solvent use at a facility, and
- An environmental fee ranging from \$250 to \$1,250 depending on gross revenue from dry cleaning services.

Annual inactive dry cleaning site payment of:

- An inactive facility fee of \$250.

The risk fee, environmental fee and inactive fee increase by 25 percent each year total revenues generated for the Dry Cleaner Program are less than \$1 million.

Quarterly payment by solvent suppliers of:

- A solvent use fee on perc of \$10 per gallon and
- A solvent use fee on solvents other than perc (e.g., petroleum solvents) of \$2 per gallon.

The Department of Revenue collects fees from dry cleaners and solvent suppliers. Payments are collected by DOR and deposited, less expenses, in the Oregon Treasury and credited to the Account. Solvent fees are paid quarterly by solvent distributors who collect the fee when they sell the solvent.

In the event a dry cleaner fails to file or pay the fee, DOR may initiate follow-up efforts. Initial telephone contact generally results in resolution of fees owed to the Account. Fee payment that remains outstanding is referred to DOR field offices. Agents follow up with on-site visits, garnishments, and collection action consistent with other tax programs administered by DOR. These additional measures have resulted in collection of all but a small percentage of outstanding fees. Penalties and interest may be added to outstanding fee payments.

### **Environmental cleanup**

Perchloroethylene, the most commonly used dry cleaning solvent over the past 50 years, is listed as a toxic chemical because it may cause nerve and organ damage and is a suspected carcinogen

in humans. Sites contaminated with PCE or other toxic solvents must be cleaned up to a level that is protective of human health and the environment. The final cleanup remedy is based on the current and reasonably likely future use of land or water, including groundwater.

Under the dry cleaner program, funds from the Account can be used by DEQ to clean up a site or reimburse a dry cleaner owner or operator who conducts a cleanup. DEQ can only reimburse costs that are pre-approved.

### **What if my dry cleaning site needs cleaning up?**

Based on money accrued to the Account, DEQ will fund cleanups as quickly as possible. Currently, there are not enough funds in the Account to clean up all facilities that apply; those that present the highest risk to human health and the environment are funded first. Cleanups at additional facilities will be selected as funds are available. If you suspect that your site is contaminated, contact Dick Dezeeuw.

### **For more information**

*Waste minimization or Cleanup:*

Dick DeZeeuw, Program Coordinator,  
Department of Environmental Quality  
811 SW 6<sup>th</sup> Ave.  
Portland, OR 97204-1390

[dezeeuw.dick@deq.state.or.us](mailto:dezeeuw.dick@deq.state.or.us)

(503) 229-6240, or toll-free in Oregon at 1-800-452-4011. You can also find more detailed information at DEQ's dry cleaner Web site at: [www.deq.state.or.us/wmic/cleanup/dry0.htm](http://www.deq.state.or.us/wmic/cleanup/dry0.htm)

*Fee payments:*

Linda Rodgers, Program Coordinator - Special Programs,  
Department of Revenue  
955 Center Street NE  
Salem, OR 97301-2555

(503) 945-8356, or toll-free in Oregon at 1-800-356-4222. You can also find more detailed information at the DOR Web site at: [www.dor.state.or.us/dryclean.html](http://www.dor.state.or.us/dryclean.html)

### **Alternative formats**

Alternative formats (such as Braille or large type) of this document can be made available. Contact DEQ's Office of Communications & Outreach, Portland, for more information at (503) 229-5317.

## UST SYSTEM OPERATOR TRAINING PROGRAM



State of Oregon  
Department of  
Environmental  
Quality

**Environmental Cleanup  
and Tanks Section  
Land Quality Division**  
811 SW 6<sup>th</sup> Avenue  
Portland, OR 97204  
Phone: (503) 229-6704  
(800) 452-4011  
Fax: (503) 229-6954  
Contact: Mitch Scheel  
[www.deq.state.or.us](http://www.deq.state.or.us)

To increase compliance and protect human health and the environment, the 2001 Oregon Legislature amended laws governing underground storage tanks (USTs) adding a requirement for mandatory operator training. Revised compliance rules for USTs went into effect February 14, 2003. DEQ has prepared this bulletin to provide information about the new UST system operator training requirements.

The requirements for the training of UST system operators may be found in Oregon Administrative Rule 340-150-0200. Each regulated UST facility in Oregon that dispenses a regulated substance from an UST to a motor vehicle or container must employ trained personnel (i.e., a designated UST system operator) who can properly operate and maintain the UST system. Verification of training completion must be submitted to DEQ by March 1, 2004.

One of the options for meeting the new training requirement is to receive training from a listed training vendor. A training vendor is a person, company or organization listed by DEQ that has agreed to present UST system operator training to UST system operators using the training manual developed by DEQ.

Alternatively, you may take the International Code Council's (ICC) national *UST System Operator* examination administered by Promissor, a professional testing company. Upon successfully passing the examination, submit a copy of your score report along with your phone number to DEQ at the address listed on this bulletin. DEQ will then send you a copy of the *UST System Operator Training Manual* that covers Oregon-specific UST rules and regulations. After submitting an affidavit stating that you read and understood the manual, you would then be in compliance with the training requirement.

Please contact the appropriate listed training vendor if you plan to attend one of their training sessions. If you choose to take the national operator test instead, contact ICC at 800-423-6587 ext. 3208 to request a free candidate bulletin prior to scheduling the examination with Promissor at 800-275-8301. ICC's Candidate Bulletin can also be downloaded from their web site at [www.iccsafe.org/certification/bulletin.htm](http://www.iccsafe.org/certification/bulletin.htm). The cost to take the examination is \$75. Please contact Mitch Scheel at 503-229-6704 with any other questions you may have. Mitch can also be reached at 1-800-452-4011 toll free in Oregon or by e-mail at [scheel.mitch@deq.state.or.us](mailto:scheel.mitch@deq.state.or.us).



# Oregon Ballast Water Management

## Background

The discharge of ballast water, used to provide vessel stability, may introduce aquatic nuisance species into Oregon resulting in economic and environmental damage.

## Highlights

The 2001 Oregon Legislature passed a ballast water management bill (Senate Bill 895), which:

- Prohibits discharge of ballast water into waters of the state, *except under specified conditions* (see below)
- Requires ballast water management reports at least 24 hours prior to entry into the state
- Established a task force to study and recommend to the 2003 Oregon Legislature methods and improvements to ballast water management. Dr. Mark Sytsma, Director of the Center for Lakes and Reservoirs, Portland State University, managed the task force. The 2003 legislature recreated the task force and requires a second report by October 1, 2004.

The bill recognized the international nature of the aquatic nuisance species problem, declared the state's support for international and federal programs, and declared the state's intent that its rules be coordinated with related rules and regulations adopted by Washington and California.

## Specific conditions for ballast water discharge

A vessel may discharge ballast waters in the waters of the state:

- If the vessel has conducted an open ocean exchange
- If the vessel has conducted a coastal exchange. For vessels traveling to Oregon from a North American coastal port south of 40° N or north of 50°N, an exchange of ballast water at sea is required prior to reaching 40°N or 50°N, respectively. A distance off shore is not specified.
- Without performing an exchange, if the exchange would be unsafe or infeasible due to vessel design limitations or equipment failure.

## Ballast water management reports

DEQ implemented reporting through the Merchants Exchange of Portland. Reports may be submitted on International Maritime Organization or United States Coast Guard forms as part of the standard advance notice of arrival.

## Ballast water management rules

Rules implementing SB 895 are located at [http://arcweb.sos.state.or.us/rules/OARS\\_300/OAR\\_340/340\\_143.html](http://arcweb.sos.state.or.us/rules/OARS_300/OAR_340/340_143.html)

## For more information please contact:

*Jack Wylie, DEQ Land Quality Division, Emergency Response Section, Portland, (503) 229-5716, or [wylie.jack@deq.state.or.us](mailto:wylie.jack@deq.state.or.us)*

## Alternative Formats

*Alternative formats of this document can be made available. Contact DEQ's Office of Communications and Outreach in Portland for more information at (503) 229-5696.*



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State of Oregon  
Department of  
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Quality

## DEQ Emergency Response Program

### Prepare for and minimize the danger posed by catastrophic release of dangerous chemicals

DEQ RECEIVES OVER 70% OF ALL THE INCIDENT CALLS REPORTED TO THE OREGON EMERGENCY RESPONSE SYSTEM (OERS). THERE WERE 2358 CALLS TO DEQ IN 2002.

### Program Missions....

#### Emergency Response Operations:

- Respond to hazardous chemical and oil emergencies 24 hours a day, 7 days a week.
- Manage emergencies using the DEQ Emergency Response and Recovery Plan and other state and federal plans.
- Provide State-On-Scene-Coordinators (SOSCs) to direct state operations required to clean up hazardous chemicals and oil. Support DEQ Laboratory in identifying unknown chemicals (triage, packaging, transport)

#### Emergency Preparedness:

- Write, coordinate and maintain the Chemical Emergency portion of the Oregon State Emergency Operations Plan which includes responding to chemical weapons of mass destruction (WMD) events.
- Co-Chair Emergency Support Function 8-10 Task Force which evaluates and improves Oregon's plans to respond to the environmental and public health components of disaster response.
- Use model IGA to coordinate responses with other Local Governments.
- Conduct required drills
- Monitor mandatory Training Requirements to ensure that DEQ staff are prepared to perform required tasks.

#### Oil Spill Planning and Preparedness:

- Implement Oregon law requiring planning and preparedness of staff and equipment to

deal with oil spills on the Columbia and Willamette Rivers and the Oregon Coast.

- Review and approved oil spill contingency plans for ships and shore facilities.
- Integrate Newly Regulated Facilities (inland pipelines, terminals)
- Conduct and evaluate required facility and vessel drills.
- Coordinate with the US Coast Guard, EPA, and the State of Washington to ensure coordinated oil spill response on the Columbia River and the Oregon Coast.
- Develop and maintain Geographic Response Plans.

#### Outreach to local, state federal partners:

- Maintain and improve interaction with key Emergency Response stakeholders
- Implement new rules covering spills, planning, and ballast water.
- Enhance outreach and coordination with local governments in the post 9-11 environment.

#### Multi-jurisdictional Coordination:

- Northwest Area Committee (NWAC);
- Region X Regional Response Team;
- Oregon Emergency Response Council;
- Domestic Preparedness Policy/Work groups;
- Governor's Security Council;
- Maritime Fire & Safety Association/Clean Rivers Co-op; - Interagency Hazard Communications Council - State Emergency Response Commission; - Local Emergency Planning Committee; - Hazmat Team Technical Advisory Group; - Pacific States / British Columbia Oil Spill Task Force.

#### Oregon Ballast Water Program Oversight:

The 2001 Oregon Legislature created a program to control the discharge of ballast water to Oregon waters as a method of preventing the introduction of non-native species. DEQ is the state agency responsible for monitoring and enforcing the program.

**Land Quality  
Division**  
Emergency Response

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## Solid Waste Program Grants

### Background

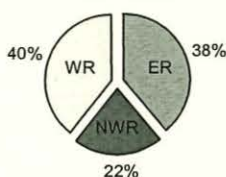
The Oregon Department of Environmental Quality (DEQ) awards grants each year to local governments for recycling and solid waste prevention or reduction projects. Grant funds come from part of the fee paid to dispose of municipal and construction and demolition waste in Oregon landfills, incinerators and energy recovery facilities. By law, the grants must go to local governments, but local governments may contract with community groups, private individuals, non-profit organizations, schools, businesses or chambers of commerce to implement grant-funded projects.

Since the first grant round in 1991, DEQ has awarded 195 grants totaling \$3,737,820 (see table on the next page for details on the types of projects funded).

Local governments in the three DEQ regions have received grant funds since 1991 in the proportions shown below:

- **Eastern Region** (all counties east of the Cascades) – 84 grants totaling \$1,426,009
- **Western Region** (all counties west of the Cascades, except the Portland metro region and Columbia, Clatsop and Tillamook counties) – 70 grants totaling \$1,475,415
- **Northwest Region** (Portland metro region, plus Columbia, Clatsop and Tillamook counties) – 41 grants totaling \$836,396.

SW Grant Dollars by Region  
1991-2002



Before 2000, DEQ's solid waste grant evaluation criteria tended to give preference to smaller, more remote communities with limited recycling programs or long distances to market. Beginning in 2000, DEQ implemented new administrative rules that allow the solid waste program to

designate a focus area to give preference to certain types of proposals intended to achieve specific environmental objectives. For each annual grant round, DEQ Solid Waste Program managers decide whether or not to have a focus area and what the focus area will be. In 2000, the focus area was waste prevention and reuse; and in subsequent years the focus area varied but always included waste prevention.

### Types of projects funded

DEQ solid waste/recycling grants can be used for salaries and benefits for project personnel and consultants or contractors, administrative costs, publications and publicity expenses, machinery, equipment (such as recycling containers), vehicle expenses, signs, building costs, and costs associated with collecting and transporting recyclable materials.

Some of the types of projects that have been funded include:

- Onsite business outreach and technical assistance programs for waste prevention, including resource efficiency programs (designed to conserve materials, water and energy resources)
- Construction and demolition materials reuse projects
- Electronics recycling and reuse programs
- Household hazardous waste prevention education projects
- Construction or operation of permanent household hazardous waste facilities
- Food recovery and donation programs
- Organics collection and composting projects
- Establishment or operation of recycling depots
- Purchase of equipment or materials to initiate or expand the recovery or processing of recyclable materials, including mobile yard debris chipping programs
- Public education programs on recycling, composting, waste prevention or reuse
- Preparation of solid waste or household hazardous waste management plans.

Grant funds cannot be used for disposal site engineering, design or hydrogeologic studies required by DEQ; capital expenditures (this applies only to solid waste planning grants);



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license applications or permit fees; ordinary operating expenses of local government that are not directly related to the project; or costs incurred for landfill closures.

### How to apply for a grant

The grant application period generally runs from July through September. DEQ mails an announcement of each grant round to cities, counties, and other local government jurisdictions and interested persons. DEQ also sends information about the application period to news media outlets around the state.

Application materials are available through the solid waste technical assistance staff in DEQ regional offices or on the Internet at <http://www.deq.state.or.us/wmc/solwaste/grants.html>. Applicants are encouraged to work with the DEQ solid waste technical assistance staff to develop their grant proposals. They also must find a local government sponsor, if they are not a local government entity.

### Evaluation of grant applications

A team of DEQ policy and technical assistance staff from around the state reviews and ranks the grant applications. The team uses selection criteria established in Oregon Administrative Rules. Applicants must be local governments responsible for solid waste management, such as cities, counties, metropolitan service districts, tribes, sanitary districts, county service districts and regional air quality control authorities.

These are the evaluation criteria:

- **Potential for environmental enhancement**  
The project has direct and demonstrable or measurable results.
- **Potential for continuity**  
The proposal demonstrates:
  - continuing benefit beyond the time of grant funding;
  - community partnerships that show commitment to continuing the project or building upon its results beyond the time of grant funding;
  - a well-defined strategy for

implementation, including a stable funding source.

- **Type of program**  
Focus area projects with measurable results receive additional points.
- **Program commitment**  
The proposal has a well thought out and realistic budget and timeline, key participants are involved in its development and implementation, and applicant provides matching funds, letters of support, etc.
- **Need**  
The proposal addresses current unmet local or statewide needs in solid waste prevention or management and demonstrates an effective strategy to meet the identified need.
- **Cost effectiveness**  
The proposal demonstrates cost savings and other indications of cost effectiveness.
- **Minimum qualifying score**  
An application must receive a minimum score to qualify for a grant.

Awards are announced around the first of the year, following the application period.

### For more information

For more information or application materials, contact the DEQ Solid Waste Program, Portland, at (503) 229-5913 or the solid waste technical assistance staff in your nearest DEQ regional office. Detailed information and application materials are available on the Internet at <http://www.deq.state.or.us/wmc/solwaste/grants.html>.

Grants by Category, 1991-2002			
Recycling	87 grants	\$1,401,695	38%
Solid waste management plans	23 grants	\$763,564	20%
Waste prevention/reuse	41 grants	\$826,382	22%
HHW plans and prevention/reduction	20 grants	\$179,546	5%
HHW facilities	5 grants	\$273,645	7%
Tire cleanups & turn-in events	19 grants	\$292,988	8%
<b>Total</b>	<b>195 grants</b>	<b>\$3,737,820</b>	<b>100%</b>

## DEQ Hazardous Waste Program Update: September 2003

### Introduction

During the past several years, the Oregon Department of Environmental Quality (DEQ) Hazardous Waste Program has faced significant challenges, achieved measurable environmental results, and involved Oregonians in its decision-making. This program update highlights some of those issues and describes changes that will affect hazardous waste generators.

### Program re-authorization

In August 2002, the U.S. Environmental Protection Agency (EPA) re-authorized DEQ's Hazardous Waste Program. This allows DEQ to remain the lead implementing agency in Oregon (in lieu of EPA) for the federal Resource Conservation and Recovery Act (RCRA).

### Fiscal challenges

Like most Oregon businesses, DEQ saw its revenues decrease as the economy slowed. The Hazardous Waste Program forecast a \$2.5 million deficit for the 2003-2005 biennium, primarily because of declining hazardous waste generation and disposal, the near-shutdown of the aluminum smelting industry, and inflationary creep in program costs. DEQ will address these fiscal challenges by becoming more efficient with electronic annual reporting, making staffing reductions, and implementing an inflationary increase in generator fees.

### Electronic annual reporting

As a cost-saving measure, the Hazardous Waste Program is expanding electronic reporting. Beginning in December 2003, each generator will receive a Personal Identification Number (PIN) and instructions on using the Internet to submit their Annual Report to the DEQ. Instructions will also be provided for those unable to provide electronic submittals to DEQ.

The new electronic system (HazWaste.net) is an upgrade of the current "TurboWaste" system that the Washington Department of Ecology uses. A pilot group of hazardous waste generators will be asked to test the new system as early as October 2003. DEQ will offer training sessions on the new system during January 2004.

### Fee increase

The 2003 Oregon Legislature approved a 22 percent fee increase that raises the base fee or waste tonnage fee from \$90/ton to \$110/ton and raises the maximum paid or "cap" from \$22,500

to \$27,500. The higher fees will be assessed on hazardous waste generated after January 1, 2003.

Hazardous waste fees have not increased since 1997. The 22 percent fee increase matches the estimated Consumer Price Index increase from 1997 to 2004 (when new fees will be collected). The fee increase, along with recommended streamlining efforts and staff reductions, will ensure funding for EPA-required hazardous waste work.

In addition, a \$200 processing fee will be required when submitting an application for a RCRA Identification Number. This processing fee will cover the cost of issuing new, site-specific identification numbers but should not affect companies that have a current, site-specific identification number.

### Rule updates

DEQ's Hazardous Waste Program periodically updates its rules to stay current with the federal RCRA program. Current rule changes are usually minor and are often intended to streamline regulatory authorities. The proposed amendments, which would go into effect in October 2003 if approved by the Oregon Environmental Quality Commission, include:

- Reducing duplicative authorities with the Nuclear Regulatory Commission for low-level mixed wastes
- Increasing flexibility in managing listed wastes if listed solely for ignitability, corrosivity and/or reactivity
- Increasing flexibility in the cleanup of contaminated sites by allowing more off-site treatment
- Reducing duplicative authorities with DEQ's Cleanup Program at manufactured gas plant cleanup sites
- Reducing duplicative authorities with DEQ's Water Quality Program for sediments dredged in accordance with the federal Clean Water Act
- Restoring federal equivalency for the regulation of mineral processing wastes
- Directing spillers of hazardous materials to the new statewide spill response rules outlined in Oregon Administrative Rules, Division 142.



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Last Updated: 8/26/03

DEQ-03-LQ-019

For more information about the proposed rule changes, please go to DEQ's hazardous waste rule Website at:

<http://www.deq.state.or.us/wmc/hw/ruled.htm>

### **Business assistance works!**

Oregon's 1989 Toxics Use Reduction (TUR) and Hazardous Waste Reduction Act takes a business approach to reducing pollution at its sources. TUR leads to reductions in management and disposal costs, minimizes environmental risks and eliminates potential health risks associated with using toxic chemicals.

DEQ provides no cost/no obligation business assistance. We help businesses and organizations understand the complex federal regulations, reduce their toxic chemical usage, and reduce their hazardous waste generation. Hazardous waste staff offer on-site technical assistance visits, training workshops, publications, and answers to questions.

Between July 2000 and June 2002, for example, DEQ staff in Western Oregon visited 489 businesses. Businesses implemented more than 90 percent of DEQ's recommendations. The results:

- Businesses eliminated 143 tons of hazardous waste and toxics
- Businesses diverted from environmentally degrading practices 21 tons of hazardous waste and wastewater discharges
- Businesses more safely managed 70 tons of hazardous waste

Other TUR successes include:

- Marathon Coach of Coburg reduced its toxics use by 11,000 lbs/year and hazardous waste generation by 5,000 lbs/year.
- AB Finishing Tech of Portland is saving more than \$7,500 each year in operating costs.
- Cascade Tire Specialists, Salem, eliminated 12,000 gallons of soapy, grimy wastewater from discharging into nearby Pringle Creek.

To find out more about reducing your costs, toxic chemical usage and waste generation, contact your nearest DEQ office, listed on this page.

### **Involving Oregonians**

During 2002, DEQ met with hazardous waste generators and disposal facilities, industry groups, environmental groups, small businesses and the EPA to review program work and funding. This work has expanded to include direct discussions between Oregonians and the EPA about how to best implement the federal

RCRA program in Oregon. We intend to continue this discussion and to explore ways to move beyond compliance through proactive, voluntary business assistance rather than depending exclusively on traditional inspections and enforcement.

DEQ will continue its work with hazardous waste stakeholders to ensure that it meets the needs of Oregonians and makes working with DEQ easier. In addition, this fall we will organize a separate stakeholder group to evaluate the state's Toxics Use Reduction Program. If you would like to participate in these meetings, please contact Sheila Monroe at (503) 229-5870, Portland (toll-free in Oregon at 1-800-452-4011, x5870) or e-mail [monroe.sheila@deq.state.or.us](mailto:monroe.sheila@deq.state.or.us).

### **Helping Portland Harbor businesses**

In December 2000, EPA added the Portland Harbor to its National Priorities (Superfund) List of contaminated sites. Although much of the contamination may be the result of historic work practices, DEQ is working to ensure that current work practices do not contribute or exacerbate the existing contamination.

Between November 2002 and April 2003, DEQ staff contacted 65 businesses in two outfall drainage basins in Mock's Bottom and Swan Island Lagoon in north Portland. Staff assistance focused on reducing toxic chemical usage and improving waste management handling. More than 80% of the businesses implemented one or more DEQ recommendation. Several significant sources of wash water and industrial waste run-off were corrected. These steps help businesses reduce their potential liability for cleanup of the Portland Harbor and assure their compliance with environmental regulations.

### **For more information**

Businesses seeking DEQ technical assistance or having questions about hazardous waste management may visit the DEQ Web site at:

<http://www.deq.state.or.us/wmc/hw/hw.htm> or contact the nearest DEQ field office:

- Bend, (541) 388-6146
- Medford, (541) 776-6010
- Pendleton, (541) 276-4063
- Portland, (503) 229-5263
- Salem, (503) 378-8240

### **Alternative formats**

Alternative formats of this document can be made available. Contact DEQ's Office of Communications and Outreach, Portland, for more information at (503) 229-5317.

## Business Assistance Works

### Background

Each year hundreds of Oregon businesses and organizations benefit from DEQ's hazardous waste technical assistance. These benefits include:

- Reduced quantities of toxic chemicals used during manufacturing;
- Reduced generation of hazardous waste;
- Safer management of wastes;
- Reduced regulatory oversight as a result of generating less waste; and
- Economic savings.

This fact sheet provides just a few examples of the hundreds of success stories from businesses working with DEQ's Hazardous Waste Program.

### Marathon Coach, Coburg

A successful business expansion by Marathon Coach created more assets for the company but also *doubled* their generation of hazardous waste. Marathon Coach implemented the waste minimization opportunities recommended by DEQ Technical Assistance staff that:

- Reduced purchases of toxic chemicals by 11,000 lbs;
- Reduced hazardous waste by 5,000 lbs; and
- Saved \$20,000/year.

*"We've saved thousands of dollars this year in reduced purchases of products and disposal of hazardous waste. Additionally, we will continue to save thousands of dollars in the future. This is a win-win deal for both the DEQ and Marathon Coach."*

- Michael Warner, Director Human Resources

### Citadel Powder Coating, Tualatin

While the environmental benefits of using powder coating painting processes, with virtually no releases of air contaminants, were well known to Citadel, pre-coat surface preparation generated large volumes of wastewater and hazardous waste. With help from DEQ, Citadel adopted process changes that:

- Reduced hazardous waste by 95% from 5,400 lbs to 240 lbs./year;
- Reduced wastewater discharges by 40%;
- Reduced toxic chemical usage; and
- Saved \$16,700/year in avoided material purchase and waste disposal costs.

*"Working with DEQ's Technical Assistance Program provides an effective means to develop solutions that benefit both the environment and business."*

- Gerard, Kohler, President

### ATCO America, Philomath

*"... We feel strongly that proactive efforts like the DEQ Technical Assistance Program are the best way to serve the State and its citizens and businesses."*

- Chuck Crowe, Owner

### A B Finishing Tech, Portland

A B Finishing Tech, a company that specializes in black oxide coating of steel parts, was regulated as a Small Quantity Generator of hazardous wastes, including a corrosive sludge and a high pH oil/wastewater mixture. Working with DEQ Technical Assistance staff, the company found alternative processes and reduced toxic chemical usage, resulting in:

- Reduced hazardous waste from 18,000 lbs./year to zero;
- Reduced solid waste by 6,000 lbs/year; and
- Saved \$8600/year in avoided raw material, waste disposal and regulatory costs.



### Hessel Tractor, Eugene

*"Participating in this technical assistance project was a good business decision. I really appreciated having you guys (who are the experts) walk through our facility and train us, and for free. We've gained a better understanding of the regulations and know we are in compliance. We've also been able to reduce the amount of waste we generate."*

- Justin Cumiford, Service Manager



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(800) 452-4011

Fax: (503) 229-5850  
Contact: Sheila Monroe  
[www.deq.state.or.us](http://www.deq.state.or.us)

### **Metal Specialties, Inc., Salem**

This business found ways to reduce their hazardous waste generation and disposal costs associated with metal cutting sludges. Working with DEQ's Technical Assistance Program, the company is now saving \$500/month.

*"Without any concern, I would recommend DEQ technical assistance to other businesses. I had a very positive experience."*

- David Loescher, Owner

### **Whit Log Inc., Sutherlin**

Following up on a visit by DEQ's Technical Assistance staff, Whit Log formed an internal team to identify ways to eliminate, reduce, reuse and recycle wastes and use less toxic chemical alternatives. This resulted in:

- Reduced toxics use by 90% (8,000 lbs./year)
- Reduced hazardous waste by 2,300 lbs./year;
- Discontinued wash water discharges to a local creek;
- Discontinued burning solid waste and adopted stringent recycling practices (40% of total solid waste); and
- Reduced regulatory burden and achieved environmental compliance.

### **Southern Oregon Marine, Inc. (SOMAR), Coos Bay**

Working cooperatively with DEQ staff, SOMAR performed a proactive evaluation of current and alternative products, equipment and processes. SOMAR invested in changes which:

- Reduced toxics use by 4,000 lbs./year;
- Reduced hazardous waste by 3,500 lbs./year; and
- Saved \$10,000 in the first year in raw material and waste disposal costs.

### **OHSU, Portland**

*"(DEQ staff) have provided guidance on not only hazardous materials, but asbestos, solid waste, PCBs, leachates for metals and a myriad of other questions. (DEQ staff) and I have a close working relationship and OHSU relies on their expertise and guidance. The Technical Assistance section also provides invaluable assistance to a hospital group in the metro area which is represented by OHSU, Legacy, Kaiser, Shriners, VA and others."*

- Donald Ludwig  
Hazardous Materials Manager

### **Guaranty Chevrolet, Junction City**

*"The relationship we have with the DEQ has been very positive and sharing. We have seen cost savings by not having to purchase vast quantities of solvent for our paint operation. More environmental and economic benefits are well on the way to prove the value of our teamwork."*

- Marty Nill, Property Manager

### **For more information please contact:**

For more information about how you can reduce your use of toxic chemicals and generation of hazardous waste, contact DEQ's Technical Assistance staff in the Regional Office nearest you.



### **Northwest Region:**

#### Portland:

Jay Collins, (503) 229-5165  
[Collins.jay@deq.state.or.us](mailto:Collins.jay@deq.state.or.us)

### **Western Region:**

#### Medford:

(541) 776-6010

#### Salem:

Bart Collinsworth, (503) 378-8240 x258  
[Collinsworth.bart@deq.state.or.us](mailto:Collinsworth.bart@deq.state.or.us)

### **Eastern Region:**

#### Bend:

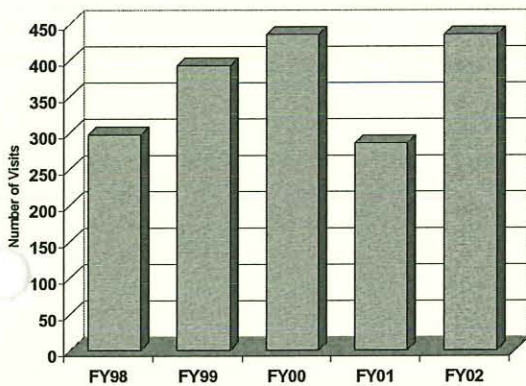
(541) 388-6146

## Hazardous Waste Assistance

### Overview

DEQ's Hazardous Waste Program provides no cost/no obligation business assistance. We help businesses and organizations understand the complex federal regulations (Resource Conservation and Recovery Act) by providing on-site, technical assistance visits, training workshops, publications and answers to questions. Hundreds of businesses voluntarily step forward each year to improve business practices and to comply with federal regulations.

**Number of Business Assistance Visits by Fiscal Year**



Environmental and economic results from these visits have been measured on a site-specific, local community or watershed basis, as the following examples illustrate.

### Producing Environmental Results

DEQ Technical Assistance staff in Western Region visited **489 businesses** over a two-year period, from July 2000 through June 2002. Over 90% of DEQ's hazardous waste management and pollution prevention recommendations were implemented by these businesses. The results:

- **43 tons** of hazardous waste and toxics were eliminated;
- **21 tons** of hazardous waste and wastewater discharges were diverted from environmentally degrading practices; and
- **70 tons** of hazardous waste were more safely managed.

### Improving Local Watersheds: Calapooya and Sutherlin Creek Technical Assistance

DEQ Technical Assistance staff offered on-site technical assistance to **127 businesses** in Oakland, Sutherlin, Union Gap and Wilbur during 1999. Of

those, only one business declined. The results achieved in this watershed included:

- **72% reduction** in toxic chemical usage (over 45,000 lbs./year);
- **56% reduction** in hazardous waste generated (over 50,000 lbs./year);
- **Protection of local creeks:** Nearly all of the wash water discharges from local businesses, some containing toxic cleaners, were diverted from discharge to the creeks and are now managed in local sewage treatment facilities.

### Partnering with Local Communities: Pringle WET Project

The Watershed Enhancement Team (WET) partners DEQ Technical Assistance staff with local businesses, volunteers and agencies to promote individual changes in waste management activities by the entire community in order to prevent or reduce pollutants from entering the Pringle Creek watershed in South Salem. During 2002, DEQ visited **177 businesses**, whose combined efforts have resulted in the reduction or elimination of toxic chemicals and hazardous waste, diversion from environmentally degrading management practices (such as diversion of wash water discharges from the creek to the City wastewater treatment facility), and safe management of:

- **3 tons** of hazardous waste;
- **13,000 gallons** of wastewater;
- **6 tons** of recycled materials;
- **2 tons** of sludge from storm drains and manufacturing processes; and
- **5 tons** of petroleum wastes.

### What happens if business assistance is reduced?

Without technical assistance, fewer businesses will receive help in understanding the complex federal rules and in reducing their toxic chemical usage. Less help means:

- More violations when businesses don't understand the rules;
- More hazardous waste generated when businesses don't know about less toxic chemicals that are available;
- Higher fees when businesses don't know about waste reduction strategies or recycling opportunities; and
- Higher management costs when businesses have to respond to enforcement actions or manage more hazardous waste.



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# News Release

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For release: Oct. 3, 2003

Contacts:

Mary Sue Gilliland, Solid Waste Program Manager, Portland, (503) 229-5808; cell phone, (503) 709-2509

Brian White, Communications & Outreach, Portland, (503) 229-6044

*(Note to reporters and editors: Individual county wasteshed recovery rates are listed at the end of this release. More resource recovery statistics for each wasteshed are available on request by contacting Mary Sue Gilliland, Portland, at (503) 229-5808. For a breakdown of the Portland metro area's solid waste recovery rate, please call Jan O'Dell in Metro's Public Affairs office, Portland, at 503-797-1599.)*

## **2002 Statewide Waste Recovery Rate is 46.5 Percent, Variety of Factors Cause Rate to Dip Slightly from 2001**

Oregon's solid waste recovery rate for 2002 is 46.5 percent, according to the Oregon Department of Environmental Quality (DEQ), which today released figures from its 11<sup>th</sup> annual survey of garbage haulers and private recycling companies. The 2002 rate is down 0.3 percent from last year's record 46.8 percent.

Recovery of actual waste material in the state went up slightly (2.5 percent) but disposal increased even more (3.5 percent), according to DEQ solid waste specialists.

"This drop can largely be attributed to the jump in the disposal of solid waste in the state along with poor market conditions for recycled materials," said Mary Sue Gilliland, manager of DEQ's Solid Waste Program. "The poor economy undermined improved waste recovery programs in communities throughout the state."

The recovery rates include materials collected for recycling or composting, as well as some material burned for energy recovery. Major types of materials recovered include paper, organic materials (wood waste, yard debris and food waste), metals, plastics, glass, used tires and used motor oils.

Of all the materials recovered in 2002, organics (mainly food waste, wood waste and yard debris) made up 41.4 percent, followed by paper (33.2 percent), metals (12.8 percent), glass (4.6 percent), and plastics (1.2 percent). Other assorted waste (including such items as tires, paint, batteries, brick, asphalt roofing material and motor oil) totaled 6.8 percent.

(More/over)



Among the key reasons for the decline in the 2002 state waste recovery rate:

- The amount of materials going to landfills increased 3.5 percent statewide
- Poor market prices contributed to a drop in the collection of some materials for recycling and energy recovery
- The increased amount of disposal and recovery caused an increase in per capita waste generation

On the plus side, Gilliland noted several positive trends in the state's waste recovery trends:

- The amount of organic materials collected for composting increased nearly 27 percent
- Recovery of waste tires increased 35 percent due to new and expanded markets

“We’re disappointed by the continued increase in waste generation,” said Gilliland. “We’d like to see more Oregonians reduce the amount of waste they generate in the first place. It will be very difficult for the state to meet the Legislature’s mandated 2005 no per-capita increase in waste generation goal without Oregonians changing their habits.”

In 2002, each Oregonian generated 2,726 pounds of waste, an increase of 1.9 percent from the 2,676 pounds in 2001. The previous year had seen a 1.2 percent increase in the amount of per capita waste generated. DEQ believes the continued increase is due to lack of availability and consumer resistance to waste reduction and reuse options.

Per capita disposal increased in 2002 after two years of declines. In 2002, each Oregonian disposed an average of 1,557 pounds of waste, up 2.6 percent from the 1,521 pounds per capita in 2001. Overall disposal increased from 2.64 million tons in 2001 to 2.73 million tons in 2002.

The total amount of recovered material collected in 2002 was 2,049,169 tons, or 1,169 pounds per person. That represents a 1.5 percent per capita increase from the 1,999,098 tons (1,152 pounds per person) in 2001.

At the county level, total waste recovery rates ranged from a high of 58.4 percent in Yamhill County to a low of 10.8 in Lake County. The Portland metro area (Clackamas, Multnomah and Washington counties are calculated as one wasteshed) reported a 53.8 percent total waste recovery rate, down from 2001’s 54.9 percent rate. Marion County was also among counties achieving a recovery rate of more than 50 percent, at 56.9%. And, for the second year in a row, all counties met their required recovery rates. Oregon law states that Oregon overall must meet a statewide recovery rate of 45 percent for the calendar year 2005. New wasteshed goals will be in effect in 2005.

Gilliland says that despite 2002’s slight decline in waste recovery, Oregon remains among the nation’s leaders in solid waste recovery and recycling. Each state calculates its recovery rates slightly differently, so it’s difficult to make close comparisons, she noted. “It is encouraging that in these economic times, homeowners and businesses still value and support our recycling programs,” she said.

Recovery rate data from the entire state of Oregon will be available on the DEQ Web page at [www.deq.state.or.us/wmc/solwaste/rsw.htm](http://www.deq.state.or.us/wmc/solwaste/rsw.htm) by Oct. 10. A report about the 2002 recovery rates will be available to the public via the DEQ Web site by the end of October.

(More/over)

For more information about the 2002 DEQ survey results, contact Mary Sue Gilliland of DEQ's Solid Waste Program, Portland, at (503) 229-5808, or dial toll-free within Oregon at 1-800-452-4011, ext. 5808.

*Total recovery rates for each watershed, by county, region or city:*

**Baker:** 20.5%; **Benton:** 47.0%; **Clatsop:** 25.2%; **Columbia:** 33.8%; **Coos:** 25.5%; **Crook:** 26.8%; **Curry:** 36.0%; **Deschutes:** 32.5%; **Douglas:** 33.9%; **Gilliam:** 19.7%; **Grant:** 18.0%; **Harney:** 27.6%; **Hood River:** 33.7%; **Jackson:** 44.1%; **Jefferson:** 20.9%; **Josephine:** 40.8%; **Klamath:** 30.4%; **Lake:** 10.8%; **Lane:** 49.9%; **Lincoln:** 29.2%; **Linn:** 44.5%; **Malheur:** 26.9%; **Marion:** 56.9%; **Portland metro area (Metro):** 53.8%; **Milton-Freewater:** 23.9%; **Morrow:** 15.7%; **Polk:** 38.4%; **Sherman:** 13.6%; **Tillamook:** 27.7%; **Umatilla:** 37.9%; **Union:** 29.6%; **Wallowa:** 19.3%; **Wasco:** 28.3%; **Wheeler:** 25.2%; **Yamhill:** 58.4%.

###

**Environmental Cleanup Division**

# Profiles In Cleanup

A Pictorial Review of Some of  
the Environmental Cleanup  
Sites in Oregon

Fall 2000



State of Oregon  
Department of  
Environmental  
Quality



*The Department of  
Environmental Quality's  
mission is to be an active  
leader in enhancing,  
maintaining, and restoring  
the quality of Oregon's air,  
land, and water.*



Welcome to **Profiles in Cleanup**, a pictorial review of some of the sites in Oregon that are being cleaned up and, in some cases, returned to productive use.

A traditional reason for environmental cleanup is to protect people and the environment from the effects of hazardous substance releases. **Profiles in Cleanup** speaks eloquently of other benefits of cleanup - namely, the economic and community values associated with reuse of previously contaminated land and water resources.

In Oregon, completed cleanups have enabled a wider range of property uses than would otherwise be possible, including: retail, commercial, manufacturing, recreation, and residential developments. Indeed, many of the projects illustrated are cornerstone projects for communities and their residents.

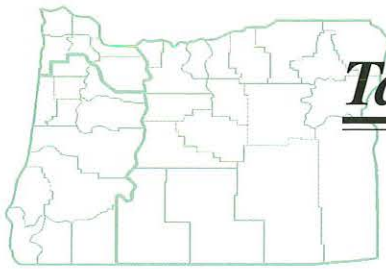
The Oregon Department of Environmental Quality takes great pride in the state's cleanup program and we are pleased to present these examples of successful projects from throughout the state.

*Melinda S Eden*

Melinda S. Eden

Chair, Environmental Quality Commission (EQC)





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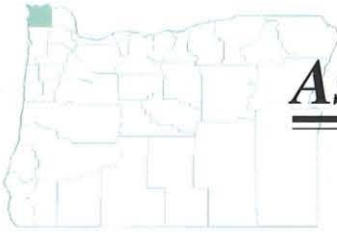
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## Acknowledgments

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# Astoria Plywood (Mill Pond) - Astoria

Astoria Plywood produced finished plywood from a 20-acre site in the heart of downtown Astoria from 1950 to 1993. In June 1993, DEQ removed and disposed of 25 drums containing acids, sodium hydroxide, waste oil products, paints, and thinners. DEQ also found and removed 50 capacitors containing fluids with very high levels of polychlorinated biphenyls (PCBs).

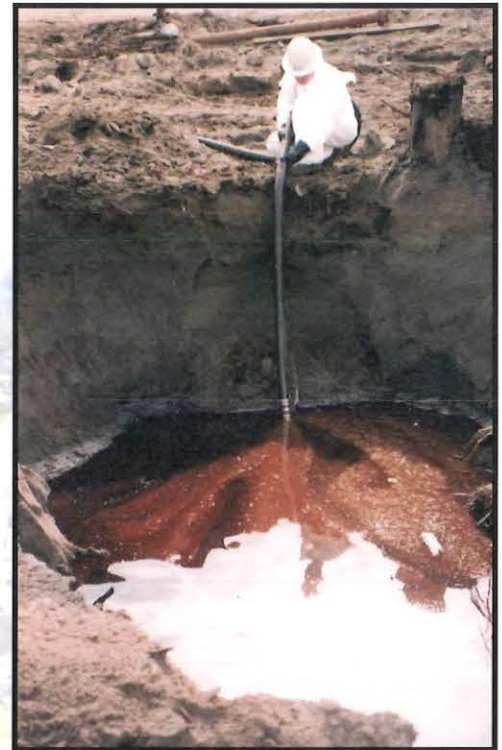


## WHAT IS A BROWNFIELD?

Contaminated, abandoned, or underutilized commercial or industrial properties. Brownfield sites have become increasingly visible nationwide and in Oregon. Cleaning up and reusing these properties protects people and the environment, and increases employment opportunities. Using brownfield sites - often located in city core areas - helps to create more vibrant communities and lessens the need to build in undeveloped "greenfields."

## PROSPECTIVE PURCHASER AGREEMENTS (PPAs) ARE OFTEN USED TO FACILITATE BROWNFIELD REDEVELOPMENT

A *prospective purchaser agreement (PPA)* was used at the Astoria Plywood site and is one of the best tools available to encourage brownfield development. A PPA is an agreement between DEQ and a buyer of contaminated property, which limits the buyer's cleanup liability in exchange for a "substantial public benefit" such as assisting with cleanup or providing new jobs.



In the mid 1990's, DEQ conducted an investigation to determine the extent of contamination. In late 1996, DEQ excavated and treated approximately 6,000 cubic yards of contaminated soil and sediment, and extracted and properly disposed of approximately 4,500 gallons of oil and diesel from the groundwater.

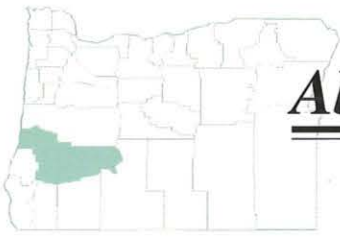


# Teamwork and innovation helped this project be successful



DEQ entered into a prospective purchaser agreement with the City of Astoria to expedite the cleanup. The cleaned site is proposed for mixed-use development - commercial-office and retail, and housing.

DEQ's Environmental Cleanup Division Administrator, Paul Slyman, speaks at the dedication ceremony for Astoria Plywood Redevelopment. Governor Kitzhaber, Congressman Wu, DEQ staff, and city officials attended the ceremony to celebrate the teamwork and innovation that helped this project be successful.



## *Abandoned Formosa Mine - Douglas County*



Mine tailings from an inactive copper and zinc mine in rural Douglas County (shown above).

The Formosa mine, now abandoned, opened in the early 1900s with the majority of production occurring between 1927 and 1933. The mine reopened in 1990 and produced copper and zinc ore at the rate of 350 to 400 tons per day until 1993.



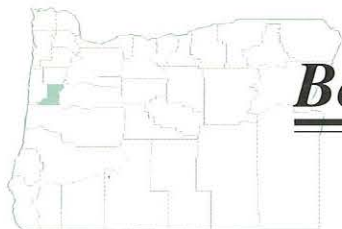
# Acidic wastes discharge to Middle Creek



Acidic wastes discharge to Middle Creek and the South Fork of Middle Creek. All three creeks are habitat for threatened and endangered cutthroat trout, Coho salmon, and steelhead. Monitoring has shown that 18 miles of South Fork Middle and Middle Creeks have been impacted. Salmon and steelhead appear to no longer inhabit the main stem of Middle Creek.



The majority of the impacted creeks are located on land managed by the Bureau of Land Management (BLM). The BLM and DEQ are working together to investigate and clean up the site. The BLM is conducting an investigation to determine the extent of the contamination, while DEQ will conduct initial cleanup. DEQ designated the site as an Orphan site - one where the responsible party is either unknown, unwilling, or unable to pay for cleanup. DEQ plans to install an acid mine drainage treatment system by Fall 2000.



## *Benton Auto Wreckers - Corvallis*

A former auto wrecking site, soil throughout the site is contaminated with oils, gas, and metal flakes. Low levels of lead also exist at this site.

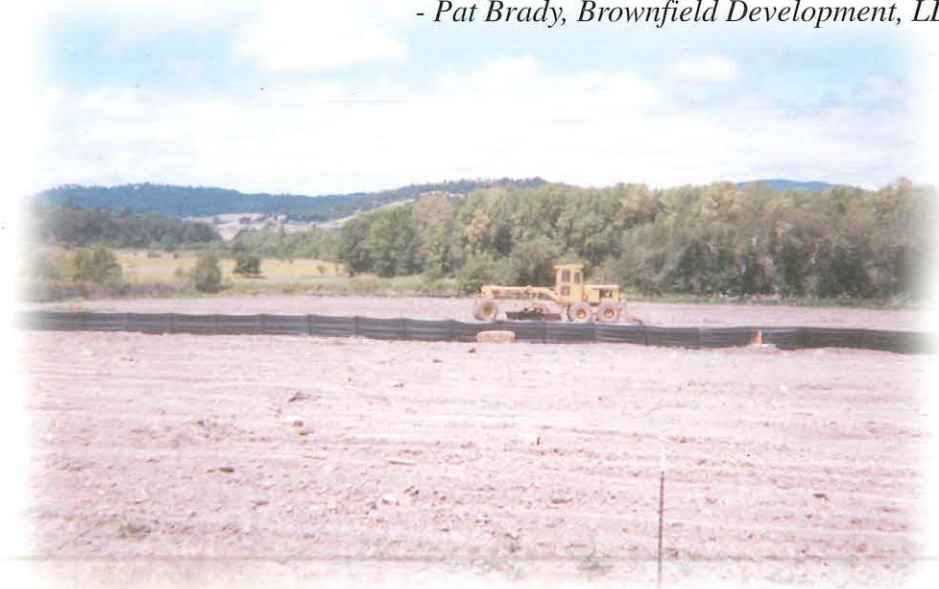


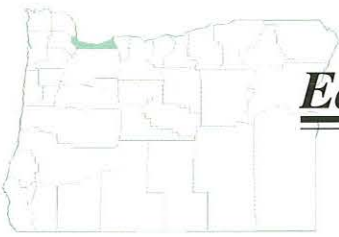
DEQ used the prospective purchaser agreement at this site as a vehicle to help get the contaminated property cleaned up and back into use. The owner of a redevelopment company bought the blighted property from Benton County and immediately cleaned up debris and eyesores. DEQ and the developer have agreed on a cleanup plan.

*“It’s been a real pleasure to work with DEQ, ODOT, Benton County, and the City of Corvallis to bring this toxic waste site into productive use.”*

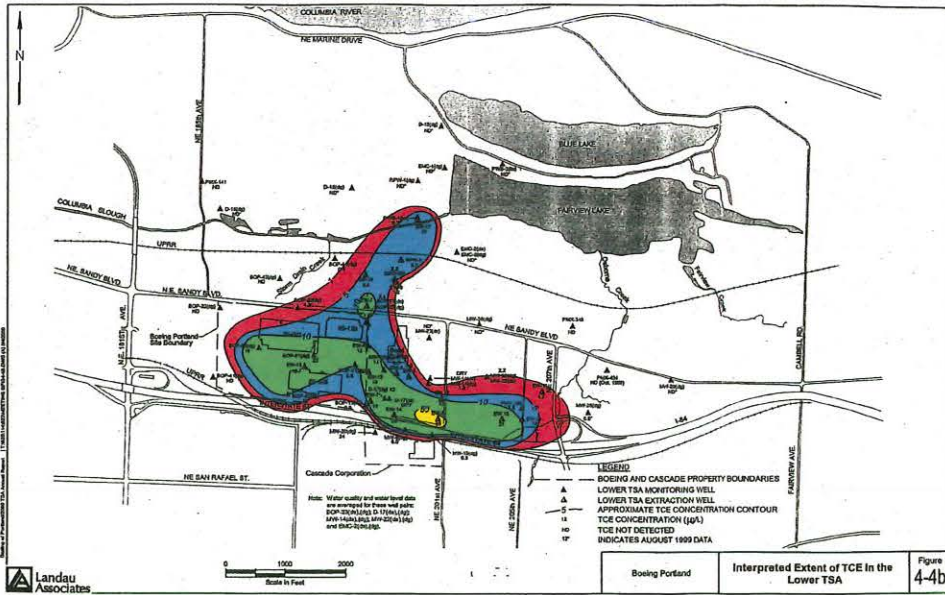
*- Pat Brady, Brownfield Development, LLC*

The site is currently undergoing soil removal and treatment. Cleanup efforts are expected to be completed by Fall 2000. The cleaned property is planned for high-density residential development and is being considered for a comprehensive plan amendment to allow such development. This project is a prime example of what can happen when state and local agencies, and private companies work together.





# East Multnomah County Groundwater Contamination



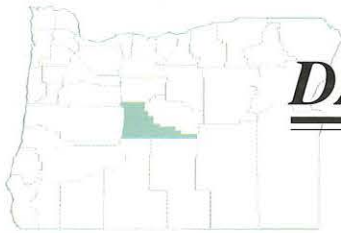
The East Multnomah County (EMC) groundwater contamination area encompasses three square miles extending approximately from NE Halsey Blvd. to the Columbia River, and from NE 178<sup>th</sup> to NE 223<sup>rd</sup>. It includes the eastern portion of the Portland well field, which supplies drinking water for much of the Portland metropolitan area. The groundwater is contaminated with a variety of industrial solvents, including trichloroethylene (TCE) and tetrachloroethylene (PCE).



Groundwater contamination was first discovered at Boeing in 1986 and at Cascade in 1988. Both companies entered into agreements with DEQ to investigate the nature and extent of contamination at their facilities.



DEQ proposed to clean up the known area of contamination through groundwater treatment systems. DEQ's remedy also included a provision for Boeing and Cascade to develop a contingency plan to address emergency operation of the Portland wellfield. The plan is designed to prevent adverse impacts from the plume of groundwater contamination as a result of continuous pumping of the wellfield for longer than 60 days. The groundwater extraction wells and treatment systems have been operating since August 1998. Since that time, TCE concentrations have declined significantly.



## *DAW Mill Site - Bend*

Located on the east bank of the Deschutes River on prime Bend real estate, this former saw mill operated for approximately 72 years under various

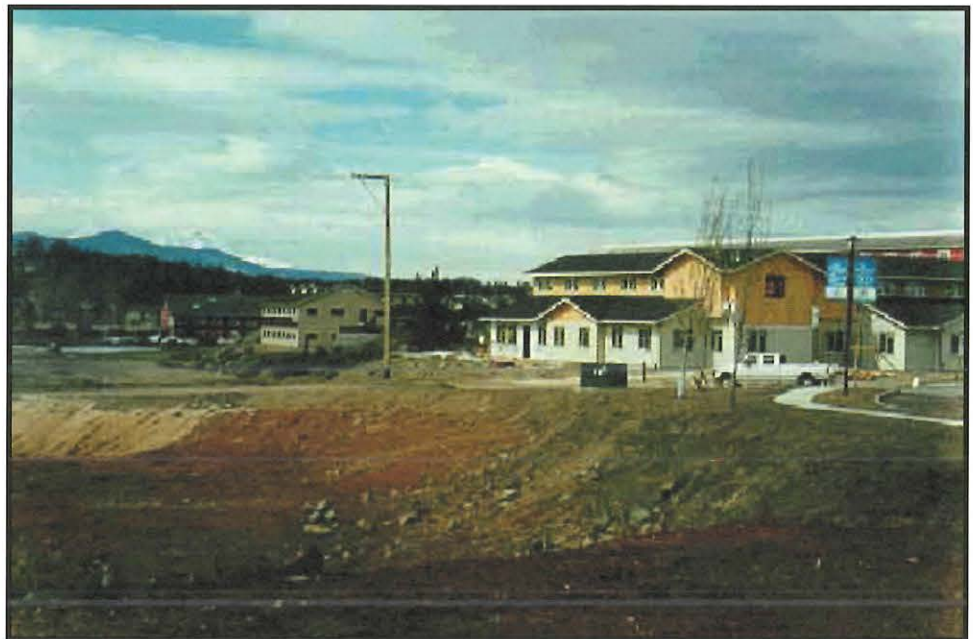
ownerships, producing rough cut lumber. The facility gained DEQ attention following a hazardous waste inspection in 1993, when various leaks and spills of used oil were observed. DEQ also suspected contamination from improper disposal of spent solvents and wood treating sludge - typically found at former lumber mills.



When the mill permanently closed in 1994, most of the buildings and equipment were removed. The property owner, a limited partnership development company, entered into DEQ's voluntary cleanup program to finish the cleanup of the site. Through the flexibility of the voluntary cleanup program, DEQ was able to work closely with the owner to facilitate cleanup and redevelopment, both by focusing investigation on areas of high environmental concern and proceeding in a way that fit the developer's needs.



The property is being redeveloped for mixed use - residential, commercial, and industrial. The site now houses 15 businesses, which will eventually employ more than 2,000 people. Future plans call for an expanded retail area and a variety of residential developments, including a 4,000 person outdoor amphitheater and a 60,000 square foot enclosed sports arena.



## Former Peterson's Furniture - Ontario



The Peterson Furniture Store occupied a city block in downtown Ontario. The site has been vacant since 1988 and the buildings were razed in 1993. Other former occupants included a lumber company, a grain company, and a service station.

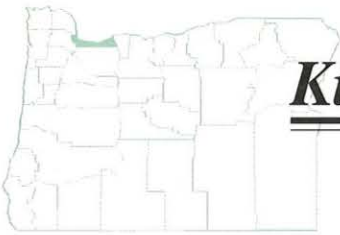
When Peterson Furniture closed in 1988, Key Bank took possession of the property. Key Bank performed groundwater sampling and found volatile organic compounds and an industrial solvent (tetrachloroethylene).



Ontario Real Estate Company, a local developer, became interested in purchasing the site, and in May 1998, signed a prospective purchaser agreement with DEQ. The agreement provided Ontario Real Estate Company with relief from liability for the existing on-site contamination in exchange for creating "substantial public benefit" by developing the site. The company installed deep groundwater monitoring wells, and conducted groundwater monitoring and use analysis in the vicinity.



The site now has a restaurant, a bank, and an insurance agency, which employs more than 60 people. Plans for a fourth building are underway.



## *Killingsworth Fast Disposal - Portland*

The Killingsworth Fast Disposal site is a 24 acre landfill located in northeast Portland near the Columbia Slough. Methane gas is the major hazard at this site. Spontaneous underground fires were responsible for destruction of the existing methane gas extraction wells. DEQ assumed responsibility for the safety of the site when the landfill's owner filed for bankruptcy in 1994. It became clear that a new gas control system was necessary at the landfill to protect public health and the environment.



As part of the new landfill gas collection system, thirty-seven new gas extraction wells were installed in August and September of 1999.

Monitoring of the methane gas was conducted twice a month, both on-site and off-site. On-site monitoring found methane levels that exceeded federal and state compliance standards. Several adjacent residences were included and, to date, no off-site monitoring points have shown dangerous levels of methane.

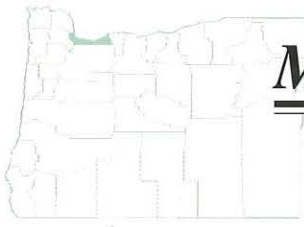




# Methane gas - a major hazard at this site - has been safely controlled



The gas extraction system and flare tower to safely control the methane gas has been installed. Now that the new system is in, monitoring occurs weekly. DEQ is working with the City of Portland and Metro to determine the best future use for this property.



## *McCormick and Baxter - Portland*

McCormick & Baxter Creosoting Company treated wood products with chemicals such as creosote and pentachlorophenol between 1944 and 1991. The site is located in north Portland on the banks of the Willamette River. Significant concentrations of chemicals are present in soil, groundwater, and river sediments. The site is located adjacent to a residential neighborhood, is one of the state's highest environmental priority sites, and one which captures high community interest.



### **WHAT IS AN ORPHAN SITE?**

Orphan sites are high environmental priority hazardous substance-contaminated sites whose owners are either unknown, unwilling, or unable to conduct the cleanup. The state has an orphan site cleanup program, which uses state dollars to pay for the cleanup of these sites. Because of limited funds only the highest priority sites qualify.



DEQ conducted extensive environmental investigations at the site, originally spending state orphan dollars, because the company was bankrupt. DEQ demolished the plant, removed soil and sludge, and continues to pump creosote from the groundwater. Then, in June 1994, the site was placed on the federal National Priorities "Superfund" List - the Environmental Protection Agency's (EPA) list of the most contaminated sites in the country. DEQ and EPA agreed on the long-term cleanup for the site, with DEQ in the lead role. Besides extensive soil removal completed in May 1999, an impermeable subsurface barrier wall is planned to be installed to prevent pools of creosote from migrating to the river. In addition, contaminated river sediments will be capped.

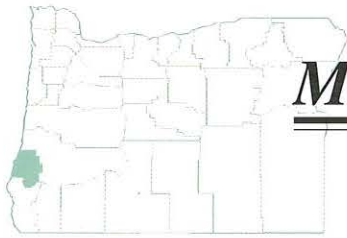
# One of the states highest priority sites is well on its way to cleanup



A view from the bluff before company buildings were demolished and contaminated soil removal was implemented.

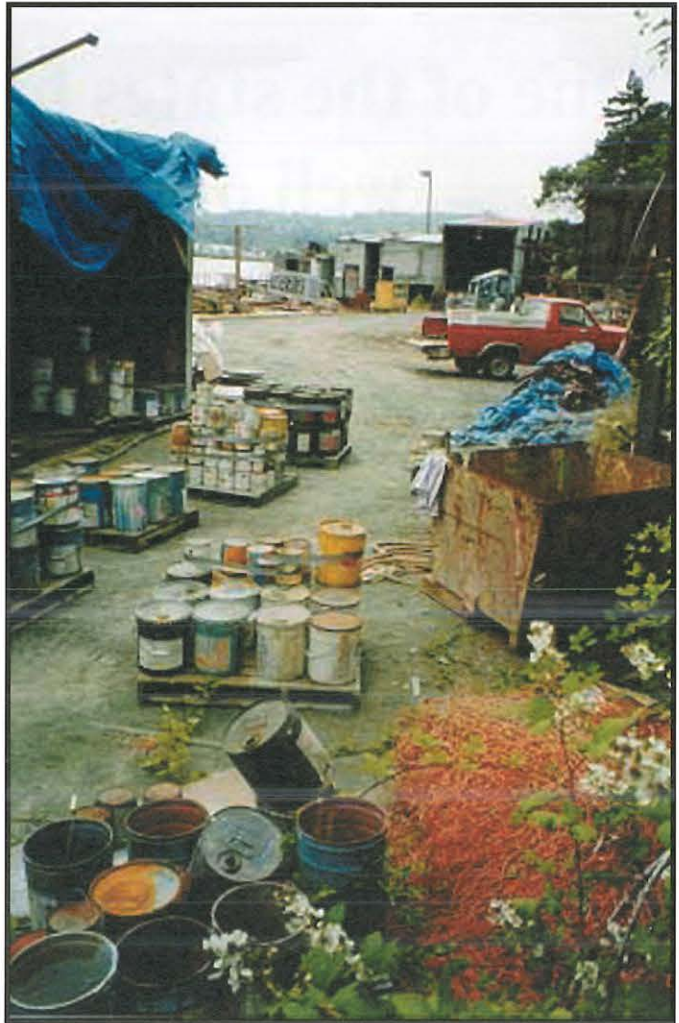


An early Summer 2000 view from the same location. Buildings have been demolished, and soil removal completed. Within two years, the site will be capped and clean soil brought in. Plans for reuse are currently being studied.



## Mid-Coast Marine - North Bend

Sandblasting was done next to the bay at this Coos Bay ship repair and maintenance facility. Tributyltin (a pesticide used to remove marine life from ship hulls) was found in high concentrations on the site and reached the bay through surface water runoff. Deformities in pacific oysters were found when tests were done in the late 1980s. The deformities were attributed to tributyltin contamination. DEQ visited the site in 1998, and also found several hundred drums, buckets, and cans holding what appeared to be solvents, paints, and oils stored in rundown sheds or in the open (shown right). There were also piles of spent sandblasting grit and several waste oil tanks present.



The abandoned wastes were removed in June 1998.

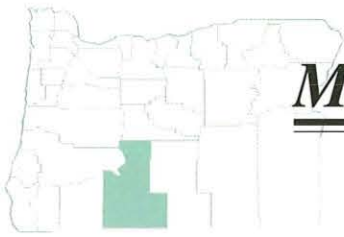


DEQ contractors completed upland and sediment contamination

removals in 1998 and 1999. DEQ is currently negotiating a prospective purchaser agreement with someone interested in the property to address residual sediment contamination.



Coos Bay supports a large fishing and shellfish industry, and is home to an abundant variety of marine life. While the site itself poses significantly reduced environmental threats, tributyltin contamination in soil and sediments in and around the bay continues to be a concern to the well-being of fishing and shellfish industries, and to marine life.



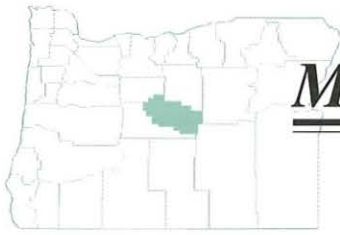
## *Modoc Lumber - Klamath Falls*



Located in the City of Klamath Falls, several wood products facilities operated at this site until 1994. The site is contaminated with various chemicals resulting from the operation of those facilities.



The site is currently in DEQ's voluntary cleanup program undergoing further investigation. Several grants for redevelopment - from the Environmental Protection Agency through the Oregon Economic and Community Development Department and Rural Development Initiatives - have assisted in performing site assessment. Mill buildings have been removed in preparation for redevelopment of the property into a mixed-use river front development. The proposal includes retail shops, restaurants, and residential development, as well as light manufacturing. DEQ is working with the owner to assess and remediate areas of the site to meet market demand for development.



## *Mother Lode Mine - Ochoco National Forest*

The Mother Lode Mine is located approximately 32 miles east of Prineville in the Ochoco Mining District of the Ochoco National Forest. The cinnabar mine operated intermittently from 1906 to 1972, with surface and underground mining and ore processing taking place on site. A Forest Service hiking trail crosses the site.



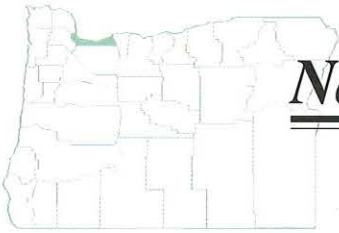
Canyon Creek runs along the base of the steep hillside site and flows into Ochoco Creek about five miles downstream. The primary environmental concern is mercury contamination of the soil, groundwaters, and sediments in Canyon Creek. Fish samples collected from lower Canyon and Ochoco Creeks contained detectable levels of mercury.



# Mercury contamination poses threat to nearby streams



The Forest Service joined DEQ's voluntary cleanup program in 1996 and conducted an investigation of the site to determine the appropriate cleanup. Cleanup is underway, including constructing a repository for waste ore, erosion control, asbestos removal, and reconstruction of the processing mill.



## *Nature's (15<sup>th</sup> & Fremont) - Portland*

Nature's, a specialty groceries company, purchased a northeast Portland brownfields property in 1998. The site formerly housed a dry cleaners and service station. Both gasoline and waste oil contaminated soil were discovered as were dry cleaning solvents (PCE-perchloroethylene or tetrachloroethylene).



DEQ and Nature's executed a prospective purchaser agreement that defines the limits of Nature's liability for the environmental contamination at the site. The PPA required Nature's to contribute to cleanup costs for the PCE contamination. Nature's installed and operated a soil vapor extraction system to remove PCE from affected soils.





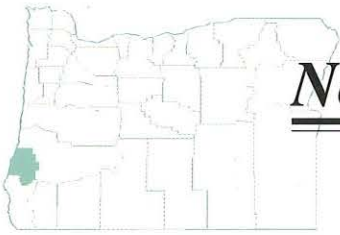
# Nature's believes its project will act as a catalyst for economic revitalization



Before the store opened, Nature's collected and analyzed air quality inside the building in the vicinity of the PCE-contaminated soil and found concentrations were below OSHA work place standards. DEQ will calculate the residual contamination risk when Nature's completes the soil cleanup.



The redevelopment of the property is completed with Nature's as the anchor tenant. A branch of the Multnomah County Library is also located at the site. Nature's believes that the project will act as a catalyst for economic revitalization and community stabilization in the area.



## *New Carissa - Coos Bay*

*“We must critically review the spill response...[if we are] to develop opportunities to improve marine spill prevention, preparedness and response to better protect Oregon’s environment.”*

*- New Carissa Review Committee, Report and Recommendations to the Governor, April 2000.*



The M/V New Carissa, an empty wood chip carrier of foreign registry, was driven aground in severe weather near the port of Coos Bay on February 4, 1999. The U.S. Coast Guard’s investigation indicated that human error on the part of the ship’s operators was largely responsible for the grounding.



On the morning of February 9<sup>th</sup>, the New Carissa began to leak oil and soon tar balls began washing up on the Oregon coast. At the time of the grounding, the vessel was empty of cargo, but contained 359,000 gallons of heavy fuel oil in six tanks and 37,400 gallons of diesel in one tank.

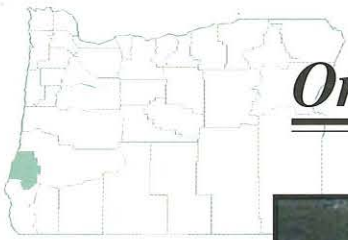
# Extraordinary efforts to prevent significant oil contamination of the beach were undertaken



As extraordinary efforts to minimize the amount of oil released proceeded, thousands of Oregon citizens anxiously watched the drama unfold. Many citizens volunteered to help clean Oregon's beaches of tar balls in an effort to minimize the damage, including impacts to the snowy plover and other endangered species. Since the ship could not be pulled off the beach, on scene coordinators decided that the best alternative to avoid a significant spill was to burn the fuel oil on board. Approximately half the ship's fuel was consumed.



On March 1<sup>st</sup>, after days of pulling by the salvage tug, Sea Victory, the battered bow section (with approximately 130,000 gallons of oil remaining after the burn) was removed from the beach. However, as the bow was being towed to deep sea for sinking, severe winds and seas snapped the towline. The bow section washed up on a beach near Waldport, spilling additional oil. A new towline was reattached, and on March 11<sup>th</sup> the bow was successfully sunk in over 10,000 feet of water.



## *Oregon Coast Sanitation - Bandon*

Operating from 1986 to 1993, this used oil recovery and recycling facility was the subject of numerous violations of air, water, and hazardous waste management laws.



Operations at the facility resulted in releases of waste oil from leaking above-ground storage tanks and overfilled lagoons. Surface runoff was directed into drainage ditches that empty into the Coquille River. In 1997, the company filed for bankruptcy protection and the site was declared an orphan project. DEQ and its contractor began on-site treatment of approximately 500,000 gallons of waste oil, wastewater and tank sludges that had been abandoned.

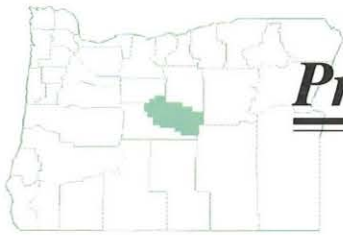
# The site no longer presents a significant threat to the Coquille River



In a second focused removal action, 11,685 tons of contaminated soil were excavated and disposed off-site. In addition, 27,178 gallons of contaminated groundwater were treated on-site, and the remaining structures and storage tanks were removed.



The site has been regraded and reseeded and no longer presents a significant threat to the Coquille River.



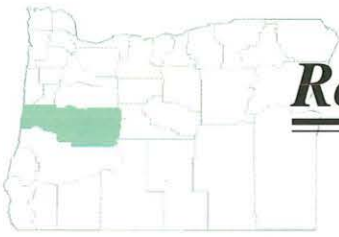
# *Prineville Groundwater Contamination*

Complaints by numerous business owners about fumes and odors within their buildings in downtown Prineville led to an investigation and cleanup of historic releases of gasoline. A leaking gasoline tank is pulled out of the ground (shown right). More than a dozen tanks were removed from three former gas stations.

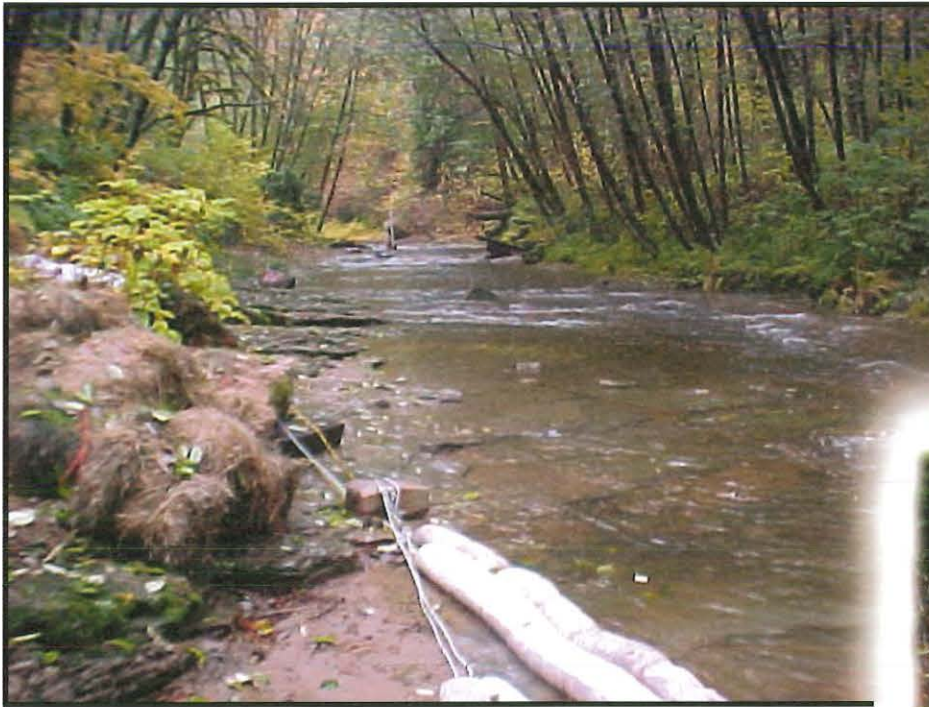


With installation of the treatment system, high benzene concentrations at 10 impacted businesses, have been significantly lowered.





## Ron's Oil - Mapleton

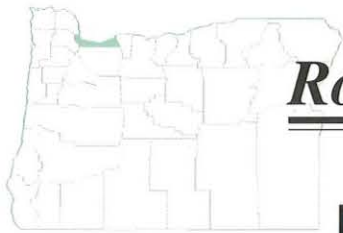


In August of 1999, a gasoline tanker truck accident on Highway 126 near Mapleton resulted in a spill of approximately 4,500 gallons of gas. The spill occurred about 150 feet from Knowles Creek, a tributary of the Siuslaw River. Knowles Creek provides spawning habitat for runs of fall chinook salmon, winter steelhead, and threatened coho salmon.



DEQ directed the removal and treatment of approximately 3,500 cubic yards of gasoline-contaminated soil, and the removal of gasoline before it could seep into the creek. The rapid response and cleanup protected the salmon spawning habitat, and the fall spawning runs proceeded normally with no harm to fish.

Treated soil being used to fill and regrade the spill site.



## *Rose City Plating - Portland*

Electroplating operations at this site, located in Portland's Sellwood district, were the subject of many neighbors' complaints. There were also repeated violations of



discharge limits to the city's sanitary sewer system. In 1994, DEQ staff visited the facility and found that the owner/operator had abandoned the facility. In addition, numerous problems were apparent, including leaking containment systems and storage of incompatible chemicals in the same area. DEQ's emergency response program stabilized the immediate threats by pumping out the leaking chemicals into temporary storage tanks.

During the building demolition in March 2000, the site was monitored to ensure that no potential contaminated materials were released to the environment.



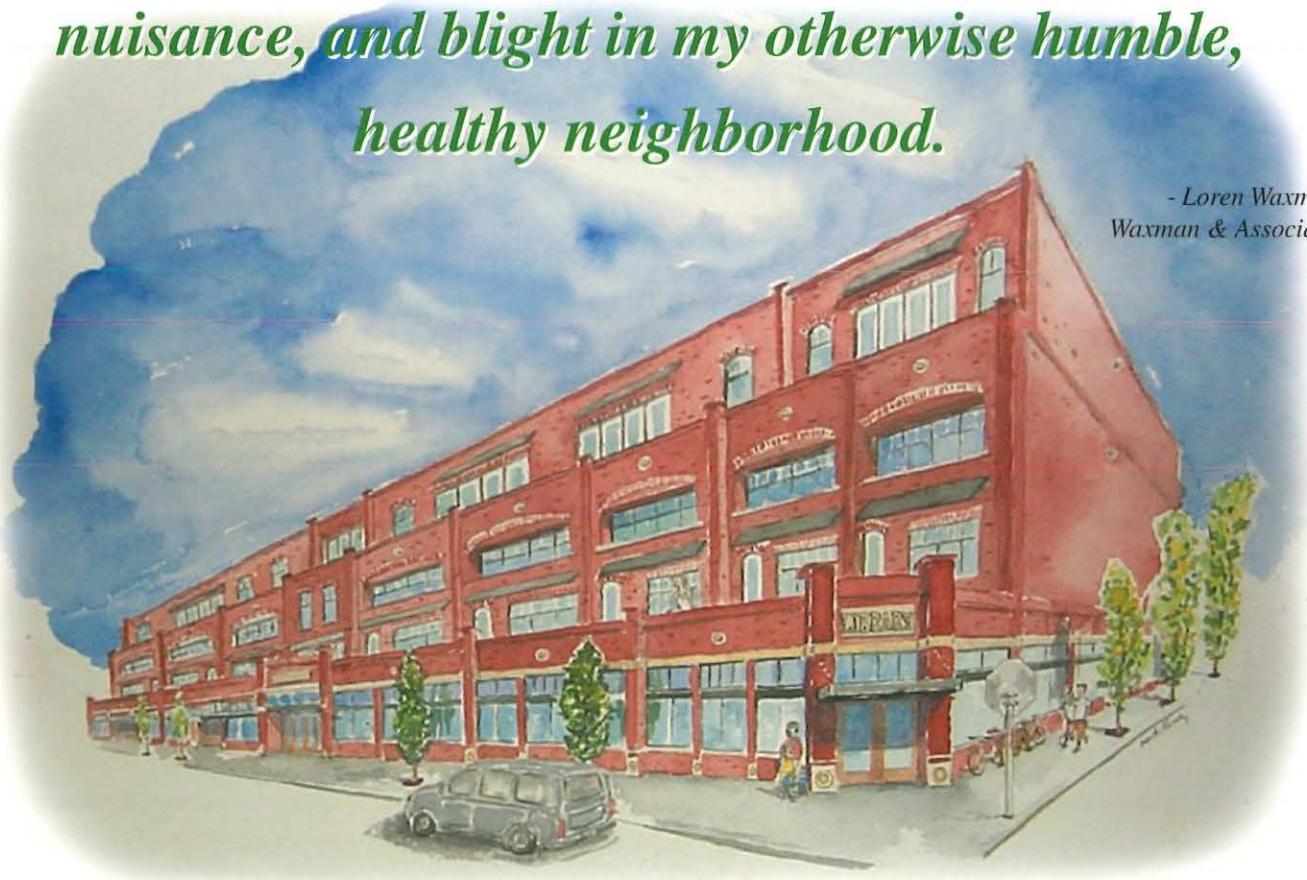




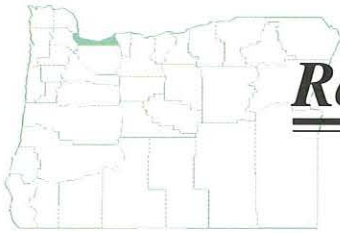
The site was transferred to DEQ's orphan site program for follow-up. The orphan program removed approximately 24,000 gallons of chemical wastes, 37 tons of sludges and 58 cubic yards of contaminated debris from the site.

*It was the most notorious eyesore, environmental nuisance, and blight in my otherwise humble, healthy neighborhood.*

*- Loren Waxman,  
Waxman & Associates*



Under DEQ's prospective purchaser program, remaining characterization and cleanup of the facility has been completed, and the property will be redeveloped into an attractive community center featuring a neighborhood library, retail shops, and residential living units.



## *Ross Island - Portland*

Lagoon areas of Ross Island, located near downtown Portland, have been used for disposal of confined in-water contaminated sediments.



DEQ is requiring monitoring for the presence of hazardous substances including PCBs, petroleum constituents, metals, and pesticides. DEQ has also required repairs to a breach of one of the disposal cells and an investigation into the stability of the underwater disposal cells.

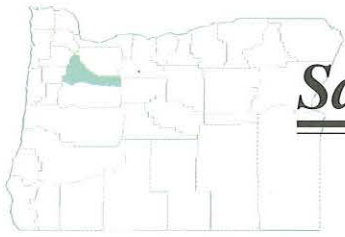


This work is being conducted cooperatively with the facility owner and the Port of Portland to ensure that the underwater disposal cells continue to function as designed, and that other upland and in-water disposals at the Ross Island complex are not causing environmental harm.

**DEQ's environmental cleanup program does more than clean contaminated sites for development, its work helps to protect natural areas which serve as important wildlife habitat.**



Ross Island is an important urban wildlife sanctuary with a large blue heron rookery and a nesting pair of bald eagles.



# *Salem's Riverfront Park*

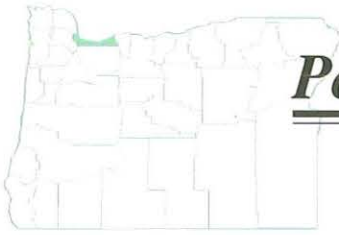


For the first 80 years of the 20<sup>th</sup> century, this prime waterfront property was used for a variety of industrial purposes including manufactured gas, lumber and paper manufacturing, and a junkyard.

A fairly wide range of contaminants were present. The approved cleanup plan resulted in removal of contaminated soils, placement of a clean soil cap, and the implementation of institutional controls to prevent development of inappropriate land or water uses.



Since completion of the cleanup, the City of Salem has developed the property into an attractive community park.



# Portland's South Waterfront Redevelopment



Until 1986, this prime waterfront property was used for various purposes including steam generation to produce electricity. Contaminants identified in old buildings or soil included petroleum hydrocarbons, metals, asbestos, and PCBs.

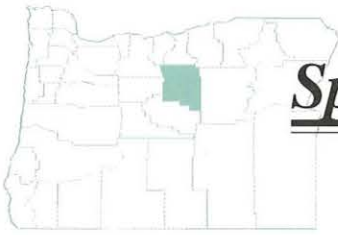


DEQ has approved remedies for four parcels of the redevelopment area. The remedies include capping of the contaminants in place and use of institutional controls to protect the cap and prevent inappropriate uses of the groundwater or land. Capping prevents exposure to contaminated soil and helps prevent migration of the contaminants to the Willamette River.

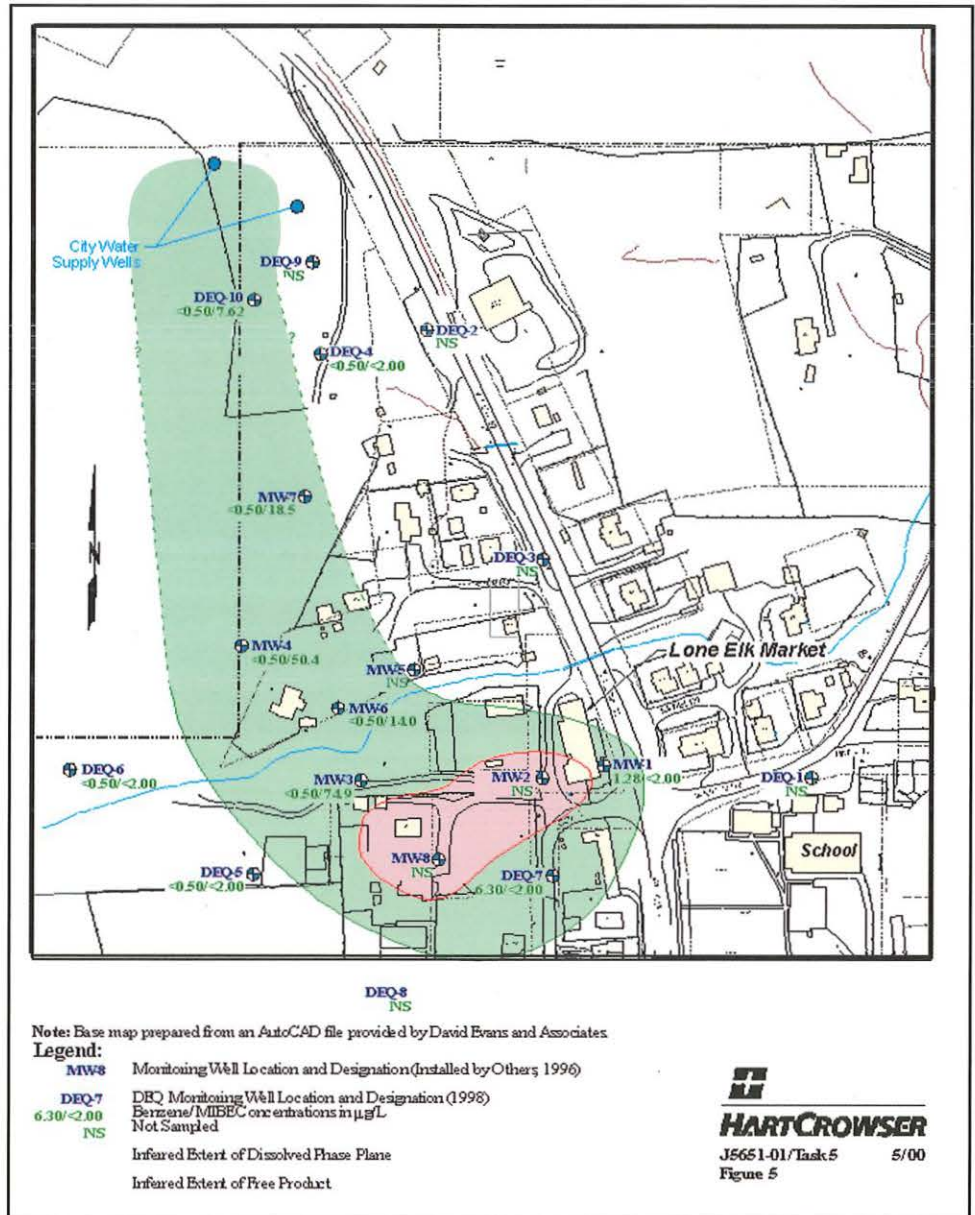
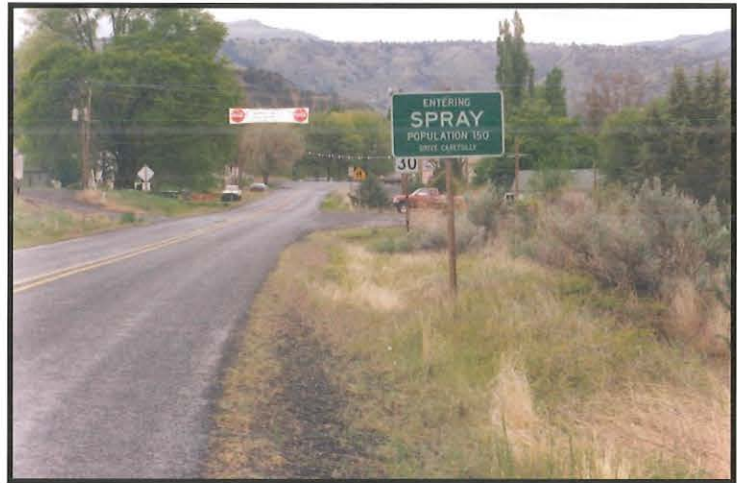


Successful cleanup has enabled redevelopment of the property into a combination of open space parks, businesses, and residential units.

# Spray Groundwater Contamination



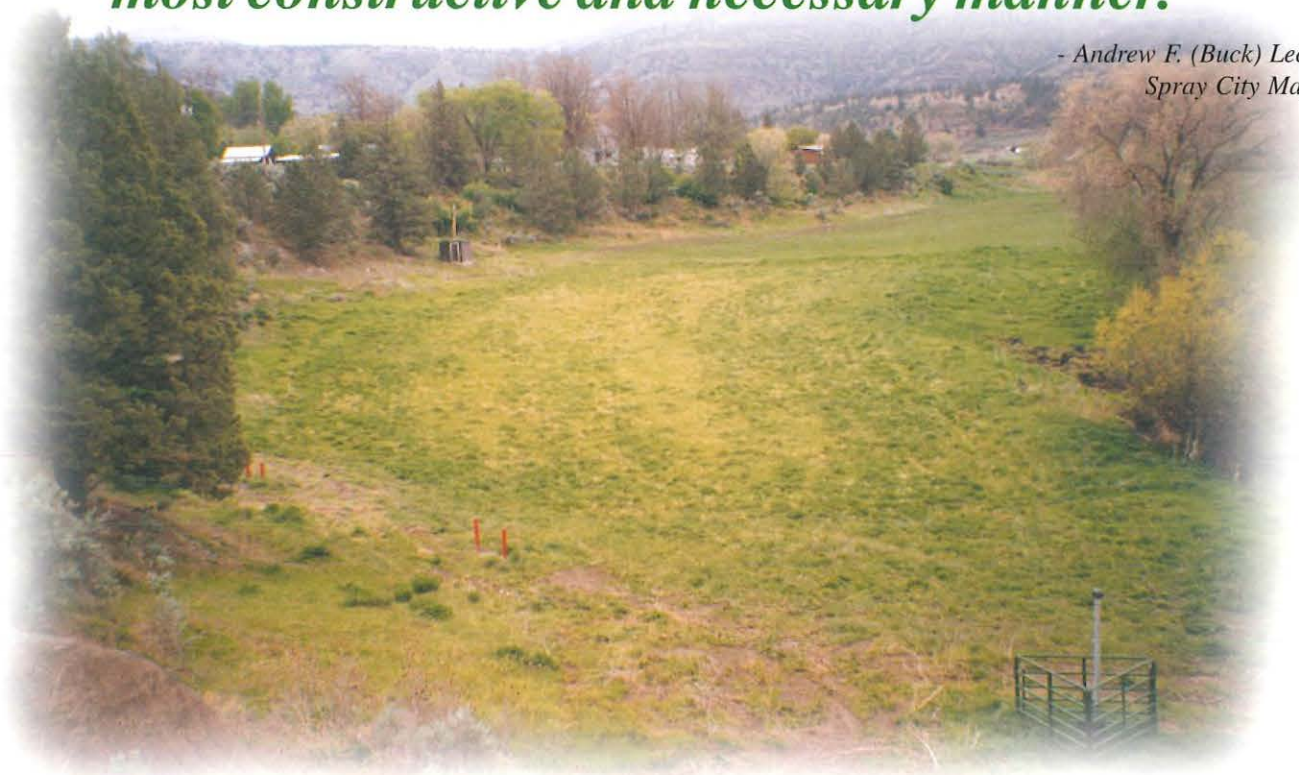
The water supply wells for the City of Spray have been contaminated by benzene, a constituent of gasoline and methyl tertiary-butyl ether (MTBE), a fuel additive.



The source of contamination was determined to be underground gasoline storage tanks, which have been removed. The contamination spread widely and presently extends to the city's wellfield.

*This project is an example of the State helping in a most constructive and necessary manner.*

- Andrew F. (Buck) Leckie  
Spray City Mayor



The impacted aquifer is the only aquifer near the city with sufficient capacity to support the city's water needs.

Because the owner of the gas station was financially unable to pay for cleanup, the site is being cleaned up by DEQ's orphan site program. DEQ installed a groundwater treatment system designed to recover free-product gasoline and minimize the migration of contaminated groundwater into the city's wellfield. DEQ will also utilize soil vapor extraction to clean the site. As a short term measure, DEQ is also providing bottled water to city residents.



# Springdale Cleaners - Portland

*“We’ve been working for three years to improve Stephens Creek and its water. When we heard about the contamination at Springdale Cleaners, it was cause for considerable concern to an already compromised stream. We are relieved to know that DEQ is monitoring the situation, and knows what is happening to the contaminant.”*

*- Alice Spears  
Chair, Hillsdale Neighborhood Committee  
for Stephens Creek*

An environmental assessment conducted for a neighboring apartment building owner revealed high levels of perchlorethylene (PCE) in soil and water in the vicinity of this Portland neighborhood dry cleaner. Attorneys for the apartment building and other property owners were threatening litigation for cleanup responsibility. Entering the site into the State Dry Cleaner Program, removed any need for litigation.

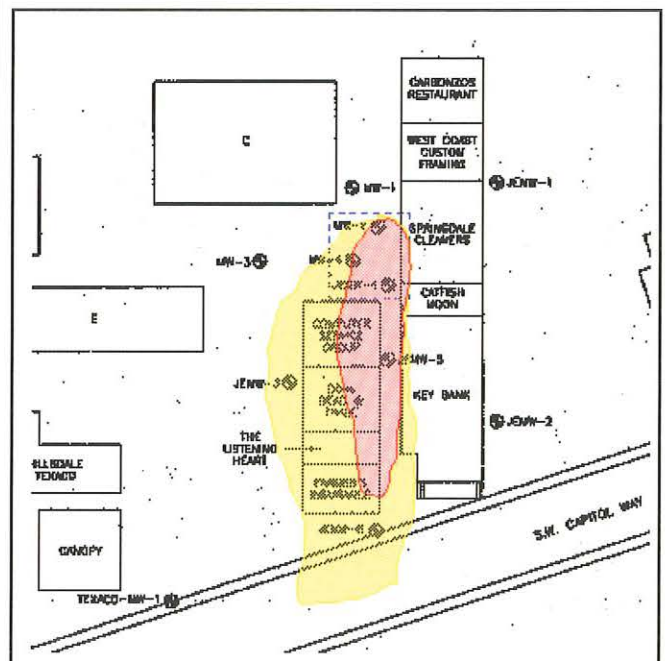


For dry cleaning of clothes, PCE is a commonly-used chemical. Because of environmental concerns with PCE after it has been released to

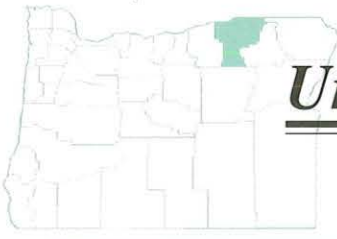


the environment and the high expense associated with cleaning up contaminated dry cleaner sites, the dry cleaning industry has established a dedicated state fund for cleanup of releases from dry cleaners.

At the facility, DEQ is successfully implementing a pilot project using a promising bioremediation technology to attack the problem. DEQ is using this and other innovative technologies to cleanup sites as efficiently as possible and with minimal disturbance to the dry cleaning industry. (shown left - The colored areas indicate the location of the contaminated groundwater plume, with the highest concentration in the pink area.)







## *Umatilla Army Depot - Hermiston*

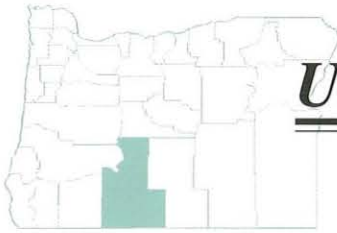


The excavated area comprises a former washout lagoon contaminated by organic materials resulting from the dismantling of conventional munitions (explosive ordinance not containing mustard gas or other nerve gas agents). Using a relatively inexpensive bioremediation remedy, more than 14,000 tons of contaminated soil was "landfarmed," allowing organic material to compost so that it no longer presents a potential environmental hazard. This is reportedly the first federal National Priorities Listed site using composting for large-scale treatment of contaminated soil.



Contaminants in the former washout lagoon also impacted groundwater. A 350-acre plume of groundwater is tainted by the bomb washout plant operations.

The groundwater treatment plant (minus exterior paneling) will process contaminated water for the next 20 to 30 years.



## *UPRR Wye Track - Crescent Lake*

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For many years, this site served as a fueling and service facility for maintenance of locomotives.



A pollution complaint resulted in a DEQ inspection that revealed that the formerly used Bunker C fuel oil disposal pits were leaking oil. In fact, the oil and tar was bubbling up from the subsurface in multiple locations.



Under the Voluntary Cleanup Program, the facility owner characterized the site and completed initial cleanup activities. The cleanup included removal of an underground storage sump for holding and heating Bunker C fuel.



As part of DEQ's approved cleanup plan, signs and fencing have been installed to prevent trespassing and reduce exposures to contaminants until a permanent cleanup remedy is implemented.



# Active Environmental Cleanup Sites

<u>COUNTY</u>	<u>SITE NAME</u>	<u>ECSI NUMBER</u>	<u>CITY</u>
<b>BAKER</b>	Ash Grove Cement Plant - Pipeline Release	2157	Nelson
	Chevron USA - Baker City Terminal	664	Baker City
	Cornucopia Mine Tailings	1039	Cornucopia
	Lime - Kiln Waste Piles	2561	Lime
<b>BENTON</b>	Bottger Property	1919	Corvallis
	Consumers Power Inc.	2092	Corvallis
	Evanite Fiber Corp.	40	Corvallis
	Kings BLVD One Hour Cleaners	2586	Corvallis
	United Chrome Products Inc. (UCP)	317	Corvallis
<b>CLACKAMAS</b>	Abe's Main Street Cleaners	1258	Milwaukie
	Avison Lumber Co.	9	Molalla
	Blount Inc.	267	Milwaukie
	Bors Property	901	Oregon City
	Camp Withycombe - Firing Range	1705	Clackamas
	Carlton Co.	1035	Oak Grove
	Carousel Cleaners & Laundry	2418	Oregon City
	Catellus Development Corp. - Milwaukie	887	Milwaukie
	Clackamette Cove Area	2301	Oregon City
	Darr Enterprises	2102	Government Camp
	Illinois Tool Works Inc.	1016	Milwaukie
	Immer & Oswald Volvo	1436	Gladstone
	Industrial Coatings	262	Lake Oswego
	John Battin Power Service	1133	Portland
	K-Lines Inc.	266	Lake Oswego
	Marko Foam Products	2044	Wilsonville
	McNaef	2560	Oak Grove
	NW Industrial Painting Inc.	1758	Oregon City
	NW Pipe & Casing Co. Parcels A&B - Clackamas	139	Clackamas
	ODOT - Ambler RD East	1562	Milwaukie
	ODOT - Ambler RD West	1236	Clackamas
	Old Canby Landfill - Tax Lot 405	1041	Canby
	Old Rossman's Landfill	1238	Oregon City
	Oregon Bulb Farm - Sandy	1025	Sandy
	Portable Equipment Salvage Co. (PESC)	149	Clackamas
	Rick Walters	2588	Lake Oswego
	RS Davis Recycling Inc.	1927	Clackamas
	Safety-Kleen - Clackamas	1315	Clackamas
	Sandy Oil Co.	1691	Sandy
	Southern Pacific Transportation Co. - E Milwaukie	1190	Milwaukie
	Stanley Proto Tool (SPT)	1171	Milwaukie
	Surgichrome Inc.	1526	Clackamas
Temco Metal Products Co.	1148	Clackamas	



<u>COUNTY</u>	<u>SITE NAME</u>	<u>ECSI NUMBER</u>	<u>CITY</u>
CLACKAMAS	Warn Industries	1118	Milwaukie
	XDP Inc.	1117	Milwaukie
CLATSOP	Astoria Plywood Corp.	1370	Astoria
	Bank of California - Astoria	1467	Astoria
	Coast Guard ANT Astoria	182	Astoria
	Fort James Wauna Mill	649	Clatskanie
	Pacific Power & Light - Astoria Service Center	147	Astoria
	Tongue Point Landfill	171	Astoria
	Unocal Terminal 0022 (Former)	1646	Astoria
	Waterhouse Logging Shop	2252	Seaside
COLUMBIA	Bergsoe Metal Corp.	12	St. Helens
	Port of St. Helens Creosote	959	St. Helens
COOS	Chevron Bulk Plant - Coos Bay	542	Coos Bay
	Coos Bay Area Sediment Contamination	1712	Coos Bay
	Mid-Coast Marine	1906	Coos Bay
	Oregon Coast Sanitation (OCS) - Beaver Hill Site	1743	Bandon
	Port of Coos Bay Boat Yard	1905	Coos Bay
	Prime Service - Coos Bay	2222	Coos Bay
	Southern Oregon Marine	1908	Coos Bay
CROOK	76 Products Bulk Plant - Prineville	2231	Prineville
	Arco (Former) - Prineville	2174	Prineville
	GI Ranch	1934	Paulina
	Mother Lode Mine	1384	Prineville
	Ochoco Shell Station (Former)	2582	Prineville
	Prineville Area Groundwater Contamination	2128	Prineville
	Prineville BP Quick Stop	2146	Prineville
	Prineville Exxon	2445	Prineville
	Texaco Service Station - Prineville	2145	Prineville
DESCHUTES	Bend Millwork Systems (BMS)	323	Bend
	ODOT - Bend Parkway	1814	Bend
	Southwest Landfill	2140	
	Troy Laundry	1672	Bend
	Van Osten Properties - TL 701	365	Bend
DOUGLAS	Champion Mill Site (Former)	1367	Roseburg
	Fred Wahl Marine	1862	Reedsport
	ODOT - Drain Maintenance Facility	1877	Drain
	Silver Butte Mine	1449	

<u>COUNTY</u>	<u>SITE NAME</u>	<u>ECSI NUMBER</u>	<u>CITY</u>
GRANT	Erickson Air Crane - Jet A Spill	2284	Galena (north of)
	Red Boy Mine	2467	Granite
HARNEY	American Absorbents - Snow Mountain Pine	2074	Hines
	Bennett's Bulk Plant - Burns	2328	Burns
	Frenchglen Mercantile	2453	Frenchglen
	Harmony Homes of Hines- Snow Mountain Pine	2069	Hines
	Louisiana Pacific - Snow Mountain Pine	1998	Hines
	Palmer Bros. - Snow Mountain Pine	2001	Hines
	Timberline Recycling - Snow Mountain Pine	2071	Hines
JACKSON	Cascade Wood Products	20	White City
	Eastman Kodak Company	1045	White City
	Erickson Air-Crane Co.	1231	Central Point
	Lithia Dodge	2486	Medford
	Lithia Toyota	2487	Medford
	LTM - Hamrick RD Asphalt Plant	1393	Central Point
	Medford-Jackson County Intn'l Airport (apron prjt)	2014	Medford
	Montezuma West Spill Site	79	Central Point
	Reeder Pistol Range (Former)	2223	Ashland
	Rogue Valley Circuits Inc. (RVCI)	538	Medford
	Saturn of SW Oregon	2488	Medford
	Union Pacific Railroad - Ashland	1146	Ashland
	Vickers, Incorporated	2281	White City
JEFFERSON	Cherry Creek Ranch	2386	
JOSEPHINE	Dillard Property	1444	Wolf Creek
	Marlsan Landfill	1783	Merlin
	Merlin Landfill	286	Grants Pass
	Spalding & Son Inc.	552	Grants Pass
KLAMATH	Burlington Northern RR - Midland Yard	1732	Klamath Falls
	Chiloquin Forest Products	1213	Chiloquin
	Clough Oil Co.	27	Klamath Falls
	Crescent Mini Mart	1718	Crescent
	Fashion Cleaners	1004	Klamath Falls
	Keno Area Groundwater Contamination	2028	Keno
	May-Slade Oil Co.	2332	Klamath Falls
	Modoc Lumber (Former)	2307	Klamath Falls
	Pelican Bay/Jeld-Wen of Oregon	57	Klamath Falls
	PRIME Equipment #579	2204	Klamath Falls
	Union Pacific RR - Crescent Lake	1466	Crescent Lake
	Union Pacific RR - K. Falls	297	Klamath Falls

<u>COUNTY</u>	<u>SITE NAME</u>	<u>ECSI NUMBER</u>	<u>CITY</u>
KLAMATH	Unocal Bulk Plant #0333	1221	Klamath Falls
	US AF - Kingsley Field	816	Klamath Falls
	Weyerhaeuser - Klamath Falls	655	Klamath Falls
	Weyerhaeuser - Sycan Shop	650	Beatty
	Witco - Golden Bear Plant	1751	Klamath Falls
LAKE	Alkali Lake	291	Alkali Lake
	Alkali Lake - Air to Air Gunnery Range	2476	Alkali Lake
	Lakeview Ranger Station	1387	Lakeview
	North Texaco Property - Lakeview	2465	Lakeview
	Silver Lake Ranger Station	1971	Silver Lake
	White King & Lucky Lass Uranium Mines	601	Lakeview
LANE	Bethel-Danebo Landfill	64	Eugene
	Cascade Plating & Machine (CPM)	1042	Eugene
	City of Oakridge Industrial Park	234	Oakridge
	Dow Corning - Springfield Plant	694	Springfield
	El-Jay Factory #1	540	Eugene
	El-Jay Factory #2	199	Eugene
	Eugene Area Groundwater Contamination	2202	Eugene
	Eugene Former Manufactured Gas Plant	1723	Eugene
	Forrest Paint Co.	201	Eugene
	Future Eugene Library Site	2405	Eugene
	Georgia Pacific - Irving RD	1082	Eugene
	JH Baxter & Co. - Eugene	55	Eugene
	JO Olsen Manufacturing Co.	1254	Eugene
	Lane County Public Works Shop	1022	Eugene
	Lane Plywood Inc.	213	Eugene
	Laurence-David Inc. (LDI)	65	Eugene
	LD McFarland	63	Eugene
	Marshall's Oil and Insulation	2645	Marcola
	McAyeal's Wardrobe Cleaners	2490	Eugene
	Mill City Developers LLC	236	Westfir
	Pearl Street Property	1191	Eugene
	Riverfront Research Park	1018	Eugene
	Safety-Kleen - Springfield	1316	Springfield
	Small World Auto Center Inc.	2523	Eugene
	Springfield Airport (Abandoned)	239	Springfield
	TM & R Logging Inc.	1637	Westfir
	Trus Joist MacMillan - Junction City	1714	Junction City
	Tugman Park Landfill	843	Eugene
	Union Pacific Railroad Co. - Eugene Yards	312	Eugene
	Valley Iron & Steel Co.	1342	Eugene
Van Waters and Rogers	1890	Eugene	

<u>COUNTY</u>	<u>SITE NAME</u>	<u>ECSI NUMBER</u>	<u>CITY</u>
MULTNOMAH	Gunderson Inc.	1155	Portland
	Harbor Oil Inc.	24	Portland
	Harvey's Cleaners	1518	Portland
	Hawthorne Substation	1972	Portland
	Hayden Island Cleaners	1865	Portland
	Houston Inc.	1052	Portland
	Hoyt ST Railyard	1080	Portland
	ICN Pharmaceuticals - Parcels 234A & 235	1219	Portland
	InnVentures	2232	Portland
	J & W Landfill	1153	Gresham
	Jama Reed Residence	2439	Portland
	James River Corp. - North Portland	127	Portland
	Linnton Oil Fire Training Grounds	1189	Portland
	Linnton Plywood Association	2373	Portland
	Longview City Laundry & Cleaners	1395	Portland
	Majestic Cleaners & Laundry Inc.	2459	Portland
	Maniatis Property	2276	Portland
	Marine Finance Corp	2352	Portland
	Master Cleaners	2398	Portland
	McCall Oil	134	Portland
	McCormick & Baxter Creosoting Co.	74	Portland
	Mobil Oil Terminal	137	Portland
	Morrison Oil Co.	800	Portland
	Mt. Hood Metals Inc.	2058	Portland
	Multnomah County - St. Johns Site	2421	Portland
	NE 148th Ave. TCE Contamination	2242	Portland
	Norris Metal Polishing	1490	Portland
	Nu-Way Oil Co.	88	Portland
	NW Cast/Universal Silver	999	Portland
	ODOT - Sylvan Maintenance Yard	1837	Portland
	Old Town Parking/Helistop Structure	383	Portland
	Oregon Air National Guard Base	1372	Portland
	Oregon Brass Works	2550	Portland
	Oregon Fir Supply Co.	1220	Portland
	Oregon National Guard - PDX Airport #1	637	Portland
	Oregon Steel Mills - Rivergate	141	Portland
	Owens Brockway Glass Container	1311	Portland
	Owens Corning - Linnton	1036	Portland
	Pacific Car Crushing	2057	Portland
	Pacific Meat Co.	145	Portland
	Pacific States Galvanizing	1024	Portland
	PC Development Inc.	143	Portland
	PGE - Forest Park Property	2406	Portland
	PGE - Station L	151	Portland



<u>COUNTY</u>	<u>SITE NAME</u>	<u>ECSI NUMBER</u>	<u>CITY</u>
MULTNOMAH	Port of Portland - Former Cadet Manufacturing	2215	Portland
	Port of Portland - Light Rail Extension	2271	Portland
	Port of Portland - Terminal 1	2642	Portland
	Port of Portland - Terminal 4	272	Portland
	Port of Portland - Terminal Expansion South	2118	Portland
	Portland General Electric - Harborton Substation	2353	Portland
	Portland Harbor Sediments	2068	Portland
	Precision Equipment Inc.	152	Portland
	Premier Edible Oils	2013	Portland
	Redi-Strip of Oregon	276	Portland
	Reynolds Metal Co.	154	Troutdale
	Rhodia, Inc.	165	Portland
	Rhone-Poulenc - Doane Lake	155	Portland
	Rich & Rhine Inc.	1867	Portland
	RMAC International Inc.	1918	Troutdale
	Rose City Plating II	269	Portland
	Ross Island (River Mile 15.4)	2409	Portland
	Ryder Truck Rental Facility	2241	Portland
	Schnitzer - Moody AVE Units A, B & C	875	Portland
	Schnitzer Investment Corp	2442	Portland
	Shell Oil Co. - Willbridge Plant	160	Portland
	Shopping Center Property - Nature's Fresh NW	1855	Portland
	South Waterfront Redevelopment	602	Portland
	Springdale Cleaners	2290	Portland
	St. John's Landfill	164	Portland
	Stages Building	1662	Portland
	Strub Property	2587	Portland
	Swan Island Portland Ship Yard	271	Portland
	Swift Adhesives	884	Portland
	Sylvan Cleaners	1897	Portland
	Tacoma ST Overpass	1159	Portland
	Texaco Portland Terminal	169	Portland
	Time Oil Co.- Northwest Terminal	170	Portland
	Town & Country Chevrolet	2443	Milwaukie
	Triangle Park - North Portland Yard	277	Portland
	U.S. West Argyle Service Center	270	Portland
	Union Carbide Corp.	176	Portland
	Union Pacific Railroad - Brooklyn Yard	2275	Portland
	Union Pacific Railroad - St.Johns Tank Farm	2017	Portland
	Union Pacific RR - Albina Yard	178	Portland
	Union Pacific RR - Barnes Yard	898	Portland
	Union Station - Parcel B South	1885	Portland
	Union Station Agricultural Marketing Center Site	1962	Portland
	Union Station Parcel 1	2407	Portland

<u>COUNTY</u>	<u>SITE NAME</u>	<u>ECSI NUMBER</u>	<u>CITY</u>
MULTNOMAH	US Army COE - Bradford Island Landfill	2010	Bonneville
	US Army COE - N Pacific Div. Materials Lab	1390	Troutdale
	US Army COE - Portland Moorings	1641	Portland
	US Postal Service Processing & Distribution Center	2183	Portland
	Wagner Mining & Construction Equipment Co.	331	Portland
	Wagstaff Battery Manufacturing Co.	1243	Portland
	Westwood Corp.	1923	Portland
	Willamette Cove	2066	Portland
	Willamette Oaks Building	883	Portland
	Willbridge Bulk Fuel Area	1549	Portland
Zidell Waterfront Property	689	Portland	
POLK	FAA Radar Facility - Laurel Mountain	1364	
	Mountain Fir Lumber Co. - Independence	980	Independence
TILLAMOOK	Lil Richey's Market	1967	Tillamook
	Pride of Oregon Texaco Station	1915	Tillamook
	Tillamook Farmers Co-op	1410	Tillamook
	Tommie's Cleaners	1931	Tillamook
	Union Oil Service Station - Tillamook	1916	Tillamook
UMATILLA	Albertson's - Pendleton	2208	Pendleton
	Chevron USA - Adams Terminal	675	Adams
	Liberty Cleaners	2303	Pendleton
	Louisiana Pacific - Pendleton	1495	Pendleton
	Umatilla Army Depot Activity	514	Hermiston
	Union Pacific RR - Hinkle	516	Hermiston
	Wilbur-Ellis Aqua Ammonia Spill	2583	
UNION	ODOT - La Grande Truck Shop	1789	La Grande
	Union Pacific - Wilfong Garden Property	2319	La Grande
	Union Pacific RR - La Grande	631	La Grande
	Union Pacific RR - Tar Pits	1909	La Grande
	UPRR - North Powder Spill	2551	
WALLOWA	Boise Cascade - Joseph Mill	1661	Joseph
	Steve's Auto Repair - Enterprise	2345	Enterprise
WASCO	Martin Marietta Reduction Facility (MMRF)	72	The Dalles
	Union Pacific RR - The Dalles	54	The Dalles
WASHINGTON	217 Distribution Center - Building D	1969	Beaverton
	Alpine Cleaners - Greenway	1639	Tigard
	Dant & Russell (DAR) - Mill Site	108	North Plains

<u>COUNTY</u>	<u>SITE NAME</u>	<u>ECSI NUMBER</u>	<u>CITY</u>
WASHINGTON	Deluxe Corp.	2045	Beaverton
	Elegance Cleaners	2562	Aloha
	Farmcraft Facility (Former)	1223	Tigard
	Frontier Leather Co.	116	Sherwood
	GNB Battery - Beaverton	142	Beaverton
	Hall BLVD Texaco	2103	Beaverton
	Hoody's Property, Former	2357	Beaverton
	Hyster Sales - Tigard	1046	Tigard
	Intel Corp. - Aloha Campus	1131	Aloha
	Lombard Dry Cleaner	2584	Beaverton
	Mears Property	1592	Beaverton
	Professional & Budget Dry Cleaners	2100	Hillsboro
	Sunset Square Dry Cleaners	2397	Aloha
	Tri-Met Merlo Garage	1348	Aloha
	Truax-Harris Texaco Service Station	1634	Forest Grove
	Tualatin River Pipeline Leak	1682	King City
	Tyco Manufacturing Facility (Former)	2195	Beaverton
	Vadis Pole Yard	109	North Plains
	Washington County Maintenance Facility	1569	Hillsboro
Western Foundry Co.	185	Tigard	
WHEELER	Fossil Fuel	1933	Service Creek
	Lone Elk Market	1995	Spray
YAMHILL	Hewlett-Packard Co. - McMinnville	207	McMinnville
	Parrett Mountain TL 101	309	Newberg

### **WHAT IS AN ECSI NUMBER?**

ECSI - the environmental cleanup site information system, is an electronic database of all sites in Oregon contaminated or potentially contaminated by hazardous substances. The ECSI number is the identification number given to each site. You can query for information about specific sites using the site's ECSI number on our web page at [www.deq.state.or.us/wmc/cleanup/clean.htm](http://www.deq.state.or.us/wmc/cleanup/clean.htm).

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 The Dalles, OR 97058  
 (541) 298-7255

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Terry Hosaka ..... (541) 298-7255 x29  
 ECSI Coordinator  
 John Koestler ..... (541) 298-7255 x41

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 Portland, OR 97201-4987  
 (503) 229-5263

**Northwest Region Administrator**

Neil Mullane ..... (503) 229-5287  
 Voluntary Cleanup Manager  
 Mike Rosen ..... (503) 229-6712  
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**Medford Office**

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**Salem Office**

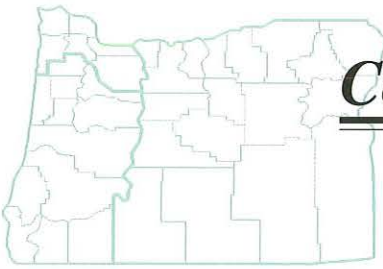
750 Front St NE, Ste 120  
 Salem, OR 97301-1039  
 (503) 378-8240

<u>COUNTY</u>	<u>SITE NAME</u>	<u>ECSI NUMBER</u>	<u>CITY</u>
WASHINGTON	Deluxe Corp.	2045	Beaverton
	Elegance Cleaners	2562	Aloha
	Farmcraft Facility (Former)	1223	Tigard
	Frontier Leather Co.	116	Sherwood
	GNB Battery - Beaverton	142	Beaverton
	Hall BLVD Texaco	2103	Beaverton
	Hoody's Property, Former	2357	Beaverton
	Hyster Sales - Tigard	1046	Tigard
	Intel Corp. - Aloha Campus	1131	Aloha
	Lombard Dry Cleaner	2584	Beaverton
	Mears Property	1592	Beaverton
	Professional & Budget Dry Cleaners	2100	Hillsboro
	Sunset Square Dry Cleaners	2397	Aloha
	Tri-Met Merlo Garage	1348	Aloha
	Truax-Harris Texaco Service Station	1634	Forest Grove
	Tualatin River Pipeline Leak	1682	King City
	Tyco Manufacturing Facility (Former)	2195	Beaverton
	Vadis Pole Yard	109	North Plains
	Washington County Maintenance Facility	1569	Hillsboro
Western Foundry Co.	185	Tigard	
WHEELER	Fossil Fuel	1933	Service Creek
	Lone Elk Market	1995	Spray
YAMHILL	Hewlett-Packard Co. - McMinnville	207	McMinnville
	Parrett Mountain TL 101	309	Newberg

### **WHAT IS AN ECSI NUMBER?**

ECSI - the environmental cleanup site information system, is an electronic database of all sites in Oregon contaminated or potentially contaminated by hazardous substances. The ECSI number is the identification number given to each site. You can query for information about specific sites using the site's ECSI number on our web page at [www.deq.state.or.us/wmc/cleanup/clean.htm](http://www.deq.state.or.us/wmc/cleanup/clean.htm).





# Contact Information

Cleanup program contacts are listed for each regional office. For more information about the Cleanup program and other DEQ programs, visit our website: [www.deq.state.or.us](http://www.deq.state.or.us)

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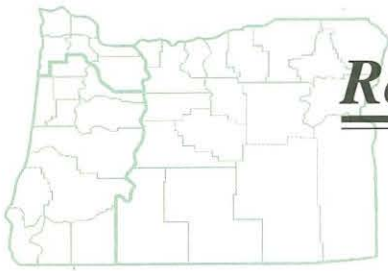
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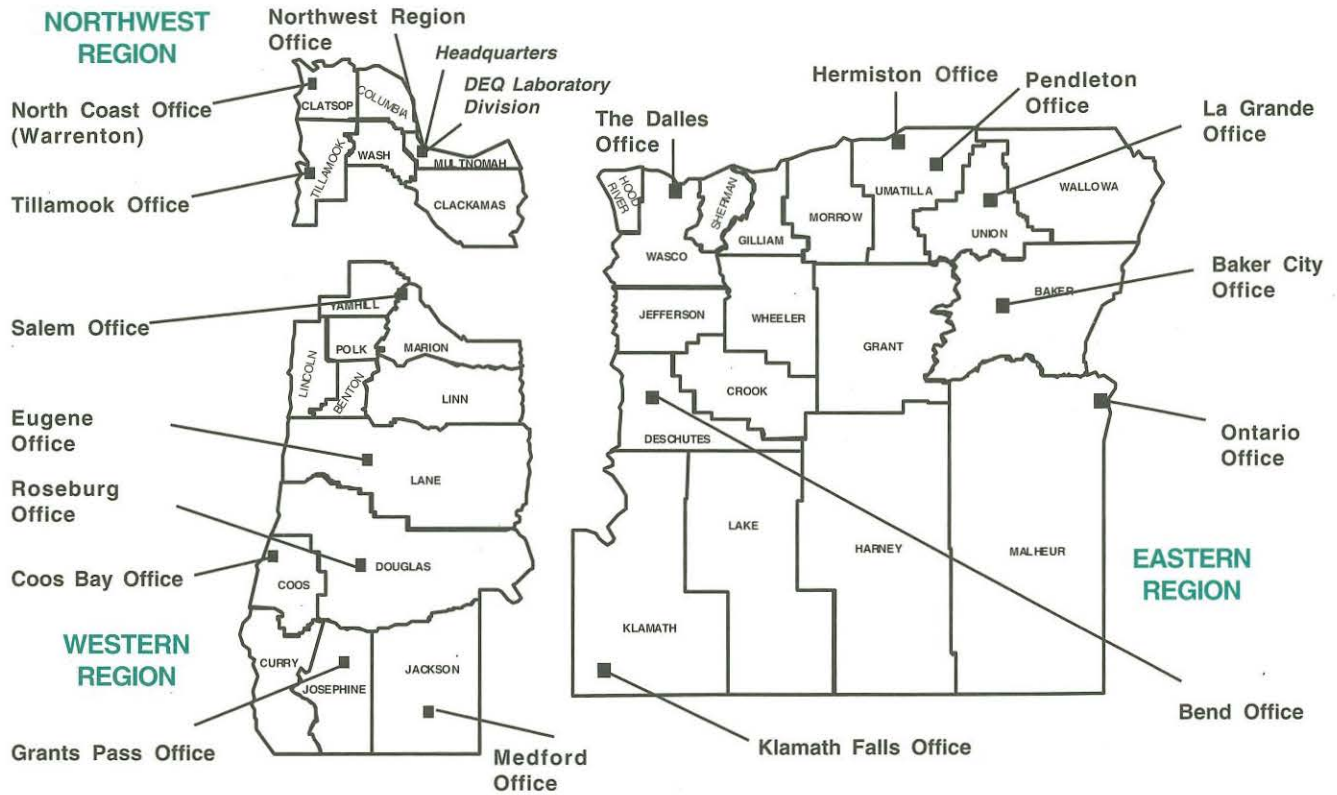
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# Regional Map





**Department of  
Environmental  
Quality**  
Environmental  
Cleanup Division  
811 SW 6<sup>th</sup> Avenue  
Portland, OR 97204

**Date:** September 18, 2003  
**To:** Environmental Quality Commission  
**From:** Stephanie Hallock, Director *S. Hallock*  
**Subject:** Agenda Item J, Rule Adoption: Hazardous Waste Rule Amendments  
October 10, 2003, EQC Meeting

**Department Recommendation** The Department recommends that the Environmental Quality Commission (EQC, Commission) adopts the proposed hazardous waste rule amendments as presented in Attachment A-3.

**Need for Rulemaking** A rulemaking is necessary to maintain federal equivalency and enforcement authority for recently promulgated, federal hazardous waste rules, to satisfy commitments to the Environmental Protection Agency (EPA), and to clarify or correct existing rules. Numerous amendments to the Federal Resource Conservation and Recovery Act (RCRA) have occurred since the Commission last adopted hazardous waste rules in July 2000. In addition, during our 2002 reauthorization of the Hazardous Waste Program, EPA identified issues in Oregon's regulations that the Department agreed to clarify or correct.

Attachment G provides an overview of the hazardous waste program.

**Effect of Rule** By adopting the proposed amendments, the Department's hazardous waste program will remain consistent with the federal program. This will give affected parties certainty that they meet both state and federal hazardous waste requirements. By adopting these amendments, the Department will also prevent a gradual divergence of programs that, either now or over time, could result in parties in Oregon being subject to two different hazardous waste programs.

The substantive effects of the proposed amendments are as follows:

- Reduce duplicative authorities with the Nuclear Regulatory Commission for low-level mixed wastes containing radioactive and hazardous constituents;
- Increase flexibility in managing listed wastes if listed solely for ignitability, corrosivity or reactivity;
- Increase flexibility in the cleanup of contaminated sites by allowing more off-site treatment;

- Reduce duplicative authorities with the Cleanup program at manufactured gas plant cleanup sites;
- Reduce duplicative authorities with the Water Quality Program for sediments dredged in accordance with the Clean Water Act;
- Restore federal equivalency for regulation of mineral processing wastes;
- Direct individuals that spill hazardous waste to the new spill response rules in Division 142;
- Maintain equivalency to other state programs (i.e. DEQ's Air Quality Program, and Oregon Department of Agriculture fertilizer management program); and
- Correct errors and clarify existing rules.

**Commission Authority**

The Commission has authority to take action on these issues under ORS 466.020, ORS 183.310 to ORS 183.550, ORS 466.005 to ORS 466.385 and ORS 466.890. These proposed rules implement ORS 183.325, ORS 183.335, ORS 183.337, ORS 192, ORS 459, ORS 366.003, ORS 365.009, ORS 466.015, ORS 466.025, ORS 466.075, ORS 466.090, ORS 466.100, ORS 466.105, ORS 466.195, ORS 468, and ORS 646.

**Stakeholder Involvement**

Although there was no formal advisory committee to develop these proposed rules, the Department mailed notification of the proposed rule changes to the Hazardous Waste Workgroup and to other interested persons. In addition, the Department's internal sediments work group recommended the adoption of the hazardous waste exclusion for dredged sediments provided Clean Water Act requirements are in affect.

**Public Comment**

A public comment period extended from May 15 to June 24, 2003 and included a public hearing in Portland. Results of public input are provided in Attachment B. The Hearing Officer's report is provided in Attachment C.

**Key Issues**

- ▶ **Should the Commission adopt federal rules excluding dredged sediments from hazardous waste regulation?**

Recommendation: Proceed with the recommended amendments, thereby adopting the federal hazardous waste exclusion for dredged sediments that are otherwise regulated under the Clean Water Act.

EPA adopted the dredged sediment exclusion to eliminate regulatory duplication of this material under both RCRA and the Clean Water Act. Although Oregon is currently stricter than federal regulations for these wastes, the Department believes that removal of RCRA authority does not reduce environmental

protection or public safety. By removing the duplicative authorities governing dredged sediments this action clarifies the requirements for local jurisdictions and streamlines implementation of programs to remove and safely manage contaminated sediment under solid waste, environmental cleanup, and water quality regulations. If the final disposition of the dredged sediments is upland disposal, the applicability of RCRA must be evaluated to ensure safe and appropriate management.

▶ **Why does this rule package appear so complex?**

Recommendation: Proceed with the recommended amendments.

Several commenters suggested that these rules are complex and difficult to read. Although the Department believes that these rules are mostly administrative in nature, the rule package does appear to be complex. This is mainly due to the general complex nature of the federal RCRA regulations themselves which Oregon adopts by reference. Also adding to the complexity of this rule package is the fact that the Land Quality Division is attempting to accomplish three purposes with one rulemaking:

- To update, by reference, Oregon's rules to maintain equivalency with EPA regulations,
- To correct and update the hazardous waste regulations as the result of previously adopting other regulations related to environmental spills and Air Quality regulations for facilities that burn hazardous waste; and
- To implement the recommendations that EPA gave the Department during the program reauthorization in 2002.

Since, in some cases, these purposes overlapped the Department felt that it was better to do all the changes in one instead of two or more separate rule-makings. This has added to the complexity of this rule package.

**Next Steps** The rules will become effective upon filing with the Secretary of State on October 20, 2003.

- Regulated Community Implementing and Assistance Actions: The Land Quality Program provides training classes on managing hazardous waste. The training classes will be updated to reflect the rule revisions. The Department will provide electronic and hard-copy revisions of the rules.
- Staff Implementing and Training Actions: Program staff have reviewed the proposed amendments and will receive a copy of this report and the final rules. In addition, the Land Quality Program will coordinate the

implementation of these rules with appropriate solid waste, environmental cleanup, air quality, and water quality programs.

**Attachments**

- A. Proposed Rule Revisions
  - 1. Summary of Oregon Administrative Rule Revisions
  - 2. Summary of federal rules to be adopted by reference
  - 3. Proposed Rule Revisions {redlined version}
- B. Summary of Public Comments and Agency Responses
- C. Presiding Officer's Report on Public Hearings
- D. Relationship to Federal Requirements Questions
- E. Statement of Need and Fiscal and Economic Impact
- F. Land Use Evaluation Statement
- G. Overview of Oregon's Hazardous Waste Program

**Available Upon Request**

- 1. Legal Notice of Hearing
- 2. Cover Memorandum from Public Notice
- 3. Written Comment Received
- 4. Rule Implementation Plan

Approved:

Section:

Sheryl A. Monroe

Division:

Dept. Re.

Report Prepared By: David K. Rozell  
Phone: (503) 229-5918

**Summary of Proposed Rule Revisions**

This proposal adopts by reference 15 recent Environmental Protection Agency (EPA) amendments to federal hazardous waste rules and also amends numerous Oregon Administrative Rules (OARs) related to hazardous waste management.

The Department is proposing 12 amendments that correct or clarify Oregon's hazardous waste regulations. One proposed rule adopts all 15 of the federal rules in Attachment A-2 by reference. Most of the proposed changes are necessary to update administrative rules to reflect recent rule changes in the spills program that are referenced in the hazardous waste regulations. Some of the proposed rules were requested by EPA during our 2002 program reauthorization. Other changes make Oregon's rules consistent with the proposed federal rules. The following table and text in this attachment describe each proposed rule change, the reason for the change, the Oregon impact, and the Department's recommendation to the Environmental Quality Commission.

<b>Rule # as found in this Attachment</b>	<b>OAR Citation</b>	<b>Why is Rule Change Proposed?</b>
1	340-100-0002	Necessary to adopt federal rules by reference
2	340-101-0004	Deletion of state regulation that is less stringent than federal rule as a result of adopting federal rule
3	340-101-0050	Deletion of state rule as a result of adopting federal rule
4	340-102-0011	Requested by EPA for authorization
5	340-104-0340	Federal reference changed
6	340-105-0003	Requested by EPA for authorization
7	340-106-0002	Federal reference changed
8	340-109-0010	New spill response regulations
9	340-100-0020(1); 340-100-0004; 340-100-0010(3); 340-101-0001(1); 340-101-0040(1) & (2); 340-103-0031; 340-104-0001(5); 340-105-0010(2); 340-109-0010; 340-110-0061(2); 340-111-0020(1); 340-111-0050	New spill response regulations
10	340-109-0001; 340-113-0010	Requested by EPA during public comments
11	340-113-0020	Requested by EPA for authorization
12	340-113-0030	Requested by EPA for authorization

### **Administrative Rule Corrections and Amendments**

**1. Amendment:** Amend OAR 340-100-0002, Adoption of EPA's Hazardous Waste and Used Oil Management Regulations.

a. Background: With each successive adoption of federal hazardous waste regulations, the Department amends OAR 340-100-0002 to record adopted federal rules and exclusions to the federal requirements. With this amendment, all of the proposed federal rules in **Attachment A-2** are adopted.

b. Oregon Impact: Amendment to OAR notes that federal rules are promulgated through July 24, 2002 with the exception of amendments to 40 CFR Parts 264, 265 and 270 as promulgated by 65 FR 30886-30913. Adoption of these rules will update Oregon's regulations making them equivalent to the federal regulations.

c. Recommendation: Amend OAR 340-100-0002 to reflect adoption of federal regulations through July 24, 2002 with the exception of FR 65, 30886-30913.

**2. Amendment:** Amend OAR 340-101-0004, Exclusions.

a. Background: 40 CFR 261.4(b) (7) exempts solid waste from the extraction, beneficiation and processing of ores and minerals from the definition of hazardous waste. The federal exemption is limited to certain types of processing activities and 20 types of processing ore and mineral wastes.

The current Oregon rule provision at OAR 340-101-0004(1) exempts all mineral processing wastes from being a hazardous waste, making the state provision less stringent than the federal management requirements. Federal law requires state environmental regulations to be at least as stringent as the federal requirements.

To clarify how mineral processing wastes are to be managed, the Department is proposing to delete the state rule, OAR 340-101-0004(1), which refers to mineral processing wastes.

In addition, the Department is proposing to adopt federal Hazardous Remediation Waste Management Requirements for dredged sediments (see item 15 of Federal Hazardous Waste Rule Amendments). Currently, Oregon Administrative Rules do not reflect the federal exclusion of these wastes, leaving Oregon rules more stringent than the federal rules. This exclusion is completed by removing the existing language thereby deleting 40 CFR 261.4(g) (sediment exclusion) from OAR 340-101-0004(3), and accepting the new federal exclusion for these wastes.

b. Oregon Impact: The 20 specific processing wastes exempted from management as hazardous waste include but are not limited to: slag from primary copper lead and zinc processing, gasified ash from coal gasification, iron blast furnace slag, and chloride process waste solids from titanium tetrachloride production. Mineral processing wastes not exempted under 40 CFR



261.7(b) (7) remain subject to management as potential hazardous waste. At this time, there are no known generators of these wastes in Oregon.

Proposed removal of OAR 340-101-0004(3) will recognize adoption of the federal dredged sediment provisions.

c. Recommendation: Delete OAR 340-101-0004(1) and (3). (See Attachment A-3, Proposed Rule #5)

**3. Correction:** Delete OAR 340-101-0050, Standards for Materials Being Recycled.

a. Background: OAR 340-101-0050(1), regulates metal limits in zinc-containing fertilizers made from K061 hazardous waste (baghouse dust from secondary steel smelting). In 1999, the Department established metal limits for zinc-containing fertilizers made from K061 hazardous waste to be applied to land. Because the Department is recommending the adoption of EPA's new regulations setting metal limits for zinc-containing fertilizers made from any hazardous waste, including K061, the Commission must delete its state-only regulation for metal limits, because those limits are less stringent than new federal limits, including dioxin limits.

b. Oregon Impact: The Oregon Department of Agriculture (ODA) regulates contaminants in waste-derived fertilizers along with the Department. ODA has adopted the federal standard for zinc-micronutrient fertilizers made from hazardous wastes. The adoption of this regulation maintains equivalency with both state programs and the federal program and meets EPA's authorization expectations.

c. Recommendation: Delete and reserve OAR 340-101-0050(1). (See Attachment A-3, Proposed Rule #7)

**4. Correction:** Amend OAR 340-102-0011(2)(e), Hazardous Waste Determination.

a. Background: Reference to "40 CFR 273," Standards for Universal Waste Management, must be included in the state-only regulation in order to maintain equivalency with the federal program and program authorization. Universal Waste includes only specific post-consumer-use wastes. In Oregon these wastes are recalled and unused pesticides, batteries, mercury-containing thermostats and spent fluorescent lighting tubes.

b. Oregon Impact: Inserting "40 CFR Part 273" into the state-only language at OAR 340-102-0011(2)(e) refers generators to the federal standards for universal waste management rules for possible exclusions or restrictions of their universal wastes.

c. Recommendation: Insert the federal regulation citation 40 CFR Part 273 into the regulatory language at OAR 340-102-0011(2)(e). (See Attachment A-3, Proposed Rule #8)

**5. Correction:** Amend the federal citation 40 CFR 264.340(d) in the regulatory language at OAR 340-104-0340, Applicability to Incinerators.

a. Background: EPA redesignated "40 CFR 264.340(d)," to "40 CFR 264.340(e)," and the Department must correct the citation to read "40 CFR 264.340(e)" in order to maintain equivalency with the federal program and to meet EPA's authorization expectations.

b. Oregon Impact: Lists a correct citation in the Department's state-only hazardous waste rules.

c. Recommendation: Amend OAR 340-104-0340 to refer to the correct citation 40 CFR 264.340(e). (See Attachment A-3, Proposed Rule #11)

**6. Correction:** Delete the reference to the federal regulations 40 CFR 270.230(e)(1) in the regulatory language at OAR 340-105-0003, Consideration Under Federal Law.

a. Background: The federal regulation excludes off-site remediation waste management sites that are managed pursuant to Remedial Action Plans (RAPs), a form of a RCRA permit. Making this correction will meet EPA's authorization expectations.

b. Oregon Impact: There will be no impact on Oregon since the Department is already authorized for corrective action under RCRA.

c. Recommendation: Delete reference to 40 CFR 270.230(e)(1) from OAR 340-105-0003. (See Attachment A-3, Proposed Rule #12)

**7. Correction:** Correct the federal regulation "40 CFR 124.11(e)" to "40 CFR 124.10(e)" in the regulatory language at OAR 340-106-0002, Requirements Not Applicable. 40 CFR 124.11(e) does not exist in the federal program.

a. Background: The correct citation is 40 CFR 124.10(e). The Department inadvertently listed 40 CFR 124.11(e) rather than 40 CFR 124.10(e).

b. Oregon Impact: This change completes the list of federal hazardous waste permitting rules.

c. Recommendation: Amend OAR 340-106-0002 to correct citation 124.10(e). (See Attachment A-3, Proposed Rule #14)

**8. Correction:** Delete OAR 340-109-0010(6)(a) and change 340-109-0010(6)(b) to (6)(a). Remove reference to deleted spill response rules, Division 108 and add reference to the new spill response Division 142.

Agenda Item J, Rule Adoption: Hazardous Waste Rule Amendments

October 10, 2003; EQC Meeting

Attachment A-1

Page 5 of 6

a. **Background:** This change reflects spill response regulations in the new Division 142 (adopted by the Commission in January, 2003), deletes reference to now deleted Division 108 spill response regulations, and references new Division 142.

b. **Oregon Impact:** Provide rule consistency.

c. **Recommendation:** Delete references to Division 108 in OAR 340-109-0010; amend 340-109-0010 to refer to new Division 142. (See Attachment A-3, Proposed Rule #16)

**9. Correction:** Amend references from Division 108 to the new Division 142 that replaces it in Chapter 340 Divisions 100, 101, 103-105, 110, 111, and 113.

a. **Background:** Change reflects spill response regulations in new Division 142. Deletes reference to deleted Division 108 spill response regulations and references new Division 142.

b. **Oregon Impact:** Provide rule consistency.

c. **Recommendation:** Delete reference to Division 108 and add new reference to Division 142 in OAR 340-100-0020(1), 340-100-0004, 340-100-0010(3), 340-101-0001(1), 340-101-0040(1), 340-101-0040(2), 340-103-0031, 340-104-0001(5), 340-105-0010(2)(d)(B)(iii)(II), 340-109-0010, 340-110-0061(2), 340-111-0020(1), and 340-111-0050. (See Attachment A-3, Proposed Rule #1, 2, 3, 4, 6, 9, 10, 13, 16, 17, 18, and 19)

**10. Correction:** Correct and clarify OAR 340-100-0010, 340-109-0001, and 340-113-0010 to clarify that state-only pesticide residues are not federal hazardous waste or universal waste.

a. **Background:** The existing rule may be interpreted to imply that all "Pesticide Residue," which includes all pesticide waste not regulated as federal hazardous wastes is, by definition, federal "universal waste." That is incorrect and was never the intention of the Department when developing OAR 340-113-0010. Pesticide residue is not defined as a "universal waste" even though residues may be managed according to the same universal waste management requirements under State law.

b. **Oregon Impact:** Generators of pesticide residue will now know for certain that these materials may be managed according to universal waste management standards but are not by definition a "universal waste." Clarifying the Department's intent will meet EPA's authorization expectation.

c. **Recommendation:** Amend OAR 340-100-0010, 340-109-0001, and 340-113-0010 to clarify that state-only pesticide residues are not included in the definition of universal waste. (See Attachment A-3, Proposed Rule #3, 15, and 20)

**11. Correction:** Correct OAR 340-113-0020(1) Universal Waste Management, by removing reference to non-existent rule and correct reference from 40 CFR 273.6 to 40 CFR 273.9.

a. Background: This reference contains a non-existent rule, OAR 340-113-0030(5), which must be deleted to meet EPA's authorization expectations. OAR 340-113-0030(5) was deleted with adoption of the federal universal waste lamp provisions in 2000. In addition, 40 CFR 273.6 was changed to 40 CFR 273.9 by EPA.

b. Oregon Impact: Removal of the citation clarifies that no such regulation exists and references correct federal citation of 273.9.

c. Recommendation: Delete OAR reference to OAR 340-113-0030(5) in 340-113-0020(1) and amend citation to 40 CFR 273.6 to 273.9. (See Attachment A-3, Proposed Rule #21)

**12. Correction:** Amend OAR 340-113-0030(1) & (2), Standards for Small and Large Quantity Handlers of Universal Waste, to reference correct federal universal waste rule provision.

a. Background: EPA changed citation in universal waste regulation, 40 CFR Part 273 from 273.6 to 273.9. State reference currently references a non-existent section 273.6, Definitions.

b. Oregon Impact: Correction to OAR 340-113-0030(1) & (2) will reference correct federal universal waste definition section of 273.9.

c. Recommendation: Correct reference in OAR 340-113-0030 from 40 CFR 273.6 to 273.9. (See Attachment A-3, Proposed Rule #22)

## Federal Hazardous Waste Rule Amendments to be Adopted

This attachment describes the 15 federal amendments the Department is recommending be adopted by reference. All of the federal amendments described in this attachment are adopted by the first state amendment described in Attachment A-1.

**1. Proposed Rule:** Organobromines Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments. [65 FR 36365, June 8, 2000.]

a. Background: This rule corrects errors made in EPA's August 6, 1998 and March 17, 2000 rule amendments associated with four hazardous wastes that are generated by the petroleum refining industry. The 2000 rule language included a typographical error which made the rule unclear.

The intent of EPA's corrective rule amendment is to clarify that residuals generated from processing or recycling oil-bearing secondary materials that are not returned to a refinery operation are always designated as F037 listed hazardous wastes when disposed of or intended for disposal. The corrective rule creates no new regulatory requirements.

b. Oregon Impact: Adopting this rule will make Oregon administrative rules consistent with the EPA rule. The corrected rule does not create new regulatory requirements. At this time there are no known F037 wastes being generated in Oregon.

c. Recommendation: Adopt the rule correction.

**2. Proposed Rule:** National Emission Standards for Hazardous Pollutants (NESHAPS): Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Technical Corrections. [65 FR 42292, July 10, 2000; 66 FR 24270, May 14, 2001; 66 FR 35106, July 3, 2001.]

a. Background: On September 30, 1999, the EPA adopted standards to more rigorously control toxic emissions from burning hazardous waste in incinerators, cement kilns, and lightweight aggregate kilns. Several amendments to the original emission standards have subsequently been promulgated. Adopting these standards at this time ensures that Oregon's rules are consistent with federal rules and allows the Department to be the primary implementing agency.

This rule adds gas turbines to the regulatory list of approved burners for hazardous waste comparable/synthetic gas fuel burners. This rule also corrects a typographical error in the 1998 NESHAPS rule and includes an amendment codifying a court vacatur of the Notice of Intent to Comply (NIC) provisions in the hazardous waste regulations relating to the standards for hazardous waste combustors.

b. Oregon Impact: The Commission has already updated the air quality portion of the NESHAPS, and now the hazardous waste program (HW) is proposing to update its portion. By adopting these corrections and clarifications of the NESHAPS standards for hazardous waste combustors, the Commission ensures that the air quality and hazardous waste rules are equivalent while maintaining consistent protectiveness. There is one hazardous waste combustor in Oregon subject to the combustor rules. That facility is the Umatilla Chemical Agent Disposal Facility outside of Hermiston, Oregon. The adoption of these rules will not have an impact on the existing permit for this facility since that permit includes the previously adopted AQ rules.

c. Recommendation: Adopt the rule correction.

**3. Proposed Rule:** Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatic Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities. [65 FR 67068, November 8, 2000.]

a. Background: In response to a lawsuit, EPA added two new waste streams (K174-wastewater treatment sludge containing dioxin and K175-wastewater treatment sludge containing mercury) generated by some in the chlorinated aliphatic manufacturing industry to the list of hazardous wastes. The listed wastes are those generated by industries manufacturing ethylene dichloride (EDC) and vinyl chloride monomer (VCM).

b. Oregon Impact: At this time, there are no facilities reporting the generation of such wastes in Oregon.

c. Recommendation: Adopt the rule.

**4. Proposed Rule:** Deferral of Phase IV Standards for Polychlorinated Biphenyls (PCBs) as a Constituent Subject to Treatment in Soil. [65 FR 81373, December 26, 2000.]

a. Background: This rule temporarily defers the requirement that PCBs be treated as a constituent subject to treatment when present in soils that exhibit the toxicity characteristic for metals. PCB's are a group of synthetic organic chemicals that, as wastes, show up as either oily liquids or solids. Once in the environment, PCB's do not readily break down and therefore remain for very long periods of time, increasing the availability of these materials to humans.

Federal PCB treatment standards were promulgated in 1998; however, EPA claims that the regulation discourages generators from cleaning up contaminated, PCB metal-bearing soils. This is the opposite of what EPA wanted to achieve when it promulgated alternative treatment standards for contaminated soils.

b. Oregon Impact: State cleanup rules require that soils contaminated with hazardous waste meet applicable land disposal restriction standards when excavated soils are placed on land. Generally, no cleanup sites were identified in Oregon that have high concentrations of both metals and PCBs. Deferral of the PCB treatment standards for these sites should not have an effect.

c. Recommendation: Adopt the deferral.

**5. Proposed Rule:** Storage, Treatment, Transportation and Disposal of Mixed Waste. [66 FR 27218, May 16, 2001.]

a. Background: This rule promulgates conditional exemptions for: (1) low-level mixed wastes (LLMW) from most RCRA Subtitle C (hazardous waste) storage and treatment regulations, and (2) LLMW and technologically enhanced naturally occurring and/or accelerator produced radioactive material (NARM) from most hazardous waste manifesting, transportation, and disposal regulations when specified conditions are met.

Mixed low-level radioactive wastes are mixtures that contain hazardous constituents regulated under RCRA. The rule provides that if a facility is licensed by the Nuclear Regulatory Commission (NRC) and the waste is managed according to specified conditions, the waste will be exempted from most hazardous waste management requirements.

b. Oregon Impact: The Commission previously adopted the federal "mixed waste" management regulations. Through these rules, the Department regulates the hazardous waste component of any mixture of a hazardous and a low-level radioactive waste. The NRC, through the Oregon Office of Energy and Oregon Department of Human Services (Oregon Public Health Services), regulates the low-level radioactive component. Adoption of this rule will clarify the proper management of these types of wastes and eliminate jurisdictional confusion. Low-level radioactive and ignitable liquid wastes produced at research laboratories or universities, facilities which are licensed by the NRC, are an example of a low-level mixed waste that could be conditionally exempted from most hazardous waste regulations if this amendment is adopted.

c. Recommendation: Adopt the rule.

**6. Proposed Rule:** Hazardous Waste Identification Rule (HWIR); Revisions to the Mixture and Derived-From Rules. [66 FR 27266, May 16, 2001.]

a. Background: In response to a federal court case, the revision expands the exclusion for mixtures or derivatives of listed wastes that are listed solely for the ignitability, corrosivity, or reactivity characteristics. Such mixtures and derivatives may be treated to remove the characteristic, and then disposed of as non-hazardous waste in a solid waste landfill, provided land disposal restrictions are met.

b. Oregon Impact: This allows generators of derived-from waste that is *listed* solely for ignitability, corrosivity or reactivity, to no longer manage those wastes as hazardous, provided the wastes do not exhibit any of the noted characteristics. The decharacterized wastes must meet land disposal restriction standards before the wastes may be disposed of in a solid waste landfill. Adoption of this rule will clarify management standards for these wastes and make Oregon's regulations equivalent to EPA's.

c. Recommendation: Adopt the rule.

**7. Proposed Rule:** Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules. [66 FR 50332, October 3, 2001.]

a. Background: This rule clarifies 1) the federal exclusion from the definition of solid waste of certain mixtures of wastes, commonly referred to as Bevill wastes (20 "mineral processing" wastes excluded from the definition of hazardous wastes), and 2) the federal exclusion of listed hazardous wastes that are listed solely because they contain a characteristic of ignitability, corrosivity or reactivity (ICR), provided the waste has been decharacterized.

b. Oregon Impact: The Commission adopted the original federal mixture and derived-from rules. Adoption of this rule will clarify management standards for these wastes and make Oregon's regulations equivalent to EPA's.

c. Recommendation: Adopt the correction.

**8. Proposed Rule:** Change of Official EPA Mailing Address; Additional technical Amendments and Corrections. [66 FR 34374, June 28, 2001.]

a. Background: The rule updates the official mailing address for EPA, due to the relocation of the majority of its Headquarters offices to downtown Washington, D.C.

b. Oregon Impact: None

c. Recommendation: Adopt the rule.

**9. Proposed Rule:** Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal



Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities. [66 FR 58258, November 20, 2001, and 67 FR 17119, April 9, 2002 (Corrections)].

- a. Background: As a result of a consent decree, EPA is listing three new inorganic hazardous wastes, (K176, K177, and K178) from chemical manufacturing, and establishing land disposal restrictions standards for these wastes. The listing of these wastes as hazardous will subject the wastes to comprehensive regulation, including the applicable land disposal treatment standards.
- b. Oregon Impact: The rule is already in effect in Oregon, but is currently implemented by EPA. There are no known generators of these wastes in Oregon.
- c. Recommendation: Adopt the rule.

**10. Proposed Rule:** Amendments to the Corrective Action Management Unit Rule. [67 FR 2962, January 22, 2002.]

- a. Background: A Corrective Action Management Unit (CAMU) is a unit, established at a cleanup site, in which wastes can be treated, stored or disposed of without having to meet land disposal restrictions or trigger minimum technology requirements. The rule amends the 1993 CAMU rule to remove cleanup disincentives that RCRA can create and to facilitate treatment, storage and disposal of hazardous wastes generated during cleanups.
- b. Oregon Impact: The Commission adopted the original "CAMU" rule and the Department became authorized to implement the CAMU standards in lieu of EPA in 1995. However, because of a legal challenge, EPA amended the base CAMU rule, and because the Department is authorized for the base CAMU rule, EPA granted the Department interim authorization to implement the CAMU amendments. Therefore, adoption of the amendments is necessary to provide continuity in the CAMU waste management program. In addition, adoption of the rule should facilitate the cleanup of contaminated sites by allowing more options for off-site treatment of wastes, perhaps resulting in lower costs.
- c. Recommendation: Adopt the amendments.

**11. Proposed Rule:** NESHAPS: Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Interim standards rule). [67 FR 6792, February 13, 2002.]

- a. Background: As in # 2 above, the EPA has adopted standards to more rigorously control toxic emissions from burning hazardous waste in incinerators, cement kilns, and lightweight aggregate kilns. Several amendments to the original emission standards have

subsequently been promulgated. Portions of the rule were vacated by the Court, and EPA was granted an extension to develop these interim standards. These interim standards replace the vacated emission standards until final standards are promulgated by June 2005.

b. Oregon Impact: Air Quality (AQ) already adopted their portion of the NESHAP, and with this rule HW is updating its rule to be consistent. There is one hazardous waste combustor in Oregon subject to the combustor rules. That facility is the Umatilla Chemical Agent Disposal Facility outside of Hermiston, Oregon. The adoption of these rules will not have an impact on the existing permit for this facility since that permit includes the previously adopted AQ rules.

c. Recommendation: Adopt the rule.

**12. Proposed Rule:** NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors. [67 FR 6968, February 14, 2002.]

a. Background: As in # 2 above, the EPA has adopted standards to more rigorously control toxic emissions from burning hazardous waste in incinerators, cement kilns, and lightweight aggregate kilns. Several amendments to the original emission standards have subsequently been promulgated. This rule corrects technical errors that were made in the September 30, 1999 EPA rulemaking establishing standards for hazardous waste burning cement kilns, lightweight aggregate kilns and incinerators (see 64 FR 52828, as amended 64 FR 63209).

b. Oregon Impact: AQ already adopted their portion of the NESHAP, and with this rule HW is updating its rule to be consistent. There is one hazardous waste combustor in Oregon subject to the combustor rules. That facility is the Umatilla Chemical Agent Disposal Facility outside of Hermiston, Oregon. The adoption of these rules will not have an impact on the existing permit for this facility since that permit includes the previously adopted AQ rules.

c. Recommendation: Adopt the rule.

**13. Proposed Rule:** Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with Manufacturing Gas Plant Wastes (MGP). 67 FR 11251, March 13, 2002.

a. Background: Because of a court challenge, EPA was required to vacate a previous rule that excluded certain mineral processing waste "secondary materials" from the definition of solid waste. EPA's original rule was promulgated to avoid the practice of placing mineral processing wastes on the ground, unprotected. However, the Court for the District of Columbia ruled that the additional processing of by-products and sludge generated from mineral processing is a continuation of the manufacturing process.

The court also determined that the Toxicity Characteristic Leaching Procedure (TCLP) was not appropriate for evaluating manufacturing gas plant (MGP) waste because the TCLP test was developed to evaluate only those wastes destined for disposal in solid waste disposal facilities, and there is no evidence that these wastes have been managed in such facilities.

b. Oregon Impact: The Commission previously adopted EPA's rule classifying mineral processing by-products and sludge as "solid wastes" when being reclaimed. However, these secondary materials were exempted from the definition of solid wastes if the materials were physically contained prior to and during reclamation (recycling). The effect of this rule vacatur is that certain mineral processing wastes that are by-products or sludge and destined for reclamation are not classified as "solid waste" and, therefore, have no requirement to be physically contained.

There are no known operations generating mineral processing characteristic by-products or sludge that are affected by the vacatur in Oregon.

There are seven MGP cleanup sites in Oregon. Two of these have already been cleaned up. The remaining five sites could be affected by this rule change. Adoption of the vacatur should increase flexibility and decrease costs for cleanups at these sites.

c. Recommendation: Adopt the rule deletions.

**14. Proposed Rule:** Zinc Fertilizers Made From Recycled Hazardous Secondary Materials. [67 FR 48393, July 24, 2002.]

a. Background: This rule establishes exclusions from the definition of solid waste and limits for metals and dioxin in zinc-containing fertilizers made from hazardous wastes.

b. Oregon Impact: In 1999, the Commission adopted metal limits for zinc-containing fertilizers made from K061 hazardous wastes. Prior to that, K061 (baghouse dust from steel manufacturing) could be processed and placed on the ground as fertilizer without having to meet dioxin and metal limits.

EPA's fertilizer rule establishes standards for all zinc-containing fertilizers made from hazardous waste, including K061. These new EPA standards supersede the Department's because they are more stringent than Oregon rules.

In addition, the Oregon Department of Agriculture (ODA) is also adopting by reference EPA's new rules, and the Department's adoption will be consistent with the ODA.

c. Recommendation: Adopt the rule.

**15. Proposed Rule:** Hazardous Remediation Waste Management Requirements (HWIR-Media); [63 FR 65874, November 30, 1998.]

a. Background: This proposed rule excludes from the definition of hazardous waste, dredged sediments managed pursuant to certain federal Clean Water Act requirements. This exclusion is limited to sediments destined for upland disposal areas with return flow discharge or otherwise regulated by the Clean Water Act. Sediments destined for upland disposal with no return flow will not be eligible for this exclusion.

b. Oregon Impact: On July 14, 2000, the Commission elected not to adopt the federal dredged materials exclusion in this rule from the definition of hazardous wastes. At that time, the Department was evaluating the best way to manage contaminated dredged sediments and stated that it was premature to eliminate the hazardous waste regulations as a management option.

Since then, the Department has evaluated best management methods for dredged materials throughout their life cycle, and believes that adoption of the exclusion will promote cleanup of contaminated sediments. Sediments meeting the exclusion will be managed according to Clean Water Act requirements. Sediments not meeting the conditions of the exclusion will be subject to applicable solid waste and hazardous waste management requirements. Hazardous waste regulations may be in effect after the dewatering of the dredged materials and before their final upland disposal if these materials are determined to be a solid waste.

c. Recommendation: Adopt the rule.

## Proposed Hazardous Waste Rule Amendments

### Proposed Amendments

OAR Chapter 340

Divisions 100, 101, 102, 103, 104, 105, 106, 109, 110, 111 and 113

1. Rule 340-100-0002 is proposed to be amended as follows:

#### **340-100-0002**

Adoption of United States Environmental Protection Agency Hazardous Waste and Used Oil Management Regulations

(1) Except as otherwise modified or specified by OAR chapter 340, divisions 100 to 106, 108, 109, 111, 113, 120, 124 and 142 the rules and regulations governing the management of hazardous waste, including its generation, transportation, treatment, storage, recycling and disposal, prescribed by the United States Environmental Protection Agency in **Title 40 Code of Federal Regulations, Parts 260 to 266, 268, 270, 273** and **Subpart A** and **Subpart B** of **Part 124** promulgated through April 12, 2000 July 1, 2002, and including the rule promulgated July 24, 2002 at 67 Federal Register 48393, except the amendments to **40 CFR Parts 264, 265 and 270** as promulgated at 63 65 Federal Register 56710-56735, October 22, 1998, and 65 Federal Register 30886-30913, May 15, 2000, are adopted by reference and prescribed by the Commission to be observed by all persons subject to ORS 466.005 to 466.080 and 466.090 to 466.215.<sup>†</sup>

(2) Except as otherwise modified or specified by OAR Chapter 340, Division 111, the rules and regulations governing the standards for the management of used oil, prescribed by the United States Environmental Protection Agency in **Title 40 Code of Federal Regulations, Part 279** promulgated through April 12, 2000 July 24, 2002, are adopted by reference into Oregon Administrative Rules and prescribed by the Commission to be observed by all persons subject to ORS 466.005 to 466.080 and 466.090 to 466.215.

**(Comment:** The Department uses the federal preamble accompanying the federal regulations and federal guidance as a basis for regulatory decision-making.)

**[Publications:** The publication(s) referred to or incorporated by reference in this rule are available from the Department of Environmental Quality.]

Stat. Auth.: ORS 465.009, ORS 466.020 & ORS 465.505

Stats. Implemented: ORS 465.003, ORS 465.009, ORS 466.005, ORS 466.075, ORS 466.105 & ORS 465.505

Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 10-1987, f. & ef. 6-11-87; DEQ 23-1987, f. & ef. 12-16-87;

<sup>†</sup> Note: On March 3, 1992, in 57 Federal Register 7628, EPA promulgated a re-adoption of 40 CFR 261.3, the mixture and derived from rules, because the rules had been vacated as a result of federal litigation. The EQC did not adopt this amendment at that time because the State had independently and legally adopted mixture and derived from rules under state law in 1984, and has indicated its intent to maintain the mixture and derived from rules with each annual rulemaking update.

DEQ 19-1988, f. & cert. ef. 7-13-88; DEQ 12-1989, f. & cert. ef. 6-12-89; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 24-1992, f. 10-23-92, cert. ef. 11-1-92; DEQ 11-1993, f. & cert. ef. 7-29-93; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 31-1994(Temp), f. 12-6-94, cert. ef. 12-19-94; DEQ 11-1995, f. & cert. ef. 5-19-95; DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 14-1997, f. & cert. ef. 7-23-97; DEQ 11-1998, f. & cert. ef. 6-26-98; DEQ 26-1998(Temp), f. & cert. ef. 11-3-98 thru 3-19-99; DEQ 4-1999, f. & cert. ef. 3-19-99; DEQ 10-2000, f. & cert. ef. 7-21-00

2. Rule 340-100-0004 is proposed to be amended and corrected as follows:

**340-100-0004**

**Table of Contents, Divisions 100 to 120**

The following Divisions including the incorporation of regulations in **40 CFR, Parts 260 to 266, 268, 270 and 124**, comprise the Oregon hazardous waste management program:

**DIVISION-SUBJECT**

- 100 - Hazardous Waste Management System: General
- 101 - Identification and Listing of Hazardous Waste
- 102 - Standards Applicable to Generators of Hazardous Waste
- 103 - Standards Applicable to Transporters of Hazardous Waste
- 104 - Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities
- 105 - Management Facility Permits
- 106 - Permitting Procedures
- ~~108 - Spills and Other Incidents~~
- 109 - Management of Pesticide Wastes
- 110 - Polychlorinated Biphenyls (PCBs)
- 120 - Additional Siting and Permitting Requirements for Hazardous Waste and PCB Treatment and Disposal Facilities
- 124 - Standards Applicable to Dry Cleaning Facilities and Dry Stores
- 142 - Oil and Hazardous Materials Emergency Response Requirements

[Publications: Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 183, 459, 466.020, 466.075, 466.105, 466.195 & ORS 468  
Stats. Implemented: ORS 466.020, ORS 466.075, ORS 466.105 & 466.195

Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91);  
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 13-2002, f. & cert. ef. 10-9-02

3. Rule 340-100-0010 is proposed to be amended and corrected as follows:

**340-100-0010**

**Definitions**

(1) The definitions of terms contained in this rule modify, or are in addition to, the definitions contained in **40 CFR 260.10**.

(2) When used in divisions 100 to 110 and 120 of this chapter, the following terms have the meanings given below:

(a) "Administrator" means:

(A) The "Department", except as specified in paragraph (2)(a)(B) or (C) of this rule;

(B) The "Commission," when used in **40 CFR 261.10** and **261.11**; or

(C) The Administrator of the U.S. Environmental Protection Agency, when used in **40 CFR 262.50**.

(b) "Aquatic LC50 (median aquatic lethal concentration)" means that concentration of a substance which is expected in a specific time to kill 50 percent of an indigenous aquatic test population (i.e., fish, insects or other aquatic organisms). Aquatic LC50 is expressed in milligrams of the substance per liter of water;

(c) "Beneficiation of Ores and Minerals" means the upgrading of ores and minerals by purely physical processes (e.g., crushing, screening, settling, flotation, dewatering and drying) with the addition of other chemical products only to the extent that they are a non-hazardous aid to the physical process (such as flocculants and deflocculants added to a froth-flotation process);

(d) "Collection". See "Storage";

(e) "Commission" means the Environmental Quality Commission;

(f) "Demilitarization" means all processes and activities at the Umatilla Chemical Depot (OR 6213820917) and Umatilla Chemical Agent Disposal Facility (ORQ 000009431) from February 12, 1997, through Department approval of the closure of all permitted treatment, storage and disposal units and facility-wide corrective action;

(g) "Demilitarization Residue" means any solid waste generated by demilitarization processes and activities as defined in 340-100-0010(2)(f), except for (A) waste streams generated from processes or activities prior to the introduction of nerve or blister agent into the treatment unit;

and (B) waste streams generated from maintenance or operation of non-agent contaminated process utility systems;

(h) "Department" means the Department of Environmental Quality except it means the Commission when the context relates to a matter solely within the authority of the Commission such as: The adoption of rules and issuance of orders thereon pursuant to ORS 466.020, 466.075, and 466.510; the making of findings to support declassification of hazardous wastes pursuant to ORS 466.015(3); the issuance of exemptions pursuant to ORS 466.095(2); the issuance of disposal site permits pursuant to ORS 466.140(2); and the holding of hearings pursuant to ORS 466.130, 466.140(2), 466.170, 466.185, and 466.190;

(i) "Director" means:

(A) The "Department", except as specified in paragraph (2)(g)(B) of this rule; or

(B) The "permitting body", as defined in section (2) of this rule, when used in **40 CFR 124.5, 124.6, 124.8, 124.10, 124.12, 124.14, 124.15 and 124.17.**

(j) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste or hazardous substance into or on any land or water so that the hazardous waste or hazardous substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters of the state as defined in ORS 468.700;

(k) "Dry Cleaning Facility" means any facility as defined by **40 CFR 260.10** and adopted pursuant to OAR 340-100-0002, located in this state that is or was engaged in dry cleaning apparel and household fabrics for the general public, and dry stores, other than:

(a) A facility located on a United States military base;

(b) A uniform service or linen supply facility;

(c) A prison or other penal institution; or

(d) A facility engaged in dry cleaning operations only as a dry store and selling less than \$50,000 per year of dry cleaning services.

(l) "Dry Cleaning Operator" means a person who has, or had, a business license to operate a dry cleaning facility or a business operation that a dry cleaning facility is a part of or any person that owns the dry cleaning business, leases the operation of the dry cleaning business from the owner, or makes any other kind of agreement or arrangement where by they operated the dry cleaning business.

(m) "Dry Cleaning Wastewater" means water from the solvent/water separation process of the dry cleaning machine.

(n) "EPA" or "Environmental Protection Agency" means the Department of Environmental Quality,



- (o) "EPA Form 8700-12" means EPA Form 8700-12 as modified by the Department;
- (p) "Existing Hazardous Waste Management (HWM) Facility" or "Existing Facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980, or is in existence on the effective date of statutory or regulatory changes under Oregon law that render the facility subject to the requirement to have a permit. A facility has commenced construction if:
- (A) The owner or operator has obtained the federal, state, and local approvals or permits necessary to begin physical construction; and either
- (B)(i) A continuous on-site, physical construction program has begun; or
- (ii) The owner or operator has entered into contractual obligations - which cannot be canceled or modified without substantial loss - for physical construction of the facility to be completed within a reasonable time.
- (q) "Extraction of Ores and Minerals" means the process of mining and removing ores and minerals from the earth;
- (r) "Generator" means the person who, by virtue of owner-ship, management or control, is responsible for causing or allowing to be caused the creation of a hazardous waste;
- (s) "Hazardous Substance" means any substance intended for use which may also be identified as hazardous pursuant to division 101;
- (t) "Hazardous Waste" means a hazardous waste as defined in **40 CFR 261.3**; OAR 340-101-0033 and OAR 340 102-0011;
- (u) "Identification Number" means the number assigned by DEQ to each generator, transporter, and treatment, storage and disposal facility;
- (v) "License." See "Permit";
- (w) "Management Facility" means a hazardous waste treatment, storage or disposal facility;
- (x) "Off-site" means any site which is not on-site;
- (y) "Oxidizer" means any substance such as a chlorate, permanganate, peroxide, or nitrate, that yields oxygen readily or otherwise acts to stimulate the combustion of organic matter (see **40 CFR 173. 151**);
- (z) "Permitting Body" means:
- (A) The Department of Environmental Quality, when the activity or action pertains to hazardous waste storage or treatment facility permits; or

(B) The Environmental Quality Commission, when the activity or action pertains to hazardous waste disposal facility permits.

(aa) "Permit" or "License" means the control document that contains the requirements of ORS Chapter 466 and OAR chapter 340, divisions 104 to 106 and 120. Permit includes permit-by-rule and emergency permit. Permit does not include any permit which has not yet been the subject of final Department action, such as a draft permit or a proposed permit;

(bb) "RCRA" or "Resource Conservation and Recovery Act", when used to refer to a federal law, means Oregon law;

(cc) "RCRA Permit" means Oregon hazardous waste management facility permit;

(dd) "Regional Administrator" means:

(A) The "Department", except as specified in paragraph (2)(y)(B) or (C) of this rule;

(B) The "permitting body", as defined in section (2) of this rule when used in **40 CFR 124.5, 124.6, 124.8, 124.10, 124.12, 124.14, 124.15 and 124.17**;

(C) The "Commission", when used in **40 CFR 260.30 through 260.41**.

(ee) "Residue" means solid waste as defined in **40 CFR 261.2**;

(ff) "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity;

(gg) "Spill" means unauthorized disposal;

(hh) "Storage" or "Collection" means the containment of hazardous waste either on a temporary basis or for a period of years, in a manner that does not constitute disposal of the hazardous waste;

(ii) "Waste Management Unit" means a contiguous area of land on or in which waste is placed. A waste management unit is the largest area in which there is a significant likelihood of mixing of waste constituents in the same area. Usually this is due to the fact that each waste management unit is subject to a uniform set of management practices (e.g., one liner and leachate collection and removal system). The provisions in the OAR chapter 340, division 104 regulations (principally the technical standards in Subparts K-N of **40 CFR Part 264**) establish requirements that are to be implemented on a unit-by-unit basis.

(3) When used in divisions 100 to 106, ~~and 108 to 109, and 113 and 142~~ of this chapter, the following terms have the meanings given below:

(a) "Aeration" means a specific treatment for decontaminating an empty volatile substance container consisting of removing the closure and placing the container in an inverted position for at least 24 hours.

(b) "Beneficial Use" means the return of unused pesticide product (e.g., pesticide equipment rinsings, excess spray mixture) or empty pesticide container(s) without processing to the economic mainstream, as a substitute for raw materials in an industrial process or as a commercial product (e.g., melting a container for scrap metal).

(c) "Department" means the Department of Environmental Quality.

(d) "Empty Container" means a container from which:

(A) All the contents have been removed that can be removed using the practices commonly employed to remove materials from that type of container; and

(B)(i) No more than one inch of residue remains on the bottom of the container; or

(ii) No more than three percent of the total capacity of the container remains in the container if the container is less than or equal to 110 gallons in size; or

(iii) No more than 0.3% of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size; or

(iv) If the material is a compressed gas, the pressure in the container is atmospheric.

(e) "Household Use" means use by the home or dwelling owner in or around households (including single and multiple residences, hotels and motels).

(f) "Jet Rinsing" means a specific treatment for an empty container using the following procedure:

(A) A nozzle is inserted into the container, or the empty container is inverted over a nozzle such that all interior surfaces of the container can be rinsed; and

(B) The container is thoroughly rinsed using an appropriate solvent.

(g) "Multiple Rinsing" means a specific treatment for an empty container repeating the following procedure a minimum of three times:

(A) An appropriate solvent is placed in the container in an amount equal to at least 10% of the container volume; and

(B) The container is agitated to rinse all interior surfaces; and

(C) The container is opened and drained, allowing at least 30 seconds after drips start.

(h) "Pesticide" means any substance or combination of substances intended for the purpose of defoliating plants or for the preventing, destroying, repelling, or mitigating of insects, fungi, weeds, rodents, or predatory animals; including but not limited to defoliant, desiccants, fungicides, herbicides, insecticides, and nematocides as defined by ORS 634.006.

(i) "Pesticide Equipment" means any equipment, machinery or device used in pesticide manufacture, repackaging, formulation, bulking and mixing, use, cleaning up spills, or preparation for use or application of pesticides, including but not limited to aircraft, ground spraying equipment, hoppers, tanks, booms and hoses.

(j) "Pesticide Residue" is a hazardous-waste that is generated from pesticide operations and pesticide management, such as, from pesticide use (except household use), manufacturing, repackaging, formulation, bulking and mixing, and spills. Pesticide residue includes, but is not limited to, unused commercial pesticides, tank or container bottoms or sludges, pesticide spray mixture, container rinsings and pesticide equipment washings, and substances generated from pesticide treatment, recycling, disposal, and rinsing spray and pesticide equipment. Pesticide residue does not include pesticide-containing materials that are used according to label instructions, and substances such as, but not limited to treated soil, treated wood, foodstuff, water, vegetation, and treated seeds where pesticides were applied according to label instructions.  
-Pesticide residue does not include wastes that are listed in 40 CFR Part 261 Subpart D or exhibit one or more of the characteristics identified in 40 CFR Part 261 Subpart C.

(k) "Public-Use Airport" means an airport open to the flying public which may or may not be attended or have service available.

(l) "Reuse" means the return of a commodity to the economic mainstream for use in the same kind of application as before without change in its identity (e.g., a container used to repackage a pesticide formulation).

[Publications: Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 465.009 & ORS 466.020

Stat. Implemented: ORS 465.003, 465.009, 466.005, 466.075 & 466.105

Hist.: DEQ 7-1984, f. & cert. ef. 4-26-84; DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 12-1996, f. & cert. ef. 7-31-96; Renumbered from 340-109-0002; DEQ 10-2000, f. & cert. ef. 7-21-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 13-2002, f. & cert. ef. 10-9-02

4. Rule 340-101-0001 is proposed to be amended and corrected as follows:

**340-101-0001**

**Purpose and Scope**

(1) The purpose of this division is to identify those residues which are subject to regulation as hazardous wastes under divisions 100 to 106, ~~108~~, 109, 111, 113, ~~and 124~~ and 142 of this chapter.

(2) Persons must also consult **40 CFR Parts 124, 260 to 266, 268, 270, 273, and 279**, which are incorporated by reference in OAR 340-100-0002, to determine all applicable hazardous waste management requirements.

[Publications: Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 183.325 - ORS 183.337, ORS 459, 465.009, 466.020 & 468.020

Stats. Implemented: ORS 465.009, ORS 466.075 & ORS 466.105

Hist.: DEQ 7-1984, f. & ef. 4-26-84; Superseded by DEQ 8-1985, f. & ef. 7-25-85 DEQ 8-1985, f. & ef. 7-25-85; DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 13-2002, f. & cert. ef. 10-9-02

5. Rule 340-101-0004 is proposed to be amended and clarified as follows:

#### **340-101-0004**

##### **Exclusions**

~~(1) The provisions of **40 CFR 261.4(b)(7)** are adopted except that **40 CFR 261.4(b)(7)(ii)** is deleted.~~

(2) Residue described in **40 CFR 261.4(b)(9)** is exempted from divisions 100-106 and 109.

~~(3) The provisions of **40 CFR 261.4(g)** are deleted.~~

(4) Dry cleaning wastewater subject to the requirements in OAR 340 division 124 is not excluded pursuant to **40 CFR 261.4(a)(1)(i) and (ii)**.

6. Rule 340-101-0040 is proposed to be amended and corrected as follows:

#### **340-101-0040**

##### **Wastes Requiring Special Management**

(1) Abrasive Blast Waste Containing Pesticides. Abrasive blast waste which contains pesticides that do not meet the criteria specified in **40 CFR Part 261, Subpart C**, is not a federal hazardous waste for any other reason, and fails the "Department of Environmental Quality Aquatic Toxicity Test," whereby a representative sample of a pesticide residue exhibits a 96-hour aquatic toxicity LC50 equal to or less than 250 mg/l, are not subject to OAR Chapter 340, Divisions 100 to 106, ~~108~~, and ~~109~~ and 142 provided:

(a) The waste is prevented from entering the environment; and:

[NOTE: The practices described in **Appendix 1**, "Best Pollution Prevention Practices for Abrasive Blast Media Waste from Shipyard Repair Facilities," provide guidance. The guidance in **Appendix 1** or equivalent Best Pollution Prevention Practices should be used.]

(b) The waste is not stored for more than six months unless the generator demonstrates that a longer storage time is necessary to meet the management standards in OAR 340-101-0040(1)(c); and,

(c) The waste is recycled, disposed of according to OAR 340-093-0190(1)(f), or disposed of at a hazardous waste facility or other facility authorized to receive such waste.

(2) Pesticide Treated Wood. Spent treated wood that is used or reused for a purpose for which the material would be treated is exempt from OAR 340-101-0040(2). Waste resulting from the use of newly pesticide-treated wood (including scrap lumber, shavings and sawdust; waste resulting from shaping pesticide-treated wood, such as sawdust, shavings and chips; and treated wood removed from service) that does not meet the criteria specified in **40 CFR Part 261, Subpart C**; and is not a federal hazardous waste for any other reason; and is not otherwise excluded by **40 CFR 261.4(b)(9)**, and is not pesticide residue as defined in OAR 340-100-0010(3)(j) is not subject to Divisions 100 to 106, ~~108, and 109~~ and 142 provided:

(a) the waste is not stored for more than six months unless the generator demonstrates that a longer storage time is necessary to meet the management standards in OAR 340-101-0040(2)(b); and

(b) the waste is recycled or disposed of according to OAR 340-093-0190(1)(g) or is managed at a facility authorized to receive such waste.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

[ED. NOTE: The Appendix referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 183.325 to ORS 183.337, ORS 465.009, ORS 466.020, ORS 466.090 & ORS 468.020

Stats. Implemented: ORS 466.020, ORS 466.025, ORS 466.075 & ORS 466.100

Hist.: DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 11-1995, f. & cert. ef. 5

7. Rule 340-101-0050(1) is proposed to be deleted as follows:

**340-101-0050**

**Standards for Materials being Recycled**

Reserved

The following portion of ~~40 CFR 266.20(b)~~ "... However, zinc-containing fertilizers using hazardous waste K061 that are produced for the general public's use are not presently subject to regulation" shall be replaced by "...However, zinc-containing fertilizers using hazardous waste K061 that are produced for use in Oregon, and which contain non-nutrients at levels exceeding the applicable prohibition levels for any non-nutrients as specified in Table 1 must comply with those prohibition levels. Compliance with these standards is required by March 31, 2000.

**340-101-005 Table 1. Prohibition Levels for Fertilizer Using K061 Hazardous Waste**

Non-Nutrient Hazardous Constituent	Fertilizer Standard (mg/l, TCLP <sup>1</sup> )
Arsenic	5.0 <sup>2</sup>
Barium	100.0
Cadmium	1.0
Chromium (Total)	5.0
Lead	5.0
Mercury <sup>3</sup>	0.20
Selenium	5.7
Silver	5.0

<sup>1</sup> Toxicity Characteristic Leaching Procedure (TCLP).

<sup>2</sup> Using the Extraction Procedure Toxicity Test.

<sup>3</sup> Low-Mercury Subcategory Wastes containing less than 260mg/kg Mercury."

Stat. Auth.: ORS Ch. 183.337, 465.009, 466.020, 468.020

Stat. Implemented: ORS Ch. 466.015, 466.075, 466.086

Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 10-1987, f. & ef. 6-11-87; DEQ 23-1987, f. & ef. 12-16-87; DEQ 19-1988, f. & cert. ef. 7-13-88; DEQ 12-1989, f. & cert. ef. 6-12-89; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 24-1992, f. 10-23-92, cert. ef. 11-1-92; DEQ 11-1993, f. & cert. ef. 7-29-93; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 31-1994 (Temp), f. 12-6-94, cert. ef. 12-19-94

8. Rule 340-102-0011 is proposed to be amended as follows:

**340-102-0011**

**Hazardous Waste Determination**

(1) The provisions of this rule replace the requirements of **40 CFR 262.11**.

(2) A person who generates a residue as defined in OAR 340-100-0010 must determine if that residue is a hazardous waste using the following method:

(a) Persons should first determine if the waste is excluded from regulation under **40 CFR 261.4** or OAR 340-101-0004;

(b) Persons must then determine if the waste is listed as a hazardous waste in **Subpart D of 40 CFR Part 261**;

**340-101-0050**

**Standards for Materials being Recycled**

Reserved

The following portion of ~~40 CFR 266.20(b)~~ "... However, zinc-containing fertilizers using hazardous waste K061 that are produced for the general public's use are not presently subject to regulation" shall be replaced by "...However, zinc-containing fertilizers using hazardous waste K061 that are produced for use in Oregon, and which contain non-nutrients at levels exceeding the applicable prohibition levels for any non-nutrients as specified in Table 1 must comply with those prohibition levels. Compliance with these standards is required by March 31, 2000.

**340-101-005 Table 1. Prohibition Levels for Fertilizer Using K061 Hazardous Waste**

Non-Nutrient Hazardous Constituent	Fertilizer Standard (mg/l, TCLP <sup>4</sup> )
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<sup>4</sup> Toxicity Characteristic Leaching Procedure (TCLP).

<sup>2</sup> Using the Extraction Procedure Toxicity Test.

<sup>3</sup> Low Mercury Subcategory Wastes containing less than 260mg/kg Mercury."

Stat. Auth.: ORS Ch. 183.337, 465.009, 466.020, 468.020

Stat. Implemented: ORS Ch. 466.015, 466.075, 466.086

Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 10-1987, f. & ef. 6-11-87; DEQ 23-1987, f. & ef. 12-16-87; DEQ 19-1988, f. & cert. ef. 7-13-88; DEQ 12-1989, f. & cert. ef. 6-12-89; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 24-1992, f. 10-23-92, cert. ef. 11-1-92; DEQ 11-1993, f. & cert. ef. 7-29-93; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 31-1994 (Temp), f. 12-6-94, cert. ef. 12-19-94

8. Rule 340-102-0011 is proposed to be amended as follows:

**340-102-0011**

**Hazardous Waste Determination**

- (1) The provisions of this rule replace the requirements of **40 CFR 262.11**.
- (2) A person who generates a residue as defined in OAR 340-100-0010 must determine if that residue is a hazardous waste using the following method:
  - (a) Persons should first determine if the waste is excluded from regulation under **40 CFR 261.4** or OAR 340-101-0004;
  - (b) Persons must then determine if the waste is listed as a hazardous waste in **Subpart D of 40 CFR Part 261**;



(c) Persons must then determine if the waste is listed under the following listings:

(A) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates identified in 340-102-0011(2)(c)(A)(i) and (ii) are added to and made a part of the list in **40 CFR 261.33(e)**.

(i) P998 ... Blister agents (such as Mustard agent)

(ii) P999 ... Nerve agents (such as GB (Sarin) and VX); or

(B) Hazardous waste identified in 340-102-0011(2)(B)(i) and (ii) are added to and made a part of the list in **40 CFR 261.31**.

(i) F998 ... Residues from demilitarization, treatment, and testing of blister agents (such as Mustard agent).

(ii) F999 ... Residues from demilitarization, treatment, and testing of nerve agents (such as GB (Sarin) and VX).

**NOTE:** Even if the waste is listed, the generator still has an opportunity under OAR 340-100-0022 to demonstrate to the Commission that the waste from his/her particular facility or operation is not a hazardous waste.

(d) Regardless of whether a hazardous waste is listed through application of subsections 2(b) or 2(c) of this rule, persons must also determine whether the waste is hazardous under **Subpart C** of **40 CFR Part 261** by either:

(A) Testing the waste according to the methods set forth in **Subpart C** of **40 CFR 261**, or according to an equivalent method approved by the Department under OAR 340-100-0021.

**NOTE:** In most instances, the Department will not consider approving a test method until it has been approved by EPA.

(B) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

(e) If the waste is determined to be hazardous, the generator must refer to Divisions 100-106 and 40 CFR Parts 264, 265, ~~and 268~~ and 273 for possible exclusions or restrictions pertaining to management of his/her specific waste.

**NOTE:** 40 CFR 268.3 prohibits dilution of a hazardous waste to meet Land Disposal Restriction treatment standards. Diluting waste without a permit to meet any hazardous waste standard is prohibited.

(f) If the waste is not identified as hazardous by application of subsection (2)(b) or (2)(c), and/or (2)(d) of this rule, persons must determine if the waste is listed under OAR 340-101-0033.

(3) A person who generates a residue, as defined in OAR 340-100-0010(2)(ee), must keep a copy of the documentation used to determine whether the residue is a hazardous waste, under section (2) of this rule, for a minimum of three years after the waste stream is no longer generated, or as

prescribed in **40 CFR 262.40(c)**. If no documentation is created in making the wastestream determination, then no new documentation need be created.

[Publications: Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 466.020 & ORS 466.180

Stats. Implemented: ORS 466.015 & ORS 466.195

Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 24-1992, f. 10-23-92, cert. ef. 11-1-92; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 10-2000, f. & cert. ef. 7-21-00; DEQ 13-2002, f. & cert. ef. 10-9-02.

9. Rule 340-103-0031 is proposed to be amended and corrected as follows:

#### **340-103-0031**

##### **Discharge Clean Up**

A transporter must clean up any hazardous waste discharge that occurs during transportation or take such action as may be required or approved by federal, state, or local officials so that the hazardous waste discharge no longer presents a hazard to human health or the environment. See Division 108-142 for further requirements.

Stat. Auth.: ORS 183, ORS 466 & ORS 469

Stats. Implemented: ORS 466.020 & ORS 466.645

Hist.: DEQ 8-1985, f. & ef. 7-25-85

10. Rule 340-104-0001 is proposed to be amended and corrected as follows:

#### **340-104-0001**

##### **Purpose, Scope and Applicability**

(1) The purpose of this Division is to establish minimum State standards which define the acceptable management of hazardous waste.

(2) Persons must also consult **40 CFR Parts 260 - 266, 268, 270 and 124**, which are incorporated by reference in OAR 340-100-0002, to determine all applicable hazardous waste management requirements.

(3)(a) The provisions of subsection (3)(b) of this rule replace the requirements of **40 CFR 264.1(d)**;

(b) The requirements of this Division apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act only to the following extent: **40 CFR 264.11** (identification number), **40 CFR 264.16** (personnel training), **40 CFR 264.71** (manifest system), **40 CFR 264.72** (manifest discrepancies), **40 CFR 264.73(a)**, **(B)(1) and (B)(2)** (operating record), **40 CFR 264.75** (periodic report), and **40 CFR 264.76**

(unmanifested waste report). When abandonment is completed, the owner or operator must submit to the Department certification by the owner or operator and by an independent registered professional engineer that the facility has been closed in a manner that will ensure that plugging and abandonment of the well will not allow the movement of fluids either into an underground source of drinking water or from one underground source of drinking water to another.

(4) The provisions of **40 CFR 264.1(f)** are deleted.

(5) In addition to the requirements of **40 CFR 264.1(g)(8)(iii)**, any person covered by **40 CFR 264.1(g)(8)(iii)** shall comply with the applicable requirements of OAR Chapter 340, Divisions 100 to 106 and 142.

(6) Persons receiving from off-site solid waste which becomes hazardous waste by virtue of federal or state statute or regulation and who treat or dispose of such waste shall comply with the applicable requirements of OAR Chapter 340, Divisions 100 to 106, 120, and **40 CFR Parts 264 and 265** and must receive a final permit before managing the waste.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 183, ORS 459, ORS 466.020, ORS 466.075, ORS 466.105, ORS 466.195 & ORS 468

Stats. Implemented: ORS 466.020 & ORS 466.095

Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91)

11. Rule 340-104-0340 is proposed to be amended and corrected as follows:

#### **340-104-0340**

##### **Applicability to Incinerators**

The provisions of **40 CFR 264.340(d)(e)** are deleted.

**NOTE:** The Department may require the owner or operator to obtain an Air Contaminant Discharge Permit and such permit may establish standards more stringent than required under Subpart 0 of **40 CFR Part 264**.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 183, ORS 459 & ORS 468

Stats. Implemented: ORS 466.020 & ORS 466.030

Hist.: DEQ 8-1985, f. & ef. 7-25-85

12. Rule 340-105-0003 is proposed to be amended and corrected as follows:

### **340-105-0003**

#### **Considerations Under Federal Law**

The provisions of 40 CFR 270.3, and the Remedial Action Plan provisions under 40 CFR 270.2, 270.11(d), 270.42, 270.68, 270.73(a) and, 270.79–270.230, ~~except 270.230(e)(1)~~, are deleted.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 465.009 & ORS 466.020

Stats. Implemented: ORS 465.003, ORS 465.009, ORS 466.075 & ORS 466.105

Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 10-2000, f. & cert. ef. 7-21-00

13. Rule 340-105-0010(2) is proposed to be amended and corrected as follows:

### **340-105-0010**

#### **General Application Requirements and Requirements Applicable to Existing Management Facilities**

(2) Existing management facilities:

(a) Owners and operators of existing hazardous waste management facilities that do not have a permit must submit a Part A permit application to the Department within 30 days after the effective date of statutory or regulatory changes under Oregon law that render the facility subject to the requirement to have a permit. In addition, persons receiving from off-site solid waste which by virtue of federal or state statute or regulation becomes hazardous waste and who treat or dispose of such waste shall comply with the applicable requirements in OAR Chapter 340, Divisions 100–106, 120, and **40 CFR Parts 264 and 265**, and must receive a final permit before managing the waste;

(b) The Department may at any time require the owner or operator of an existing management facility to submit Part B of their permit application. The owner or operator shall be allowed at least six months from the date of request to submit Part B of the application. Any owner or operator of an existing management facility may voluntarily submit Part B of the application at any time;

(c) An owner or operator that has not submitted an acceptable Part A permit application, or an acceptable Part B permit application when required to do so, or does not operate in compliance with the regulations of **40 CFR Part 265**, or OAR Chapter 340, Division 120, as required by this rule, shall be subject to Department enforcement action including termination of the facility's operation;

(d) If an owner or operator of an existing management facility has filed a Part A permit application but has not yet filed a Part B permit application, the owner or operator shall file an amended Part A application:

(A) No later than 15 days after the effective date of the adoption of rules listing or designating wastes as hazardous if the facility is treating, storing or disposing of any of those newly listed or designated wastes; or

(B) Prior to any of the following actions at the facility:

(i) Treatment, storage or disposal of a new hazardous waste not previously identified in Part A of the permit application;

(ii) Increases in the design capacity of processes used at a facility. The owner or operator must submit a justification explaining the need for the increase based on the lack of available treatment, storage or disposal capacity at other hazardous waste management facilities, and receive Department approval before making such increase;

(iii) Changes in the processes for the treatment, storage or disposal of hazardous waste. The owner or operator must submit a justification explaining that the change is needed because:

(I) It is necessary to prevent a threat to human health or the environment because of an emergency situation; or

(II) It is necessary to comply with the requirements of OAR Chapter 340, Divisions 100 to 108106 and 142. The owner or operator must receive Department approval before making such change.

(iv) Changes in the ownership or operational control of a facility. The new owner or operator must submit a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of **Subpart H of 40 CFR Part 265** (financial requirements), until the Department has released him in writing. The Department shall not release the old owner or operator until the new owner or operator has demonstrated to the Department that he is complying with that Subpart. All other duties required by these rules are transferred effective immediately upon the date of the change of ownership or operational control of the facility.

(e) In no event shall changes which amount to reconstruction of the facility be made to an existing hazardous waste management facility which has not been issued an effective RCRA permit. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable, entirely new hazardous waste management facility.

14. Rule 340-106-0002 is proposed to be amended and corrected as follows:

**340-106-0002**

**Requirements Not Applicable**

The provisions of **40 CFR 124.1, 124.4, 124.9, 124.1110(e), 124.13, 124.14(c), 124.15(b), 124.16, 124.17(b), 124.18, 124.19, 124.20 and 124.21** are deleted and not part of Division 106.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 183, ORS 459 & ORS 468  
Stats. Implemented: ORS 466.020  
Hist.: DEQ 8-1985, f. & ef. 7-25-85

15. Rule 340-109-0001 is proposed to be amended as follows:

**340-109-0001**

**Additional Disposal Requirements**

(1) The purpose of this Division is to specify procedures for managing pesticide residues and empty pesticide containers. -This Division does not apply to any federally regulated pesticide waste, including waste regulated under 40 CFR Part 273.

16. Rule 340-109-0010 is proposed to be amended and corrected as follows:

**340-109-0010**

**Pesticide Residue Management**

(1) A person producing pesticide-containing material from any pesticide operation or pesticide management shall make every effort to beneficially use or reuse such material to the extent permissible under federal and state law. Persons accumulating pesticide-containing material for use or reuse, shall contain these materials according to industry standards for containing commercial pesticides for use or reuse, and the container shall be labeled as to its contents and marked with the EPA Registration Number(s) for the pesticide(s).

(2) A person producing pesticide residue at a public-use airport, pesticide dealership or other permanent base of operation, and who does not beneficially use or reuse such residue, must manage the pesticide residue:

(a) According to the universal waste management standards in 40 CFR Part 273 and OAR 340 Division 113, and standards in this Division, whereby such residues are designated "waste pesticide." A waste pesticide designation occurs only when the owner or manager of the residue:

(A) Contains the wastes, and

(B) Labels the container with the words "waste pesticide," and

(C) Marks the container(s) with the date the wastes are created, and

(D) Manages the contained wastes according to the universal waste management standards in 40 CFR Part 273 and OAR 340 Division 113; or

(b) Under a Water Pollution Control Facility (WPCF) permit issued pursuant to OAR 340 Division 14; or

(c) As otherwise authorized by the Department. Such management shall be in conformance with the following performance standards:

(A) Containment by any one or combination of: physical means (e.g., natural or man-made liners), chemical means (e.g., adsorption-absorption layers), or other equivalent means;

(B) Detoxification by any one or combination of: physical means (e.g., solar radiation), chemical means (e.g., hydrolysis), biological means (e.g., microbial degradation), or other equivalent means;

(C) Volume reduction by any one or combination of: evaporation, evapo-transpiration, use for new product makeup, or other equivalent means; and

(D) Protection of groundwater and surface waters by any one or combination of: system design, construction materials, or a groundwater monitoring program.

(3) Pesticide residue managed other than as specified in this Division, or by the Department remains a hazardous waste and is subject to OAR 340, Divisions 100 to 106 and ~~408~~142.

(4) Waste pesticide may be managed in:

(a) A RCRA Subtitle C hazardous waste facility meeting the requirements of Division 100 to 106 and ~~408~~142; or

(b) A permitted RCRA Subtitle D facility meeting the requirements of OAR 340 Division 94 provided either the applicable land disposal concentration-based standards in 40 CFR 268.40 are met for waste pesticide containing any pesticide active ingredient(s) listed in 40 CFR 261.33 (e) and (f), or if standards do not exist, the wastes do not fail the "Department of Environmental Quality Aquatic Toxicity Test," whereby a representative sample of a pesticide residue exhibits a 96-hour aquatic toxicity LC 50 equal to or less than 250 mg/l; or

(c) A facility having a Water Pollution Control Facility (WPCF) permit issued pursuant to OAR 340, Division 14; or

(d) As otherwise authorized by the Department. Such management shall be in conformance with the following performance standards:

(A) Containment by any one or combination of: physical means (e.g., natural or man-made liners), chemical means (e.g., adsorption-absorption layers), or other equivalent means, and

(B) Detoxification by any one or combination of: physical means (e.g., solar radiation), chemical means (e.g., hydrolysis), biological means (e.g., microbial degradation), or other equivalent means, and

(C) Volume reduction by any one or combination of: evaporation, evapo-transpiration, use for new product makeup, or other equivalent means, and

(D) Protection of groundwater and surface waters by any one or combination of: system design, construction materials, or a groundwater monitoring program.

(5) A person producing pesticide residue at a temporary base of operation, and who does not beneficially use or reuse such residue, must manage such residue either:

- (a) At a permitted facility or site participating in a pesticide collection program; or
- (b) By spraying on the ground, provided:
  - (A) The residue is sprayed under pressure through a nozzle which is moving at a sufficient rate of speed so as not to saturate the ground with waste;
  - (B) The person doing the spraying owns or controls the management of the ground, or receives permission from the manager, owner, or controller of the ground;
  - (C) The spray site location will not endanger surface water or groundwater, or pose a hazard to humans, wildlife (game and non-game animals) or domestic animals; and
  - (D) If applied to agriculture land, the pesticide residue will not result in excessive or prohibited residuals in current or subsequent crops.
- (6) A person who spills pesticide residue shall:

~~(a) Report spills in excess of 200 pounds (approximately 25 gallons) to the Oregon Emergency Management Division (telephone 800-452-0311); and~~

~~(b) (a) Report and clean up such spill in accordance with OAR 340, 108-0010 Division 142.~~

Stat. Auth.: ORS 183.325 - ORS 183.335, ORS 466.020, ORS 468.020 & ORS 468

Stat Implemented: ORS 466.025 & ORS 466.075

Hist.: DEQ 7-1984, f. & ef. 4-26-84; DEQ 17-1984, f. & ef. 8-22-84; DEQ 12-1996, f. & cert. ef. 7-31-96

17. Rule 340-110-0061 is proposed to be amended and corrected as follows:

#### **340-110-0061**

##### **Additional Disposal Requirements**

- (1) The provisions of **40 CFR 761.60(d)(1)** are replaced by section (2) of this rule.
- (2) Spills. Spills, leaks and other uncontrolled discharges of PCB constitute disposal of PCB and shall be reported and managed in accordance with Division ~~108~~142.
- (3) Section (4) of this rule is added to the provisions of **40 CFR 761.60(e)**.
- (4) The permit shall be issued in accordance with Divisions 106 and 120 and may contain conditions and provisions as the Department deems appropriate.
- (5) Section (6) of this rule is added to **40 CFR 761.60**.
- (6) Waste Oil. The use of waste oil that contains any detectable concentration of PCB as a sealant coating or dust control agent is prohibited. Prohibited uses include, but are not limited to, road oiling, general dust control, use as a pesticide carrier and use as a rust preventative on pipes.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]



Stat. Auth.: ORS 466 & ORS 468  
Stats. Implemented: ORS 459A.595 & ORS 466.635  
Hist.: DEQ 6-1987, f. & ef. 3-5-87

18. Rule 340-111-0020 is proposed to be amended and corrected as follows:

**340-111-0020**

**Definitions**

(1) The definitions of terms contained in this rule modify, or are in addition to, the definitions contained in **40 CFR 279.1**, OAR 340-100-0010 and ~~340-108-0002~~142-0005.

(2) When used in Division 111 of this Chapter, the following terms have the meanings given below:

(a) "Hot Draining" means draining of used oil filters at or near the engine operating temperature and above room temperature (i.e., 60° F.);

(b) "Terne Plating" means a coating of lead and tin applied to certain oil filters;

(c) "Used Oil" means any oil that has been refined from crude oil, or any synthetic oil that has been used as a lubricant, coolant (non-contact heat transfer fluids), hydraulic fluid or for similar uses and as a result of such use is contaminated by physical or chemical impurities. Used oil includes, but is not limited to, used motor oil, gear oil, greases, machine cutting and coolant oils, hydraulic fluids, brake fluids, electrical insulation oils, heat transfer oils and refrigeration oils. Used oil does not include used oil mixed with hazardous waste except as allowed in **40 CFR 279.10(b)**, oil (crude or synthetic) based products used as solvents, antifreeze, wastewaters from which the oil has been recovered, and oil contaminated media or debris;

(d) "Used Oil Mixture" means any mixture of used oil as generated and another waste.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 465.009, ORS 466.015, ORS 466.020, ORS 466.075, ORS 466.090, ORS 468.020 & ORS 646  
Stats. Implemented: ORS 466.020 & ORS 466.075  
Hist.: DEQ 33-1990, f. & cert. ef. 8-15-90; DEQ 6-1994, f. & cert. ef. 3-22-94

19. Rule 340-111-0050 is proposed to be amended and corrected as follows:

**340-111-0050**

**Used Oil Discharges and Releases**

In addition to the provisions in **40 CFR 279.43(c)**, **40 CFR 279.45(h)**, **40 CFR 279.54(g)** and **40 CFR 279.64(g)**, the provisions of OAR Chapter 340, Division ~~108-142~~ are applicable.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 465.009, ORS 466.015, ORS 466.020, ORS 466.075, ORS 466.090,  
ORS 468.020 & ORS 646

Stats. Implemented: ORS 466.635

Hist.: DEQ 6-1994, f. & cert. ef. 3-22-94

20. Rule 340-113-0010 is proposed to be amended as follows:

### **340-113-0010**

#### **Applicability**

(1) In addition to provisions under **40 CFR 273.1**, the following wastes are subject to universal waste management standards but are not "Universal Wastes" as defined in OAR 340-113-0020(4):

(a) Waste pesticides as defined in OAR 340-109-0010(2)(a), and pesticide residues as defined in OAR 340-100-0010, that are collected and managed as part of any pesticide collection program that has notified the Department.

Stat. Auth.: ORS 183.325 - ORS 183.335, ORS 465.009, ORS 466.020 & ORS 468.020

Stats. Implemented: ORS 466.015, ORS 466.020 & ORS 466.075

Hist.: DEQ 12-1996, f. & cert. ef. 7-31-96

Stat. Auth.: ORS 4465.009 & ORS 466.020

Stats. Implemented: ORS 465.003, ORS 465.009, ORS 466.075 & ORS 466.105

Hist.: DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 10-2000, f. & cert. ef. 7-21-00

21. Rule 340-113-0020 is proposed to be amended and corrected as follows:

### **340-113-0020**

#### **Definitions**

The definitions of terms contained in this rule modify, or are in addition to, the definitions contained in **40 CFR 273.69**, **40 CFR 260.10**, and OAR 340-100-0010. When used in Divisions 109 and 113 of this chapter, the following terms have the meanings below:

(1) "Destination Facility" means a facility that treats, disposes of, or recycles universal waste. Facilities treating universal waste as allowed under **40 CFR 273.13** and, ~~273.33~~, ~~or OAR 340-113-0030(5)~~ are not considered to be destination facilities for purposes of this rule. A facility at which universal waste is only accumulated, is not a destination facility for purposes of managing universal waste.

(2) "Off-site Collection Site" means a site that receives and accumulates universal waste from off-site.

(3) "Pesticide Collection Program" means a pesticide collection program that has notified the Department of activity as required in OAR 340-113-0070 and has received acknowledgment from the Department of Environmental Quality that such notification information is complete.

(4) "Universal Waste" means any waste that is a universal waste listed in **40 CFR 273.1** and ~~OAR 340-113-0010~~ and subject to the universal waste requirements of **40 CFR Part 273** and OAR 340 Division 113.

Stat. Auth.: ORS 465.009 & ORS 466.020

Stats. Implemented: ORS 465.003, ORS 465.009, ORS 466.075 & ORS 466.105

Hist.: DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 10-2000, f. & cert. ef. 7-21-00

22. Rule 340-113-0030 is proposed to be amended and corrected as follows:

**340-113-0030**

**Standards for Small and Large Quantity Handlers of Universal Waste**

(1) The standards in this rule apply to small quantity handlers of universal waste as defined in **40 CFR 273.9**. The standards in this rule modify or are in addition to provisions in **40 CFR Part 273 Subpart B**.

(2) The standards in this rule apply to large quantity handlers of universal waste as defined in **40 CFR 273.9**. The standards in this rule modify or are in addition to provisions in **40 CFR Part 273, Subpart C**.

(3) Treatment Prohibition.

(a) In addition to the provisions in **40 CFR 273.11** and **40 CFR 273.31**, handlers of universal waste shall not treat universal waste, except as allowed the applicable portions of in **40 CFR 273.13, 40 CFR 273.33**.

Stat. Auth.: ORS 4465.009 & ORS 466.020

Stats. Implemented: ORS 465.003, ORS 465.009, ORS 466.075 & ORS 466.105

Hist.: DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 10-2000, f. & cert. ef. 7-21-00

**Summary of Public Comment and Agency Response  
 Hazardous Waste Rule Amendments**

**Prepared by:** David Rozell, Hazardous Waste PPD Section

**Date:** July 14, 2003

**Comment period** The public comment period opened on May 15, 2003 and closed at 5 PM on June 27, 2003. The Department held a public hearing on June 17, 2003 in Portland, Oregon. There were no attendees and no comments at the public hearing. Two written comments were submitted during this period.

**Organization of comments and responses** Summaries of individual comments and the Department's responses are provided below. A list of commenters and their reference numbers follows the summary of comments and responses.

<b>Summary of Comments and Agency Responses</b>	
<b>Comment 1</b>	EPA commented that the Department's proposed rule language regarding hazardous waste and used oil management regulations in OAR 340-100-0002 would inadvertently result in Oregon adopting the federal post-closure rules associated with hazardous waste remedial action sites, by reference.
<b>Response</b>	The Department did not intend to adopt the post-closure rules and agrees with EPA's comment. The Department accepted EPA's proposed rule language amendment in OAR 340-100-0002 which reflects the Department's original intent to <i>not</i> adopt the post-closure rules. Federal Register references for May 15, 2000 and July 24, 2002 were added to reflect this comment.
<b>Comment 2</b>	EPA commented that proposed rule language regarding pesticide residue was unclear and would result in confusion about whether these wastes are actually a federal hazardous waste and therefore subject to the full federal regulation.
<b>Response</b>	The Department's intent is to keep pesticide residues as State-only waste and thereby subject to Oregon regulations, only. After clarifying discussions between EPA, Department staff, and the Attorney General's office, the

	<p>Department agrees with EPA's comment. The Department, in counsel with the Attorney General's office, has amended the original proposed amendments to OAR 340-100-0010(2)(t), 340-100-0010(3)(j), and has added an amendment to OAR 340-109-0001(1) to clarify our intent to keep this waste as a State-only waste. The Department agrees with EPA that adoption of the proposed revised amendments should eliminate this regulatory confusion.</p>
<b>Comment 3</b>	<p>In their letter dated June 25, 2003 the Port of Portland stated, "The Port believes the Department's adoption of the federal rule correctly recognizes the status of sediment within the context of the hazardous waste rules. Therefore the Port agrees with the Department's recommendation to adopt this rule."</p>
<b>Response</b>	<p>The Department agrees with the assessment of the Port of Portland regarding federal exclusion for dredged sediments. Therefore no further modifications or amendments to the proposed rules were made.</p>

List of Commenters:

1. United States Environmental Protection Agency, Region X, Seattle, Washington: Lynn Williams, State Program Coordinator
2. Port of Portland, Portland, Oregon: Cheryl R. Koshuta, Director, Environmental Affairs

State of Oregon  
Department of Environmental Quality

Memorandum

**To:** Environmental Quality Commission

**Date:** June 17, 2003

**From:** Elaine Glendening, Policy Analyst  
Hazardous Waste Policy and Program Development  
Land Quality Division

**Subject:** Presiding Officer's Report for Public Hearing regarding Hazardous Waste Rule Amendments

**Public Hearing Date and Time:** June 17, 2003 at 9 A.M.

**Public Hearing Location:** DEQ Headquarters, Room 3A, 811 S.W. 6<sup>th</sup> Avenue, Portland, Oregon

The hearings officer was available to start the public hearing at 9 A.M. and postponed opening the hearing since there was no one from the public present.

At 9:45 A.M. the hearings officer opened the hearing and then closed the hearing at 9:50 A.M.

There was no oral or written testimony submitted at this public hearing.



**Relationship to Federal Requirements  
Hazardous Waste Rule Amendments  
May 15, 2003**

Answers to the following questions identify how the proposed rulemaking relates to federal requirements and potential justification for differing from federal requirements. The questions are required by OAR 340-011-0029.

**1. Are there federal requirements that are applicable to this situation?**

Yes, federal requirements are applicable. The federal hazardous waste regulations implementing the Resource Conservation and Recovery Act (RCRA) are in 40 *Code of Federal Regulations* Parts 260-266, 268, 270-273, 279, 280-282, 148 and 124. This rulemaking proposes to adopt by reference 15 amendments to federal hazardous waste rules previously adopted by the U.S. Environmental Protection Agency (EPA). In addition, this rulemaking proposes to correct and clarify 22 state citations in order to make the state rules equivalent to the federal rules. The Department's federally authorized hazardous waste program relies, in large part, on direct adoption of relevant federal rules. The proposed amendments are described in Attachments A-1 and A-2.

The Department has evaluated the basis for EPA's amendments and concurs with EPA that the changes are reasonable, will provide for environmentally sound management of hazardous wastes, and will not be unduly burdensome for affected parties. In addition, by adopting the proposed amendments, the Department's hazardous waste program will remain consistent with the federal program as to those items. This will give affected parties certainty that they meet both state and federal hazardous waste requirements as to those items. By adopting these amendments, the Department will also prevent a gradual divergence of programs that, either now or over time, could result in parties in Oregon being subject to two different hazardous waste programs.

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

The applicable federal requirements are both performance and technology 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?**

The federal amendments address issues that are of general concern nationwide. The amendments were not based on data or information that is specific to Oregon, but are consistent with state considerations.

4. **Will the proposed requirement improve the ability of the regulated community to comply in a more cost effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later?**

Yes, some of the proposed amendments are intended to clarify requirements for which the original rules were confusing. Further, adoption of the federal amendments will provide efficiencies for the regulated community by maintaining a state program that is equivalent to the federal program. This will prevent a potentially confusing situation where the federal and state programs might include different or conflicting requirements. Amendments pertaining to sediments are intended to reduce duplicative requirements under RCRA and the federal Clean Water Act. Amendments pertaining to the identification of additional hazardous wastes and applicable land disposal restrictions will prevent mismanagement and provide for protective disposal of these wastes.

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

No.

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

The hazardous waste rules are intended to protect current and future public health and safety.

7. **Does the proposed requirement establish or maintain reasonable equity in the requirements for various sources?**

Yes. All affected parties will be subject to the same requirements under Oregon and federal rules.

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

Not applicable. The proposed amendments are equivalent to federal rules.

9. **Does the proposed requirement include procedural requirements, reporting or monitoring requirements that are different from applicable federal requirements?**

No



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

Yes. Oregon has a permitted hazardous waste disposal facility at Arlington, Oregon that can safely dispose and manage waste generated by Oregon businesses and industries.

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

Yes. Regulation of additional hazardous wastes will prevent environmental pollution associated with their management and disposal. These amendments also reduce duplication with other programs thereby reducing cost to the regulated community and the State of Oregon, while maintaining environmental protection. This is evident by removing duplicative water quality and RCRA jurisdiction over sediments and streamlining RCRA and Nuclear Regulatory Commission authority over low-level mixed waste.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
For  
Amending Oregon Hazardous Waste Administrative Rules

Statement of Need and Fiscal and Economic Impact

**Introduction**

This Hazardous Waste rulemaking:

Amends Oregon Administrative Rules to permanently adopt several federal hazardous waste regulations with amendments and to correct state-only hazardous waste rules.

The Oregon Department of Environmental Quality (Department) is proposing to adopt 15 federal amendments and 22 amendments to state rules. In general, there is no unifying theme, so each amendment is treated separately when evaluating the fiscal and economic impact. Also, in general, many of the amendments or technical corrections will have little or no impact in Oregon. In order to expeditiously illustrate this, the fiscal and economic impact of the federal and state rule(s) being adopted or amended is summarized in **Table 1**. Attachment A-3 of this document illustrates all the proposed changes. Where the Department has determined that there is or may be a fiscal or economic impact, a description is provided in the following text.

**Federal Rule Amendments**

**Rule # 4. Proposed Rule:** Deferral of Phase IV Standards for polychlorinated biphenyls (PCBs) as a Constituent Subject to Treatment in Soil. [65 FR 81373-81381, December 26, 2000]. This rule temporarily defers the requirement that PCBs be treated as a constituent subject to treatment when present in soils that also contain heavy metals.

**Oregon Impact:** State cleanup rules require that soils contaminated with hazardous waste meet applicable land disposal restriction standards when the excavated hazardous soils are placed on land. Nationally, these standards have been a barrier to cleanups. There are no known Oregon sites where this rule change will have an effect.

Small Business, Large Business, Local Government, State Agency Impact

Enacting this rule could reduce the cost of environmental cleanups.

**Rule # 5. Proposed Rule:** Storage, Treatment, Transportation and Disposal of Mixed Waste. [66 FR 27218-27266, May 16, 2001]. This rule promulgates conditional exemptions for (1) low-level mixed wastes (LLMW) from most RCRA Subtitle C (hazardous waste) storage and treatment regulations, and (2) LLMW and technologically enhanced naturally occurring or accelerator produced radioactive material (NARM) from most hazardous waste manifesting, transportation and disposal regulations when specified conditions are met.

**Oregon Impact:** The Department previously adopted the "mixed waste" management regulations. The Department regulates the hazardous component of the mixture of a hazardous waste and a low-level radioactive waste. The Nuclear Regulatory Commission (NRC), through the Oregon Office of Energy and Oregon Department of Human Services (Health Division), regulates the low-level radioactive component.

Small Business, Large Business, Local Government, State Agency Impact

Potential economic and fiscal benefit is expected from adopting these rules, because eliminating dual regulation of the treated low-level radioactive mixed wastes may be less costly than managing such wastes under two separate regulatory authorities.

**Rule # 6. Proposed Rule:** Hazardous Waste Identification Rule (HWIR); Revisions to the Mixture and Derived-From Rules. [66 FR 27266, May 16, 2001]. The federal rule finalizes the retention of the "mixture and derived-from rules;" however, there is a new provision. In response to a federal court case, the revision expands the exclusion for mixtures and derivatives of listed wastes that are listed solely for the ignitability, corrosivity, or reactivity characteristics. Such mixtures and derivatives may be treated to remove the characteristic and then disposed as non-hazardous in a solid waste landfill, provided land disposal restrictions are met, including those for any known underlying hazardous constituent.

**Oregon Impact:** The Department previously adopted the "mixture and derived-from rules." Generators of ignitable, corrosive, or reactive hazardous waste, and treaters, storers and disposers of such wastes, may be able to decharacterize their wastes. The mixture and derived-from rules define which wastes are considered to be hazardous and thus subject to RCRA regulations.

Small Business, Large Business, Local Government, State Agency Impact

Some reduction of economic and fiscal impact is expected from allowing generators to manage some listed hazardous wastes as solid waste after they are decharacterized.

**Rule # 7. Proposed Rule:** Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules. [66 FR 50332, October 3, 2001]. This rule clarifies the exclusion of certain mixtures of wastes, commonly referred to as Bevill wastes, from the definition of solid waste. This rule also clarifies the exclusion of other listed hazardous wastes that are listed as hazardous solely because they contain a characteristic of ignitability, corrosivity or reactivity.

**Oregon Impact:** The Department adopted the original "mixture and derived-from rules." Adoption of these rules will make Oregon's rules consistent with EPA's.

Small Business, Large Business Impact

Potential economic benefit may occur from allowing generators with mixtures of Bevill wastes and certain listed hazardous wastes to manage them as non-hazardous when the listed hazardous waste is decharacterized.

**Rule # 13. Proposed Rule:** Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with Manufactured Gas Plant Wastes. [67 FR 11251, March 13, 2002]. Because of a federal court case vacating the old rule, this change deletes regulatory language classifying mineral processing characteristic by-products and sludges being reclaimed as solid wastes, and removes testing requirements for determining whether manufactured gas plant (MGP) waste is hazardous.

**Oregon Impact:** Adoption of this rule makes Oregon consistent with the federal rules. There are no known mines generating these particular processing wastes in Oregon.

There are seven historic MGP cleanup sites in Oregon where the hazardous characteristic determination either has been or could be applied. The Department believes that these wastes, if apparent, can be managed under state environmental cleanup regulations.

Large Business, Local Government, State Agency Impact

Reduces economic impact for mineral processing facilities that continue to process materials by removing management requirements for this material when it is "in process". Reduces the management costs associated with manufacturing gas plant wastes by increasing flexibility for the way cleanup wastes can be managed.

**Rule # 14. Proposed Rule:** Zinc Fertilizers Made From Recycled Hazardous Secondary Materials. [67 FR 48393, July 24, 2002]. The rule establishes exclusions from the definition of solid waste and establishes limits for metals and dioxin in zinc-containing fertilizers made from hazardous wastes.

**Oregon Impact:** In 1999, the Department adopted metal limits for zinc-containing fertilizers made from K061 hazardous wastes. Prior to that, K061 could be processed and placed on the ground as fertilizer without having to meet limits for heavy metals. The new EPA fertilizer standards supersede the Department's and are more stringent. The Oregon Department of Agriculture (ODA) adopted by reference EPA's rules and the Department should become consistent.

General Public, Small Business, Large Business, Local Government, State Agency Impact

There may be increased economic impact to users of waste-derived fertilizers due to new testing and certification requirements for fertilizer manufacturers. Cost increase may be offset by decreased levels of non-nutritive metals and dioxin compounds in fertilizers.

**Rule # 15. Proposed Rule:** Hazardous Remediation Waste Management Requirements (HWIR-Media); [63 FR 65874, November 30, 1998]. Excludes dredged sediments managed pursuant to certain Clean Water Act requirements from the definition of hazardous waste.

**Oregon Impact:** The Department has evaluated best management methods for dredged materials throughout their life cycle, and will require hazardous waste management of sediments under certain circumstances, but not at the point of dredging. Adoption of this rule will streamline the regulatory process and should lead to less cost for some sediment removal projects.

Small Business, Large Business, Local Government, State Agency Impact

Potential decreased costs are expected from adopting these rules because of increased flexibility in the way these materials may be managed.

**State-Only Rule Corrections**

With the exception of Rule #1 in this package, the proposed changes to state-only rules do not create any fiscal or economic impact for the general public, small business, large business, local government or state agencies. Rule #1 is the adoption of the federal rules by reference and has the same economic impact as the federal rule itself.

**Impacts to DEQ:** No impacts expected because all of the proposed rules included in this package amend existing rules.

**Assumptions:**

- ▶ Most of the rules reduce the regulatory burden and clarify administrative changes; and
- ▶ Many of the proposed changes do not apply to Oregon businesses because the specific wastes are not currently generated in Oregon.

**Housing Costs:** 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.

**Administrative Rule Advisory Committee:** No advisory committee was convened to evaluate the proposed rules because this routine rulemaking is required to maintain equivalency and authorization with the federal program.

**Table 1**  
**Summary**  
**Fiscal and Economic Impacts**

<i>Federal Rules</i>							
Proposed Rule Number	To General Pub?	To Sml Bus?	To Lrg Bus?	To Local Gov't?	To St. Agencies?	To Housing Costs?	Comments
1	No	No	No	No	No	No	
2	No	No	No	No	No	No	
3	No	No	No	No	No	No	
4	No	Decrease	Decrease	Decrease	Decrease	No	see text
5	No	Decrease	Decrease	Decrease	Decrease	No	see text
6	No	Decrease	Decrease	Decrease	Decrease	No	see text
7	No	Decrease	Decrease	No	No	No	see text
8	No	No	No	No	No	No	
9	No	No	No	No	No	No	
10	No	No	No	No	No	No	
11	No	No	No	No	No	No	
12	No	No	No	No	No	No	
13	No	No	Decrease	Decrease	Decrease	No	see text
14	Increase	Increase	Increase	Increase	Increase	No	see text
15	No	Decrease	Decrease	Decrease	Decrease	No	see text

## Land Use Evaluation Statement

### 1. Explain the purpose of the proposed rules.

This proposal adopts by reference, recent Environmental Protection Agency (EPA) amendments to federal hazardous waste rules. The Department's federally authorized Hazardous Waste Program relies on direct adoption (verbatim) of federal rules relating to the Resource Conservation and Recovery Act (RCRA). Adoption of EPA's amendments to federal hazardous waste rules is necessary to maintain a state program that is at least as stringent as EPA's and to maintain authority to implement the program in Oregon in lieu of EPA.

This rulemaking also proposes adoption of amendments that correct and clarify several state-only hazardous waste regulations.

The Department last adopted the federal rules by reference in July 2000. Since July 2000, most of the proposed amendments to the base federal program are technical corrections, clarifications or court vacatures of the federal rules. The exceptions include the adoption of:

- Five newly listed hazardous wastes and their corresponding land disposal restriction standards; and
- The federal dredged materials exclusion which excludes as-generated, dredged materials from the definition of "hazardous waste," provided federal Clean Water Act standards are met. Adoption of the dredged material exclusion is recommended by the Department's Sediments Work Group as part of the implementation of the Department's "Guidance for Evaluation of Sediment at State Cleanup Sites."

Other technical corrections and clarifications to already adopted federal rules include:

- Exempting low-level, radioactive-mixed hazardous waste from most RCRA regulations, provided certain conditions are met;
- Excluding the following from the definition of solid waste: waste mixtures and derived-from wastes listed solely for ignitability, corrosivity and reactivity characteristics, provided the characteristic is removed and land disposal restriction standards are met;

- Corrections to national standards to control emissions for hazardous air pollutants from incinerators, cement kilns and lightweight aggregate kilns burning hazardous wastes;
- Establishing heavy metal and dioxin limits for zinc-containing fertilizers made from hazardous wastes; and
- Technical amendments to the Corrective Action Management Unit (CAMU) regulatory standards.

The majority of the 22 corrections and clarifications to state-only hazardous waste rules are to regulatory citations and references. Some of these were identified by EPA during the 2002 reauthorization of the Hazardous Waste Program. The two Department-initiated changes of state-only rules include amending the Department's regulation of mineral "processing wastes," and referring affected parties from Division 108 to Division 142 for information about the reportable quantity and cleaning up of spilled substances.

**2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?**

Yes \_\_\_ No X

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

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

Yes \_\_\_ No \_\_\_ (if no, explain):

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

Not Applicable

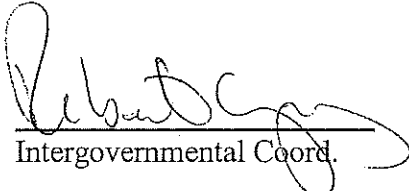
**In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.**

The proposed rules do not affect Department programs or actions that have been determined to have significant affects on land use. Specifically, the proposed rules do not influence the permitting of hazardous waste and PCB treatment, storage facilities.



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

<u>[Dick Pedersen, Administrator]</u>		<u>9/9/03</u>
Division	Intergovernmental Coord.	Date

## **Hazardous Waste Program Overview**

Hazardous waste is defined under the Federal Resource Conservation and Recovery Act (RCRA). It is basically unusable material leftover from industrial processes (i.e. waste from aluminum smelters, paint waste, etc) or unusable products (i.e. unused pesticides). These materials are either specifically named as hazardous by the Federal government (i.e. chlorinated solvent from painting processes) or are otherwise tested and determined to be explosive, corrosive or toxic. The Federal law does not place limits on the type or quantities of these wastes that are produced by business and industry. Instead of such quantifiable limits, RCRA imposes a set of complex management requirements that ensure that these materials are kept out of the environment from the time they are generated to their ultimate disposal or destruction. The more waste a facility generates the more stringent the management requirements.

In Oregon, hazardous waste generators have had to comply with RCRA since 1980, when the Federal law was passed. The Environmental Protection Agency (EPA) first authorized Oregon to implement the federal law in 1986 and has periodically reauthorized DEQ's program to continue carrying out the federal program in Oregon, most recently in 2002.

In implementing the federal law, DEQ promotes the reduction and safe management of hazardous waste, issues permits to waste management facilities, conducts inspections of hazardous waste handlers, and assists Oregon businesses in complying with complex federal regulations and enforces on violations. The objectives of our work include: reducing or eliminating the threat of exposure to hazardous waste, reducing the use of toxic chemicals in the workplace, and delivering excellence in service.

Approximately 3700 facilities in Oregon collectively generate more than 9.5 million tons of hazardous waste per year. This number includes hazardous wastewaters. DEQ issues permits and inspects Oregon's commercial operations that transfer, store or dispose of hazardous wastes, ensuring safe management and disposal of these potentially harmful wastes. Of special importance is DEQ's oversight of the Chemical Weapons Incinerator at the Umatilla Army Depot outside Hermiston and the hazardous waste landfill at Arlington.

In addition to the federal program components of inspection, permitting, and enforcement, Oregon law includes a technical assistance component that provides information and non-regulatory assistance to businesses. This added component is critical because the federal hazardous waste regulations are very complex. Oregon businesses, especially small ones, want to comply but often need help to do so. The addition of technical assistance has brought balance between the traditional enforcement approach, favored by the federal program, and a cooperative approach, favored by DEQ.

**DATE:** September 18, 2003  
**TO:** Environmental Quality Commission  
**FROM:** Stephanie Hallock, Director *S. Hallock*  
**SUBJECT:** Agenda Item K, Rule Adoption: Underground Storage Tank Rule Revision  
October 10, 2003 EQC Meeting

**Department Recommendation** The Department recommends that the Environmental Quality Commission (Commission) adopt underground storage tank (UST) rule revisions as presented in Attachment A.

**Need for Rulemaking** On January 30, 2003, the Commission heard an appeal of an enforcement case concerning a tank that was placed on the ground surface and partially covered with soil and pea gravel. The Commission upheld the Hearing Officer's decision that the definition of an "UST" was ambiguous as to whether the type of tank addressed in this case would be considered an "UST" under the Department's rules. In Oregon, fuel tanks are regulated in one of two ways: the Oregon State Fire Marshal regulates above ground storage tanks (AST) and DEQ regulates underground storage tanks. The Commission's decision raised questions about the clarity of the definition of an "UST" and about whether certain tanks partially covered by "earthen materials" are "USTs" for purposes of the Department's rules. Revisions to OAR 340-150-0010 are necessary to make Oregon regulations consistent with federal regulations for USTs.

The proposed permanent rule clarifies the definition of an "UST" and is necessary to ensure protection of public health and the environment from UST releases.

A permanent rule is necessary to replace the temporary UST rule the Commission adopted at its May 8, 2003 meeting amending the definition of an "UST" in OAR 340-150-0010. The temporary rule expires on November 14, 2003.

**Effect of Rule** The proposed rule amendments would:

- Amend the definition of an UST and related terms to clarify when tanks and related equipment are subject to regulation as "USTs."
- Add a definition for "earthen materials" to clarify the definition of an "UST" and related equipment subject to regulation.
- Replace temporary rules with permanent rules.

The Department has not been able to identify how many USTs may be affected by this rulemaking. However, the exact set of circumstances that are being addressed are not common. Therefore, small businesses or communities are generally not expected to be affected. The small business owner involved with the contested case issue has already corrected the problem by uncovering the tank so that it is now clearly an AST.

**Commission Authority**

The Commission has authority to take this action under ORS 466.706 through 466.835, 466.994 and 466.995.

**Stakeholder Involvement**

Since the proposed rule revision only clarifies the definition of an UST and the Department has not identified any additional tank owners that would be affected by the revision, no formal advisory committee was convened. Members of an advisory committee the Department used to develop previous rule revisions were asked to provide comments on the proposed rule revisions. No comments were received.

**Public Comment**

A public comment period was open from July 17, 2003 through August 18, 2003 and included one public hearing in Portland. The results of public input are provided in Attachments B and C.

**Key Issues**

Key issues addressed in the proposed rule revisions include:

- Based on the Hearing Officer's decision as upheld by the Commission, it is possible that certain tanks may not be regulated by either the State Fire Marshal or the Department. Such tanks may lack proper safeguards and may create environmental problems. The proposed rule would clarify Department authority over tanks that are subject to corrosion because they are in contact with earthen materials and could leak directly into the environment undetected.
- The federal definition of "underground storage tank" includes tanks that are partially covered by "earthen materials." The amendments proposed in Attachment A would make DEQ's definition of an "underground storage tank" consistent with the federal rule by including in the definition tanks that are partially covered by "earthen materials." Tank owners and permittees do not need to make any operational or other changes based on this definition clarification. *Note: The Department has used the Federal Register Vol. 53, No. 185, Friday, September 23, 1988, p. 37116 as guidance in this area.*<sup>1</sup>

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<sup>1</sup> This section of the preamble to the federal UST regulations discusses use of the terms "beneath the surface of the ground" and "earthen materials" and describes the background information used in defining an underground storage tank.

- The proposed rule revisions are necessary to clearly make Oregon UST regulations equivalent to federal UST regulations for EPA review/approval of the UST program's application for State Program Approval.

**Next Steps**

If adopted at the October 10, 2003 Commission meeting, the rules will become effective on November 15, 2003 after filing with the Secretary of State's Office. The temporary rule expires on November 14, 2003.

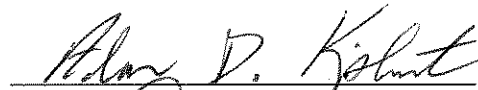
The Department will notify all known tank owners, permittees of UST facilities, property owners where USTs are known to be located, legislative officials, licensed UST Service Providers and other interested parties of the proposed rules if adopted by the Commission.

**Attachments**

- A. Redlined Version of Proposed Rule Revisions (OAR 340-150-0010)
- B. Summary of Public Comments and Agency Responses
- C. Presiding Officer's Report on Public Hearings
- D. Relationship to Federal Requirements
- E. Statement of Need and Fiscal and Economic Impact
- F. Land Use Evaluation Statement

Approved:

Section:



Division:



Report Prepared By: Mitch Scheel,

Phone: 503-229-6704

## Attachment A

### Oregon Department of Environmental Quality

#### OAR 340-150-0010

#### Underground Storage Tank Rule Revision

1 **340-150-0010**

2 **Definitions**

3 For the purpose of this division and as applicable for OAR chapter 340, divisions 151 and  
4 160, the following definitions apply:

5 (1) "*Ancillary equipment*" means any devices including, but not limited to, connected piping,  
6 fittings, flanges, valves and pumps used to distribute, meter or control the flow of regulated  
7 substances to and from an UST.

8 (2) "*As built drawing*" or "*as built*" means a line drawing to-scale that accurately illustrates  
9 the location of USTs, underground piping and all related equipment in relation to buildings or  
10 other structures at an UST facility and provides thorough construction documentation. Other  
11 terms used in lieu of "*as built*" are "record drawing" or "measured drawing", which indicate that  
12 the drawing is for an existing structure or UST system.

13 (3) "*Cathodic protection*" means a technique to prevent corrosion of a metal surface by  
14 making that surface the cathode of an electrochemical cell. For example, an UST system can be  
15 cathodically protected through the application of either galvanic anodes or impressed current.

16 (4) "*Cathodic protection tester*" means a person who demonstrates an understanding of the  
17 principles and measurements of all common types of cathodic protection systems as applied to  
18 buried or submerged underground metal piping and tank equipment.

19 (5) "CERCLA" means the Comprehensive Environmental Response, Compensation and  
20 Liability Act of 1980, as amended.

21 (6) "*Change-in-service*" means to transfer an UST system containing a regulated substance  
22 from regulated status (i.e., subject to the requirements of this division) to nonregulated status  
23 while the UST remains in its original location.

24 (7) "*Closure*" means to permanently decommission an UST (by removal, filling in-place  
25 with an inert material or change-in-service) or to temporarily remove an UST from operation.

26 (8) "*Commission*" means the Oregon Environmental Quality Commission.

27 (9) "*Compatible*" means the ability of two or more substances to maintain their respective  
28 physical and chemical properties upon contact with one another for the design life of the UST  
29 system under conditions likely to be encountered in the UST.

30 (10) "*Confirmed release*" means:

31 (a) For petroleum. Contamination observed in soil or groundwater as a sheen, stain or  
32 petroleum odor or petroleum contamination detected in soil by the Northwest Total Petroleum  
33 Hydrocarbon Identification Analytical Method (NWTPH-HCID, DEQ, December 1996) or  
34 detected in groundwater by any appropriate analytical method specified in OAR 340-122-0218;  
35 or

36 (b) For hazardous substances other than petroleum. Contamination observed in soil or  
37 groundwater as a sheen, stain or identifiable odor or as detected in soil, surface water or  
38 groundwater by any appropriate analytical method specified in "Test Methods for Evaluating  
39 Solid Waste," SW-846, 3rd Edition, Revised May 1997 (U.S. Environmental Protection Agency  
40 EPA).

1 (11) "Connected piping" means all piping located beneath the ~~surface of the ground surface~~  
2 or otherwise covered by earthen materials, including valves, elbows, joints, flanges and flexible  
3 connectors attached to an UST system through which regulated substances flow. For the purpose  
4 of determining how much piping is connected to any individual UST system, the piping that  
5 joins two UST systems should be allocated equally between them.

6 (12) "*Corrective action*" means remedial action taken to protect the present or future public  
7 health, safety, welfare or the environment from a release of a regulated substance. "*Corrective*  
8 *action*" includes but is not limited to:

9 (a) The prevention, elimination, removal, abatement, control, investigation, assessment,  
10 evaluation or monitoring of a hazard or potential hazard or threat, including migration of a  
11 regulated substance; or

12 (b) Transportation, storage, treatment or disposal of a regulated substance or contaminated  
13 material from a site.

14 (13) "*Corrosion expert*" means a person who, by reason of thorough knowledge of the  
15 physical sciences and the principles of engineering and mathematics acquired by a professional  
16 education and related practical experience, is qualified to engage in the practice of corrosion  
17 control on buried or submerged underground metal piping systems and metal tanks. Corrosion  
18 experts must be accredited or certified by NACE (National Association of Corrosion Engineers)  
19 and licensed by the department under OAR chapter 340, division 160.

20 (14) "*Decommission*" means temporary or permanent closure, including temporary or  
21 permanent removal from operation, filling in-place, removal from the ground or change-in-  
22 service to a nonregulated status.

23 (15) "*Deferred*" means an UST system that may be subject to state or federal regulation at  
24 some point in the future.

25 (16) "*De minimis*" means an insignificant amount of regulated substance (e.g., meets the  
26 definition of "*empty*") or is less than a reportable quantity as defined under CERCLA.

27 (17) "*Department*" means the Oregon Department of Environmental Quality.

28 (18) "*Dielectric material*" means a material that does not conduct direct electrical current.  
29 Dielectric coatings are used to electrically isolate an UST system from the surrounding soils.  
30 Dielectric bushings are used to electrically isolate portions of an UST system (e.g., the tank from  
31 underground piping).

32 (19) "*Dispenser*" means a device that is used for the delivery of a regulated substance from  
33 an UST (e.g., fuel from an UST to a motor vehicle). The term includes associated metering,  
34 delivery mechanisms and other equipment contained inside a housing unit for the dispenser.

35 (20) "*Distributor*" means a person who is engaged in the business of selling regulated  
36 substances to an owner or permittee of an UST.

37 (21) "*Earthen Materials*" means materials originating from the earth (including, but not  
38 limited to, dirt, sand, gravel and rocks) or any other materials (including, but not limited to,  
39 wood) that have the potential to cause corrosion when placed in contact with a tank.

40 (22) "*Electrical equipment*" means equipment that is located beneath the surface of the  
41 ground surface or otherwise covered by earthen materials and contains dielectric fluid that is  
42 necessary for the operation of equipment such as transformers and buried electrical cable.

43 (23) "*Emergency generator*" means an engine that uses fuel (regulated substance) to  
44 produce auxiliary electrical or mechanical energy for use in emergencies.

45 (24) "*Empty*" means that all materials have been removed using commonly employed  
46 practices so that no more than one inch (2.5 centimeters) of residue or 0.3 percent by weight of  
47 the total capacity of the tank remain in the UST system.

1 (245) "Excavation zone" means an area containing an UST system and backfill material  
2 bounded by the ground surface, walls and floor of the pit and trenches into which the UST  
3 system is placed at the time of installation.

4 (256) "Farm tank" means a tank located on a tract of land devoted to the production of crops  
5 or raising animals, including fish and associated residences and improvements. A farm tank must  
6 be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with  
7 growing operations.

8 (267) "Fee" means a fixed charge or service charge.

9 (278) "Field constructed tank" means an UST that is constructed at the location it will be  
10 installed rather than factory-built.

11 (289) "Field penalty" means a civil penalty amount assessed in a field citation.

12 (2930) "Flow-through process tank" means a tank that forms an integral part of a production  
13 process through which there is a steady, variable, recurring or intermittent flow of materials  
14 during the operation of the process. Flow-through process tanks do not include tanks used for the  
15 storage of materials before their introduction into the production process or for the storage of  
16 finished products or by-products from the production process.

17 (301) "Free product" means a regulated substance that is present as a nonaqueous phase  
18 liquid (e.g., liquid not dissolved in water).

19 (312) "Gathering lines" means any pipeline, equipment, facility or building used in the  
20 transportation of oil or gas during oil or gas production or gathering operations.

21 (323) "General permit" means a permit issued for a category of UST activities (e.g.,  
22 installing, decommissioning or operating an UST) in lieu of individual permits developed for  
23 each UST facility.

24 (334) "Hazardous substance UST system" means an UST system that contains a hazardous  
25 substance defined in section 101(14) of CERCLA or any mixture of such substances and  
26 petroleum and which is not a petroleum UST system (but not including any substance regulated  
27 as a hazardous waste under Subtitle C of the SWDA).

28 (345) "Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--  
29 light, No. 5--heavy and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy  
30 Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel  
31 oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

32 (356) "Heating oil tank" means a tank used for storing heating oil for consumptive use on the  
33 premises where stored (i.e., the tank is located on the same property where the stored heating oil  
34 is used).

35 (367) "Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop  
36 mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators and other  
37 similar devices.

38 (378) "Install" or "installation" means the physical construction of an UST system,  
39 including, but not limited to, activities such as excavating, backfilling, testing, placement of the  
40 tank, underground piping, release detection devices, corrosion protection systems, spill and  
41 overfill devices and any associated administrative activities such as notifications, record keeping  
42 and record submissions.

43 (389) "Interstitial" means the space between the primary and secondary containment systems  
44 (i.e., the space between the inner and outer walls of a tank or pipe).

45 (3940) "Investigation" means monitoring, surveying, testing, sampling, analyzing or other  
46 information gathering techniques.

47 (401) "Leak" has the same meaning as "release" as defined by OAR 340-150-0010(63).



1 (412) "*Liquid traps*" means sumps, well cellars and other traps used in association with oil  
2 and gas production, gathering and extraction operations (including gas production plants), for the  
3 purpose of collecting oil, water and other liquids. These liquid traps may temporarily collect  
4 liquids for subsequent disposition or reinjection into a production or pipeline stream or may  
5 collect and separate liquids from a gas stream.

6 (423) "*Maintenance*" means the normal operational upkeep to prevent an UST system from  
7 releasing a regulated substance or to ensure that a release is detected.

8 (434) "*Modification*" means to change an UST system currently in use by the installation of  
9 new UST system components. This includes, but is not limited to, the addition of corrosion  
10 protection to a previously lined tank, installation of new underground piping or replacement of  
11 existing underground piping, changing the primary release detection method to one of the  
12 methods listed in OAR 340-150-0450 through 340-150-0470 or adding secondary containment.  
13 "*Modification*" does not include those activities defined as "*repair*" or "*replacement*".

14 (445) "*Motor fuel*" means petroleum or a petroleum based substance that is motor gasoline,  
15 aviation gasoline, No. 1 or No. 2 diesel fuel or any grade of gasohol and is typically used in the  
16 operation of a motor engine.

17 (456) "*Multichamber*" or "*multicompartment*" means an UST that contains two or more  
18 chambers or compartments created by the presence of an interior wall so that two or more  
19 regulated substances can be stored at the same time within a single tank shell. Even if the same  
20 regulated substance is stored in all chambers or compartments, the UST is a multichambered or  
21 multicompartimented UST for the purpose of these rules.

22 (467) "*Native soil*" means the soil outside of the immediate boundaries of the pit that was  
23 originally excavated for the purpose of installing an UST.

24 (478) "*OAR*" means Oregon Administrative Rule.

25 (489) "*Operate*" or "*operation*" means depositing a regulated substance into an UST, storing  
26 a regulated substance in or dispensing a regulated substance from an UST and such other  
27 activities, including, but not limited to, performing release detection, maintaining corrosion  
28 protection, preventing spills and overfills, investigating and confirming suspected releases,  
29 conducting maintenance, additions, modifications, replacements and repairs of equipment,  
30 maintaining a financial responsibility mechanism and keeping and submitting records on the  
31 UST and underground pipings' performance.

32 (4950) "*Operational life*" means the period beginning when installation of the UST system  
33 has commenced until the time the UST system is permanently closed.

34 (501) "*ORS*" means Oregon Revised Statute.

35 (512) "*Owner*" means a person who currently owns an UST or owned an UST during the  
36 tank's operational life, including:

37 (a) In the case of an UST system in use on November 8, 1984, or brought into use after that  
38 date, any person who owns an UST system used for storage, use or dispensing of regulated  
39 substances; and

40 (b) In the case of an UST system in use before November 8, 1984, but no longer in use on  
41 that date, any person who owned such UST immediately before the discontinuation of its use.

42 (523) "*Permittee*" means the owner or person designated by the owner, who is in control of  
43 or has responsibility for daily UST system operation and maintenance, financial responsibility  
44 and UST operator training requirements under a general permit pursuant to OAR 340-150-0160  
45 through 340-150-0168.

1 (534) "Person" means an individual, trust, firm, joint stock company, corporation,  
2 partnership, joint venture, consortium, association, state, municipality, commission, political  
3 subdivision of a state or any interstate body, any commercial entity or the federal government or  
4 any agency of the federal government.

5 (545) "Petroleum" or "oil" means gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil  
6 sludge, oil refuse and crude oil fractions and refined petroleum fractions, including gasoline,  
7 kerosene, heating oils, diesel fuels and any other petroleum-related product or waste or fraction  
8 thereof that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per  
9 square inch absolute. "Petroleum" does not include any substance identified as a hazardous  
10 waste under 40 CFR Part 261.

11 (556) "Petroleum UST system" means an UST system that contains petroleum or a mixture of  
12 petroleum with de minimis quantities of other regulated substances. Such systems include those  
13 containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum  
14 solvents and used oils.

15 (567) "Pipe" or "piping" means a hollow cylinder or tubular conduit that is constructed of  
16 nonearthen materials.

17 (578) "Pipeline facilities" (including gathering lines) means new and existing pipe rights-of-  
18 way and any associated equipment, facilities or buildings.

19 (589) "Probability of detection" means the likelihood, expressed as a percentage, that a test  
20 method will correctly identify a release from an UST system.

21 (5960) "Probability of false alarm" means the likelihood, expressed as a percentage, that a  
22 test method will incorrectly identify an UST system as leaking when a release is not occurring.

23 (601) "Property owner" means the legal owner of the real property on which an UST is  
24 located.

25 (612) "Registration certificate" means a document issued by the department that authorizes a  
26 person to install, operate or decommission an UST system under a general permit pursuant to  
27 OAR 340-150-0160 through 340-150-0168.

28 (623) "Regulated substance" includes, but is not limited to:

29 (a) Any substance defined in section 101(14) of the Comprehensive Environmental  
30 Response, Compensation and Liability Act (CERCLA) of 1980 (but not including any substance  
31 regulated as a hazardous waste under Subtitle C of the SWDA);

32 (b) Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions  
33 of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute);  
34 and

35 (c) Petroleum based substances comprised of a complex blend of hydrocarbons derived from  
36 crude oil through processes of separation, conversion, upgrading and finishing, such as motor  
37 fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.

38 (634) "Release" means the discharge, deposit, injection, dumping, spilling, emitting, leaking  
39 or placing of a regulated substance from an UST into the air or into or on land or the waters of  
40 the state, other than as authorized by a permit issued under state or federal law.

41 (645) "Release detection" or "leak detection" means determining whether a release of a  
42 regulated substance has occurred from the UST system into the environment, into the interstitial  
43 space between the UST system and its secondary barrier or into a secondary containment unit or  
44 sump around the UST.

45 (656) "Repair" means to restore any portion of an UST system that has failed, but does not  
46 include the activities defined by "modification" or "replacement".

1 (667) "Replacement" means to effect a change in any part of an UST system by exchanging  
2 one unit for a like or similar unit, but does not include activities defined as "repair" or  
3 "modification".

4 (678) "Residential tank" means a tank located on property used primarily for single family  
5 dwelling purposes.

6 (689) "Septic tank" means a watertight covered receptacle designed to receive or process,  
7 through liquid separation or biological digestion, the sewage discharged from a building sewer.  
8 The effluent from such receptacle is distributed for disposal through the soil and settled solids  
9 and scum from the tank are pumped out periodically and hauled to a treatment facility.

10 (6970) "Service provider" means a person licensed by the department to offer to perform or  
11 perform UST services on USTs regulated under OAR chapter 340, division 150.

12 (701) "Storm water" or "wastewater collection system" means piping, pumps, conduits and  
13 any other equipment necessary to collect and transport the flow of surface water run off resulting  
14 from precipitation or domestic, commercial or industrial wastewater to and from retention areas  
15 or any areas where treatment is designated to occur. The collection of storm water and  
16 wastewater does not include treatment except where incidental to conveyance.

17 (712) "Supervisor" means an individual licensed by the department to direct and oversee  
18 specific UST services.

19 (723) "Surface impoundment" means a natural topographic depression, human-made  
20 excavation or diked area formed primarily of earthen materials (although it may be lined with  
21 human-made materials) that is not an injection well.

22 (734) "Suspected release" has the same meaning as described in OAR 340-150-0500.

23 (745) "Tank" means a stationary device designed to contain an accumulation of regulated  
24 substances and is constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide  
25 structural support.

26 (756) "Tank tightness testing" means a method used to determine if an UST is leaking and is  
27 used to supplement another release detection method (such as inventory control or manual tank  
28 gauging) and to verify a suspected release when another method indicates a failure.

29 (767) "Temporary closure" means a halt in operation activities of an UST system for a  
30 limited time where the UST system will be brought back into operation or permanently  
31 decommissioned at some future date. For example, an UST may be temporarily closed due to  
32 corrective action activities on site, abandonment by the owner and permittee, bankruptcy  
33 proceedings, failure to maintain a financial responsibility mechanism, sale in progress or for any  
34 other reason that a permittee may choose to stop operating the UST. The term applies to an UST  
35 system that meets the definition of "temporary closure" whether or not the department has issued  
36 a registration certificate for this activity to the owner and permittee.

37 (778) "Testing" means applying a method to determine the integrity or operational status of  
38 any part of an UST system.

39 (789) "Third party evaluation" means an evaluation of a method or system including, but not  
40 limited to, a release detection system or tank integrity assessment method that is conducted by an  
41 independent organization. The evaluation includes certification that the method evaluated will  
42 operate as designed and includes information about any limitations of the method. As used in this  
43 definition, "independent" means that the organization that conducted the evaluation may not be  
44 owned, controlled by or associated with any client, industry organization or any other institution  
45 with a financial interest in the method or system evaluated.

1 (7980) “Underground area” means an underground room, such as a basement, cellar, shaft or  
2 vault that provides enough space for physical inspection of the exterior of the tank situated on or  
3 above the surface of the floor.

4 (801) “Underground piping” means connected piping that is located beneath the ~~surface of~~  
5 ~~the ground surface or otherwise covered by earthen materials.~~

6 (812) “Underground storage tank” or “UST” means any one or combination of tanks  
7 (including connected underground pipes) that ~~is used to contains or used to contain~~ an  
8 ~~accumulation of a regulated substances~~ and the volume of which (including the volume of  
9 connected underground pipes) is 10 percent or more beneath the ~~surface of the ground surface or~~  
10 ~~otherwise covered by earthen materials.~~

11 (823) “UST facility” means the real property on which an UST is installed or will be  
12 installed. An UST facility encompasses all contiguous real property owned by the same property  
13 owner that is associated with the operation of the UST system.

14 (834) “UST services” includes without limitation, installation, decommissioning,  
15 modification, testing (e.g., cathodic protection and tank tightness) and inspection of UST  
16 systems.

17 (845) “UST system” means an underground storage tank, underground piping, underground  
18 ancillary equipment and containment system, if any.

19 (856) “UST system operator” means the individual designated by the owner and permittee as  
20 having control of or responsibility for the operation of an UST system, including the on-site  
21 operation and maintenance of the system in a manner to ensure that the UST system is in  
22 compliance with applicable state and federal regulations and industry standards.

23 (867) “Wastewater treatment tank” means a tank that is designed to receive and treat influent  
24 wastewater through physical, chemical or biological methods.

25  
26 [Publications: Publications referenced are available from the agency.]

27  
28 Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

29 Stats. Implemented: ORS 466.706, ORS 466.746

30 Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 21-  
31 1989(Temp), f. & cert. ef. 9-18-89; DEQ 10-1990, f. & cert. ef. 3-13-90; DEQ 20-1990, f. &  
32 cert. ef. 6-7-90; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03; DEQ  
33 6-2003, f. & cert. ef. 2-14-03; DEQ 6-2003, f. & cert. ef. 2-14-03

## **Attachment B**

### **Summary of Public Comment and Agency Response**

**Title of Rulemaking: Underground Storage Tank Rule Revision**

**Prepared by: Mitch Scheel**

**Date: September 18, 2003**

The public comment period opened on July 17, 2003 and closed at 5:00 PM on August 18, 2003. DEQ held a public hearing at 2:00 PM on August 15, 2003 at DEQ Headquarters, 811 SW 6<sup>th</sup> Avenue, Room 3A in Portland. Three people attended the hearing. No one provided oral or written testimony at the hearing or submitted written comments during the comment period.

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

**Memorandum**

Date: September 18, 2003

To: Environmental Quality Commission

From: Stephanie Holmes, Land Quality Division – Environmental Cleanup & Tanks

Subject: Presiding Officer's Report for Rulemaking Hearing – Attachment C  
Title of Proposal: Underground Storage Tank Rule Revision  
Hearing Date and Time: August 15, 2003 at 2:00 PM  
Hearing Location: DEQ Headquarters, 811 SW 6<sup>th</sup> Avenue, Room 3A, Portland

The Department convened the rulemaking hearing on the proposal referenced above at 2:05 PM and closed it at 2:25 PM. Three people were asked to sign registration forms if they wished to present comments. People were also advised that the hearing was being recorded.

Three people attended the hearing; no one testified.

Mitch Scheel briefly explained the rulemaking proposal and Stephanie Holmes described the procedures for the hearing.

No written or oral comments were received at the hearing.

## Attachment D

### Relationship to Federal Requirements

#### Underground Storage Tank Rule Revision

Answers to the following questions identify how the proposed rulemaking relates to federal requirements and potential justification for differing from federal requirements. The questions are required by OAR 340-011-0029.

**1. Are there federal requirements that are applicable to this situation? If so, exactly what are they?**

The federal definition of an underground storage tank (UST) is listed in 40 CFR 280.12.

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

UST requirements are predominantly 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, the proposed rule revisions make the Department's rules consistent with EPA rules. This is important as Oregon seeks federal authorization of the UST Program.

**4. Will the proposed requirement improve the ability of the regulated community to comply in a more cost effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later?**

Yes. The proposed rule revision clarifies the definition of an UST so that the regulatory status of certain USTs is clear to the Department and the regulated community.

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

No.

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

Not applicable.

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

Yes.

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

No.

**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?**

Yes. The proposed rule revision will prevent certain tank owners (i.e., owners of tanks not completely buried beneath the surface of the ground) from inadvertently or deliberately avoiding pollution prevention and cleanup measures contained in Oregon UST regulations. Such tanks, if not maintained in accordance with UST regulations, could potentially leak into the subsurface without detection, ultimately causing extensive environmental damage.



## Attachment E

### Statement of Need and Fiscal and Economic Impact

#### Underground Storage Tank Rule Revision

**Title of Proposed Rulemaking:**

UST Rule Revision – OAR Chapter 340, Division 150

**Need for the Rule**

On January 30, 2003, the Environmental Quality Commission (Commission) heard an appeal of an enforcement case concerning a tank that was placed on the ground surface and partially covered with soil and pea gravel. The Commission upheld the Hearing Officer's decision that the definition of an "underground storage tank" (UST) was ambiguous as to whether the type of tank addressed in that case would be considered an "UST" under the Department's rules. The Commission's decision raised questions about the clarity of the definition of an "UST" and about whether certain tanks partially covered by "earthen materials" are "USTs" for purposes of the Department's rules. Revisions to OAR 340-150-0010 are necessary to make Oregon regulations consistent with federal regulations for USTs.

A permanent rule is necessary to replace a temporary UST rule the Commission adopted at its May 8, 2003 meeting amending the definition of an "UST" OAR 340-150-0010. The temporary rule expires on November 14, 2003.

The proposed permanent rule clarifies the definition of an "UST" and is necessary to ensure protection of public health and the environment from UST releases.

**Documents Relied Upon for Rulemaking**

40 CFR 280.12; and  
Federal Register Vol. 53, No. 185, Friday, September 23, 1988  
(These documents are listed in Attachment E of this package)

**Fiscal and Economic Impact**

**Overview**

There is no economic impact expected since the proposed rule revisions only clarify the definition of an UST. The proposed definition is consistent with how the Department and the Environmental Protection Agency (EPA) have always viewed a regulated tank.

**General public**

There is no economic impact to the general public since the proposed rule revisions only clarify the definition of an UST. The proposed definition is consistent with how the Department and EPA have always viewed a regulated tank.

**Small Business**

There is no economic impact on small business since the proposed rule revisions only clarify the definition of an UST. The proposed definition is consistent with how the Department and EPA have always viewed a regulated tank.

**Large Business** There is no economic impact on large business since the proposed rule revisions only clarify the definition of an UST. The proposed definition is consistent with how the Department and EPA have always viewed a regulated tank.

**Local Government** There is no economic impact on local government since the proposed rule revisions only clarify the definition of an UST. The proposed definition is consistent with how the Department and EPA have always viewed a regulated tank.

**State Agencies**  
**DEQ** The proposed revisions will not increase costs for the Department to implement the UST Program.

**Other agencies** There is no economic impact on other agencies since the proposed rule revisions only clarify the definition of an UST. The proposed definition is consistent with how the Department and EPA have always viewed a regulated tank.

**Assumptions** No assumptions were made, as there is no economic impact anticipated as a result of the proposed rule revisions.

**Housing Costs** 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.

**Administrative Rule Advisory Committee** Since the proposed rule revision only clarifies the definition of an UST, no formal advisory committee was convened. An advisory committee which the Department used to develop previous rule revisions was asked to provide comment on the proposed rule revisions.

<< as signed >>  
 Prepared by

Mitch Scheel, Rule Writer  
 Printed name

7/14/03  
 Date

<< as signed >>  
 Approved by DEQ Budget Office

Jim Roys, Budget Manager  
 Printed name

7/14/03  
 Date

**Attachment F**  
**Land Use Evaluation Statement**  
**Underground Storage Tank Rule Revision**

**1. Explain the purpose of the proposed rules.**

This proposal would amend rules regarding requirements for underground storage tanks (UST) found in OAR Chapter 340, Division 150. The proposed rule amendments would:

- Amend the definition of an UST and related terms to clarify when tanks and related equipment are subject to regulation as “USTs”.
- Add a definition for “earthen materials” to clarify the definition of an “UST” and related equipment subject to regulation.
- Replace temporary rules with permanent rules.
- 

Note that these proposed rule amendments pertain to regulated USTs and do not include heating oil tanks.

**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?    ✓ No**

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

The permit requirements for installation, operation and decommissioning of USTs have not previously been identified as a program affecting land use. The proposed amendments to the UST rules are not actions that would cause the Department to change its determination regarding land use.

**3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.**

Not applicable.

**Approved:**

          << as signed >>            
Dick Pedersen  
Administrator  
Land Quality Division

          << as signed >>            
Roberta Young  
Intergovernmental Coordinator

8/15/02  
Date



# Oregon

Theodore R. Kulongoski, Governor

Department of Environmental Quality

811 SW Sixth Avenue  
Portland, OR 97204-1390  
503-229-5696  
TTY 503-229-6993

August 21, 2003

Washington County Recording  
155 N 1<sup>st</sup> Ave  
Hillsboro OR 97124

Re: Satisfaction of Judgment  
In the Matter of:  
Dwight B. Estby and Tri-County Petroleum Inc.  
AQ/VR-NWR-01-226

Enclosed for filing is a notarized Satisfaction of Judgment for the above-referenced case as the Department of Environmental Quality has received satisfactory payment of its judgment against Dwight B. Estby and Tri-County Petroleum Inc.

If there is a recording fee, pursuant to ORS 205.395, please send me an invoice along with the recording reference information. The Department will then send you a check for the fee. If you have questions, please call me at (503) 229-5430 in Portland.

Sincerely,

Deborah Nesbit  
Administrative Assistant  
Office of Compliance and Enforcement

(GC.17 05/20/01)

cc: Business Office, DEQ  
AQ, HQ, DEQ  
Kevin McCrann, NWR, DEQ  
Dwight B. Estby and Tri-County Petroleum Inc.

RECEIVED  
AUG 22 2003

AIR QUALITY DIVISION  
Dept. Environmental Quality



# Oregon

Theodore R. Kulongoski, Governor

Department of Environmental Quality

811 SW Sixth Avenue

Portland, OR 97204-1390

503-229-5696

TTY 503-229-6993

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF:  
DWIGHT B. ESTBY AND  
TRI-COUNTY PETROLEUM INC.,

Respondent.

)  
) SATISFACTION OF  
) JUDGMENT  
) CASE NO. AQ/VR-NWR-01-226  
)

Judgment in the amount of \$4,807 was rendered by the Environmental Quality Commission of the State of Oregon in favor of the Department of Environmental Quality and against Respondents, Dwight B. Estby and Tri-County Petroleum Inc., on the 3rd day of December, 2002. That Judgment was recorded in the County Clerk Lien Record of Washington County on December 23, 2002, instrument number 2002-157214.

I hereby acknowledge satisfaction of that Judgment and I authorize the Clerk of that Court to enter a satisfaction of record of that Judgment.

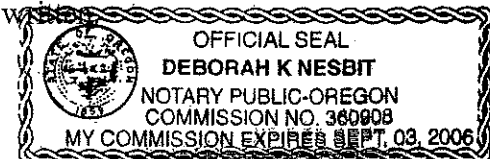
Anne R. Price  
Anne R. Price, Administrator  
Office of Compliance and Enforcement  
Department of Environmental Quality

8/21/03  
Date

STATE OF OREGON )  
COUNTY OF MULTNOMAH ) ss.

On this 21<sup>st</sup> day of August, 2003, before me, the undersigned officer, personally appeared within named Anne R. Price, who is known to me to be the identical person described in and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal the day and year last above



Deborah K. Nesbit  
Notary Public for Oregon  
My Commission Expires 9/3/06

Return to: Department of Environmental Quality, Office of Compliance and Enforcement, 811 SW 6<sup>th</sup> Avenue, Portland, OR 97204-1390



# Oregon

Theodore R. Kulongoski, Governor

## Department of Environmental Quality

811 SW Sixth Avenue  
Portland, OR 97204-1390  
503-229-5696  
TTY 503-229-6993

August 21, 2003

Yamhill County Clerk  
535 NE 5<sup>th</sup> St Rm 119  
McMinnville OR 97128-4593

Re: Satisfaction of Judgment  
In the Matter of:  
Dwight B. Estby and Tri-County Petroleum Inc.  
AQ/VR-NWR-01-226

Enclosed for filing is a notarized Satisfaction of Judgment for the above-referenced case as the Department of Environmental Quality has received satisfactory payment of its judgment against Dwight B. Estby and Tri-County Petroleum Inc.

If there is a recording fee, pursuant to ORS 205.395, please send me an invoice along with the recording reference information. The Department will then send you a check for the fee. If you have questions, please call me at (503) 229-5430 in Portland.

Sincerely,

Deborah Nesbit  
Administrative Assistant  
Office of Compliance and Enforcement

(GC.17 05/20/01)

cc: Business Office, DEQ  
AQ, HQ, DEQ  
Kevin McCrann, NWR, DEQ  
Dwight B. Estby and Tri-County Petroleum Inc.

RECEIVED  
AUG 22 2003  
AIR QUALITY DIVISION  
Dept. Environmental Quality



Note: This version of the proposed rules shows in redline/strikeout the changes made to the last draft offered for public comment in May 2003. When submitted to the Secretary of State the entire rule will be underlined, because it is all new language.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### PROPOSED DIVISION 246

#### OREGON STATE AIR TOXICS PROGRAM

##### 340-246-0010

###### Policy and Purpose

The purpose of Oregon's state air toxics program is to address threats to public health and the environment from toxic air pollutants that remain after implementing the state delegated technology-based strategies of the federal air toxics program. Oregon's program meets the goals of the federal Urban Air Toxics Strategy by using a community-based effort that focuses on geographic areas of concern. It also addresses cases of elevated health risks from unregulated air toxics emissions at stationary sources and source categories of air toxics emissions.

##### 340-246-0030

###### Definitions

The definitions in OAR 340-200-0020, 340-218-0030, 340-244-0030 and this rule apply to this division. If the same term is defined in this division and elsewhere, the definition in this division applies. ~~to this division.~~

- (1) "Air toxics" means those pollutants known or suspected to cause cancer or other serious health effects, including but not limited to "hazardous air pollutants" or "HAPs" listed by the EPA pursuant to section 112(b) of the Federal Clean Air Act.
- (2) "Ambient benchmark" means the concentration of an air toxic in outdoor air that would result in an excess lifetime cancer risk level of one in a million ( $1 \times 10^{-6}$ ) or a non-cancer hazard quotient of one.
- (3) "Bio-accumulation" means the net accumulation of a substance by an organism as a result of uptake from all routes of exposure (e.g., ingestion of food, intake of drinking water, direct contact, or inhalation).
- (4) "Geographic area" means an area identified by the Department where air toxics concentrations are estimated or measured at levels that exceed ambient benchmark concentrations.
- (5) "Hazard quotient" means the ratio of the potential exposure to a single air toxic to the reference concentration for that pollutant. If the hazard quotient is calculated to be less than or equal to 1, then no adverse health effects are expected as a result of exposure. If the hazard quotient is greater than 1, then adverse health effects are possible.



(6) "High priority geographic area" means an area identified by the Department where air toxics concentrations are estimated or measured at levels that exceed ambient benchmark concentrations and pose excess cancer risk above ten in a million, or non-cancer risk above a hazard quotient of one with the potential for serious adverse health effects.

(7) "Public receptor" means any outdoor area where members of the public have unrestricted access, including but not limited to residences, institutions (e.g. schools, hospitals), industrial, commercial, or office buildings, parks, recreational areas, public lands, streets or sidewalks.

(8) "Reference concentration" means an estimate of a continuous exposure or a daily exposure to the human population (including sensitive populations) that is likely to be without an appreciable risk of adverse non-cancer effects during a lifetime. The reference concentration can be derived from various types of human or animal data, with uncertainty factors generally applied to reflect limitations of the data used.

(9) "Sensitive human populations" means humans with increased susceptibility to the adverse effects of air toxics, including humans in prenatal or postnatal periods of development.

(10) "Source" means

(a) an activity conducted by a person at a point, area, on-road mobile, or off-road mobile operation that emits air toxics; or

(b) any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all pollutant emitting activities that belong to a single major industrial group (i.e., that have the same two-digit code) as described in the **Standard Industrial Classification Manual**, (U.S. Office of Management and Budget, 1987) or that support the major industrial group.

(11) "Source Category" means

(a) a source or group of sources that emit air toxics due to the use of the same or similar processes, including commercial, residential, public or private processes, which as a group can reduce air toxics emissions by employing similar control or prevention strategies or;

(b) all the pollutant emitting activities that belong to the same industrial grouping (i.e., that have the same two-digit code) as described in the **Standard Industrial Classification Manual**, (U.S. Office of Management and Budget, 1987).

(12) "Toxics Best Available Retrofit Technology", or "TBART" means an air toxics emissions limitation based on the maximum degree of reduction of air toxics, determined on a case-by-case basis, that is feasible taking into consideration:

(a) what has been achieved in practice for that source category, or for similar processes or emissions;

(b) energy and non-air quality health or environmental impacts; and

(c) economic impacts, including the costs of changing existing processes or equipment or adding equipment or controls to existing processes and equipment.

Such limitation may be based on a design, equipment, work practice or other operational standard, or combination thereof.

### **340-246-0050**

#### **Pollution Prevention**

The Environmental Quality Commission encourages the use of pollution prevention for all sources of air toxics statewide. The Commission encourages use of the following hierarchy to reduce air toxics:

- (1) Modify the process, raw materials, or product to reduce the quantity and toxicity of air contaminants generated;
- (2) Capture and reuse air contaminants;
- (3) Treat to reduce the quantity and toxicity of air contaminants released; or
- (4) Otherwise control air toxics emissions.

### **340-246-0070**

#### **Air Toxics Science Advisory Committee**

(1) Purpose. The Commission recognizes the many scientific uncertainties associated with the effects of air toxics, and the continuing development of new information in this field. An Air Toxics Science Advisory Committee (ATSAC), will advise the Department, and in its jurisdiction, the Lane Regional Air Pollution Authority, on technical issues and evaluation of the state air toxics program. The ATSAC will provide advice on the technical aspects of risk assessment. It will not provide risk management or policy recommendations. The ATSAC will perform the following primary functions:

- (a) Review ambient benchmarks for the state air toxics program;
- (b) Advise the Department on developing a risk assessment methodology to be used in the Safety Net Program in OAR 340-246-0190 (5) and (6);
- (c) Advise the Department on selecting sources for the Safety Net program. The ATSAC will evaluate potential Safety Net sources identified by the Department to determine whether they qualify for the Safety Net Program, as specified in OAR 340-246-0190 through 0230;
- (d) Evaluate overall progress in reducing emissions of and exposure to air toxics by considering trends in emissions and ambient concentrations of air toxics. The ATSAC will periodically advise the Department on air toxics program effectiveness and make technical recommendations for program development concerning the possible adverse environmental effects of air toxics and risk from exposure to multiple air toxics; and
- (e) Provide advisory opinions on questions requiring scientific expertise, as requested by the Department.

(2) Membership. The ATSAC will be composed of highly qualified members with experience relevant to air toxics. There will be at least five but no more than seven members. The following disciplines will be represented on the ATSAC:

- (a) Toxicology;
- (b) Environmental Science or Environmental Engineering;
- (c) Risk Assessment;
- (d) Epidemiology/Biostatistics;
- (e) Medicine (Physician) with training or experience in Public Health; and
- (f) Air Pollution Modeling, Monitoring, Meteorology or Engineering.

(3) Appointment. The Department's Air Quality Division Administrator will nominate potential members to the Director. Before making these nominations, the Administrator will develop a list of candidates by consulting with government, public, and private organizations involved in work relevant to air toxics. The Director will appoint ATSAC members with concurrence by the Commission.

(4) Term. Air Toxics Science Advisory Committee members will serve a three-year term. Initial terms will be staggered for continuity and transfer of work so that members of the first ATSAC may serve more or less than three years.

(5) Operation.

(a) No member may have an actual or potential conflict of interest, as those terms are defined by ORS 244.020.

(b) The ATSAC will meet as necessary.

(6) Procedures, Bylaws, and Decision-making Process. At a minimum, the ATSAC will observe the procedures specified below. The ATSAC will develop other necessary procedures and bylaws in consultation with the Department.

(a) Final decisions must be made by a quorum of members, based on consensus when possible. If consensus is not possible, decisions will be made by majority vote with a quorum present.

(b) If necessary, the Department may obtain a facilitator to assist the ATSAC.

(c) The bylaws will include provisions for removing a member for cause, with concurrence by the Commission.

**340-246-0090**

**Ambient Benchmarks for Air Toxics**

(1) Purpose. Ambient benchmarks are concentrations of air toxics that serve as goals in the Oregon Air Toxics Program. They are based on human health risk and hazard levels considering sensitive populations. Ambient benchmarks are not regulatory standards, but standard reference values by which air toxics problems can be identified, addressed and evaluated. The Department will use ambient benchmarks as indicated in these rules, to implement the Geographic, Source Category, and Safety Net Programs. Ambient benchmarks set by the procedures described in this rule apply throughout Oregon, including that area within the jurisdiction of the Lane Regional Air Pollution Authority. Ambient benchmarks are subject to public notice and comment before adoption by the Commission as administrative rules.

(2) Establishing Ambient Benchmarks

(a) The Department will consult with the ATSAC to prioritize air toxics for ambient benchmark development. Highest priority air toxics are those that pose the greatest risk to public health.

(b) To prioritize air toxics, the Department will apply the criteria described in OAR 340-246-0090(2)(c) to modeling, monitoring, and emissions inventory data.

(c) Ambient benchmark prioritization criteria will include at least the following:

(A) Toxicity or potency of a pollutant;

(B) Exposure and number of people at risk;

(C) Impact on sensitive human populations;

(D) The number and degree of predicted ambient benchmark exceedances; and

(E) Potential to cause harm through persistence and bio-accumulation.

(d) The Department will develop ambient benchmarks for proposal to the ATSAC based upon a protocol that uses reasonable estimates of plausible upper-bound exposures that neither grossly underestimate nor grossly overestimate risks.

~~(e)~~ Within ~~one~~three months of the first meeting of the ATSAC, the Department will propose ambient benchmark concentrations for the highest priority air toxics for review by the ATSAC. The Department will propose additional and revised air toxics ambient benchmarks for review by the ATSAC based on the prioritization criteria in OAR 340-246-0090(2)(c). Once the ATSAC has completed review of each set of proposed ambient benchmarks, the Department will, within 60 days, begin the process to propose ambient benchmarks as administrative rules for adoption by the Environmental Quality Commission.

(fe) If the Department is unable to propose ambient benchmarks to the ATSAC by the deadlines specified in OAR 340-246-0090(2)(e), the ATSAC will review the most current EPA ambient benchmarks. If EPA ambient benchmarks are not available, the ATSAC will review the best available information from other states and local air authorities.

(gf) The ATSAC will consider proposed ambient benchmarks and evaluate their adequacy for meeting risk and hazard levels, considering human health, including sensitive human populations, scientific uncertainties, persistence, bio-accumulation, and, to the extent possible, multiple exposure pathways. The ATSAC will conduct this review consistent with the criteria in OAR 340-246-0090(2)(c) and (d). The ATSAC will report these findings to the Department. If the ATSAC unanimously disagrees with the Department's recommendation, the Department will re-consider and re-submit its recommendation at a later date.

(hg) The ATSAC will complete review of and report findings on each set of ambient benchmarks as expeditiously as possible, but no later than 12 months after the Department has proposed them. If the ATSAC is unable to complete review of ambient benchmarks within 12 months after the Department's proposal, the Department will initiate rulemaking to propose ambient benchmarks.

(ih) The Department will review all ambient benchmarks at least every five years and, if necessary, propose revised or additional ambient benchmarks to the ATSAC. At its discretion, the Department may review and propose a benchmark for review by the ATSAC at any time when new information is available.

#### **340-246-0110**

##### **Source Category Rules and Strategies**

(1) The Department may identify the need for source category rules and strategies through the following methods:

(a) The emissions inventory, modeling or monitoring, shows air toxics emissions from point, area, or mobile sources associated with public health risk at public receptors;

(b) Development of a local air toxics reduction plan ~~Geographic Plan~~ provides source category controls that could be effectively applied to sources existing in other parts of the state; or

(c) When implementing the Safety Net Program, the Department establishes air toxics emissions reductions for a source and determines that there are other similar sources in the state to which the reductions should apply.

(2) Subject to the requirements in this rule, the Lane Regional Air Pollution Authority is designated by the Commission as the agency responsible for implementing Source Category Rules and Strategies within its area of jurisdiction. The requirements and procedures contained in this rule must be used by the Regional Authority to implement Source Category Rules and Strategies unless the Regional Authority adopts superseding rules that are at least as restrictive as the rules adopted by the Commission.

(3) The Department will consider the following criteria in determining whether to propose source category strategies under this division:

(a) Whether air toxics emissions from the source category are not, or will not, be addressed by other regulations or strategies, including emissions reduction requirements under the Geographic Program (OAR 340-246-0130 through 340-246-0170), or the Safety Net Program (OAR 340-246-0190 through 340-246-0230);

(b) Whether air toxic emissions from the source category can be effectively reduced through regulations or voluntary strategies; and

(c) Whether the source category contributes to ambient benchmark exceedances at public receptors statewide, in multiple geographic areas, or in multiple counties.

### 340-246-0130

#### Geographic Program (0130 through 0170)

(1) Purpose. The Geographic Program addresses emissions from multiple sources of air toxics. It requires ~~prioritizing and identifying and selecting~~ geographic areas of concern, forming a local advisory committee, developing a specific local plan to control air toxics, a public participation and comment process, EQC adoption or approval, implementing reduction strategies, and periodically evaluating the effectiveness by the Department. ~~In applying OAR 340-246-0130 through 0170, the Commission does not intend to disproportionately burden any sector of the economy.~~

(2) Subject to the requirements in OAR 340-246-0130 through 170, the Lane Regional Air Pollution Authority is designated by the Commission as the agency to implement the Geographic Program within its area of jurisdiction. The requirements and procedures contained in this rule shall be used by the Regional Authority to implement the Geographic Program unless the Regional Authority adopts superseding rules which are at least as restrictive as state rules. The Regional Authority will address geographic areas as resources allow, considering the prioritization criteria in OAR 340-246-0150.

~~(3) Identifying Geographic Areas. The Department will perform screening analysis to determine which areas of the state exceed ambient benchmark concentrations. In this screening analysis, the Department will use modeling, monitoring and emissions inventory data to predict air toxics concentrations and compare them to the ambient benchmark concentrations at public receptors. To the extent possible, geographic areas will be identified using EPA-approved models or monitoring data generated following EPA monitoring guidelines. After screening, the Department will refine its analysis of air toxics by using existing or additional emission inventory, modeling or monitoring data.~~

~~(4) Identification Timeline for High Priority Geographic Areas. Not later than one year after adoption of the first set of benchmarks, the Department will evaluate air toxics data statewide and complete an initial identification of higher risk geographic areas where air toxic concentrations from individual pollutants pose risk above ten in a million ( $1 \times 10^{-5}$ ) excess cancer risk or a hazard quotient above one with serious adverse health effects for non-carcinogens. Any area that exceeds these risk levels for any air toxics at public receptors will be identified as a High Priority Geographic Area.~~

### 340-246-0150

#### Prioritizing and Selecting Geographic Areas

(1) The Department will prioritize geographic areas by considering the total cancer and non-cancer risk from air toxics to the population in the area, as indicated by:

- (a) The number and degree of ambient benchmark exceedances,
- (b) The toxicity or potency of air toxics exceeding ambient benchmarks,
- (c) The level of exposure and number of people at risk in areas of concern,
- (d) The presence of sensitive populations,
- (e) The effectiveness of local control strategies, and
- (f) To the extent known, the risk posed by multiple pollutants and pollutant mixtures.

(2) Not later than 18 months after the first set of benchmarks is adopted, the Department will select the first geographic area for air toxics reduction planning. The Department will base selection on representative monitoring compared to the ambient benchmark concentrations at public receptors. To the extent possible, geographic areas will be identified using monitoring data generated following EPA monitoring guidelines. Subsequent geographic areas will be

selected after completion of monitoring. A geographic area is formally selected upon publication of a notice in the Oregon Secretary of State's Bulletin. Once an area is selected for air toxics reduction planning, it will retain the status of a selected geographic area until the Department determines through an evaluation of data that a reduction plan is no longer necessary for the area to meet all air toxics ambient benchmarks.

(3) ~~The Department will first select for emissions reduction planning address the all high priority geographic areas, where concentrations of air toxics are more than ten times above the ambient benchmarks or pose risk above ten in a million or above a hazard quotient of one with the potential for serious adverse health effects. The Department will select identify and address all other geographic areas, where air toxics concentrations are above benchmarks, after air toxics emissions reduction plans have been approved for the high priority geographic areas.~~

~~Geographic areas will be prioritized by considering the total cancer and non-cancer risk from air toxics to the population in the area, as indicated by:~~

- ~~(a) The number and degree of ambient benchmark exceedances,~~
- ~~(b) The toxicity or potency of air toxics exceeding ambient benchmarks,~~
- ~~(c) The level of exposure and number of people at risk in areas of concern,~~
- ~~(d) The presence of sensitive populations,~~
- ~~(e) The effectiveness of local control strategies, and~~
- ~~(f) To the extent known, the risk posed by multiple pollutants and pollutant mixtures.~~

(4) **Geographic Area Boundaries.** The Department will establish general geographic area boundaries on a neighborhood or urban area scale. The Department will consider feasibility of administration when setting the boundaries of a geographic area. In setting geographic area boundaries, the Department will consider criteria including but not limited to the following:

- (a) Areas of impact (where people are exposed),
- (b) Population density,
- (c) Areas of influence (where sources are located),
- (d) Meteorology,
- (e) Geography and topography,
- (f) Including all air toxics exceeding ambient benchmarks, and
- (g) Coordination with criteria pollutant boundaries for attainment of the National Ambient Air Quality Standards (NAAQS).

~~(2) The Department will prioritize Geographic Areas for air toxics reduction planning. Not later than 18 months after the first set of benchmarks is adopted, the Department will select the first Geographic Area for air toxics reduction planning. Subsequent Geographic Areas will be selected as resources allow. Once an area is selected for air toxics reduction planning, it will retain the status of a selected Geographic Area until evaluation of data shows that a reduction plan is no longer necessary for the area to meet all air toxics ambient benchmarks.~~

### **340-246-0170**

#### **Local Air Toxics Emissions Reduction Planning**

(1) The Department will develop air toxics reduction plans for selected geographic areas with the advice of local advisory committees. The main role of a local advisory committee is to consider air toxics reduction options and to recommend a specific air toxics reduction plan for their geographic area. ~~After selecting a Geographic Area, t~~The Director will appoint a local air toxics advisory committee.

(a) Local advisory committees will generally be composed of a balanced representation of members from affected local government, local health departments, the public, small businesses

(50 or fewer employees), larger businesses (if present in the area), and interest groups represented in the area.

(2) Local Advisory Committee Tasks.

- (a) Within 18 months of ~~their first meeting-being-convened~~, the committee will evaluate options for reducing emissions of air toxics that exceed ambient benchmarks, and recommend a local air toxics reduction plan to the Department.
- (b) The Department may grant an extension of time to the local committee if requested by the committee, if the Department believes the extension is technically justified and the committee is making reasonable progress in developing a local air toxics reduction plan.
- (c) If the committee is unable to recommend a local air toxics reduction plan to the Department within 18 months, or the date of an extension, the Department will formulate a plan for the area within six months.
- (d) The Department and the local advisory committee will seek local government support for the proposed local air toxics emissions reduction plan.
- (e) The local advisory committee will evaluate the plan's effectiveness as it is implemented and recommend changes to the Department.
- (f) At the Department's request, the local advisory committee will re-convene to implement contingency planning and recommend contingency measures as specified by OAR 340-246-0170(4)(1).
- (g) If the committee is unable to recommend contingency measures within 18 months, the Department will formulate contingency measures for the area within 6 months.

(3) Public Notice, Comment, Approval and Adoption by the Environmental Quality Commission. The Department will provide an opportunity for public notice and comment on proposed local emissions reduction plans. After the public notice and comment process is complete, the Department will present local air toxics reduction plans to the Commission for approval, including adoption of appropriate administrative rules. The Environmental Quality Commission may delegate the approval of plans that do not contain administrative rules to the Director of the Department.

(4) Elements of an Air Toxics Reduction Plan

- (a) Local air toxics reduction plans must focus on the air toxic or air toxics measured or modeled above the ambient benchmarks.
- (b) Local air toxics reduction plans must be based on sound data analysis. This includes developing enhanced emissions inventory information for the local area using source-specific information to the extent possible. This may also include enhanced modeling and monitoring to better characterize ambient concentrations. Plans also must rely on sound analysis of the effectiveness and cost of air toxics emissions reduction options. Where needed to fill specific information gaps, the Department may require air toxics emissions reporting for specific sources or source categories within the geographic area on a case-by-case basis.
- (c) The emissions reduction goals for individual air toxics are ambient benchmarks in local air toxics reduction plans.
- (d) Local air toxics reduction plans must be designed to reduce air toxics emissions in a timely manner.
- (A) When feasible, local air toxics reduction plans will be designed to reach ~~risk and hazard~~ levels that are equal to or below ambient benchmark concentrations. Plans will be designed to achieve emissions reductions within ten years, beginning at the date the Commission approves the plan. Local plans must provide for the timeliest reductions possible for each air toxic exceeding ambient benchmarks.

(B) Local air toxics reduction plans must include specific three-year milestones that the Department and the local advisory committee will evaluate every three years, in coordination with the Department's air toxics emissions inventory update.

(e) Every three years, the Department will assess the effectiveness of local plans and make recommendations for plan revision based on progress meeting milestones or new information. If the Department finds lack of progress at year three, it will work with the local advisory committee to provide corrective measures. If the Department finds lack of progress at year six and projects that ten-year goals in OAR 340-246-0170(4)(d)(A) will not be met, it will implement the contingency plan in OAR 340-246-0170(4)(l). If at year nine the Department projects that ten year goals in OAR 340-246-0170(4)(d)(A) will not be met, it will work with the local advisory committee to propose and seek adoption of measures necessary to reach these goals.

(f) Local air toxics reduction plans must evaluate air toxics emissions from all types of sources, including point, area, and mobile sources. Plans must require emissions reductions from the most significant sources of air toxics. Mandatory emissions reduction strategies will be commensurate with source contributions. ~~and impose requirements among source categories,~~ considering relative emissions, toxicity, technical feasibility, and cost-effectiveness and equity.

(g) Local air toxics reduction plans must include strategies to reduce high concentrations of air toxics that are limited to smaller portions of a geographic area as well as pollutants causing public health risk throughout the area.

(h) Local air toxics reduction plans may include a variety of mandatory and voluntary approaches to reducing emissions of air toxics. Depending on the type of source, local air toxics reduction plans may include public education, pollution prevention alternatives, economic incentives and disincentives, technical assistance and regulatory requirements.

(i) The Department will ensure the opportunity for public involvement during the plan development process. This includes involving those affected by the air toxics emissions and those affected by the proposals to reduce air toxics emissions. Proposed local air toxics reduction plans must be available for public hearing and comment.

(j) Local air toxics reduction plans must be coordinated with other local, state, and federal requirements to the extent possible. This includes considerations of any ozone or particulate control requirements for the area, any federal standard applicable to sources in the area, any strategies that are federally pre-empted, and any impacts on water or land, such as water pollution or hazardous waste.

(k) Local air toxics reduction plans will include specific recommendations for developing ongoing emissions inventory or ambient air monitoring to track local trends in air toxics.

(l) Local air toxics reduction plans must include a contingency plan that will be implemented if evaluation at year six shows that an area is not meeting milestones and will not achieve the ten year goals established under OAR 340-246-0170(4)(d)(A). The contingency plan, like the original plan, must require emissions reductions from the most significant sources of air toxics. ~~and impose requirements among source categories,~~ Mandatory emissions reduction strategies will be commensurate with source contributions, considering relative emissions, toxicity, technical feasibility ~~and cost-effectiveness~~ and equity. Contingency plans must include but are not limited to:

(i) Re-evaluation of planning assumptions, such as emissions factors, motor vehicle data and background pollutants;

(ii) Evaluation of existing conditions and effectiveness of emissions reduction strategies, including reasons for success or failure; and

(iii) New or progressively more mandatory strategies that will be considered.



### 340-246-0190

#### **Air Toxics Safety Net Program (0190 through 0230)**

(1) The purpose of the Air Toxics Safety Net Program is to address human exposures at public receptors to ~~high-risk~~ air toxics emissions from stationary sources that are not addressed by other regulatory programs or the Geographic Program. It is the Commission's expectation that the Safety Net Program in OAR 340-246-0190 through 340-246-0230 will apply only rarely.

(2) Subject to the requirements contained in OAR 340-246-0190 through 340-246-0230, the Lane Regional Air Pollution Authority is designated by the Commission as the agency responsible for implementing the Air Toxics Safety Net Program within its area of jurisdiction. The requirements and procedures contained in this rule must be used by the Regional Authority to implement the Air Toxics Safety Net Program unless the Regional Authority adopts superseding rules, which are at least as restrictive as the rules adopted by the Commission.

(3) Selection of Sources. The Department will select a source for the Air Toxics Safety Net Program if all of the following criteria are met:

(a) The Department has ambient monitoring information, gathered using appropriate EPA or other published international, national, or state standard methods that concentrations of air toxics have caused an exceedance of at least one ambient benchmark at a site representing expected human exposure to air toxics from the source at a public receptor in a location outside of the source's ownership or control.

(b) The Department has information that the source's air toxics emissions alone have caused an exceedance of at least one ambient benchmark at a site representing expected human exposure to air toxics from the source at a public receptor, in a location outside of the source's ownership or control. This could be based on emissions inventory, modeling or other information.

(c) The source is not subject to or scheduled for a federal residual risk assessment under the federal Clean Air Act section 112(f)(2) through (6). ~~a standard under 40 CFR section 61 or 63 MACT for the air toxic that exceeds the ambient benchmark.~~

(d) The source is not subject to an emissions limit or control requirement imposed as the result of modeling or a risk assessment performed or required by the Department prior to November 1, 2003 ~~the effective date of these rules~~ for the air toxics that exceed the ambient benchmarks.

(e) The source is located outside of an selected-identified geographic area, as designated in OAR 340-246-0130 through 0170.

(4) Air Toxics Science Advisory Committee Review. Before requiring a source to conduct a source-specific risk assessment, the Department will present its analysis to the ATSAC. Within 120 days, the ATSAC will review the analysis and make a finding. If the ATSAC concurs with the Department or takes no action, the Department may proceed pursuant to this rule. If the ATSAC objects, the Department will not proceed until it receives concurrence from the Commission.

(5) Source-specific Exposure Modeling and Risk Assessment. Upon written notification by the Department, a source must conduct a risk assessment including exposure modeling for the air toxics measured at levels above ambient benchmarks. The source must use a risk assessment methodology provided by the Department. This risk assessment will provide the basis for establishing air toxics emissions reductions or demonstrating that at public receptors in areas outside of a source's ownership or control, people are not being exposed to air toxics at levels that exceed the ambient benchmarks.

(6) Risk Assessment Methodology

The Department will provide guidance on the methods to be used. The risk assessment methodology will be developed in consultation with the ATSAC and will result in a protocol that: To the extent possible, the methodology will address both carcinogenic and non-carcinogenic air toxics and allow for detailed exposure assessments

(a) uses reasonable estimates of plausible upper-bound exposures that neither grossly underestimate nor grossly overestimate risks;

(b) considers the range of probabilities of risks actually occurring, the range of size of the populations likely to be exposed to the risk, and current and reasonably likely future land uses;

(c) defines the use of high-end and central-tendency exposure cases and assumptions;

(d) develops values associated with chronic exposure for carcinogens; and

(e) addresses both carcinogenic and non-carcinogenic air toxics and allow for detailed exposure assessments to the extent possible.

#### (7) Review and Acceptance by the Department

The Department will evaluate the risk assessment for adequacy and completeness before accepting the results. If the results demonstrate that the safety net source is not causing human exposures to air toxics at levels that exceed the ambient benchmarks at public receptors, in areas outside the source's ownership or control, and the Department has received concurrence from the ATSAC, the Department will notify the source that air toxics emissions reductions will not be required pursuant to this rule.

### 340-246-0210

#### Safety Net Source Air Toxics Emissions Reductions

##### (1) Air Toxics Emissions Reduction Analysis

(a) If source-specific exposure modeling and risk assessment show that the source is causing exceedances of ambient benchmarks at public receptors in areas outside the source's ownership or control, the source must perform an analysis showing how air toxics could be reduced to meet ambient benchmarks. The Department and the safety net source will develop proposed air toxics emissions reduction measures based on modeling and, when available, monitoring information.

(b) As part of the air toxics emissions reduction analysis, the source will analyze pollution prevention options, and is encouraged to use the hierarchy stated in OAR 340-246-0050.

##### (2) Air Toxics Emissions Reduction Requirements

(a) A safety net source emitting air toxics causing exposure resulting in excess lifetime cancer risk greater than one in a million ( $1 \times 10^{-6}$ ) or a hazard quotient of one for non-carcinogens must, as soon as practicable but no later than three years after the effective date of the permit imposing such conditions, meet toxics best available retrofit technology (TBART) for each air toxic that exceeds an ambient benchmark.

(b) A safety net source may use a means of air toxics reduction, other than TBART, if it can demonstrate to the Department that it will achieve a risk level at or below one in a million, or a hazard quotient at or below one, within three years of using the other means of air toxics emissions reductions.

(c) A safety net source emitting a carcinogenic air toxic causing excess lifetime ~~excess~~ cancer risk at or above one hundred in a million ( $1 \times 10^{-4}$ ) must reduce its air toxic emissions to achieve a risk level below one hundred in a million as soon practicable but no later than one year after the effective date of the permit imposing such conditions.

(d) A safety net source emitting a non-carcinogenic air toxic at a level above a hazard quotient of one that the Department finds to have a potential for causing very serious or irreversible adverse health effects must reduce its air toxic emissions below this level as soon practicable, but no later than one year after the effective date of the permit imposing such conditions.

(3) If a safety net source cannot reach a risk level at or below excess lifetime cancer risk of one in a million, or a hazard quotient at or below one in three years, even though it meets TBART, the TBART determination for the source will be subject to periodic review under this section until the source achieves a risk level at or below one in a million or a hazard quotient at or below one. Upon each renewal of the source's permit, TBART for the source must be reviewed, taking into consideration retrofit costs and the remaining useful life of controls installed or other measures taken to meet a prior TBART determination. Upon renewal of the source's permit, the Department must include conditions requiring the source to meet TBART as determined for that permit renewal.

#### **340-246-0230**

##### **Safety Net Source Air Toxics Emissions Reduction Measures in Permit**

(1) Public Participation. The Department will hold public informational meetings to discuss proposed air toxics emissions reduction measures. After the informational meetings, the Department will provide at least 40-days notice before holding a public hearing to collect official comments on the proposed air toxics emissions reduction measures.

##### **(2) Permit or Permit Modification**

After considering public comments, the Department will propose air toxics emissions reduction measures to be placed in the source's permit, according to the reopening process for Oregon Title V permits in OAR 340-218-0200 or Oregon Title V Permit issuance in OAR 340-218-0120 or Department Initiated Permit Modifications in OAR 340-216-0084 or Air Contaminant Discharge Permit issuance in OAR 340-216-0020, Table I, Part B, line 74.

## Summary of Public Comment and Agency Response

**Oregon Air Toxics Program**  
**Prepared by: Sarah Armitage**

**Date: September 10, 2003**

***Comment  
period***

The public comment period opened on April 21, 2003 and closed at 5:00 p.m. on May 30, 2003. DEQ held the following public hearings:

**May 15, 2003**

Department of Environmental Quality  
Conference Room  
2146 NE Fourth Avenue, Bend  
5:00 to 7:00 p.m.  
Hearing Officer: Thane Jennings  
Attendance: 3 persons

Jackson County Courthouse  
Auditorium  
10 S. Oakdale, Medford  
4:00 to 6:00 p.m.  
Hearing Officer: Wayne Kauzlarich  
Attendance: 6 persons

**May 19, 2003**

Eugene Water and Electric Board  
Training Room  
500 E. Fourth Avenue, Eugene  
7:00 to 9:00 p.m.  
Hearing Officer: Gary Andes  
Attendance: 4 persons

**May 20, 2003**

Department of Environmental Quality  
Conference Room 3A  
811 SW 6<sup>th</sup> Avenue, Portland  
6:00 to 8:00 p.m.  
Hearing Officer: Audrey O'Brien  
Attendance: 5 persons

**May 28, 2003**

Grande Ronde Watershed Project  
Conference Room  
10901 Island Avenue, La Grande  
6:00 to 8:00 p.m.  
Hearing Officer: Patty Jacobs  
Attendance: 13 persons

***Organization of  
comments and  
responses***

Summaries of individual comments and the Department's responses are provided below. Comments are summarized in categories, most of which correspond to sections of the proposed rule. The persons who provided each comment are referenced by number. A list of commenters and their reference numbers follows the summary of comments and responses.

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## 1. Overview

Overall, 31 people attended the hearings and 3 people provided oral comments. The Department received 13 written comments by the deadline of 5:00 p.m. on May 30, 2003. Six commenters expressed general support for the proposed rules, two generally opposed them.

## 2. Justification and need for a state air toxics program

### a. General statements of support

#### COMMENTS:

Two commenters supported the need for a state air toxics program, stating that:

- Going beyond the minimum federal program is warranted based on research and gaps in present programs; (6)
- The health effects of air toxics are becoming better documented all the time; (2)
- The toll in human suffering and lost productivity from toxic air pollution needs to be reversed. (2)

Commenters also supported the process outlined in the rules, noting that it:

- Fits well into the goals and structure of the national and regional air toxics programs; (7)
- Significantly advances a better understanding of air toxics and locally relevant risk-based decisions; (7)
- Represents a balanced approach recognizing that all Oregonians must be involved and must bear some of the costs of resolving air toxics problems; (1)
- Can be most effective in getting the state moving on resolving air toxics issues to have a positive impact on the health and well being of Oregonians; (5)
- Is a clear and well-designed framework and set of criteria to reduce air toxics emissions; (5) and
- It should continue to provide accountability. (6)

**RESPONSE:** The Department appreciates ongoing stakeholder support of this proposal, and will continue to seek diverse input on program performance.

### b. Technical justification for the proposal

#### COMMENTS:

Three commenters stated that the Department has not adequately substantiated the need for the proposed air toxics rules. These commenters view National Air Toxics Assessment data as unreliable because it is based on old emission inventories that do not include more recent reductions under the federal MACT program. There is insufficient monitoring data to support the program. (11, 12, 14)

#### RESPONSE:

After evaluating National Air Toxics Assessment (NATA) data and over a year of monitoring data from five sites in the Portland area, the Air Toxics Advisory Committee (ATAC) agreed on the need for a state program. Even without this information, the previous advisory committee, the Hazardous Air Pollutant Consensus Group (HCG) recommended a process to analyze and address air toxics problems. Updated NATA results using 1999 emission inventory data should be available sometime in 2003. Model to monitor comparisons have shown that NATA data is reliable and corresponds well with initial monitoring data in the Portland area. The Department plans additional monitoring statewide, and has emphasized the importance of monitoring data to trigger both the Geographic and Safety Net programs in the proposed rules.

### c. Coverage by the Federal Air Toxics Program

#### COMMENTS:

One commenter wrote that the proposed rule is not necessary because the Federal Air Toxics Program will address air toxics from all sources and in all areas. Urban air toxics standards will cover small sources and cumulative emissions. Mobile source standards will also be effective. If the Department cannot provide better empirical justification and proof that the proposal will be more effective or quicker than the federal program, it should not adopt the rules. Another commenter expressed concern that the proposed rules will subject sources to regulation from both EPA and the state, and cause an unjustified increase in stringency above federal rules. (12, 13)

## **RESPONSE:**

Consistent with the recommendations of the HAP Consensus Group (HCG) and the Air Toxics Advisory Committee (ATAC), the proposed program seeks to reduce unacceptable air toxics risks that are not or will not be addressed in the foreseeable future by federal efforts. The proposed rules have been written to avoid duplicative analysis and reduction of air toxics that will be addressed by the Federal Program. With the potential exception of geographic areas with high cumulative emissions, the rules will not increase stringency for a source category if EPA has addressed health risk from that category. The Department agrees that it is necessary to periodically re-evaluate the need for a state air toxics program. Current re-analysis of the federal approach to substances, stationary sources, mobile sources, cumulative effects and technical information reveals significant remaining "gaps" or areas where EPA will not fully address air toxics risk.

- **Pollutants**

The HCG was concerned that the hazardous air pollutants (HAP) listed in the Clean Air Act, and used by the EPA to identify major source categories, did not include all pollutants that were or could be potentially responsible for health risks in Oregon. The HAP list in the Clean Air Act was developed over ten years ago, based on information from an Eastern state dominated by chemical industries. Since adoption in 1990, no chemicals have been added to the federal HAP list. One chemical has been removed, and EPA has proposed to remove another.

Unless a pollutant is on the federal HAP list, EPA will not develop emission standards or perform any further assessment of health risks. The proposed air toxics rules would allow the Department, if necessary, to develop a benchmark for an air toxic causing public health risk in Oregon regardless of its status as a federally regulated HAP.

- **Additional MACT Standards and Residual Risk**

In July 1999 EPA promulgated the Integrated Urban Air Toxics Strategy. This strategy listed 33 pollutants causing both cancer and non-cancer health risk in urban areas and 27 area source categories warranting emission reductions. Since then, EPA has listed a total of 70 categories but has promulgated no new area source regulations. EPA's schedule, published in the Federal Register in 1999, calls for completing standards for all these sources by 2009. DEQ's own analysis of the most important urban area sources indicates that the federal list will address some area sources of importance, but does not include several key source categories contributing to risk in Oregon's populated areas, most notably residential open burning, residential wood heating with uncertified stoves and consumer product use.

The Clean Air Act requires EPA to analyze and reduce risk remaining after sources have complied with MACT requirements. EPA has made it clear that the risk assessments under this program will encompass all of the HAP and all of the processes used in the category, regardless of whether those pollutants or processes were controlled by the technology-based MACT. The Safety Net portion of the proposed air toxics rules will exclude sources that are covered by MACT because the Department expects that subsequent residual risk analysis will address remaining risk issues. Because of resource concerns, EPA does not plan to perform residual risk analysis for non-major sources subject to area source standards.

- **Mobile sources**

EPA's strategies for reducing air toxics from mobile sources include reformulated gasoline, national low emission vehicle standards, Tier 2 vehicle standards, heavy duty diesel standards and sulfur standards in diesel fuel. Clearly, federal mobile source strategies will help to reduce air toxics over time. However, different geographic areas in Oregon have different pollutants of concern, and it is uncertain if mobile source standards will achieve sufficient risk reduction. The proposed Geographic Program will allow the Department to work with communities to reduce air toxics risks that remain locally.

In addition, EPA's mobile strategies focus on new engines. The Department is responsible for reducing emissions from existing vehicles through efforts such as inspection and maintenance, retrofits, cleaner fuels and trip reductions. For existing diesel engines, EPA is relying on states to implement reduction programs, like Oregon's Clean Diesel Initiative.

- **Cumulative Effects and Populated Areas**

Cumulative effects, or multiple emissions of air toxics concentrated in populated areas was the critical concern that led the HCG to recommend the Geographic Approach as the primary tool to reduce air toxics risk in Oregon. Recent DEQ monitoring and EPA modeling has substantiated the hypothesis that areas with higher population density suffer much higher air toxics risk than those with low population density. EPA convened a national committee to recommend a strategy to address this aspect of air toxics. Our own development of the Geographic Approach closely paralleled the work of the committee, and essentially follows its recommendations.

The proposed rules set up a process to develop geographically-based emission reduction plans where reductions are commensurate with source contributions. Area sources (burning, commercial activities, consumer product use) and mobile sources are the largest contributors and will be the primary focus for emission reduction strategies. Strategies could extend to emissions from multiple smaller industrial sources, like those below the MACT threshold. In rare situations, a source covered by MACT may still contribute significant amounts of an air toxic, and thus be subject to further reductions in a Geographic Area.

The Clean Air Act places specific requirements on EPA to reduce cancer and non-cancer risk in urban areas. EPA has expressed their desire to delegate this responsibility to state and local agencies. They are currently developing rules that would allow them to consider programs like Oregon's for such delegation. Without state or local geographically-based efforts, there is currently no other tool to address cumulative effects in populated areas.

- **Technical Information**

The HCG was unanimous in recommending improvements to the scientific basis of the state air toxics program. At the time DEQ received HCG recommendations in 1999; it had very little knowledge of air toxics and population exposures. EPA's 1996 National Air Toxics Assessment began to provide needed information. Shortly after that the Department was able to monitor ambient air concentrations in the Portland area that confirmed the model predictions. An update by EPA will become available this year to help guide screening of high priority geographic areas after rule adoption. In addition, our own refined modeling work on the Portland airshed will help the local advisory committee in Portland. While there are several years of ambient monitoring data available to substantiate the modeling results in Portland, only in Eugene do we have any additional monitored ambient data. This remains an important information need to fill as we progress to other populated areas in the state. The Department expects that many voluntary emission reduction strategies will require significant outreach and risk communication to the public and affected stakeholders statewide.

**d. Legislative Mandate**

**COMMENTS:**

Two commenters stated that there is no legislative mandate for the proposed air toxics program: (11, 12)

**RESPONSE:**

While there is no specific legislative mandate directing the Department to develop an Oregon air toxics program, existing statutes clearly authorize the Commission to adopt the program. ORS 468A.010 and 468A.015 state a purpose and policy to restore and maintain the state's air quality by controlling, abating and preventing air pollution, as practicable, consistent with overall public welfare.



In addition, ORS 468A.025 governing air quality standards and treatment and control of emissions specifically authorizes the Commission to adopt emission standards by rule. ORS 468A.025(3) authorizes the Commission to adopt these standards for different pollutants and sources categories, and to adopt standards for the entire state or an area of the state. ORS 468A.025(4)(e) directs the Commission to adopt rules applicable to a source category, pollutant or geographic area necessary to protect public health or welfare for pollutants that are not otherwise regulated by the Commission or as necessary to address cumulative impacts. Taken together, these statutes provide not only clear legislative authority for the proposed rules, but also a general mandate to address health risks caused by air toxics.

**e. Rule language**

**COMMENTS:**

One commenter believed that broadness and lack of structure in the proposed rules could result in decisions that are based on political agendas more than objective information. (11)

**RESPONSE:**

All decisions under the program are based on applying objective criteria and good science under the direction of the Department. The rules specify a process but not a particular outcome to accommodate the needs of different communities. To both the ATAC and the HCG, this flexibility was very important to geographically-based risk reduction.

**3. Program Policy and Purpose**

**COMMENTS:**

One commenter expressed general concurrence with the proposed rules to the extent they:

- Will not impose new requirements on sources unless an unacceptable risk is documented;
- Determine unacceptable risk by comparing ambient air toxics to ambient benchmarks established in rules;
- Impose burdens under the program in direct proportion to a source's contribution to an identified unacceptable risk.

This commenter also stated that the rule "Policy and Purpose" section should say that the program is intended to fill gaps left after considering both the state and the federal air toxics program, not just the federal air toxics program. (10)

**RESPONSE:**

The Department will measure both the extent of air toxics problems and progress towards risk reduction by comparing ambient values to ambient benchmarks. The ATAC agreed, and the rules reflect, that under the Geographic Program, emission reductions should come from the most significant sources of air toxics, considering relative emissions, toxicity, technical feasibility and cost effectiveness. This recognizes that while proportionality between contributions and reductions is the goal, exact proportionality may not be possible, given the multiple scientific and practical considerations. For further discussion about striking a balance in local emissions reduction planning, see section 12.

To the extent that the Department has adopted and administers the federal National Emissions Standards for Hazardous Air Pollutants (NESHAP) and associated MACT standards, the proposed air toxics rules are intended to fill gaps in the state as well as federal program. This intent is reflected in amended rule language.

**AMENDED RULES:**

340-246-0010

**Policy and Purpose**

The purpose of Oregon's state air toxics program is to address threats to public health and the environment from toxic air pollutants that remain after implementing the state delegated technology-based strategies of the federal air toxics program. Oregon's program meets the goals of the federal Urban Air Toxics Strategy by using a community-based effort that focuses on geographic areas of

concern. It also addresses cases of elevated health risks from unregulated air toxics emissions at stationary sources and source categories of air toxics emissions.

#### **4. Timing**

##### **COMMENTS:**

Three commenters stated that the rules and program components should be adopted expediently, if not faster than planned. Each passing year represents additional risk, especially to the brains and bodies of children. (2, 3, 5)

##### **RESPONSE:**

**The Department agrees that this is the appropriate time to proceed with adopting the proposed air toxics rules. Recent modeling and monitoring indicate potential problems and the need to move the process forward and achieve emission reductions.**

**In the proposed rules, the need to expediently address air toxics risks is balanced with the need for technical analysis, working with stakeholders and operating within the Department's available resources. While the schedule for benchmark development is not as fast as originally planned, it requires steady progress by setting a 12 month deadline for the ATSAC to review proposed benchmarks. Once benchmarks are adopted by the EQC, the Department must select the first geographic area within a year. After a geographic area is selected, there is an 18 month deadline for developing a geographic emission reduction plan. Over the next five to ten years, the Department expects that these incremental steps will yield great progress in establishing ambient benchmarks and reducing emissions in the highest priority geographic areas. For further discussion of the timelines under the Geographic Program, see section ten.**

#### **5. General Exemptions**

##### **COMMENTS:**

The Department received comments that some sources should be exempted entirely from the proposed air toxics program. In addition, the Department received comments that some sources should be exempted from the Source Category and Safety Net rules. Discussion of the requested Source Category and Safety Net exemptions are in section 13 and 14 of this document.

Commenters assert that because some industries have and will comply with costly MACT regulations, it would not be appropriate or equitable to subject them to additional potentially costly and disruptive requirements. One commenter stated that any source in a standard industrial classification for which there is a MACT should be excluded from the rules. (12, 13)

##### **RESPONSE:**

**The Safety Net Program provides a specific exemption for sources subject to MACT because EPA's Residual Risk Program will eventually evaluate and address health risk near MACT sources. The Geographic and Source Category Programs do not contain specific exemptions for sources subject to MACT, but they include consideration of relative emissions, whether sources have been addressed by other regulations, technical feasibility and cost effectiveness. In the Geographic Program, a local committee must design emission reduction plans that are "commensurate with source contributions" Given these criteria, it is very unlikely that MACT sources with low emissions or low contributions to risk would be required to make further emission reductions in either the Geographic or Source Category programs. However, if MACT sources remain large contributors to risk in Geographic areas or statewide, they may be considered for further reductions.**

#### **6. Program Cost**

##### **COMMENTS:**

Four commenters stated that the proposed air toxics program will be too expensive. One commenter was concerned that the rules are vague, and this vagueness will cause costly decision making. Another was concerned that resources shifted to the air toxics program will diminish efforts in other areas, such as PM10 planning. (11, 12, 15, 16)

**RESPONSE:**

The proposed air toxics program is designed to be implemented incrementally, as resources become available. Air toxics program implementation will not take resources away from the Department's criteria pollutant or permitting programs. The Department has adjusted the timelines in the proposed rules so that it is able to determine the starting date for the ATSAC, Source Category and Safety Net processes. Prior to convening and staffing local advisory committees, the Department will provide outreach and capacity building to communities in selected geographic areas.

Compared to other states with more stringent overarching requirements for point sources, Oregon's proposed rules target only specific areas with unacceptable risks. In the proposed rules, the Department has aimed to balance the need for structure and consistency with the need for flexibility and discretion in developing a new program. The Department believes it has achieved this balance. Periodic evaluation of program effectiveness by the ATSAC will consider whether lack of specificity causes delay, costly decision-making, or other difficulties and if rule amendments are needed.

**7. Definition of Air Toxics****COMMENTS:**

Two commenters were concerned that the broad definition of "air toxics" could result in a program beyond intent of the advisory committees. Air toxics could possibly include criteria pollutants. The Department could possibly include substances without adequate justification. One commenter went on to state that pollutants should be specifically listed in the rules. This would provide much better certainty to the public and regulated community (11, 12)

**RESPONSE:**

The broad definition of air toxics serves only to describe the category of chemicals causing serious health effects. This definition is consistent with HCG recommendations that the program should not include a regulatory "listing" of air toxics, but instead focus on the chemicals known to pose a risk to Oregonians. The HCG recommended this approach to prevent paralyzing controversy over a regulatory list.

The most significant of these chemicals will be prioritized for benchmark development, considered by the ATSAC and, following public notice and comment, adopted into rule. The Geographic and Safety Net programs only apply to pollutants for which benchmarks have been adopted by rule. The benchmark prioritization and development process focuses the program on chemicals that the Department believes present risk in our state. The proposed criteria for prioritizing chemicals direct the Department to consider toxicity, exposure, impact on sensitive populations, predicted level of benchmark exceedances and harm caused by persistence and bioaccumulation.

In some cases, the Department may recommend benchmarks for air toxics that are components of, or the same as criteria pollutants. Diesel particulate matter, for example, is a component of fine particulate, which is a criteria pollutant. Lead, a criteria pollutant, is also a listed Hazardous Air Pollutant.

**8. ATSAC****a. Membership****COMMENTS:**

Two commenters stated that the proposed rules do not require sufficient structure or expertise on the ATSAC. Detailed language on training, education and experience should be added. The "environmental science" qualification should be eliminated. (11, 12)

**RESPONSE:**

Since the early 1980's, the California Air Resources Board has successfully relied on a committee with responsibilities similar to the proposed ATSAC. As part of the process to list toxic air contaminants for regulation, the nine member Scientific Review Panel on Toxic Air Contaminants reviews the scientific accuracy of reports prepared by the state.

Based on the success of this model, and current experience with DEQ technical advisory committees on water quality and Umatilla Chemical Demilitarization, the Department expects that ATSAC will be able to fulfill its primary role of benchmark review. The Department believes that the membership qualifications are sufficiently descriptive at this time, and that "environmental science" is a valid qualification, as explained on page 16 of the March 12, 2003 response to comments document that was included in the public notice materials for this rulemaking.

**b. Functions**

**COMMENTS:**

The Department received one comment that the rules should more specifically define and limit ATSAC functions so that ATSAC cannot evolve to take on larger or different functions. (11)

**RESPONSE:**

The proposed rules state that ATSAC will "advise the Department, and in its jurisdiction, the Lane Regional Air Pollution Authority, on technical issues and evaluation of the state air toxics program." The rules describe ATSAC's role in providing "advice on the technical aspects of risk assessment," but not in risk management or policy recommendations. The five "primary" functions of ATSAC are then enumerated as: reviewing benchmarks, advising on Safety Net risk assessment methodology, advising on Safety Net source selection, evaluating data on program progress, and providing technical advisory opinions as requested. The Department believes that ATSAC functions are adequately described in the proposed rules, but proposes to clarify that the ATSAC's role is limited to these functions by deleting the word "primary."

**AMENDED RULES:**

340-246-0070

**Air Toxics Science Advisory Committee**

(1) Purpose. The Commission recognizes the many scientific uncertainties associated with the effects of air toxics, and the continuing development of new information in this field. An Air Toxics Science Advisory Committee (ATSAC), will advise the Department, and in its jurisdiction, the Lane Regional Air Pollution Authority, on technical issues and evaluation of the state air toxics program. The ATSAC will provide advice on the technical aspects of risk assessment. It will not provide risk management or policy recommendations. The ATSAC will perform the following primary functions:

- (a) Review ambient benchmarks for the state air toxics program;
- (b) Advise the Department on developing a risk assessment methodology to be used in the Safety Net Program in OAR 340-246-0190 (5) and (6);
- (c) Advise the Department on selecting sources for the Safety Net program. The ATSAC will evaluate potential Safety Net sources identified by the Department to determine whether they qualify for the Safety Net Program, as specified in OAR 340-246-0190 through 0230;
- (d) Evaluate overall progress in reducing emissions of and exposure to air toxics by considering trends in emissions and ambient concentrations of air toxics. The ATSAC will periodically advise the Department on air toxics program effectiveness and make technical recommendations for program development concerning the possible adverse environmental effects of air toxics and risk from exposure to multiple air toxics; and
- (e) Provide advisory opinions on questions requiring scientific expertise, as requested by the Department.

**c. Timing**

**COMMENTS:**

One commenter stated that the deadline for DEQ to propose benchmarks after the first ATSAC meeting should be six months rather than one month. This would give the ATSAC time to establish internal procedures and consult with DEQ about prioritization before receiving the first set of proposed benchmarks. (10)

**RESPONSE:**

The Department agrees that the ATSAC should have more than one month to establish internal procedures prior to considering ambient benchmarks. The proposed rules will allow three months rather than one month for committee process needs. However,

additional time to consult on benchmark prioritization will not be necessary because the Department will present benchmark prioritization information along with the first list of benchmarks. The ATSAC will have an opportunity to consult on the use of prioritization criteria at that time. This schedule is also consistent with the need to expediently develop benchmarks. The Department expects the first list of benchmarks to focus on the pollutants of concern identified by the National Air Toxics Assessment and monitoring to date. Before convening the ATSAC, the Department will have compiled extensive information on potential ambient benchmarks, and will have performed an initial prioritization.

#### AMENDED RULES:

340-246-0090

Ambient Benchmarks for Air Toxics

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##### (2) Establishing Ambient Benchmarks

- (a) The Department will consult with the ATSAC to prioritize air toxics for ambient benchmark development. Highest priority air toxics are those that pose the greatest risk to public health.
- (b) To prioritize air toxics, the Department will apply the criteria described in OAR 340-246-0090(2) (c) to modeling, monitoring, and emissions inventory data.
- (c) Ambient benchmark prioritization criteria will include at least the following:
- (A) Toxicity or potency of a pollutant;
  - (B) Exposure and number of people at risk;
  - (C) Impact on sensitive human populations;
  - (D) The number and degree of predicted ambient benchmark exceedances; and
  - (E) Potential to cause harm through persistence and bio-accumulation.
- (d) The Department will develop ambient benchmarks for proposal to the ATSAC based upon a protocol that shall use reasonable estimates of plausible upper-bound exposures that neither grossly underestimate nor grossly overestimate risks. [This change is discussed in section 9(b).]
- ~~(ed)~~ Within ~~one~~three months of the first meeting of the ATSAC, the Department will propose ambient benchmark concentrations for the highest priority air toxics for review by the ATSAC. The Department will propose additional and revised air toxics ambient benchmarks for review by the ATSAC based on the prioritization criteria in OAR 340-246-0090(2) (c). Once the ATSAC has completed review of each set of proposed ambient benchmarks, the Department will, within 60 days, begin the process to propose ambient benchmarks as administrative rules for adoption by the Environmental Quality Commission.
- ~~(fe)~~ If the Department is unable to propose ambient benchmarks to the ATSAC by the deadlines specified in OAR 340-246-0090(2) (d), the ATSAC will review the most current EPA ambient benchmarks. If EPA ambient benchmarks are not available, the ATSAC will review the best available information from other states and local air authorities.
- ~~(gf)~~ The ATSAC will consider proposed ambient benchmarks and evaluate their adequacy for meeting risk and hazard levels, considering human health, including sensitive human populations, scientific uncertainties, persistence, bio-accumulation, and, to the extent possible, multiple exposure pathways. The ATSAC will conduct this review consistent with the criteria in OAR 340-246-0090(2) (c) and (d). [This change is discussed in section 9(b).]
- The ATSAC will report these findings to the Department. If the ATSAC unanimously disagrees with the Department's recommendation, the Department will re-consider and re-submit its recommendation at a later date.
- ~~(hg)~~ The ATSAC will complete review of and report findings on each set of ambient benchmarks as expeditiously as possible, but no later than 12 months after the Department has proposed them. If the ATSAC is unable to complete review of ambient benchmarks within 12 months after the Department's proposal, the Department will initiate rulemaking to propose ambient benchmarks.
- ~~(ih)~~ The Department will review all ambient benchmarks at least every five years and, if necessary, propose revised or additional ambient benchmarks to the ATSAC. At its discretion, the Department may review and propose a benchmark for review by the ATSAC at any time when new information is available.

## 9. Ambient Benchmark Development

### a. Definition

#### COMMENTS:

The Department received one comment that the definition of "ambient benchmark" should be expressed in terms of the annual average concentrations, and that the rules should clarify that the benchmarks are intended to address chronic exposures. (10)

**RESPONSE:**

The Department intends to develop the first benchmark values based on long term exposure. These will be expressed as annual average concentrations. All pollutants exceeding levels of concern in the National Air Toxics Assessment currently cause risk from long term exposure, and annual average concentration benchmarks based on long term or chronic effects are appropriate. However, the Department believes that ambient benchmarks should be developed based on the best available scientific information and current monitoring and modeling techniques. Thus, the rules should not limit the development of ambient benchmarks to address chronic exposures. Our understanding of health effects from air toxics is rapidly evolving, and some time in the future, the Department may need to set benchmarks based on less than annual average concentrations, or consider acute short term exposures to adequately protect public health. All benchmark ambient concentrations will be based on appropriate averaging periods.

**b. Criteria**

**COMMENTS:**

The Department received three comments about criteria to use when developing benchmarks. One commenter emphasized that the benchmarks should be adequately protective of public health. DEQ should consider health effects on people with chronic illnesses and reductions in productivity. DEQ should use the precautionary principle; rather than wait for absolute proof of harm caused by air toxics before enacting measures to protect public health. (2)

Two other commenters expressed the need for further criteria on exposure scenarios and sources of technical information. The rules lack an explanation of the concepts underlying the benchmark establishment process. The rules should state that plausible upper bound exposures should be considered when developing the ambient benchmarks. The rules should also state specific criteria for benchmark adoption to ensure good science. These should include preferred sources of information, prioritization of data and clear, consistent protocols. (10, 11)

**RESPONSE:**

Both the pollutant prioritization criteria and the criteria for ATSAC review include consideration of impacts on sensitive populations. 340-246-0090(2). "Sensitive human populations" is further defined as humans with increased susceptibility to the adverse effects of air toxics. 340-246-0030(9). This would include people with chronic illnesses. Benchmarks will be based on best available scientific information, which could include data from animal or human studies.

The Department agrees that the benchmark process should refer to plausible upper bound, or reasonable maximum exposures, and proposes to include this reference in the rules. The Department plans to develop a protocol for benchmark adoption, including a hierarchy of preferred sources of information, prioritization of data, and consistent criteria for decision-making. This protocol will be developed as a Department guidance document in consultation with the ATSAC. The Department believes that this protocol should not be incorporated into administrative rules because it will be lengthy, technical and descriptive in nature, and should be periodically updated as the science advances.

**AMENDED RULES:**

340-246-0090

Ambient Benchmarks for Air Toxics

\*\*\*

(2) Establishing Ambient Benchmarks

(a) The Department will consult with the ATSAC to prioritize air toxics for ambient benchmark development. Highest priority air toxics are those that pose the greatest risk to public health.

(b) To prioritize air toxics, the Department will apply the criteria described in OAR 340-246-0090(2) (c) to modeling, monitoring, and emissions inventory data.

(c) Ambient benchmark prioritization criteria will include at least the following:

(A) Toxicity or potency of a pollutant;

(B) Exposure and number of people at risk;

(C) Impact on sensitive human populations;

(D) The number and degree of predicted ambient benchmark exceedances; and

(E) Potential to cause harm through persistence and bio-accumulation.

(d) The Department will develop ambient benchmarks for proposal to the ATSAC based upon a protocol that shall use reasonable estimates of plausible upper-bound exposures that neither grossly underestimate nor grossly overestimate risks.

(ed) Within ~~one~~<sup>three</sup> months of the first meeting of the ATSAC, the Department will propose ambient benchmark concentrations for the highest priority air toxics for review by the ATSAC. The Department will propose additional and revised air toxics ambient benchmarks for review by the ATSAC based on the prioritization criteria in OAR 340-246-0090(2) (c). Once the ATSAC has completed review of each set of proposed ambient benchmarks, the Department will, within 60 days, begin the process to propose ambient benchmarks as administrative rules for adoption by the Environmental Quality Commission.

(fe) If the Department is unable to propose ambient benchmarks to the ATSAC by the deadlines specified in OAR 340-246-0090(2) (d), the ATSAC will review the most current EPA ambient benchmarks. If EPA ambient benchmarks are not available, the ATSAC will review the best available information from other states and local air authorities.

(gf) The ATSAC will consider proposed ambient benchmarks and evaluate their adequacy for meeting risk and hazard levels, considering human health, including sensitive human populations, scientific uncertainties, persistence, bio-accumulation, and, to the extent possible, multiple exposure pathways.

The ATSAC will conduct this review consistent with the criteria in OAR 340-246-0090(2) (c) and (d). The ATSAC will report these findings to the Department. If the ATSAC unanimously disagrees with the Department's recommendation, the Department will re-consider and re-submit its recommendation at a later date.

(hg) The ATSAC will complete review of and report findings on each set of ambient benchmarks as expeditiously as possible, but no later than 12 months after the Department has proposed them. If the ATSAC is unable to complete review of ambient benchmarks within 12 months after the Department's proposal, the Department will initiate rulemaking to propose ambient benchmarks.

(ih) The Department will review all ambient benchmarks at least every five years and, if necessary, propose revised or additional ambient benchmarks to the ATSAC. At its discretion, the Department may review and propose a benchmark for review by the ATSAC at any time when new information is available.

### **c. Timeline**

#### **COMMENTS:**

One commenter expressed concern that the ATSAC will need more than one year to review proposed benchmarks. ATSAC will need to determine the majority of the benchmarks rather than rely upon existing studies. (12)

#### **RESPONSE:**

**The Department has compiled initial information on the 16 pollutants exceeding levels of concern, as estimated by the National Air Toxics Assessment. For many of these pollutants, there is an ample quantity of studies and data in agreement from high quality sources, such as EPA and the California Air Resources Board. The Department does not anticipate that the ATSAC will need to perform any original research or independent determinations for any of the initial benchmarks.**

### **10. Identifying Geographic Areas**

#### **COMMENTS:**

Various commenters emphasized that the Department should not identify or select an area without adequate monitoring data. The Department should monitor for a year before formally designating geographic areas and convening advisory committees. Identification as an area with elevated risk from air toxics carries a stigma that can affect the local economy, and should only occur with quality monitoring data. (10, 11, 14, 15)

One commenter was concerned that the proposed language does not adequately ensure that collection of data used to identify geographic areas follows an objective and consistent protocol. When DEQ uses modeling and monitoring to identify geographic areas, it should conform to standardized EPA methodology. The rules should list more specific criteria to be used when making a geographic area designation. (11)

The Department received two comments about identifying areas with high risk. One requested that the Department identify areas with high risk of harmful health effects, and then develop and implement plans to reduce emissions of these chemicals. The other raised specific concerns about the Summer Lake Basin where blowing dust could pose a toxic hazard. (2, 4)

**RESPONSE:**

**The Department proposes to revise the rules so that an area will only be selected for air toxics reduction planning after representative monitoring data has been collected. The Department will still follow the screening and identification steps included in the rules proposed for public comment, but has removed them from the current rule language. Screening and identification will lead to monitoring in high priority geographic areas first.**

**In the screening and identification analysis, the Department will use modeling, monitoring and emissions inventory data to predict air toxics concentrations and compare them to the ambient benchmark concentrations at public receptors. The Department will identify high priority areas as those where air toxics concentrations from individual pollutants are predicted to be more than ten times above ambient benchmarks. The Department will monitor in these areas and select them for geographic planning in priority order.**

**Based on the 1996 National Air Toxics Assessment, potential high priority geographic areas under consideration for monitoring and subsequent selection are: Portland Metro Area, Medford, Salem, La Grande, McMinnville, Baker City, Eugene/Springfield, Albany/Millersburg and Klamath Falls. The next release of the National Air Toxics Assessment, expected in early 2004 could result in revised risk estimates for some of these areas.**

**While the Department's initial monitoring focus will be on high priority areas, achieving ambient benchmarks is the goal of the Air Toxics Program. Monitoring in other areas predicted to be above ambient benchmarks will follow the high priority geographic areas. If ambient benchmarks are shown to be exceeded, it will lead to air toxics reduction planning in those areas.**

**Eliminating the initial identification of high priority geographic areas and requiring monitoring to select a Geographic Area will result in fewer areas initially, because the Department does not have adequate resources to monitor all of the potential high priority areas after rule adoption. Although the Department does not expect to identify more than a few Safety Net sources per biennium, this change in selecting geographic areas could mean that more Safety Net sources are identified. One of the criteria for evaluating a source under the Safety Net Program requires that the source is located outside of a selected geographic area. Fewer selected high priority geographic areas may mean that the Department will more frequently consider individual sources through the Safety Net program rather than the Geographic Program. Monitoring will still be required to demonstrate the need for a health risk assessment.**

**The EPA has well-established guidance for measuring air pollution. Creation of a monitoring network starts with determining the data quality objectives and proceeds through a number of decision points prior to siting monitors and collecting data. DEQ has gathered quality data on criteria air pollutant concentrations for many years. The EPA is now working to ascertain that monitoring guidance for criteria pollutants, such as ozone and particulate, is appropriate for toxic air pollutants. The Department has assisted in this effort. The Department expects to rely on this guidance to make**



ambient air concentration measurements that could confirm the modeling results. Selection of an area as a High Priority Geographic Area for local emission reduction planning efforts will follow this monitoring confirmation.

To the extent that EPA-approved monitoring and modeling methodology and guidelines are available, the Department will use them. Because the science in air toxics is rapidly developing, comprehensive standard protocols do not yet exist for all potential air toxics. Fortunately, the Department participates in both EPA's national air toxics monitoring workgroup and local scale model development efforts. Therefore, the Department will be aware of standard procedures as they are established. In current monitoring, the Department is using standard methods for 44 air toxics.

Neither modeling nor monitoring has, to date, shown potential air toxics problems from blowing dust in Oregon. The proposed program is designed to address risks above ambient benchmarks in geographic areas, as verified by monitoring, in priority order.

#### AMENDED RULES:

##### 340-246-0130

(1) Purpose. The Geographic Program addresses emissions from multiple sources of air toxics. It requires prioritizing and identifying and selecting geographic areas of concern, forming a local advisory committee, developing a specific local plan to control air toxics, a public participation and comment process, EQC adoption or approval, implementing reduction strategies, and periodically evaluating the effectiveness by the Department. ~~In applying OAR 340-246-0130 through 0170, the Commission does not intend to disproportionately burden any sector of the economy. [This change is discussed in section 12(a).]~~

(2) Subject to the requirements in OAR 340-246-0130 through 170, the Lane Regional Air Pollution Authority is designated by the Commission as the agency to implement the Geographic Program within its area of jurisdiction. The requirements and procedures contained in this rule shall be used by the Regional Authority to implement the Geographic Program unless the Regional Authority adopts superseding rules which are at least as restrictive as state rules. The Regional Authority will address geographic areas as resources allow, considering the prioritization criteria in OAR 340-246-0150.

~~(3) Identifying Geographic Areas. The Department will perform screening analysis to determine which areas of the state exceed ambient benchmark concentrations. In this screening analysis, the Department will use modeling, monitoring and emissions inventory data to predict air toxics concentrations and compare them to the ambient benchmark concentrations at public receptors. To the extent possible, geographic areas will be identified using EPA-approvable models or monitoring data generated following EPA monitoring guidelines. After screening, the Department will refine its analysis of air toxics by using existing or additional emission inventory, modeling or monitoring data.~~

~~(4) Identification Timeline for High Priority Geographic Areas. Not later than one year after adoption of the first set of benchmarks, the Department will evaluate air toxics data statewide and complete an initial identification of higher risk geographic areas where air toxic concentrations from individual pollutants pose risk above ten in a million ( $1 \times 10^{-5}$ ) excess cancer risk or a hazard quotient above one with serious adverse health effects for non-carcinogens. Any area that exceeds these risk levels for any air toxics at public receptors will be identified as a High Priority Geographic Area.~~

##### 340-246-0150

#### Prioritizing and Selecting Geographic Areas

(1) The Department will prioritize geographic areas by considering the total cancer and non-cancer risk from air toxics to the population in the area, as indicated by:

- (a) The number and degree of ambient benchmark exceedances,
- (b) The toxicity or potency of air toxics exceeding ambient benchmarks,
- (c) The level of exposure and number of people at risk in areas of concern,
- (d) The presence of sensitive populations,
- (e) The effectiveness of local control strategies, and
- (f) To the extent known, the risk posed by multiple pollutants and pollutant mixtures.

(2) Not later than 18 months after the first set of benchmarks is adopted, the Department will select the first geographic area for air toxics reduction planning. The Department will base selection on representative monitoring compared to the ambient benchmark concentrations at public receptors. To the extent possible, geographic areas will be identified using monitoring data generated following EPA monitoring guidelines. Subsequent geographic areas will be selected after completion of monitoring. A geographic area is formally selected upon publication of a notice in the Oregon Secretary of State's Bulletin. Once an area is selected for air toxics reduction planning, it will retain the status of a selected geographic area until the Department determines through an evaluation of data that a reduction plan is no longer necessary for the area to meet all air toxics ambient benchmarks.

~~(3) The Department will first select for emissions reduction planning address the all high priority geographic areas, where concentrations of air toxics are more than ten times above the ambient benchmarks pose risk above ten in a million or above a hazard quotient of one with serious adverse health effects. The Department will select identify and address all other geographic areas, where air toxic concentrations are above benchmarks, after air toxics emission reduction plans have been approved for the high priority geographic areas. Geographic areas will be prioritized by considering the total cancer and non-cancer risk from air toxics to the population in the area, as indicated by:~~

- ~~(a) The number and degree of ambient benchmark exceedances;~~
- ~~(b) The toxicity or potency of air toxics exceeding ambient benchmarks;~~
- ~~(c) The level of exposure and number of people at risk in areas of concern;~~
- ~~(d) The presence of sensitive populations;~~
- ~~(e) The effectiveness of local control strategies; and~~
- ~~(f) To the extent known, the risk posed by multiple pollutants and pollutant mixtures.~~

~~(4) Geographic Area Boundaries. The Department will establish general geographic area boundaries on a neighborhood or urban area scale. The Department will consider feasibility of administration when setting the boundaries of a geographic area. In setting geographic area boundaries, the Department will consider criteria including but not limited to the following:~~

- ~~(a) Areas of impact (where people are exposed),~~
- ~~(b) Population density,~~
- ~~(c) Areas of influence (where sources are located),~~
- ~~(d) Meteorology,~~
- ~~(e) Geography and Topography,~~
- ~~(f) Including all air toxics exceeding ambient benchmarks, and~~
- ~~(g) Coordination with criteria pollutant boundaries for attainment of the National Ambient Air Quality Standards (NAAQS).~~

~~(2) The Department will prioritize Geographic Areas for air toxics reduction planning. Not later than 18 months after the first set of benchmarks is adopted, the Department will select the first Geographic Area for air toxics reduction planning. Subsequent Geographic Areas will be selected as resources allow. Once an area is selected for air toxics reduction planning, it will retain the status of a selected Geographic Area until evaluation of data shows that a reduction plan is no longer necessary for the area to meet all air toxics ambient benchmarks.~~

#### **340-246-0170**

##### **Local Air Toxics Emissions Reduction Planning**

(1) The Department will develop air toxics reduction plans for selected geographic areas with the advice of local advisory committees. The main role of a local advisory committee is to consider air toxics reduction options and to recommend a specific air toxics reduction plan for their geographic area.

~~After selecting a Geographic Area, the Director will appoint a local air toxics advisory committee.~~

(a) Local advisory committees will generally be composed of a balanced representation of members from affected local government, local health departments, the public, small businesses (50 or fewer employees), larger businesses (if present in the area), and interest groups represented in the area.

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#### **340-246-0190**

##### **Air Toxics Safety Net Program (0190 through 0230)**

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(3) Selection of Sources. The Department will select a source for the Safety Net Program if all of the following criteria are met:

- (a) The Department has ambient monitoring information, gathered using appropriate EPA or other published international, national, or state standard methods that concentrations of air toxics have caused an exceedance of at least one ambient benchmark at a site representing expected human exposure to air toxics from the source at a public receptor in a location outside of the source's ownership or control.
- (b) The Department has information that the source's air toxics emissions alone have caused an exceedance of at least one ambient benchmark at a site representing expected human exposure to air toxics from the source at a public receptor, in a location outside of the source's ownership or control. This could be based on emissions inventory, modeling or other information.
- (c) The source is not subject to or scheduled for a federal residual risk assessment under the federal Clean Air Act section 112(f)(2) through (6), a standard under 40 CFR section 61 or 63 MACT for the air toxic that exceeds the ambient benchmark.
- (d) The source is not subject to an emissions limit or control requirement imposed as the result of modeling or a risk assessment performed or required by the Department prior to November 1, 2003 the effective date of these rules for the air toxics that exceed the ambient benchmarks.
- (e) The source is located outside of an selected identified Geographic Area, as designated in OAR 340-246-0130 through 0170.

## 11. Local Committees

### COMMENTS:

The Department received three comments about the rules on local advisory committees. Two commenters expressed the need for more structure and more prescriptive membership requirements. Specifically the rules should require one committee per area, a size limit, representation and residency requirements. The Department should make the decisions about emission reduction measures. The lack of structure in the local advisory committee process could increase the chance for political and single-agenda influences to dominate the committee. (11, 12)

A third commenter requested that when DEQ forms a local committee in La Grande, it should include representatives from the Department of Forestry, Forest Service and the agricultural community. (16)

### RESPONSE:

**The Department has successfully worked with many local advisory committees during the last 20 years, and expects similar success working with air toxics local advisory committees. The Department will follow its Guidance on Public Involvement and Advisory Committees. Because so much of air toxic risk in urban areas is produced by numerous, harder to control smaller sources, rather than large industrial sources, a community-based process to reduce risk should be more effective than "one size fits all" strategies devised solely by the Department. Whenever possible, the Department plans to convene one committee per Geographic Area. However, characteristics of each community and its air toxics emissions may require flexibility in committee formation. Thus, the Department believes that existing language guiding local committee formation is adequate.**

**The Department agrees that forest and agricultural stakeholders should be involved in the La Grande local advisory committee, if and when it is convened, because current modeling estimates that agricultural and forest burning contribute significantly to air toxics risk in this area.**

## 12. Emission Reduction Plan

### a. Apportionment of Emission Reductions

#### COMMENTS:

In the last revision to the proposed rules, the Department added language stating that in implementing the Geographic Program, the "Commission does not intend to disproportionately burden any sector of the economy." This language was meant to ensure fairness in requiring reductions from the most important sources of air toxics without imposing an unworkable requirement for strict proportionality. One commenter remained unsatisfied with this language, stating that it should be a firmer statement of intent not to burden sources disproportionately to their emissions. Another commenter wanted to ensure that communities representing only

part of a geographic area are not be burdened with the entire effort of pollution reduction. (10, 15)

**RESPONSE:**

The Department understands the concerns about fairness, especially for sources that have already been required to make reductions. However the Department does not believe the rules should bind the Commission to a particular set of actions by going beyond a statement of intent. The concept of strict proportionality is too restrictive because it may require emission reductions where they are not feasible or limit opportunities to gain more than proportional reductions if they are available.

The Department will amend language in the "Elements of an Air Toxics Reduction Plan" to further express the intent for emission reductions commensurate with source contributions. Equity will be added as a further consideration. This language should also ensure that emission reduction requirements are distributed equally across a Geographic Area. Because Geographic Area boundaries will be set to include both areas of impact and areas of influence, one part of the population should not be burdened with reducing emissions for a larger affected area.

**AMENDED RULES:**

340-246-0130

**Geographic Program (0130 through 0170)**

(1) Purpose. The Geographic Program addresses emissions from multiple sources of air toxics. It requires prioritizing and identifying and selecting geographic areas of concern, forming a local advisory committee, developing a specific local plan to control air toxics, a public participation and comment process, EQC adoption or approval, implementing reduction strategies, and periodically evaluating the effectiveness by the Department. ~~In applying OAR 340-246-0130 through 0170, the Commission does not intend to disproportionately burden any sector of the economy.~~

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340-246-0170

**Local Air Toxics Emission Reduction Planning**

**(4) Elements of an Air Toxics Reduction Plan**

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(f) Local air toxics reduction plans must evaluate air toxics emissions from all types of sources, including point, area, and mobile sources. Plans must require emissions reductions from the most significant sources of air toxics. Mandatory emissions reduction strategies will be commensurate with source contributions, and impose requirements among source categories, considering relative emissions, toxicity, technical feasibility, and cost-effectiveness and equity.

**b. Goal of Local Plan**

**COMMENTS:**

One commenter stated that the goal of the local air toxics reduction plan should not be expressed in terms of risk and a concentration that reflects risk. Local plans should target localized risk, not the benchmark concentrations. (10)

**RESPONSE:**

The Department agrees that it is confusing and inconsistent to say that "plans will be designed to reach risk and hazard levels that are equal to or below ambient benchmark concentrations." However, because benchmark concentrations represent a risk level, and will factor in a consistent exposure scenario, the Department proposes to amend the rules to refer only to the benchmark concentration as the goal. Assessment of progress under local plans can then be measured directly by progress toward meeting benchmark concentrations rather than requiring additional risk assessment.

**AMENDED RULES:**

340-246-0170

**Local Air Toxics Emission Reduction Planning**

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**(4) Elements of an Air Toxics Reduction Plan**

- (a) Local air toxics reduction plans must focus on the air toxic or air toxics measured or modeled above the ambient benchmarks.
- (b) Local air toxics reduction plans must be based on sound data analysis. This includes developing enhanced emissions inventory information for the local area using source-specific information to the extent possible. This may also include enhanced modeling and monitoring to better characterize ambient concentrations. Plans also must rely on sound analysis of the effectiveness and cost of air toxics emissions reduction options. Where needed to fill specific information gaps, the Department may require air toxics emissions reporting for specific sources or source categories within the geographic area on a case-by-case basis.
- (c) The emissions reduction goals for individual air toxics are ambient benchmarks in local air toxics reduction plans.
- (d) Local air toxics reduction plans must be designed to reduce air toxics emissions in a timely manner.
- (A) When feasible, local air toxics reduction plans will be designed to reach risk and hazard levels that are equal to or below ambient benchmark concentrations. Plans will be designed to achieve emissions reductions within ten years, beginning at the date the Commission approves the plan. Local plans must provide for the timeliest reductions possible for each air toxic exceeding ambient benchmarks.
- (B) Local air toxics reduction plans must include specific three-year milestones that the Department and the local advisory committee will evaluate every three years, in coordination with the Department's air toxics emissions inventory update.

### **13. Source Category Rule**

#### **a. Need for Source Category Rule**

##### **COMMENTS:**

The Department received one comment stating that because of existing authority, this rule is unnecessary and duplicative. (11)

##### **RESPONSE:**

**The Air Toxics Advisory committee recommended this section of the rules to provide additional criteria for the Department to use when considering how to reduce emissions from source categories. The Department believes that while this language does not prescribe specific actions, it is nonetheless useful to guide the application of existing authority to a relatively new set of problems. This language also reflects the committee recommendation that source category strategies should be used to complement the Geographic and Safety Net approaches to reducing risk from air toxics.**

#### **b. Source Category Exemption**

##### **COMMENTS:**

Two commenters stated that sources controlled by MACT standards should be exempt from source category rules. Source category rules could overburden sources already affected by a geographic emission reduction plan, safety net requirements, or applicable federal standards. Imposing source category rules beyond geographic area requirements could undercut the geographic approach. (10, 12)

##### **RESPONSE:**

**The Department does not think it is necessary or appropriate to specifically exempt certain sources from the source category rules. The Department will use both voluntary and regulatory approaches to reduce emissions from source categories. The rules simply provide further criteria for DEQ to use in recommending how the Commission should use its existing authority to reduce emissions from source categories. The first criterion is whether emissions are not or will not be addressed by other regulations or strategies, including the Geographic and Safety Net programs. Any future source category rulemaking must clearly involve analysis of regulatory burdens and economic impacts along with specific environmental benefits. Emission reductions from source categories may at times be necessary only in some geographic areas. But they may also be necessary statewide and in response to new scientific and technological information. Because such factors will be considered case-by-case, it would be too restrictive to exempt any previously controlled source from future source category reductions.**

## **14. Safety Net Program**

### **a. General Comments**

#### **COMMENTS:**

One commenter who lives far from a major metropolitan area, but has health effects from an industrial source is especially supportive of the Safety Net Program. Another commenter is aware that family and others' health has been affected by industrial emissions. The many people who are affected by these emissions deserve to know what they are breathing. People and families affected by cancer deserve to know how big a part industrial emissions have played in their illness. (2, 3)

#### **RESPONSE:**

**The Safety Net Program is intended to address risk from air toxics outside of selected Geographic areas and beyond the federal program. If a facility triggers the Safety Net Program, it will be required to conduct a risk assessment that will provide important information about its effects on residences nearby. In addition, advances in modeling and monitoring combined with emission inventory refinements will yield a much more detailed understanding of air toxic emissions from all sources.**

### **b. Selection**

#### **I. Data**

#### **COMMENTS:**

The Department received one comment that Safety Net selection should be based only upon data collected using standardized methodology. In addition the rules should specifically state what analysis DEQ will present to the ATSAC for review of Safety Net Source selection. (11)

#### **RESPONSE:**

**To the extent it is available; the Department will use EPA approved monitoring and modeling methodology. The analysis supporting Safety Net selection will be comprised of information and technical data showing that the selection criteria are met. The Department will present information showing that a potential Safety Net source meets criteria based on location, previously imposed emission limits and MACT. The Department will also present data showing that a benchmark has been exceeded near the source and the source's emissions alone caused an exceedance. The Department will develop more detailed guidance for this analysis before implementing this section of the rules.**

#### **II. Exemptions**

#### **COMMENTS:**

Two commenters requested an exemption from the Safety Net Program for any facility that is required to comply with federal MACT standards. This exemption should not just apply to the pollutants regulated, but to the whole facility. Some MACT standards reduce many pollutants in addition to those specifically regulated. Requiring additional controls after MACT would represent "double jeopardy," and be inequitable, costly and disruptive. (11, 12)

One commenter requested that the exemption for sources subject to a previous Department-imposed emission limit also include previous "control requirements." Under the old interim air toxics policies, the Department imposed control requirements rather than mass limits on emissions. (10)

#### **RESPONSE:**

**The goal of the Safety Net Program is to address risks that will not be considered by the federal standards. In recent discussion, EPA has indicated that residual risk determinations for major sources will evaluate all regulated hazardous air pollutants emitted by a MACT source, not just those specifically controlled by the MACT standard. Because EPA plans to extend residual risk analysis facility wide, the Department will amend rule language to exempt sources that are subject to or scheduled for a federal residual risk assessment. The Department also agrees that the exemption for sources previously subject to the old interim air toxics policies should include "control requirements" as well as emissions limits.**

**AMENDED RULES:**

340-246-0190

**Air Toxics Safety Net Program (0190 through 0230)**

\*\*\*

(3) Selection of Sources. The Department will select a source for the Air Toxics Safety Net Program if all of the following criteria are met:

(a) The Department has ambient monitoring information, gathered using appropriate EPA or other published international, national, or state standard methods that concentrations of air toxics have caused an exceedance of at least one ambient benchmark at a site representing expected human exposure to air toxics from the source at a public receptor in a location outside of the source's ownership or control.

(b) The Department has information that the source's air toxics emissions alone have caused an exceedance of at least one ambient benchmark at a site representing expected human exposure to air toxics from the source at a public receptor, in a location outside of the source's ownership or control. This could be based on emissions inventory, modeling or other information.

(c) The source is not subject to or scheduled for a federal residual risk assessment under the federal Clean Air Act section 112(f)(2) through (6), a standard under 40 CFR section 61 or 63 MACT for the air toxic that exceeds the ambient benchmark.

(d) The source is not subject to an emissions limit or control requirement imposed as the result of modeling or a risk assessment performed or required by the Department prior to November 1, 2003 ~~the effective date of these rules~~ for the air toxics that exceed the ambient benchmarks.

(e) The source is located outside of an selected identified geographic area, as designated in OAR 340-246-0130 through 0170.

**c. Risk Assessment Methodology**

**COMMENTS:**

The Department received one comment that risk assessments in the Safety Net Program should use the same criteria the Department uses under other programs. These criteria should include reasonable estimates of plausible upper-bound exposures, the range of probabilities of risks, define the use of exposure assumptions, and develop exposure values for carcinogens and non-carcinogens. (10)

**RESPONSE:**

**The Department agrees that these criteria are appropriate and will amend rule language to include them.**

**AMENDED RULES:**

340-246-0190

**Air Toxics Safety Net Program (0190 through 0230)**

\*\*\*

**(6) Risk Assessment Methodology**

The Department will provide guidance on the methods to be used. The risk assessment methodology will be developed in consultation with the ATSAC and shall result in a protocol that shall: ~~To the extent possible, the methodology will address both carcinogenic and non-carcinogenic air toxics and allow for detailed exposure assessments~~

(a) use reasonable estimates of plausible upper-bound exposures that neither grossly underestimate nor grossly overestimate risks;

(b) consider the range of probabilities of risks actually occurring, the range of size of the populations likely to be exposed to the risk, and current and reasonably likely future land uses;

(c) define the use of high-end and central-tendency exposure cases and assumptions;

(d) develop values associated with chronic exposure for carcinogens; and

(e) address both carcinogenic and non-carcinogenic air toxics and allow for detailed exposure assessments to the extent possible.

**15. References to woodstoves**

**COMMENTS:**

Several commenters emphasized that there is a clear difference in emissions between uncertified wood stoves and EPA certified stoves. All references to woodstoves should be changed to "uncertified stoves," and a definition of "uncertified" should be included. Wood burned in heating stoves is a small percentage of all wood burned in Oregon's airsheds.

Forest burning is much greater than woodstove emissions. Forest burning occurs at low temperatures which produce air toxics. Department monitoring and modeling must attempt to distinguish wood smoke from residential wood heating from other sources, including slash burning. References to wood smoke in air Toxics Program materials must identify slash burning, back yard burning and field burning as sources. (8,9,14)

**RESPONSE:**

**The Department recognizes that uncertified stoves produce a great deal more pollution than certified stoves. While there is no reference to woodstoves in the proposed rules, the Department has referred to woodstoves in explanatory documents and outreach materials. Future documents and outreach materials will provide more detail to distinguish certified stoves from uncertified stoves and other sources of burning emissions. In addition to information on certified and uncertified stoves, the Department's emission inventory includes information on open burning, slash and field burning.**

**16. Fiscal Impact Statement**

**COMMENTS:**

One commenter stated that it is not clear why the Department described the cost savings from reducing the health risks of air toxics as "secondary." Costs resulting from exposures to air toxics are inadequately described in the statement of economic impact. There is little emphasis on health costs and savings. Information on costs and benefits of regulations that reduce exposure to toxics is available and should have been included in the analysis. Because the analysis failed to include health cost estimates, it appears biased in favor of less stringent regulations. (5)

**RESPONSE:**

**In calling fiscal impacts and cost savings from the air toxics rules "secondary," the Department did not mean to imply that they are unimportant. Instead the Department meant that health savings and other fiscal impacts will not result directly from the adoptions of the proposed rules. The proposed rules set up a procedure to evaluate air toxics, identify problem areas, and to develop solutions. Under these "secondary" processes we will further estimate and analyze the economic savings and costs associated with local emission reduction plans, source category strategies and safety net actions. At that time the Department will use health related economic information.**



**List of Commenters and Reference Numbers**

<b>Reference Number</b>	<b>Name</b>	<b>Affiliation</b>	<b>Address</b>	<b>Date on comments</b>
1	Gregory Mc Clarren	Citizen	721 NW Cedar Ave. Redmond, OR 97756	5/27/03
2	Maxine Centala	Citizen	P.O. Box 375 Seal Rock, OR 97376	5/29/03
3	Diana Lynn Purdy	Citizen	P.O. Box 264 Seal Rock, OR 97376	5/22/03
4	Judy Blais	Citizen	Winter Ridge Ranch 48146 Hwy. 31 Summer Lake, OR 97640	5/21/03
5	Theodora Tsongas	Citizen	7324 SE Madison St. Portland, OR 97215	5/30/03
6	Gregory McClarren	Clean Air Committee of Bend	P.O. Box 431 Bend, OR 97709	5/27/03
7	Jeff KenKnight, Susan Wyatt	United States Environmental Protection Agency	1200 Sixth Avenue Seattle, WA 98101	5/30/03
8	Oregon Hearth, Patio & Barbeque Association		P.O. Box 135 Salem, OR 97308-0135	5/23/03
9	Roger Sanders	Bend Clean Air Committee; Oregon Hearth, Patio and Barbeque Association	Bend, OR	5/16/03
10	John Ledger	Associated Oregon Industries	1149 Court Street, NE Salem, OR 97301-4030	5/30/03
11	Lewellyn Matthews	Northwest Pulp & Paper Association	1300 114 <sup>th</sup> Avenue Southeast, Suite 200 Bellevue, WA 98004	5/29/03
12	Allen E. Cawrse	Boise Cascade Corporation	1111 West Jefferson St. P.O. Box 50 Boise, ID 83728	5/29/03
13	Gary Grimes	Southern Oregon Timber Industries Association	P.O. Box 1669 Medford, OR 97501	5/29/03
14	Grant Darrow	Oregon Hearth, Patio and Barbeque Association, Oregon Chimney Sweep Association, Union County Smoke Management Committee	7260 Darr Rd. Elgin, OR	5/28/03
15	Steve Clements	La Grande City Council	901 Division Avenue, La Grande, OR	5/28/03
16	Mike Hyde	City of La Grande	P.O. Box 670, La Grande, OR	5/28/03

**AIR TOXICS ADVISORY COMMITTEE  
FINAL REPORT**

**Oregon Department of Environmental Quality  
Air Quality Division**

June 2002

## **ACKNOWLEDGEMENTS**

We wish to thank the Advisory Committee members for generously volunteering their time and energy. Oregon has benefited immensely from their creativity and thoughtful input from a wide range of perspectives. Thank you to Wayne Lei and PGE for their generous donation of meeting space at the World Trade Center to carry on our discussions. We especially want to thank our Chairman, Dr. Peter Spencer, for bringing scientific rigor, humor, and a firm hand to the Committees proceedings. Our thanks also go to the Department's Air Quality Technical Services Section for their assistance in providing emissions data and descriptions of the air dispersion modeling process. Finally, many thanks to numerous individuals in US EPA's Office of Air Quality Planning and Standards who have patiently answered our many questions about EPA's developing health-based air toxics programs and provided considerable expertise on a range of technical issues.

## **EXECUTIVE SUMMARY**

In November 1998 the Oregon Department of Environmental Quality, Air Quality Division convened a broad-based stakeholder group, as the Hazardous Air Pollutant Consensus Group (HCG) to determine what steps might be taken to protect Oregonians' health and environment from toxic chemicals routinely released to the air. They reached consensus on the general outline of a program that would complement the existing federal Hazardous Air Pollutant program and effectively reduce the impact of air toxics in this state. The recommendations of the HCG were presented to the Oregon Environmental Quality Commission at their meeting in Coos Bay in October 1999 and the Commission directed the Department to continue development of a state program.

Our objective in establishing an Air Toxics Advisory Committee was to move from a program concept, based on a consensus view, to a set of regulations. Again, the Division sought a stakeholder group with a broad variety of perspectives. The Committee's task was to provide the Department with a spectrum of viewpoints as we sought to fill in the details. To accomplish this they needed to:

- Understand the HCG recommendations, state and federal programs, scientific needs, and areas where a state air toxics program can be most effective;
- Communicate with and represent the views of interest group constituents;
- Discuss and resolve controversial issues in draft rule concepts;
- Evaluate alternatives and make recommendations to DEQ on the Science Advisory Panel, Geographic Program and Safety Net Program Rules; and
- Make consensus or "consent"-based recommendations when possible.

During its more than year-long deliberations, at seventeen meetings, the Air Toxics Advisory Committee worked to develop the HCG recommendations. Sometimes they simply provided the details, but more often they broke new ground in areas that had been unresolved, or where they found problems or issues that had not been addressed. Based in large measure on the Committee's recommendations, the Department has drafted a set of rules that will establish an air toxics reduction program for Oregon and carry forward the vision of the HAP Consensus Group.

### **Air Toxics Science Advisory Committee**

The Air Toxics Advisory Committee agreed that an Air Toxics Science Advisory Committee (ATSAC) was needed to lend expertise to the Department in implementing and evaluating the new human health-based air toxics program. Specifically, the Committee recommended that the ATSAC would evaluate and recommend ambient benchmarks, evaluate sources under the Safety Net Program, evaluate overall Program progress, make recommendations for program development, and render advisory opinions on questions of science when requested. This Science Advisory Committee will focus on scientific and technical issues leaving policy and risk management issues to the Department and the Environmental Quality Commission.

Discussions about the state of available scientific information led to a clear recommendation that this Science Advisory Committee limit its work initially to human

health considerations. The Committee recommended that in the future the Department should ask ATSAC to consider if, how, and when the air toxics program should be expanded to include the effect of air toxics on ecosystems.

### **Ambient Benchmarks for Air Toxics**

The Air Toxics Advisory Committee recommended that health benchmarks be used to establish ambient concentrations of air toxics that would serve as clean air goals in the Oregon air toxics program. These concentrations resemble criteria pollutant standards only in that they serve as a measurement tool related to human health effects and they trigger the need for emission reduction strategies. Ambient benchmark concentrations are to be based on human health risk and hazard levels considering sensitive human populations. The Committee recommended an overall objective of achieving air quality that keeps individual non-carcinogenic air pollutant concentrations below a hazard quotient of one, and individual carcinogenic air pollutant concentrations at or below a lifetime excess risk level of one in one million ( $10^{-6}$ ).

### **Geographic Program**

The central concept in the HCG vision of the state air toxics program was a geographic approach to locating places where human exposures exceed health benchmarks, and designing plans to reduce emissions. Two key issues addressed by ATAC were setting boundaries for those geographic areas and determining the order those areas would be addressed by the Department.

Ambient monitoring and modeling data have shown that the greatest impacts occur in urban areas where people may be exposed to multiple pollutants coming from a myriad of small sources. In setting a boundary, DEQ expects to look at multiple census tracts within an urban area. Factors that the Committee agreed should be considered in establishing Geographic Area boundaries were:

- Areas of impact (where people are exposed)
- Population density
- Areas of influence (where sources are located)
- Meteorology
- Geography and Topography
- Including all air toxics exceeding ambient benchmarks
- Coordination with criteria pollutant boundaries for attainment of the National Ambient Air Quality Standards (NAAQS)

The Committee reached consensus on a number of criteria to prioritize Geographic Areas for plan development:

- The number and degree of ambient benchmark exceedances;
- The toxicity of air contaminants exceeding ambient benchmarks;
- The level of exposure and number of people at risk in areas of concern;
- The presence of sensitive populations;
- The effectiveness of local control strategies; and

- To the extent known, the risk posed by multiple pollutants and pollutant mixtures.

The Committee said the Department should complete planning in geographic areas with a cancer risk level above ten in one million ( $10^{-5}$ ) risk and a hazard quotient of one associated with serious adverse non-cancer health effects before starting planning in other communities.

A critical issue for a number of Committee members was the need to have timelines for developing a local emissions reduction plan and for accountability in achieving the plan's goals. The proposed rules require that plans are prepared by a local committee and implemented within a given time or the Department will create and implement its own plan for the area. Local emissions reduction plans will have interim milestones with oversight by the Department to ensure they are being met.

### **Source Category Strategy**

The Committee recommended that DEQ focuses its efforts on the geographic strategy, but pursue appropriate source category strategies when the opportunity arises and it is efficient and effective. The proposed rules provide criteria that the Department will consider before a source category approach is taken. These strategies may address the whole state or only selected areas within the state.

### **Air Toxics Safety Net Program**

The HAP Consensus Group intended the Safety Net Program for rare cases of high risk unregulated emissions, generally impacting people in a non-urban area. The Air Toxics Advisory Committee refined the recommendations of the HCG with several criteria that should be used in the initial selection process.

- Ambient monitoring data show concentrations above benchmarks in the vicinity of the source, and that humans could be exposed at these levels.
- Ambient measurements are made in an area outside a business' ownership or control.
- The source's emissions alone can be shown to be causing the ambient concentration of an air toxic to be above the benchmark concentration.
- The source is not subject to a federal National Emissions Standard for Hazardous Air Pollutants that controls this air toxic.
- The air toxic from this source will not be subject to a Geographic Area reduction plan.

The proposed rules include the basic requirement for Safety Net sources to install a Department-approved level of control or reduce air toxic emissions to levels at or below  $10^{-6}$  or a hazard quotient below one. In addition, the Committee agreed that if a Safety Net source is emitting air toxics causing risk at or above one hundred in a million ( $10^{-4}$ ), or above a hazard quotient of one for serious adverse health effects, it must reduce emissions below these levels within one year or must cease the operations associated with the high risk emissions. Emissions reduction plans, for sources above a risk probability of  $10^{-6}$  or a hazard quotient of one, will be incorporated into facility permits affording an

opportunity for public review and providing a compliance enforcement tool for the Department.

### **Next Steps**

Following reviews within the Department and development of an implementation plan, the Division will publish notice of the rulemaking in the Secretary of State's Bulletin. Meetings throughout the state and formal public hearings will be held over the summer and early fall. We are targeting rule adoption by the Environmental Quality Commission in December 2002.

## INTRODUCTION

Chemicals routinely released into the air can be hazardous to the health of humans and other living organisms. In November 1998 the Oregon Department of Environmental Quality, Air Quality Division convened a broad-based stakeholder group, as the Hazardous Air Pollutant Consensus Group (HCG) to determine what steps might be taken to protect Oregonians' health and environment from these chemicals. The HCG met as a group over the next seven months. They reached consensus on the general outline of a program, as well as some specific tasks, that would complement the existing federal Hazardous Air Pollutant program and effectively reduce the impact of air toxics in this state. The recommendations of the HCG were presented to the Oregon Environmental Quality Commission at their meeting in Coos Bay in October 1999.

Our objective in establishing an Air Toxics Advisory Committee (ATAC, the Committee) was to move from a program concept, based on a consensus view, to a set of regulations. Again, the Division sought a stakeholder group with a broad variety of perspectives. We wanted an early opportunity to fairly assess the impact that these new regulations would have, as well as to ensure that we were effectively and efficiently protecting public health and the environment from air toxics.

The Air Toxics Advisory Committee first met on December 4, 2000. (see Attachment 1 – Membership List) We explained to the Committee that the Department's goal was to create rules to implement the HCG recommendations. The Committee's task was to provide the Department with a spectrum of viewpoints as we sought to fill in the details. To accomplish this they needed to:

- Understand the HCG recommendations, state and federal programs, scientific needs, and areas where a state air toxics program can be most effective;
- Communicate with and represent the views of interest group constituents;
- Discuss and resolve controversial issues in draft rule concepts;
- Evaluate alternatives and make recommendations to DEQ on the Science Advisory Panel, Geographic Program and Safety Net Program Rules; and
- Make consensus or "consent"-based recommendations when possible.

At that first meeting the Department described how the HCG recommendations encompassed three major components of a state program:

- 1) enhancements to the state's Base Air Toxics Program;
- 2) adoption of a new Geographic Air Toxics Program; and
- 3) adoption of an Air Toxics Safety-Net Program.

These components are summarized below and are shown graphically in Attachment 2.

The Base Air Toxics Program consists of DEQ's current air toxics program and related activities. At the heart of the base program is implementation of the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) program in Oregon. The NESHAP program is expected to significantly reduce emissions of 188 listed Hazardous Air Pollutants (HAP) from 175 source categories throughout the nation. The existing



base program also includes DEQ's criteria pollutant program for VOC and particulate matter, which indirectly results in significant reductions in listed HAP and other air toxics. In addition, the existing base program includes DEQ's limited initial efforts to compile an air toxics emission inventory and to conduct ambient monitoring for air toxics. Finally, the existing base program includes DEQ's compliance assurance, technical assistance and public involvement programs as support elements.

The HCG recommended that the Department continue to implement the existing Base Air Toxics Program and use its existing authority to recommend rules for source categories as the Department determines that such categorical rules are appropriate. In addition, the HCG recommended a number of enhancements to the base program including:

- significantly expand the emission inventory and ambient monitoring programs;
- establish a scientific advisory panel to guide program implementation;
- improve public involvement; and
- establish program evaluation procedures.

To complement the base program, the HCG recommended that the Commission adopt a Geographic Program to address cumulative emissions of air toxics. This program is needed because the federal NESHAP program is based on an available technology approach; applying control requirements uniformly within source categories. No consideration is given to other sources of the same substance that may be located in a given community, or the cumulative effect they may pose. The Geographic Program, modeled after the criteria pollutant program, would include development of specific local plans to address air toxics in areas that exceed health-based ambient benchmarks to be established by rule. The plans would be developed with the assistance of local advisory committees, considering all sources of air toxics of concern in the area, using enhanced emission inventories and ambient monitoring. The ambient benchmarks will serve as targets for reductions in designated areas. Development of the plans would be scheduled according to adopted prioritization criteria and available resources. Once developed, each plan would be presented to the Commission for approval or adoption.

The HCG recommended that the Commission also adopt an Air Toxics Safety-Net Program to address potentially high-risk emissions from stationary sources. This program would be used in the rare cases where a source of air toxics is causing a health concern, but is not addressed by the Base Program or the Geographic Program. An example would be a large source that falls just below the NESHAP threshold and is outside of an area for which a geographic program strategy is being developed. If the Department determined through monitoring that ambient benchmarks are being exceeded in the vicinity of a source, and demonstrated to the satisfaction of a science panel that a source is a likely significant contributor, the source would be required to conduct a risk assessment. The risk assessment would be used as the basis for establishing source-specific emission reductions. While the HCG envisioned that this program would be invoked rarely, it is an important safeguard to protect public health and the environment in cases where other air toxics programs do not apply.

The HCG believed that in the course of assessing individual stationary sources or while developing geographic area plans certain types of sources were likely to be identified as

significant emitters in several parts of the state. They therefore concluded that in some cases a source category strategy might provide the most cost-effective way to achieve emissions reductions.

During its more than year-long deliberations, at seventeen meetings, the Air Toxics Advisory Committee worked to develop the HCG recommendations. Sometimes they simply provided the details, but more often they broke new ground in areas that had been unresolved, or where they found problems or issues that had not been addressed. Based in large measure on the Committee's recommendations the Department has drafted a set of rules that will carry forward the vision of the HAP Consensus Group. Where the Committee reached consensus on issues, the proposed rules reflect that consensus. In the discussion that follows it will be clear which recommendations were based on consensus and which were not.

The Lane Regional Air Pollution Authority (LRAPA) participated in both the HAP Consensus Group and the Air Toxics Advisory Committee. The proposed rules will give LRAPA the authority to use benchmarks and other information developed as part of the state program, and to implement the geographic and safety net aspects within their jurisdiction as their resources allow.

The Program Implementation Flow Chart, Attachment 3, shows the steps involved in the three tracks of the proposed state air toxics program; the geographic, the safety net, and the source category approaches.

## **COMMITTEE RECOMMENDATIONS**

### **Air Toxics Science Advisory Committee**

#### **Purpose**

To create the independent science review panel recommended by the HCG, the rules propose an Air Toxics Science Advisory Committee (ATSAC) that will lend expertise to the Department in implementing and evaluating the new human health-based air toxics program. Specifically, the ATSAC will evaluate and recommend ambient benchmarks, evaluate sources under the Safety Net Program, evaluate program progress, make recommendations for program development, and render advisory opinions on questions of science when requested.

The ATAC clearly recommended that this Science Advisory Committee focus on scientific and technical issues. Air toxics policy and risk management issues must go to the Department and the Commission. While the Department is not required to follow ATSAC recommendations, it expects to do so.

Several discussions about the state of available scientific information led to the recommendation that this Science Advisory Committee limit its work initially to human health considerations and the effect of pollutants individually. In the future the

Department will ask ATSAC to consider if, how, and when the program should be expanded to multiple chemical exposures and to include ecological risk.

## **Functions**

### **1. Review of ambient benchmark concentrations**

The Committee recommended that ATSAC assist the Department in prioritizing a list of air toxics for benchmark development. The Department would then propose ambient concentrations that represent the ambient benchmark levels of  $10^{-6}$  for carcinogens and a hazard quotient of one for non-carcinogens. The ATSAC will review these recommendations, evaluating the scientific adequacy of supporting data, and give its findings to the Department within six months. In reviewing the recommended benchmarks, the ATSAC will decide on their adequacy for meeting risk and hazard levels considering human health, including sensitive human populations, persistence, bioaccumulation, and to the extent possible, multiple chemical exposure pathways. "Sensitive populations" includes individuals in especially susceptible pre- and post-natal periods of development. When information is available on chemical interactions or multiple exposures, the ATSAC will help the Department develop benchmarks that address impacts beyond the initial simplified focus on inhalation of a single air toxic. The ATSAC is not expected to perform original studies or research to support benchmark development. Instead, it will review literature provided by the Department, and from other sources, to determine whether the proposed benchmarks are well-supported.

The Committee wanted to streamline the benchmark process so the ATSAC can make informed recommendations that move the process forward. EPA's national scale modeling work has focused on 34 air toxics and this will help inform DEQ's selection of an initial group for ATSAC review. These pollutants have federally-defined benchmarks. If there is any reason to think that federal benchmark determinations are flawed, the ATSAC should have information readily available to quickly identify problems and make corrections.

### **2. Evaluation of Safety Net sources**

The ATSAC will serve as an expert third party to evaluate the selection of sources for the Safety Net Program. Using its health and technical expertise, the ATSAC will review the Department's proposed selection of sources with air toxics emissions causing benchmark exceedances. The ATSAC will review the data supporting these selections, including ambient monitoring, modeling and emissions inventory. The Department will proceed with the Safety Net Program when the ATSAC concurs that additional evaluation of the source is appropriate. If the ATSAC objects to the selection, the Department may seek concurrence from the Environmental Quality Commission.

Several members of the Committee were concerned that air toxics reduction strategies involving chemical substitution should be scrutinized to make sure that the new chemical does not cause harm. There are examples of chemical substitution where the solution was worse than the problem. The Committee agreed that chemical substitutions recommended as part of a Safety Net source's reduction plan should be flagged for

toxicological review by the ATSAC. This review will be included in the rule implementation guidance.

### **3. Evaluation of program progress**

The Department will work with the ATSAC to develop program performance measures so that the ATSAC can assist with evaluation of progress in reducing emissions of and exposure to air toxics. Technical issues that were beyond the scope of the Air Toxics Advisory Committee and the first iteration of the air toxics rules will be referred to the ATSAC for consideration. Two such issues are how to address the risk from exposure to multiple chemicals and how to address potential adverse environmental effects from air toxics, including persistence, bio-accumulation, and effects on non-human populations. Committee members expressed concern that program evaluation may be hindered by the variability of data quality in large complex data sets.

### **4. Advisory opinions on questions of science**

The Air Toxics Advisory Committee anticipated that local advisory committees may need assistance analyzing and understanding the impacts of air toxics, and the public health benefits associated with proposed emission reduction strategies. If these questions arise, they may be referred to the ATSAC.

## **Membership**

The Air Toxics Advisory Committee reviewed and refined HAP Consensus Group recommendations for ATSAC membership. Six disciplines must be represented on ATSAC, and the Committee should consist of at least five but not to exceed seven members. The Committee recommended an odd number of members to avoid a tie if voting is used, and prefers seven members to afford a quorum of four. The Committee recognized that seven volunteer members from these disciplines may be difficult to find, and that some flexibility should be accommodated. It was recommended that ATSAC members clearly reveal any actual or potential conflicts of interest they may have that might influence their opinions on topics under review, i.e. that state ethics rules apply.

## **Appointment**

Before making nominations for ATSAC membership, the Department will develop a list of candidates by consulting with government and public and private organizations involved in air toxics work. Examples of these organizations are the Lane Regional Air Pollution Authority, Oregon Health Services, state universities, and the Oregon Medical Association. Members will be appointed by the Commission, or appointment may be delegated to the Director.

## **Term**

The basic term of ATSAC membership will be three years. However the first members of the ATSAC will have terms of different lengths to allow for staggering in future appointments. For example, two of the first seven members may serve for two years, two more for four years, and three for three years. The Committee recommended against limiting reappointment to the ATSAC and suggested that reappointment for one or more terms may be considered for members with significant expertise and commitment.

## **Operation**

The Department will appoint a chair from among the members of the ATSAC. As it does for all advisory committees, the Department will support the staffing and costs of the ATSAC. ATSAC members will serve on a volunteer basis, and be eligible for reimbursement of travel costs to attend meetings. The Committee recognizes that the lack of remuneration for ATSAC members may limit their ability to fulfill requested functions.

The Committee favored honoraria if they are possible, however the Department is not able to provide honoraria without personal services contracts, which would conflict with the appointment process.

## **Procedures, bylaws and decision-making process**

The Committee recommended only a few basic procedures for the ATSAC, allowing them to develop their own as necessary. Decisions by quorum or voting, the ability to obtain a facilitator, and developing a procedure to remove a member for cause are the only requirements in rule.

## **Ambient Benchmarks for Air Toxics**

### **Purpose**

Ambient benchmarks are concentrations of air toxics that serve as clean air goals in the Oregon Air Toxics Program. Ambient benchmarks are unlike the criteria pollutant standards in that they are not associated with direct administrative consequences linked to "attainment" status. However, they resemble criteria pollutant standards because they serve as a measurement tool related to human health effects and they trigger the need for emission reduction strategies. The ambient benchmarks are used as a reference value by which air toxics problems can be identified, addressed and evaluated. Ambient benchmarks will be compared to modeling, EI, and monitoring information to identify potential problem areas. Benchmarks are called "ambient" because they apply to air toxic concentrations wherever the health risk occurs, excluding the work environment covered by OSHA regulations. Benchmarks may be set for any air contaminant; the 188 federally listed air toxics, or others known to pose a risk to public health in Oregon.

## **Risk and hazard levels**

Ambient benchmark concentrations are based on human health risk and hazard levels considering sensitive human populations. ATAC was interested in prioritizing geographic areas and creating more manageable initial program goals. They considered establishing benchmarks in two tiers but decided that method would be too complicated. Instead, the Committee decided to base benchmarks on a risk of one in a million ( $10^{-6}$ ) probability of lifetime excess cancer from exposure to an individual compound and a hazard quotient of one from exposure to an individual non-cancer compound. The Committee said the Department should then prioritize geographic areas with a cancer risk level above ten in one million ( $10^{-5}$ ) risk and a hazard quotient of one that is associated with serious adverse non-cancer health effects. The hazard quotient of one is the level at which adverse effects are expected from exposure to non-carcinogens.

Benchmark concentrations can be based on all routes of exposure to the extent they are known and understood. The first set of benchmarks adopted will utilize the best available information, most of which is based on inhalation. Benchmarks are based on risk and hazard levels, so they can be adjusted according to changing scientific information.

The Committee discussed the appropriate risk and hazard levels at length, considering National Air Toxics Assessment (NATA) data to anticipate pollutants and potential geographic areas of concern statewide. Based on the NATA results, using one in a million for single carcinogens includes the same areas that would be included by screening for risk from multiple air toxics at 10 in a million. One in a million is consistent with other environmental programs in the United States and in Oregon. The Committee recommended that the Department ensure that all High Priority Geographic Areas have approved reduction plans before moving on to areas where health impacts are less. A cancer risk level of one in a million and a hazard quotient of one will still serve as the overall program goals for communities statewide.

The recommendation from most Committee members to establish the over-arching benchmark risk level at a cancer risk of one in a million came after a discussion about risk for multiple pollutants in the geographic program. Members felt that it would be very difficult to implement a risk level for multiple chemicals because of extreme complexity and many scientific uncertainties. Because a risk level was not recommended for multiple pollutants, many members felt that the single pollutant benchmark should be adjusted to add a protective factor covering multiple chemical exposures. The Committee could not reach agreement on this issue.

The situation for non-cancer effects is different. There is no scientific basis to draw a parallel between hazard quotients above one with varying degrees of cancer risk since an exposure above the reference level is anticipated to have an adverse effect. However, for non-cancer causing pollutants a distinction can be made based on the severity of the effect. For example, to address high-risk emissions from Safety Net sources, the Committee chose "very serious" to describe the parallel between a hazard quotient above one with a cancer risk of one hundred in a million. The Department will work with AT SAC to help define the range of serious effects.

ATAC also struggled with how to handle exposures to multiple non-carcinogens. In cases where the target organ system is the same, multiple chemical exposures could be considered additive. These situations should be addressed on a case-by-case basis. The Committee agreed that the science of multiple chemical exposures for non-carcinogens is still uncertain and that this topic should be considered later by the ATSAC. At this time, the program considers risk and hazard only from individual air toxics and not from any combination of effects due to multiple chemical exposures.

### **Ambient benchmark setting process**

The Committee agreed that it was important to ensure that the benchmark setting process had clear steps and milestones established by rule. They agreed that the Department should have the primary responsibility to set benchmarks but that the ATSAC should provide a technical review.

### **Prioritization process and criteria**

Because of the many air toxics of concern, prioritization of pollutants for ambient benchmark setting is an important first step. In general, the highest priority air toxics are those that pose the greatest risk to public health. In consultation with the ATSAC, the Department will prioritize air toxics considering toxicity, exposure, impact on sensitive human populations, the number and degree of benchmark exceedances, and the potential to cause harm through persistence and bio-accumulation. The Committee felt that the criteria provided in the rule would be enough to allow DEQ to do the first ranking, and that a complex matrix was not necessary. Ranking of air toxics is a process independent of the ranking of Geographic Areas and Safety Net sources. However, the prioritization criteria should be consistent where possible.

Practically, there may not be a clear connection between pollutants and clinical conditions like asthma. However, where they are known, these air toxics should receive top priority. Others that are merely suspected to cause health problems should have lower priority.

The ranking process should provide sufficient initial information to start work on benchmarks. Initially, DEQ will be looking at the 188 listed air toxics and the subset of 34 pollutants subject to the National Air Toxics Assessment (NATA), as well as pollutants identified in the Washington and California programs.

The Committee considered whether ambient benchmarks should be established as Department guidance or rules. The Department argued, and ATAC agreed, that they must be placed in rule to ensure that they were subject to public process and not easily changeable.

## **Timelines and accountability**

The process for setting ambient concentration benchmarks incorporates a number of deadlines and accountability measures to ensure progress:

- Within one month of the first meeting of the ATSAC, the Department will propose ambient benchmarks for the highest priority air toxics for review by the ATSAC.
- Once the ATSAC has completed review of each set of proposed ambient benchmarks, the Department will commence, within 60 days, the process to propose ambient benchmarks as administrative rules for adoption by the Commission.
- If the Department is unable to propose ambient benchmarks to the ATSAC by the deadlines, the ATSAC will review the most current EPA ambient benchmarks, or the best available information.
- The ATSAC is required to complete review of each set of ambient benchmarks as expeditiously as possible, but no later than six months after the Department has recommended them.
- If the ATSAC is unable to complete review of the ambient benchmarks within six months after the Department's recommendations, the Department will proceed with rulemaking using its recommended ambient concentration benchmarks.

The Committee recognized that there are certain pollutants where there is more than adequate information, which should allow quick review. Where there is a high level of certainty based on adequate toxicological data, the ATSAC should not be duplicating effort and should make every attempt to complete their review within 60 days.

## **ATSAC considerations in setting benchmarks**

The ATSAC will consider Department recommended ambient benchmarks and evaluate their adequacy for meeting risk and hazard levels, considering human health, including sensitive human populations, persistence, bio-accumulation and to the extent possible, multiple exposure pathways. In this first phase of the air toxics program, ambient benchmarks will be based on human health effects. Later, as better information is available and experience is gained with the program, DEQ and the ATSAC could recommend program changes to include other non-human and ecosystem effects.

## **Review process**

The Committee generally agreed that the Department should review all ambient benchmarks at least every two years and, if necessary, propose revised ambient benchmarks to the ATSAC. Yearly review would be preferable to detect any new scientific information that might affect ambient benchmark concentrations. However, the Department considers that given available resources, a three-year review cycle is more



realistic. For many of the benchmarks, review could simply consist of comparing them with federal or other state levels to determine if they had changed.

## **Geographic Program**

### **Purpose**

Although the HAP Consensus Group recommended a geographic approach as a key enhancement to the federal program, they had little scientific information to work with in developing the concept. Results from the National-scale Air Toxics Assessment by the US EPA provided important and timely information that ATAC was able to effectively use in its discussions of the Geographic Program. Results of this assessment showed the Committee modeled ambient air concentrations of thirty three pollutants. Using draft ambient benchmark values, based on the earlier Committee work, it was possible to predict potential areas that might be of concern in various parts of the state.

### **Identification of Areas**

ATAC recommended that the Department conduct a screening analysis, using modeling, to evaluate exposures and compare them to the benchmark levels. Future assessments done by EPA with 1999 data will provide the basis for the screening analysis that the Department will use to initially identify Geographic Areas for further study. Geographic areas will be evaluated to determine if they are above the benchmarks. ATAC recognized that this analysis would not be definitive and that other refinements will be necessary to establish boundaries and refine exposure analysis before geographic areas can be prioritized for planning activity.

### **Boundaries**

The Committee discussed the factors that should be used in establishing Geographic Area boundaries. Most important was consideration of populations at risk and sources that influenced that impact. Presentation of monitoring data from the Portland area demonstrated that we should expect to see generally homogeneous air toxics in an urban area, with potentially distinct sub-areas influenced by local point or area source emissions. In setting a boundary, DEQ expects to look at multiple census tracts within an urban area. If different point sources are impacting different neighborhoods, a local plan could address them. As a point of reference it was noted that generally, our boundaries for particulate pollution control areas are urban growth boundaries. Ozone control boundaries tend to be large because ozone forms and is transported over a larger area. Factors that the Committee agreed should be considered in establishing Geographic Area boundaries were:

- Areas of impact (where people are exposed)
- Population density
- Areas of influence (where sources are located)
- Meteorology
- Geography and Topography

- Including all air toxics exceeding ambient benchmarks
- Coordination with criteria pollutant boundaries for attainment of the National Ambient Air Quality Standards (NAAQS)

### **Prioritizing Areas**

With much of the state showing risk levels greater than  $10^{-6}$  for a number of air toxics, and the knowledge that Department resources are finite, the Committee also faced the issue of how to prioritize geographic areas for more refined analysis and development of local reduction plans. After all the Highest Priority Geographic Areas have approved local emissions reduction plans, lower priority areas will be addressed. The Committee reached consensus on a number of prioritization criteria:

- The number and degree of ambient benchmark exceedances;
- The toxicity of air contaminants exceeding ambient benchmarks;
- The level of exposure and number of people at risk in areas of concern;
- The presence of sensitive populations;
- The effectiveness of local control strategies; and
- To the extent known, the risk posed by multiple pollutants and pollutant mixtures.

There was some discussion about using “level of public interest” as a criterion but it was agreed that this was too subjective a factor to use in this way, although it was acknowledged that it might bear on decisions.

### **Timelines**

An important issue for a number of Committee members was the need for timelines for developing a local emissions reduction plan and for accountability for achieving the plan’s goals.

Members generally agreed that there should be one timeframe that includes convening the local committee and getting their recommendations. There was no unanimous proposal on the length of time, but, based on its experience with criteria pollutant processes, the Department thought that one and a half to two years would be adequate. There was concern that it is not possible to put a time limit on committee deliberations if we do not know the size of their task. It would also be a problem if there were no time limit on committee work, because it may not get done. Time limits should be a flexible framework with opportunities for exemptions and negotiating schedules appropriate to the scope of work at hand.

Local communities will probably want to set their own priorities and interim goals. Some members expressed concern about the degree of local flexibility. They felt there should be a clear understanding about what the goals are and how the local community would be held accountable for meeting these goals. It was generally agreed that the Department and the local communities could enter into agreements to create a plan and reduce emissions according to negotiated deadlines.

One concern raised by the Committee was what should be done if a local committee was unable to recommend a plan. There was agreement that in such a case, development of a local emissions reduction plan would default to the Department.

### **Environmental Quality Commission Role**

Another important consideration was whether local air toxics reduction plans should go to the Environmental Quality Commission for formal adoption. Since many elements of a local plan could be carried out by local government, and since in some cases the best solutions at the local level may not fall within the EQC's purview, there was some sentiment for not requiring an approval process. In addition it was noted that a significant pollutant source in most urban areas was motor vehicles and that many applicable emissions reduction options are reserved for the federal government.

Ultimately the Committee agreed that local air toxics reduction plans should be presented to the EQC for review and approval, as long as this does not limit plans to elements within EQC authority. Plans should be primarily the ownership of the community and not the EQC, since a plan originating in a community would have more broad-based support than a Department plan. To ensure this, plans should be adopted at the local level if possible. The Commission should subsequently approve local plans and, when necessary, adopt regulations that implement portions of the plan that are within its authority.

There was an additional suggestion by ATAC that local committees might want to make legislative recommendations that would not necessarily be adopted by the EQC.

### **Local Emissions Reduction Plans**

The Committee had considerable discussion about the length of time local communities would have to accomplish the ultimate public health goals of the local reduction plan. Their final consensus recommendation was that plans should have a goal of achieving less than  $10^{-6}$  risk for cancer, or less than HQ of one for non-cancer effects, within ten years when feasible, demonstrating continuing progress toward that goal with emissions reduction assessments every three years. Plans must include program performance measures corresponding to the specific recommendations.

Some members felt that a ten-year goal was too long a timeframe since local committee members may not remain in service that long and it could be difficult to have continuity over ten years; some members liked the fact that there is a fixed timeframe. It was suggested that a sliding process from voluntary towards regulatory measures should be used in conjunction with milestones. Other members were more comfortable with a subjective standard where increments of progress would be tracked according to a local plan, but no standard rate of progress would be required. It was not clear how environmental justice issues would be addressed if communities had different air toxics reduction goals and people in some areas were better protected than others. Some felt that an objective standard, like the Department's proposal, gives a better assurance that there is some movement towards benchmarks. In certain situations, technology to control emissions may not exist. Members suggested that program rules emphasize the three-year evaluation cycle, rather than the ten-year goal.

However the Committee agreed that if the ten-year goal cannot be met for certain pollutants, the local plan should contain clear explanations. It was further recommended that the Department should develop criteria based on economic or technical feasibility that would allow slower reductions of certain pollutants. Members agreed that with or without a uniform goal, local plans should explain their expected rate of progress with each pollutant of concern and identify issues that could be barriers to reaching goals.

### **Voluntary and Mandatory Measures**

The HAP Consensus Group had recommended that local emissions reduction plans incorporate both voluntary and mandatory measures. Most State Implementation Plans for criteria pollutants contain both voluntary and mandatory measures and Department staff reviewed a list illustrating the spectrum of incentives and disincentives that could be employed. The Committee generally agreed with the HCG and recognized technical assistance to businesses as an important service provided by the Department. The Department will also provide technical assistance to local committees and possibly find grants for local work. Incentives to improve productivity and address technological problems could offset the burden of emission reductions and make businesses more likely to participate. The cost of using low pollution technology is often a barrier. Local plans should try to remedy competitive disadvantage and emission reduction costs.

While local committees are encouraged to develop plans that will reduce pollutant emissions so that exposures result in less than one in a million cancer risk and a non-cancer hazard quotient of one within ten years, ATAC recognized that this will not be possible in all cases. Local plans will need to take economic, political and technological feasibility into account. Every three years the Department will assess the effectiveness of the local plan at achieving emissions reductions and make recommendations for plan revisions if needed to meet milestones, or if new information about pollutant exposures or toxicity make changes necessary.

If the Department finds lack of progress after the first milestone, it will work with the local advisory committee to design and implement measures that will achieve the desired emissions reductions. If the Department finds lack of progress after the second three year review, and projects that the local plan's ten year goal will not be met, it will impose mandatory emissions reduction measures. If voluntary measures are judged ineffective, DEQ would either work with the local committee to establish local ordinances or go to the EQC to adopt state regulations. The Committee agreed with the Department's preference to avoid traditional regulatory strategies, but expects situations where they will be necessary for accountability and progress.

Concerns were raised by the Committee that a local plan could be ineffective for reasons other than its voluntary nature. They felt that it was important to give communities flexibility, while at the same time the Department should be able to apply pressure and assure progress if something is not working. The Committee asserted that the Department needs to be sensitive to communities without removing the hammer. The Committee also expressed concern that mandatory measures prescribed within a geographic area might

drive business to other areas and recommended that local groups be cautious of such unintended consequences.

Other concerns voiced by Committee members included the constraints on state and local agencies' authority to reduce emissions from mobile sources, especially cars and trucks, and striking an appropriate emissions reduction balance among the sources considered responsible for the air toxics problems. The Department stated that it had some authority to address mobile source emissions reductions, and that control strategies developed for criteria pollutants often provided air toxics benefits as well. The Committee agreed that it should be incumbent on local planning groups to seek a balance in the strategy they select.

### **Source Category Rules and Strategies**

Source Category strategies and rules are tools that are secondary to the Geographic Program. DEQ will focus most on the geographic strategy, but will pursue appropriate source category strategies when the opportunity arises. The Department clarified the ways in which it could identify the need for a source category approach and the criteria that it would consider. They could include information from the emissions inventory, modeling or monitoring, from development of a Geographic Plan, or from implementation of the Safety Net Program. After identifying the need for a source category approach, the Department would consider the criteria now included in the rule. The flow chart in Attachment 4 provides an overview of the process.

### **Air Toxics Safety Net Program**

The HAP Consensus Group intended the Safety Net Program for rare cases of high risk unregulated emissions. From industry's perspective, EPA and DEQ already administer rules to regulate air toxics for large point sources and various area sources. The HCG agreed that large point sources were fairly well addressed by the federal National Emissions Standards for Hazardous Air Pollutants program. Geographic areas were their focus because they considered multiple sources emitting within an urban area as the biggest problem. The Safety Net Program was intended to address the case of a source impacting people in a non-urban area. There may not be any sources that fall into the Safety Net Program, or they may be identified only once in a while.

Attachment 4 provides a schematic overview of the process for identifying and controlling the emissions from a Safety Net source.

### **Initial Identification**

The Committee refined the recommendations of the HAP Consensus Group on several criteria that should be used in the initial selection process.

- **Ambient monitoring data show concentrations above benchmarks in the vicinity of the source, and human exposure at these levels can occur.**

The Department will look at monitoring results in the area of maximum expected exposure of human populations; areas currently or reasonably likely to be inhabited by humans.

- **Ambient measurements are made in an area outside a business' ownership or control.**

The Department does not have authority over workers' exposures at their workplace but is concerned about areas to which the general public has reasonable access.

- **The source's emissions alone can be shown to be causing the ambient concentration of an air toxic to be above the benchmark concentration.**

The Department will be looking for sources that alone cause above one in a million risk or a hazard quotient of one at the point of highest expected exposure. (The geographic program also considers highest expected exposure but based on modeling.) Selection is based on a single pollutant exceeding the benchmark because of the complications of considering cumulative risk from multiple pollutants.

- **The source is not subject to a National Emissions Standard for Hazardous Air Pollutants (NESHAP) that controls this air toxic.**

A NESHAP may not address some air toxics from a source and these non-regulated pollutants may pose the potential for harm.

- **The air toxic from this source will not be subject to a Geographic Area reduction plan.**

If an area is not ranked as a High Priority Geographic Area, a source within that area could be considered for the Safety Net Program.

Public health was clearly the driver for this aspect of the program, although there were different views about how to determine the health impact of a source. Consideration of any ecological impacts will be slated for future evaluation by the ATSAC. The concept of scientific defensibility was discussed, and was taken to mean that decisions are based on science rather than policy. In light of that, the Committee felt strongly that the ATSAC should review the Department's decisions on Safety Net source selection prior to the source conducting a risk assessment.

In the course of the discussions the Department suggested that proposed new sources might be assessed for their potential to become Safety Net sources during permit review. There was no agreement on whether that should occur, although the Committee agreed that new sources should be informed that they could become subject to this program if they met the criteria. They felt that the presence of regulations for existing Safety Net sources could be enough of a disincentive to prevent new sources from starting up and eventually falling into the Safety Net Program. Local emission reduction plans could also be written in ways that would prevent start-up of a new air toxics source in a Geographic Area.

The Committee also discussed whether a new source should pay for the Department's ambient monitoring around the source. The issue was not resolved and therefore did not become part of the rules. Some members felt that this could be added to the rules later if additional disincentives were needed.

### **Risk Assessment**

The Committee agreed that once a source was identified as a Safety Net source it was the source's responsibility to conduct a risk assessment for their facility. There were concerns about a source doing its own risk assessment but the Committee agreed that the Department should prepare guidance for sources to use and that the Department should review and approve assessments. To maintain consistency with the goals of the Geographic Program, the Committee also agreed that any source responsible for an excess cancer risk greater than  $10^{-6}$  or a non-cancer HQ of one or greater should be required to reduce its health impact.

The Committee discussed what to do if the risk assessment indicates that no reduction is required. The Department indicated that they would notify people who had expressed interest in the facility of the results of the assessment and the Department's determinations.

### **Emissions Reduction Plan**

ATAC considered how the timing and degree of emissions reduction would be determined once the risk assessment showed that reductions were needed. A clear consensus emerged from the Committee that some level of cancer risk or very serious and irreversible non-cancer effect was unacceptable even in the short term. Such a facility should curtail its operations or shut down the process causing that hazard. Most of the discussion by the Committee revolved around how sources posing some hazard to the community could reach an acceptable level, what process they would use to select an emissions reduction method, and how long they could take to make the selection.

Since the Department expects to identify source category reduction measures for high-risk emissions sources (like diesel), the risk reductions from those approaches could occur during approximately the same time frame as Safety Net Source emission reductions. Reductions could be viewed as unfair to a Safety Net source in the short run, but eventually DEQ would expect to get equivalent emission reductions from all sources through the Geographic, Source Category, and Safety Net strategies.

It is generally recognized that not all toxic air pollutants, and their effects, are equal. For this reason the Committee struggled with defining requirements for emissions reductions. Taking a case-by-case risk assessment approach makes intuitive sense, but could be subject to political winds. For existing sources, retrofit cost may be significant. For some sources, the only choice may be to shut down because their process revolves around the chemical in question. On the other hand, since toxic effects can be irreversible and can result from very low exposures, it is hard to apply a cost per ton of control guidance number to them, as is done for criteria pollutant control. Pollution prevention techniques should be considered but not be required.

ATAC recommended that the basic requirement for Safety Net sources is to reduce air toxic emissions so that ambient concentration levels are at or below  $10^{-6}$  cancer risk, or below a hazard quotient of one, in three years or as soon as feasible. However, if a Safety Net source is emitting air toxics causing cancer risk above  $10^{-4}$  or non-cancer hazard above a hazard quotient of one, with very serious or irreversible adverse health effects, it must reduce emissions below these levels within one year. Sources unable to meet this requirement must cease the operations associated with the high risk emissions.

The Committee reached consensus that Safety Net sources may be required to achieve emission reductions faster than the timeline in Geographic Areas. They also agreed that if a Safety Net source cannot achieve the acceptable risk level in three years, there should be a long-term plan to reach one in a million.

Eventually the Committee came to a consensus that the Department and the source should follow a technology evaluation process similar to that used in many other states for new sources. In this case, the analysis will factor in retrofit costs since the Safety Net Program applies to existing sources. The Department called this Best Available Retrofit Technology for Toxics (TBART). A source that could not reach the acceptable risk or hazard level using other methods will be required to apply TBART.

Committee members agreed that a source will have complied if TBART achieves a cancer risk at or below  $10^{-6}$  or a hazard quotient of one. A source can avoid implementing TBART if it can demonstrate to the Department that it can achieve this level of emissions reduction within three years using another method. If TBART does not result in the required risk reduction, the source will be required to perform re-analysis upon permit renewal. The requirement for TBART re-analysis every five years may be an impetus to achieve greater risk reduction up-front. Five years would match permit renewal cycles, and technology may not change much in three years. The re-analysis cycle could be negotiated with a source because needs will be different in each case.

### **Permit Revision**

The Committee also reached consensus that all emission reduction measures should be incorporated into the source's permit. This process would ensure that the public would have an opportunity to review the reduction proposal and provide comment. The Department proposed that once emission reduction measures are drafted, there would be informational meetings to help people understand modeling and proposed emission reduction measures. Then, there would be a scheduled hearing on the permit additions with opportunities for discussion. Local health agencies should be informed about the assessment and the emissions reduction plan.

### **Relationship of the Safety Net Program to the Geographic Program**

Concern was expressed about excluding potential Safety Net sources within geographic areas when a local emission reduction plan may not adequately address problem stationary sources. Some members believe that the HCG may have been anticipating a much smaller geographic area, where a local plan can address all of the sources in that area. Expanding to a larger geographic area may sacrifice the ability to focus on point



sources that greatly affect neighbors. In a smaller geographic area, the locals would have much more voice in the emission reduction planning process. In a larger area, their voices would be diluted, and there could be no ability to focus on sources affecting neighborhoods. Emission reduction targets in a large geographic area may be different from those in a smaller neighborhood-based area. It is probably more cost effective for DEQ to work with larger geographic areas.

The Geographic Program should assure that a local plan can and will address neighborhoods within the larger geographic area that are disproportionately impacted by point sources. Local committees should be considering these situations and therefore a local emissions reduction plan should include point sources that might otherwise qualify for the Safety Net Program. After gaining experience and understanding through implementation of the whole air toxics program, the Department might decide there was a need to re-visit this issue and amend the Geographic Area and Safety Net concepts.

Members discussed the Department's proposal about consideration of risk and hazard from surrounding sources in Safety Net source selection and developed the following examples.

**Example one:** If on a single pollutant basis the risk contribution from other surrounding sources is below one in a million or a hazard quotient of one, then it should not interfere with Safety Net Source selection when its risk is above one in a million or a hazard quotient of one. DEQ should at a minimum qualitatively assess risk contributions surrounding a Safety Net source and work to reduce them. A Safety Net source should not have to reduce its emissions to compensate for risk from surrounding sources.

**Example two:** If on a single pollutant basis the risk contribution from other sources is above one in a million or a hazard quotient of one, and source specific risk assessment shows that risk and hazard from the Safety Net source is below one in a million or a hazard quotient of one, then the Geographic Program should be used.

**Example three:** If on a single pollutant basis the risk from a Safety Net source is above one in a million and a hazard quotient of one, and risk from other surrounding sources is above one in a million and a hazard quotient of one, then the Department should use the Geographic Program when feasible. The Department should use the Geographic Program if the area has been designated as a high priority area. The Department would not designate it a high priority area if problems were due to uncontrollable background contributions.

### **NEXT STEPS**

May - July 2002	Internal Department Review
August 1, 2002	Notice of Proposed Rules in Secretary of State Bulletin
August 19-21, 2002	Public Hearings (Portland, Medford, La Grande, Klamath Falls, Bend, Salem, Eugene)
October 2002	Internal Department Review



ATTACHMENT 1  
AIR TOXICS ADVISORY COMMITTEE  
MEMBERSHIP

**Chair**

Peter S. Spencer, Ph.D.  
Director, Center for Research on Occupational and Environmental Toxicology  
Oregon Health and Sciences University

**Government**

John A. Dougherty, Ph.D.  
Program Design and Evaluation, Multnomah County Health Division

Theodora Tsongas, Ph.D.  
Environmental. & Occupational Epidemiology, Oregon Health Services, Dept. of Human Services

Brian Jennison, Ph.D.  
Director, Lane Regional Air Pollution Authority

Willie Tiffany  
League of Oregon Cities

**Public Interest**

Bob Amundson, Ph.D.  
Oregon Toxics Alliance

Sarah Doll  
Oregon Environmental Council

George Feldman, MD.  
Physicians for Social Responsibility

Jeri Sundvall  
Environmental Justice Action Group

Linda George, Ph.D.  
Environmental Justice Action Group

Gregory R. McClarren  
Bend Clean Air Committee

**Business**

JR Carison  
Lukas Autobody & Repair, Inc.

Mike Sherlock  
Oregon Gas Dealers Association

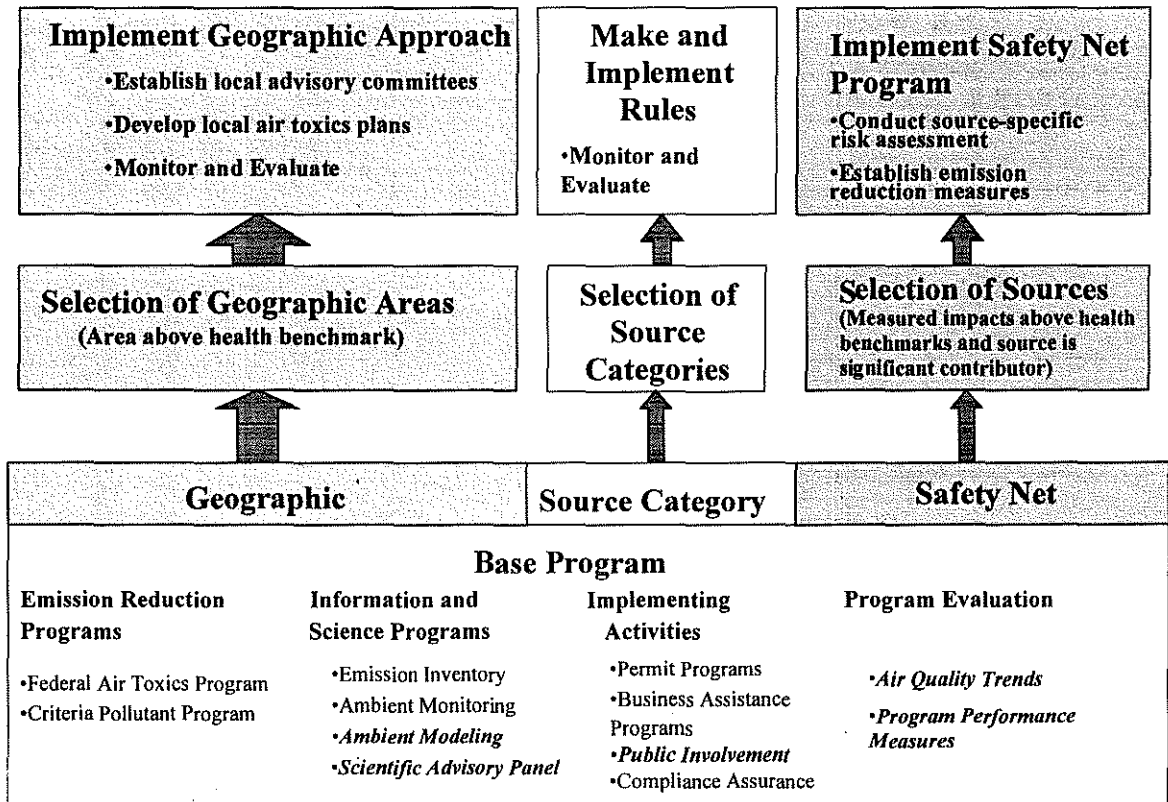
Nicoletta Endres  
Oregon Gas Dealers Association

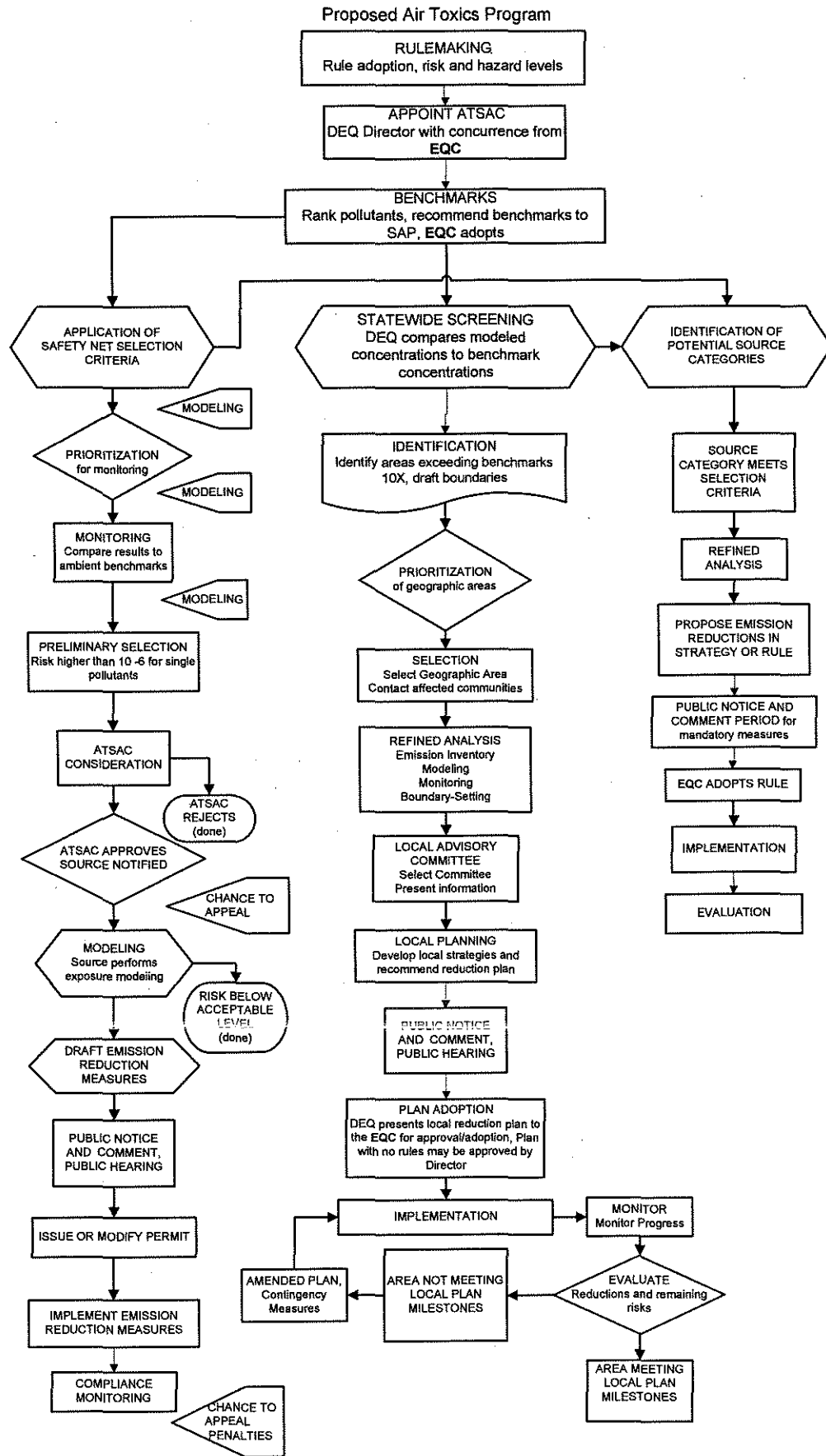
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Director of Environmental Affairs, Portland General Electric

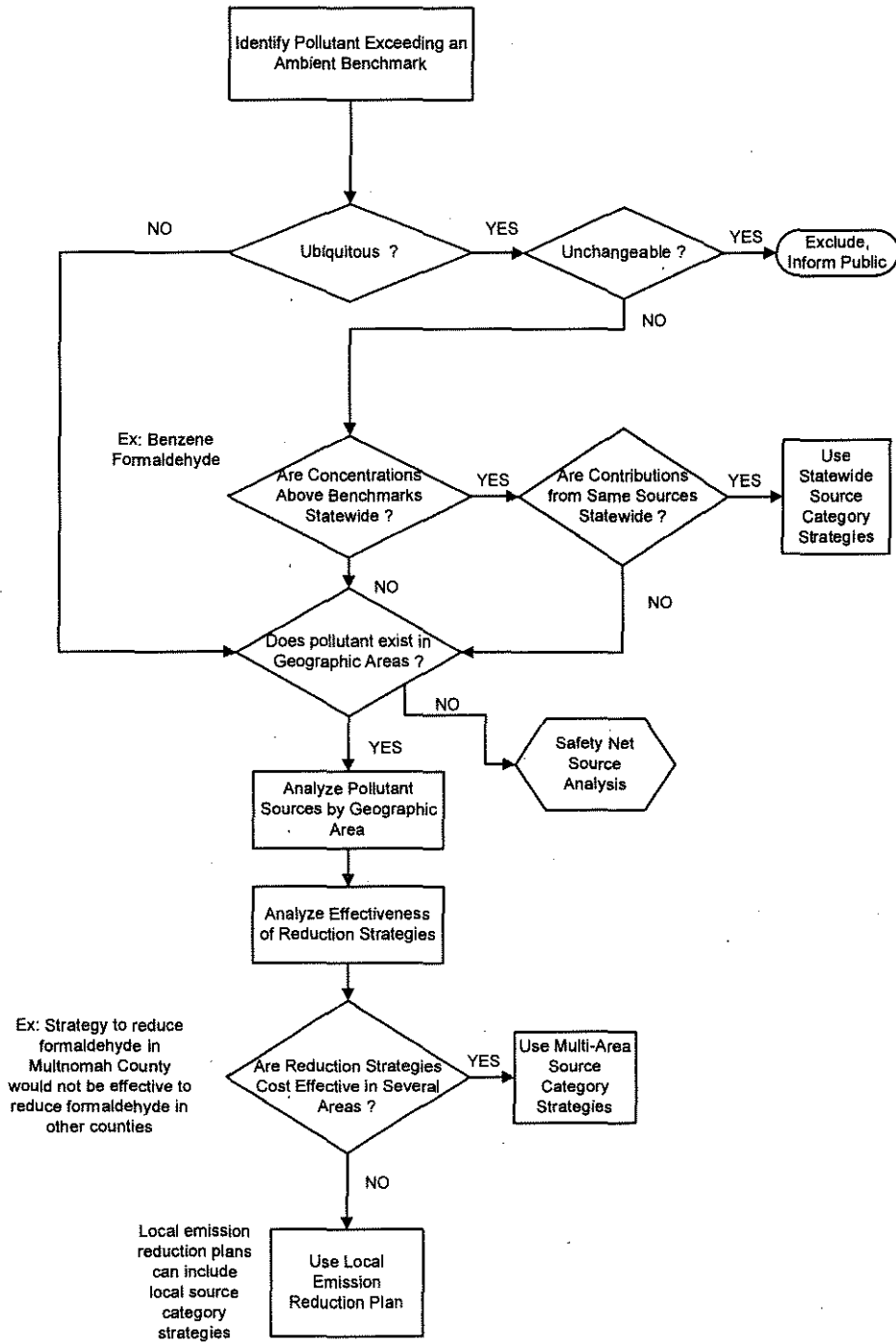
## HCG Recommended Oregon Air Toxics Program





# ATTACHMENT 4

Source Category Strategy Decision Tree



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

**Memorandum**

Date: June 4, 2003

To: Environmental Quality Commission

From: Patty Jacobs

Subject: Presiding Officer's Report for Rulemaking Hearing  
Title of Proposal: Proposed Air Toxics Rules  
Hearing Date and Time: May 28, 2003 6:00 – 8:00 pm  
Hearing Location: Grande Ronde Watershed Project Conference Room  
10901 Island Avenue, La Grande

The Department convened the rulemaking hearing on the proposal referenced above at 6:45 p.m. and closed it at 7:20 p.m. People were asked to sign registration forms if they wished to present comments. People were also advised that the hearing was being recorded.

Thirteen people attended the hearing; three people testified.

Before taking comments, Sarah Armitage briefly explained the rulemaking proposal and procedures for the hearing.

The following is a summary of written and oral comments received at the hearing. The Department will include these comments in the Summary of Comments and Agency Responses for this rulemaking.

Grant Darrow  
7260 Darr Rd. Elgin, OR

Mr. Darrow represents the Oregon Hearth, Patio and Barbeque Association, which is an affiliate of the National Organization in Arlington, VA representing people in manufacturing, distributing, retailing and servicing hearth patio and barbeque products, including wood, pellet, gas, and oil burning stoves. He also represents the Oregon Chimney Sweep Association and Union County smoke management committee. This committee was formed several years ago to deal with point sources of smoke outside of La Grande, and to minimize the impact on residents. Mr. Darrow owns a chimney sweep business and shop which sells stoves. He chaired La Grande's first air quality advisory committee which oversaw the writing of the La Grande State Implementation Plan and the city ordinances that set up the most successful voluntary program.

The area reached attainment a year and a half before the federal deadline. This also prevented violations of the new PM 2.5 standards.

Mr. Darrow asserted that EPA certified stoves are part of the solution, not part of the problem. Mr. Darrow handed out a graph showing large reductions in emissions from non-catalytic woodstoves over time.

Mr. Darrow is an important air quality stakeholder, yet failed to receive notification of the proposed air toxics rules and hearing. DEQ's notification process is obviously lacking.

Mr. Darrow believes that the proposal is not written in plain English. "Woodstove" is in the document approximately 50 times. It is not clear what woodstove means because there is no distinction between a certified stove, which is a part of the solution, and an uncertified stove. Today's certified stoves are burning small loads at 95 percent combustion efficiency.

Customers have told Mr. Darrow that DEQ has little or no credibility with the public because it regulates before there is a demonstrated problem. DEQ should do detailed monitoring before proceeding with a regulatory process. In discussions with Mr. Darrow, most residents believe that this is a make-work ploy for DEQ employees because La Grande has been so successful in meeting federal mandates. Why do we need more woodstove regulation? They have been regulated for 20 years and carry an EPA tag. Field burning, prescribed burns and wildfires are unregulated sources of smoke that impact residents much more than woodstoves. Is this program going to protect people from these smoke impacts?

Mr. Darrow asked why is Oregon the only state undertaking a program like this? With an unemployment rate of 8 percent, we are going to add more regulations to industries in a state that is already known as anti-business. What companies would move to La Grande or Elgin when they could move to Idaho, Washington or California and avoid air toxic regulation?

Mr. Darrow repeated that certified wood stoves really are part of the solution. If there is a problem with air toxics, we should know about it, but we need some real data before launching into a regulatory process. Problems could be nonexistent. Mr. Darrow requests that DEQ keep him informed.

Steve Clements  
901 Division Avenue, La Grande, OR

Mr. Clements has been a member of the La Grande City Council since 1998. Last fall, a front page article in the Union County Observer reported that La Grande had the 4<sup>th</sup> worst air toxics levels in the state. Information about the preliminary nature of this model got lost and this news was not good for new or existing business. Because of the need to find out more, DEQ met with the City Council. The Council expressed concerns about the presentation of the information, primarily because it is based on modeling. DEQ should not label the area until there are some



hard facts and monitoring. In a rural area, how can we have the kind of air toxics problems associated with urban areas?

Mr. Clements hopes that through modeling, monitoring and a more detailed inventory, results can be fine tuned. An inventory of businesses based on population estimates does not make sense when you can go through the yellow pages to locate them. With business licenses you can tell how long businesses have been open and what types of pollutants they produce. The estimates of air toxics in La Grande came to the city close to the time DEQ stated that it would require La Grande to bear the burden of meeting the recycling goals for Union County. La Grande has 50 percent of the population, and must meet all of the 25 percent recycling goal. Mr. Clements does not want La Grande to be burdened with the entire effort of pollution reduction for a county where it represents only 50 percent of the population. That would not be fair in a county where people are dispersed.

Mr. Clements acknowledged that diesel particulates pose a large risk, and La Grande has major railroad lines that pass through the community. It is interstate commerce – what can be done to regulate it? The community cannot get the trains to stop blowing their horns at crossings. This has been a major issue for years, but because they are interstate commerce, the community has no control. In the winter when there is an inversion and an air quality warning, the air around the rail yard is perceptibly blue and smells like diesel.

Mr. Clements described La Grande as a rural community that depends on natural resource management strategies like field burning and prescribed fires to achieve livelihoods and management goals. They are valid management practices, and there are reasons why they are used – to prevent disease and get rid of slash. Who is going to pay for the staffing and to fund all of the air toxics reduction programs? The city of La Grande has cut its budget. Because they cannot raise taxes, they do not have the option of paying for reduction programs or unfunded mandates. The funding must come from somewhere else. The costs should not fall on the backs of Union County citizens.

Mike Hyde  
City of La Grande  
P.O. Box 670, La Grande, OR

Mr. Hyde is the community development director for the city of La Grande. He has staffed the air quality program in La Grande since January 2000. Prior to that, he staffed Pendleton's air quality program for a number of years. The interest of citizens in La Grande in this issue is obvious. There are four members of the Commission present tonight. They have made air toxics a priority this year, and are very interested in seeing the changes in the data between 1996 and 1999. Some great strides have been made locally, especially with the yard waste program that came into effect a year or two ago. This has reduced open burning by about 50 percent in the city. This should show up as reduced emissions from areas sources.

Mr. Hyde said that the city is very interested in the June meeting about monitoring, and excited to see that a monitor may be placed here to provide some better data. There is a lot of concern that we are using inaccurate data at this point. Others have stated that agricultural and prescribed burns are big problems in the area. When DEQ forms committees, it should include representatives from the Department of Forestry, Forest Service and the agricultural community. The city will help provide names, and some of the city commissioners could be candidates for a local advisory committee, too.

Mr. Hyde said that La Grande has a fragile economy. As we deal with air toxics issues, we need to be mindful of that. The program should not drive new business away or hurt existing business to the point that they cannot operate. There has been concern over the last few years that DEQ has not been able to do a maintenance plan for the La Grande PM10 non attainment area. There is also concern that resources have been shifted or diluted to support programs such as air toxics and visibility. It seems like the maintenance plans are on the back burner. The community would like to get out of the non attainment designation. DEQ should not forget about La Grande when it comes to allocating resources. Lakeview is in the same boat.

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

**Memorandum**

Date: June 3, 2003

To: Environmental Quality Commission

From: Thane Jennings

Subject: Presiding Officer's Report for Rulemaking Hearing  
Title of Proposal: Proposed Air Toxics Rules  
Hearing Date and Time: May 15, 2003 5-7 pm  
Hearing Location: Bend Office, DEQ

The Department convened the rulemaking hearing on the proposal referenced above at 5 pm and closed it at 7 pm. People were asked to sign registration forms if they wished to present comments. People were also advised that their comments would be recorded.

Three people attended the hearing, no one made comments.

Sarah Armitage briefly explained the rulemaking proposal and procedures for the hearing.

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

**Memorandum**

Date: July 31, 2003

To: Environmental Quality Commission

From: Audrey O'Brien

Subject: Presiding Officer's Report for Rulemaking Hearing  
Title of Proposal: Proposed Air Toxics Rules  
Hearing Date and Time: May 20, 2003, 6:00 – 8:00 p.m.  
Hearing Location: DEQ, 811 SW Sixth Avenue, Portland, Oregon,  
Conference Room 3A

The Department convened the rulemaking hearing on the above titled proposal at 6:00 p.m. and closed it at 7:15 p.m. I advised people to sign registration forms if they wished to present comments and also informed them that the hearing would be recorded. Before beginning the formal hearing, Sarah Armitage presented information about the specific rulemaking proposal and procedures for the hearing.

Five people attended. The Department staff answered several questions during the question and answer session. No one provided formal testimony.

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

**Memorandum**

Date: June 3, 2003

To: Environmental Quality Commission

From: Gary Andes, Air Quality, Western Region, Salem

Subject: Presiding Officer's Report for Rulemaking Hearing  
Title of Proposal: Oregon Air Toxics Program  
Hearing Date and Time: May 19, 2003; 7:00 to 9:00 pm  
Hearing Location: Eugene Water & Electric Board training room  
500 E. Fourth Avenue  
Eugene, OR

The Department convened the rulemaking hearing on the proposal referenced above at 7:23 pm and closed it at 8:25 pm. People were asked to sign registration forms if they wished to present comments. People were also advised that the hearing was being recorded.

Four people attended the hearing; no one made comments.

Sarah Armitage briefly explained the rulemaking proposal and procedures for the hearing.

No written and oral comments were received at the hearing although the attendees indicated they would be submitting written comments prior to close of the public comment period. The Department will include these comments, if received, in the Summary of Comments and Agency Responses for this rulemaking.

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

**Memorandum**

Date: June 3, 2003

To: Environmental Quality Commission

From: Wayne V. Kauzlarich

Subject: Presiding Officer's Report for Rulemaking Hearing  
Title of Proposal: Air Toxics Hearings  
Hearing Date and Time: May 15, 2003, 5:00 to 7:00 PM  
Hearing Location: Jackson County Courthouse Auditorium

The Department convened the rulemaking hearing on the proposal referenced above at 5:00 PM and closed it at 5:30 PM. People were asked to sign registration forms if they wished to present comments. People were also advised that the hearing was being recorded.

Six people attended the hearing; no one made comments.

Gregg Lande briefly explained the rulemaking proposal and Wayne Kauzlarich spoke about the procedures for the hearing.

# Notice of Proposed Rulemaking

## Oregon Air Toxics Program

### Background

The Oregon Department of Environmental Quality (the Department) proposes adopting rules that would establish an Oregon Air Toxics Program to reduce releases of harmful air pollutants not addressed by other regulations. The Department took public comment on the proposed rules in August, 2002, but delayed adoption (Attachment E). The Department now re-proposes the rules with changes in response to the first set of comments.

Central to the program is an innovative approach to reduce Oregonians' exposure to toxic air pollutants through community-based planning. The proposed rules establish a framework the Department will follow:

- to determine concentrations of concern, or benchmarks, for toxic air pollutants;
- to identify geographic areas with the highest risk of harmful health effects from these air toxics; and
- to develop and implement plans and strategies to reduce the release of these chemicals.

This approach and the goals contained in these proposed rules are consistent with the federal Urban Air Toxics Strategy.

The proposed rules also provide criteria the Department will use to develop strategies to reduce emissions from groups of similar air pollutant sources. Further, the proposed rules address the rare cases of individual industrial sources of toxic air emissions that are not otherwise addressed by the program but have the potential to cause harm to public health.

### Why are rule changes needed?

U.S. Environmental Protection Agency (EPA) analyses show that air emissions of toxic chemicals pose significant threats to public health. In a recent study, the EPA estimated that concentrations of sixteen toxic air pollutants in Oregon exceed generally acceptable health risk levels. The highest risks from air toxics are estimated to occur in urban areas where the combined emissions from mobile sources, such as cars, and small area-wide sources, such as gas stations and home heating with wood, are greatest. Residents in rural areas are also exposed to elevated levels of air toxics from various forms of burning.

Since the federal Clean Air Act was amended in 1990, the EPA has adopted a number of regulations primarily aimed at reducing emissions of air toxics from various large industrial sources. The Department and the Lane Regional Air Pollution Authority implement these federal technology-based emission regulations within Oregon. While effective, these measures do not generally reduce air toxics emitted from mobile and area sources. After analyzing the health risks not addressed by the federal air toxics program, the Department remained most concerned about our inability to scientifically assess air toxics risks, reduce potentially high pollutant levels in urban areas or hot spots, and resolve known health risks from air toxics statewide.



State of Oregon  
Department of  
Environmental  
Quality

**Air Quality Division**  
811 SW 6<sup>th</sup> Avenue  
Portland, OR 97204  
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Contact: Sarah Armitage  
(503) 229-5186  
[www.deq.state.or.us](http://www.deq.state.or.us) or  
[armitage.sarah@deq.state.or.us](mailto:armitage.sarah@deq.state.or.us)

### Additional Materials Attached

- A: Proposed new Rules
- B: Fiscal and Economic Impact Statement
- C: Land Use Evaluation Statement
- D: Questions to be Answered to Reveal Potential Justification for Differing from Federal Requirements
- E: Earlier Public Notice Cover Memo
- F: Summary of Earlier Public Comment and Agency Response

### **Who may be affected?**

The proposed rules provide a method to identify and prioritize geographic problem areas and a process to create local plans to reduce emissions, but the rules do not dictate the strategies that must be used.

Representatives of small and large businesses, local governments, and people in the affected communities will have a chance to participate in local planning efforts that will shape decisions. The Department will ask volunteer participants to invest time in order to learn about the sources, health effects, and ways to reduce air pollution.

Ultimately, emissions reduction measures selected through this local planning process may affect small and large businesses, as well as people's everyday activities. Possibilities range from the Department providing technical assistance to small businesses, such as showing them alternatives to chemical use, to requirements for capturing and controlling toxic air emissions. Other measures might use weather prediction to alert homeowners to curtail wood heating on some days or might restrict backyard burning of residential waste within certain geographic areas. Plans may also affect mobile sources, perhaps requiring traffic engineering to smooth traffic flow in cities or prohibiting long-term idling of trucks and buses. The proposed rules do not require any of these measures, but they establish a process that will identify and select measures for later adoption under state or local authorities.

### **How was this proposal developed?**

The Department worked with two successive advisory committees to develop these proposed rules. The HAP Consensus Group (HCG) and Air Toxics Advisory Committee (ATAC) were composed of representatives from the public, environmental justice community, environmental groups, local government, state and local health departments, small businesses, large businesses, Associated Oregon Industries, Oregon Business Association, Gasoline Marketing Association, and Oregon Economic and Community Development Department.

These committees recommended a health-based state program relying on sound science to solve air toxics problems. They recommended that the Department address multiple air toxics and cumulative exposures

on a geographic basis with the participation of local citizens. They also identified criteria for reducing emissions from individual sources and from groups of similar sources where public health protection is needed.

All the stakeholders involved expressed interest in an effective and pragmatic program to reduce health risk. Industrial stakeholders sought to ensure that toxic emissions would be reduced from groups of sources in proportion to their contribution to the problem. Public interest stakeholders sought to reduce risk in a timely and accountable fashion. Local government stakeholders worked to ensure flexibility in the planning process. All agreed that improved science is critical to the success of an air toxics program.

The interests and positions taken by stakeholders on issues identified in our three-year advisory committee process are summarized in the February 2000 Hazardous Air Pollutant Consensus Group Report and the June 2002 Air Toxics Advisory Committee Report. Copies of these reports are available on request. These and other documents relied upon in developing the proposed rules can be reviewed at the Department of Environmental Quality's office at 811 S.W. 6th Avenue in Portland, or viewed on the Department's website, at [www.deq.state.or.us](http://www.deq.state.or.us).

Please contact Sarah Armitage (503-229-5186) or Gregg Lande (503-229-6411) for copies or for times when the documents are available for review.

An initial set of proposed rules received public hearing and comment during the summer of 2002 and the Department received a wide range of comments. Many supported a strong toxics program but noted that because of the state budget problems, and overall economic concerns, the timing was not right for rule adoption. After considering all of the comments, the Department informed the Environmental Quality Commission (the Commission) in December 2002 that it was delaying the rules in order to carefully consider the issues of timing and funding. The Commission concurred with that decision.

Although state budget problems still exist, the Department is confident that it can incrementally



implement this new environmental protection program using available resources. The rules that we now propose to adopt have been improved as a result of the many thoughtful comments we received during the public comment period. These changes can be found in Attachment F.

### **How to Comment**

Comments on the proposed rulemaking may be submitted in writing via mail, fax or e-mail at anytime before the **comment deadline of May 30, 2003**. Written and oral comments may be submitted during any of the public hearings specified below. It is not necessary to attend a hearing in order to comment. Written comments received before the deadline are treated equally with oral comments.

Written comments may be mailed to Sarah Armitage, Oregon DEQ, Air Quality Division, 811 SW Sixth Avenue, Portland, OR 97204. Comments may also be faxed to Sarah Armitage at 503-229-5675, or emailed to: [armitage.sarah@deq.state.or.us](mailto:armitage.sarah@deq.state.or.us) (E-mail comments will be acknowledged immediately. If there is a delay between servers, e-mails may not be received before the deadline.)

### **Public hearings**

Public hearings will be held at four locations throughout the state in May. Each hearing will begin with a brief overview of the proposed rule changes, followed by the opportunity for members of the public to provide oral and written comment. All comments will be recorded and reviewed by the Department.

#### **May 15, 2003**

Department of Environmental Quality  
Conference Room  
2146 NE Fourth Avenue, Bend  
5:00 to 7:00 p.m.

#### **May 15, 2003**

Jackson County Courthouse Auditorium  
10 S. Oakdale, Medford  
4:00 to 6:00 p.m.

#### **May 19, 2003**

Eugene Water and Electric Board  
Training Room  
500 E. Fourth Avenue, Eugene  
7:00 to 9:00 p.m.

#### **May 20, 2003**

Department of Environmental Quality  
Conference Room 3A  
811 SW Sixth Avenue, Portland  
6:00 to 8:00 p.m.

#### **May 28, 2003**

Grande Ronde Watershed Project  
Conference Room  
10901 Island Avenue, La Grande  
6:00 to 8:00 p.m.

### **Comment deadline is May 30, 2003**

All comments are due to DEQ by **5 p.m., May 30, 2003**. The Department cannot consider comments from any party **received** after the deadline for public comment.

### **How will rules be adopted?**

The Department will prepare a response to all comments received during the public hearing and comment period and may modify the proposed rules. The Department plans to recommend that the Commission adopt the proposed rules at either their August or October 2003 meeting. The Department will notify persons of the time and place for final Commission action if they submit comments during the hearing or comment period or request to be placed on the Department's mailing list for this rulemaking.

### **Alternative formats/accommodations**

Please notify the Department of any special physical or language accommodations needed for the hearings as far in advance as possible. Alternative formats of this document can be made available by contacting the Department's Office of Communications & Outreach, Portland, at (503) 229-5317.

**Oregon Air Toxics Program**  
**May 1, 2003**

**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?**

Yes.

The U.S. Environmental Protection Agency (EPA) has promulgated and continues to promulgate National Emissions Standards for Hazardous Air Pollutants (NESHAP) to control air toxic emissions from categories of stationary sources. Most of these rules apply only to large manufacturing plants, although a few apply to small businesses, such as dry cleaners and chrome platers. The Commission has been adopting these federal requirements as state rules and the Department has ensured that sources in Oregon comply.

A key purpose of the 1990 Amendments to the federal Clean Air Act is to achieve a reduction of at least 75% in cancer incidence in urban areas. EPA has been developing an Urban Air Toxics Strategy to reduce the pollutants that cause this health impact. This federal strategy addresses the public health problems caused by the release of multiple air toxics by many sources and the cumulative exposures of urban residents. EPA has already identified over 30 source categories contributing to urban air toxics problems and is developing requirements that will reduce their emissions. The Department expects that community emission reduction planning will be an integral element of an EPA-approved state Urban Air Toxics Program. EPA has not yet finalized a framework to administer the Urban Air Toxics Program, but has indicated that it would approve qualifying state programs or operate the programs itself. The Department believes the proposed rules meet the intent of the federal Urban Air Toxics Strategy and will qualify for approval.

Since mobile sources (e.g. cars and trucks) are among the most important contributors of air toxics emissions in urban areas, EPA is also working on a strategy that includes requirements for cleaner fuels and less polluting engines. For example, the EPA has decreased air toxics in gasoline by capping the benzene content and reducing sulfur. Tier II emission standards will decrease air toxics from cars and trucks. Heavy-duty diesel standards will target high-risk diesel particulate emissions.

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

The Federal NESHAP are derived from an examination of technologies and practices currently in use. Compliance is performance based, usually requiring that a specified emissions limit is achieved, not that a specific technology is used. However, in some cases the NESHAP may require specific work practices, but not specific emissions limits or control equipment.

The federal Urban Air Toxics Strategy also will result in EPA establishing requirements for emissions sources that can be either performance or technology based. However, the community planning effort included in this Strategy is the essence of a performance-based approach since it focuses on achieving public health goals. This planning process may result in emissions reduction strategies that are either technology, performance, or market 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?**

Federal air toxics requirements only partially address issues of concern in Oregon. The Oregon Air Toxics Program developed as the direct result of lengthy discussions with stakeholders about the inadequacy of the federal program in protecting the health of Oregonians and the environment. First, studies show that mobile and small stationary sources, such as cars and wood stoves, are important contributors to air toxics in Oregon. These source types are not adequately addressed by federal air toxics rules. Second, NESHAP promulgation was slow to address the types of major sources prevalent in Oregon. In addition, federal requirements typically apply to larger sources than those located in Oregon. Third, there are concerns about toxic air pollutants released in Oregon that are not covered by the federal Clean Air Act.

**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?**

The program establishes procedures that should increase business certainty, focus on the most significant emission sources rather than just emissions from businesses, and allow for innovative approaches to reducing Oregonians' exposure to air toxics.

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

The EPA continues to develop the requirements of the Urban Air Toxics Strategy and may not complete specific procedures to address high concentrations of air toxics in geographic areas for five or more years. Recent modeling studies show that, every day, Oregonians are exposed to toxic air pollutants capable of causing cancer and other serious health effects. Implementation of the proposed air toxics program will reduce Oregonians' exposure to air toxics much sooner than the federal program will.

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

Yes, but indirectly. The local reduction plans that these rules mandate for geographic areas must factor in the uncertainties in the data and future growth in order to ascertain that they achieve the health protection goals of the program.

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

Yes.

The federal NESHAP relies on an analysis of current practices to establish emissions limits and provide equity for sources *within* a category. The proposed rules consider technical feasibility and cost-effectiveness of reduction options, as well as the toxicity and amounts of emissions, providing reasonable equity *among* source categories and among sources. The proposed rules enable the Department and communities to develop emission reduction plans for multiple smaller sources that often are responsible for the greatest contributions.

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

Yes.

Numerous health studies have documented the cost to individuals and society of sickness and death caused by exposure to toxic chemicals. This program will reduce the health impact of air toxics releases sooner and more effectively than the federal program.

**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?**

These proposed rules do not impose any additional procedures, reporting or monitoring requirements that differ from applicable federal requirements. However, the Department may need to gather additional information to develop geographic plans, or as specified in geographic plans. Additional reporting requirements will focus on existing and reasonably available information to develop scientifically sound plans that reduce the most significant sources of emissions.

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

Yes.

Emissions reductions requirements that will be determined later in several aspects of the state program must consider feasibility. As mentioned above, the selection of strategies in geographic area emissions reduction plans must consider technical feasibility and cost-effectiveness. In the Safety Net program, a specific process will lead to application of demonstrated technology.

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

Yes.

The Department's preference for pollution prevention when considering methods of reducing air toxics emissions is explicit in the proposed rules. This would apply in developing geographic area emissions reduction plans, when developing emissions reduction requirements for safety net sources, and in source category strategies. Most importantly, the geographic area plans have the potential to provide cost-effective solutions tailored to the local communities that develop them.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal  
For the  
Oregon Air Toxics Program

Fiscal and Economic Impact Statement

**Introduction**

U.S. Environmental Protection Agency (EPA) analyses show that air emissions of toxic chemicals pose significant threats to public health. Since the federal Clean Air Act was amended in 1990, the EPA has adopted a number of regulations primarily aimed at reducing emissions of air toxics from various large industrial sources. However, the highest risks from air toxics are estimated to occur in urban areas where the combined emissions from mobile sources and small area-wide sources are greatest. The Department worked with two successive advisory committees to develop a health-based state program that addresses multiple air toxics and cumulative exposures on a geographic basis with the participation of local citizens. It also addresses cases of elevated health risks from unregulated air toxics emissions at stationary sources as well as source categories of air toxics emissions.

The proposed Oregon Air Toxics Program establishes procedures for the Department to follow in identifying and solving air toxics problems. Under these procedures, the Department will set up an Air Toxics Science Advisory Committee, adopt benchmark concentrations of concern for pollutants, identify Geographic Areas where air toxics exceed benchmarks, and work with stakeholders in those areas to develop and implement air toxics reduction plans. The Source Category section of the proposed rules contains criteria to help the Department prioritize categories of sources that emit air toxics in many locations. Examples of such sources are on and off-road diesel engines, woodstoves, and open burning. In the Safety Net Program, the proposed rules address the rare cases of individual industrial sources of toxic air emissions that are not otherwise addressed by the program but have the potential to cause harm to public health.

Other than requirements placed upon the Department, the fiscal and economic impacts of the proposed air toxics rules are mostly secondary. Secondary impacts will not be specifically identified until local advisory committees develop local emission reduction plans, the Department develops source category strategies, or the Department identifies sources subject to the Safety Net Program. Local emission reduction plans and source category strategies can be voluntary (incentives and education) or mandatory (ordinances and regulations). If local emission reduction plans recommend state regulations, the Department will perform a fiscal and economic impact

analysis for each proposed rule. In addition, any source category strategy proposed as a rule will also receive a fiscal and economic impact analysis.

The cost savings from reducing the health risk from air toxics are also secondary. Numerous studies have documented the cost to individuals and society from illness (health care costs and lost wages) and death caused by exposure to toxic chemicals. The Department expects that such public health benefits will be considered by local committees making decisions for geographic areas.

The Department expects that the fiscal and economic impact of the Geographic Program on communities in Oregon will be spread over the next 20 years. The Department has projected that work on high priority or highest risk geographic areas will take place over the next 9 years. The Department will base prioritization on national modeling data which should be available in early 2004.

### **General Public**

Through local advisory committees and opportunities to comment, the Department will ask representatives of the general public to participate in local emission reduction planning. For participants, this could involve a considerable time commitment over several years. Under local plans or source category strategies, the general public may be asked or required to reduce their emission-producing activities, such as driving motor vehicles, open burning, operating wood stoves, or using toxic household and automobile products.

In some cases, strategies affecting the general public may result in individual cost savings. For example in some urban areas, reducing car trips, carpooling, and using public transportation can result in savings on fuel, maintenance, and parking costs in the range of \$50 to \$100 per month. (Additional savings in the range of \$2,000 to \$7,000 per year could result from eliminating ownership of one motor vehicle.) In other cases, individuals switching from wood to natural gas or other types of heat could increase heating costs from \$200 to \$600 per year. The actual economic impacts will be evaluated when specific measures are proposed. The general public will also benefit from decreased cancer risk, improved health, and lower health care costs when air toxic emissions are reduced.

### **Small Business**

Through local advisory committees and opportunities to comment, the Department will ask representatives of small businesses potentially affected by local emission reduction plans or source category strategies to participate in planning. Local emission reduction plans or source category strategies may encourage or require small businesses to change operations or materials, such as using less toxic solvents, capturing and controlling air toxics releases, or utilizing cleaner combustion processes. When the Department refines emission information for a geographic area, small businesses may be asked to provide additional data about their air toxics emissions.

Costs of controlling air toxics emissions will depend upon the technology or work practices required. For example, under the National Emission Standards for Hazardous Air Pollutants, dry

cleaners that are required to perform additional reporting and use special equipment generally spend an additional \$100 per year to reduce air toxics emissions. The actual economic impacts will be evaluated when specific measures are proposed. Tax credits may also be available for up to 35% of the cost of pollution controls used to meet the new air toxic requirements. These credits shift some of the impact of meeting the new requirements from small business to the General Public since the credits reduce state General Fund collections.

### **Large Business**

Through local advisory committees and opportunities to comment, large businesses and industrial sources known to contribute air toxic emissions to geographic areas will be asked to participate in planning local emission reductions. Because large industrial sources contribute only about five to eight percent of combined air toxics emissions and have already been subject to federal emission reduction requirements, it is unlikely that they will be asked to provide the majority of emission reductions in geographic areas.

Although rare, large businesses not otherwise regulated are the most likely to be identified by the Department for the Safety Net Program. A verified Safety Net source will have to perform modeling to evaluate the health risk caused by its emissions. It will also have to evaluate ways to reduce its emissions so that benchmark concentrations are met, and it may have to install controls or implement reduction practices consistent with "Toxics Best Available Retrofit Technology" or TBART. When determining TBART, the Department will consider the cost and feasibility of installing retrofit technology. The source's permit will be revised to require the necessary emissions reductions. If the source does not have a permit, the Department will issue one. Tax credits may also be available for up to 35% of the cost of pollution controls used to meet the new air toxic requirements. These credits shift some of the impact of the meeting the new requirements from large business to the General Public since the credits reduce state General Fund collections.

### **Local Governments**

The Department expects that local governments will be extensively involved in developing local emission reduction plans. Affected cities, counties, local elected officials, and regional governments will be asked to participate in local advisory committees and opportunities to comment on proposed plans. Local health departments may participate in risk communication and public outreach. Local transportation and planning departments may be asked to help formulate strategies to reduce motor vehicle emissions. To minimize the burden, the Department will coordinate development of local emissions reduction plans with local land use and transportation planning. Cities statewide will benefit from increased livability when air toxic emissions have decreased. In a large geographic area encompassing several counties, with participation in emission reduction planning from elected officials, city, county, and regional governments, the time investment could be significant. The Department will make every effort to coordinate this with other planning efforts. We project that each government entity would invest up to two weeks of work over the course of the eighteen month local advisory committee process. In smaller geographic areas, substantially less commitment would be needed.



### **State Agencies**

The proposed air toxics program is designed to be implemented incrementally. After essential functions have been provided, the program can be scaled to match the level of resources available. The Department has estimated that 8.5 FTE will be needed to perform the basic requirements of the proposed air toxics rules. Current staff, who are already working on aspects of the program, comprise 3.5 FTE, and an additional 2.0 FTE at the Laboratory will move from PM10 monitoring (that is no longer required) to air toxics monitoring and analysis. The Department is requesting 3.5 FTE as new positions in its 2003-2005 budget. The cost of these new positions for the biennium will be \$533,964, to be funded by an increase and shift in the federal air quality grant.

The Lane Regional Air Pollution Authority will implement the air toxics program in Lane County as its resources allow.

The Department plans to consult with the Department of Human Services, Health Services Program in developing the air toxics program and they may participate as their resources allow.

### **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 the  
Oregon Air Toxics Program

Land Use Evaluation Statement

**1. Explain the purpose of the proposed rules.**

U.S. Environmental Protection Agency (EPA) analyses show that air emissions of toxic chemicals pose significant threats to public health. Since the federal Clean Air Act was amended in 1990, the EPA has adopted a number of regulations primarily aimed at reducing emissions of air toxics from various large industrial sources. However, the highest risks from air toxics are estimated to occur in urban areas where the combined emissions from mobile sources, small area-wide sources are greatest. The Department worked with two successive advisory committees to develop a health-based state program that addresses multiple air toxics and cumulative exposures on a geographic basis with the participation of local citizens. It also addresses cases of elevated health risks from unregulated air toxics emissions at stationary sources as well as source categories of air toxics emissions.

**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

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

Local emissions reduction plans and other programs that require permit actions will result in changes in Air Quality permits. The permitting program is considered a land use program. As such, a local government Land Use Compatibility Statement is required before a permit is issued.

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

Yes  No :

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.

Not applicable

3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.

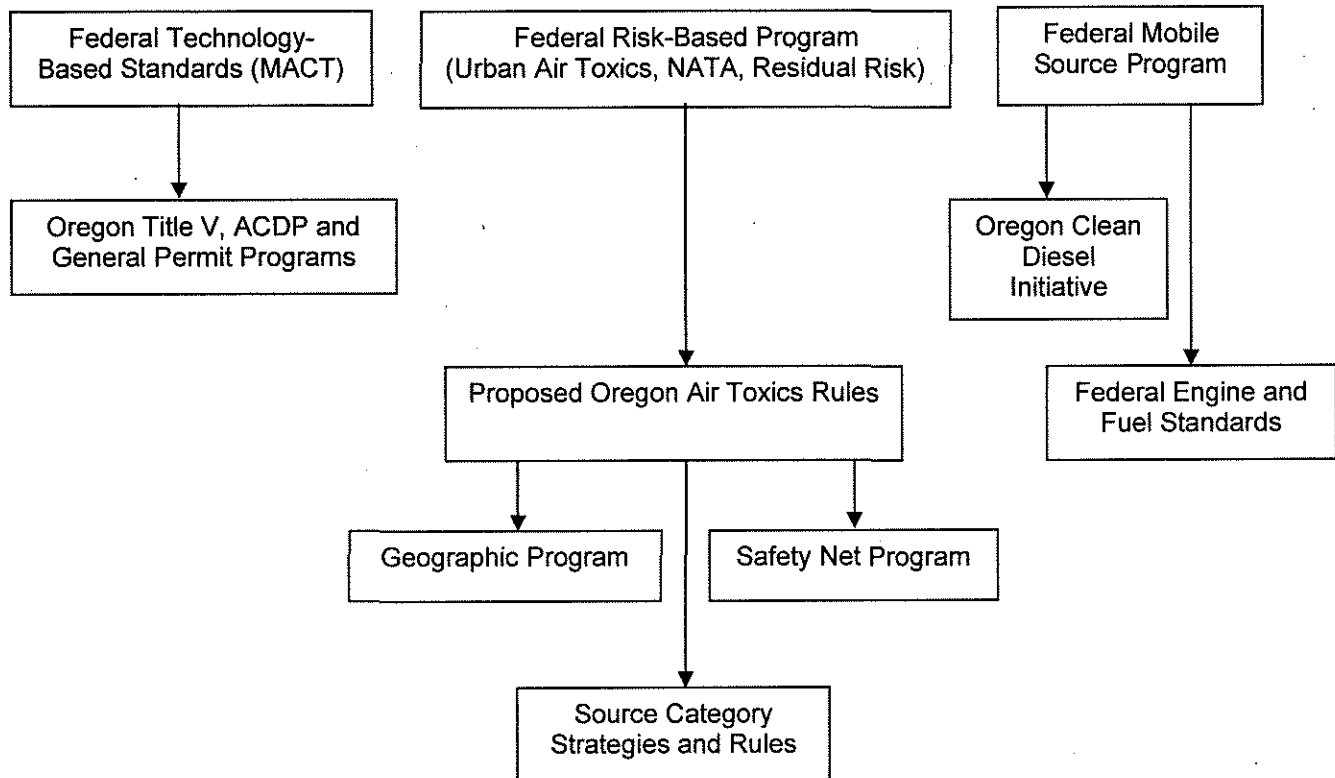
Not applicable

\_\_\_\_\_  
Division

  
\_\_\_\_\_  
Intergovernmental Coordinator

4-3-03  
Date

### Elements of the Federal and State Air Toxics Programs



State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** September 18, 2003  
**To:** Environmental Quality Commission  
**From:** Stephanie Hallock, Director *S. Hallock*  
**Subject:** Agenda Item E, Informational Item: Oregon Clean Diesel Initiative  
October 9, 2003 EQC Meeting

**Purpose of Item** The purpose of this item is to brief the Environmental Quality Commission on current efforts by the Department to reduce exposures to diesel exhaust through a voluntary, incentive supported program called the Clean Diesel Initiative.

**Relationship to state of Oregon and Department Priorities** The Initiative supports two of the Department's Strategic Directions: 1) To Protect Human Health and the Environment from Toxics and 2) To Involve Oregonians in Solving Environmental Problems.

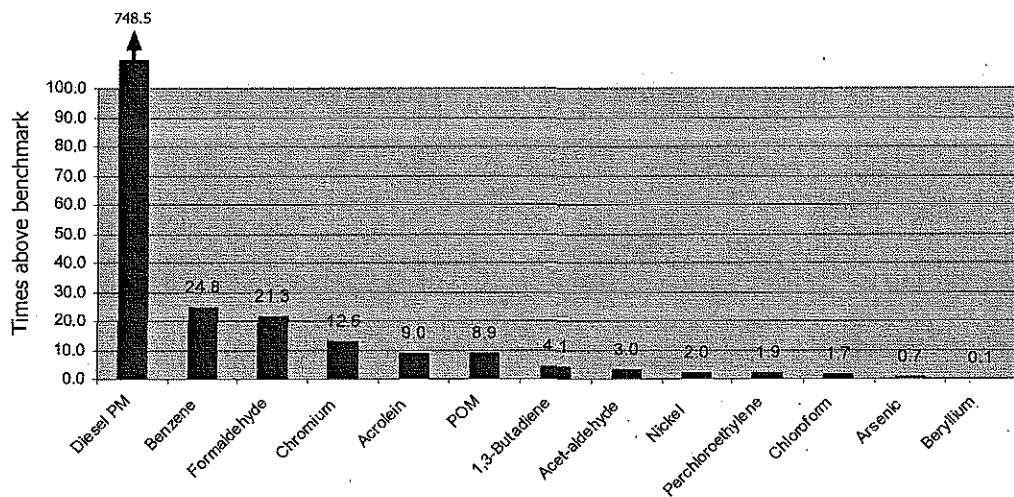
The Department has been working for the past several years to develop an air toxics control program, which the Commission will consider for adoption in a separate action at this meeting. Diesel particulate causes the greatest health risk of all pollutants to be addressed under this program, making the Clean Diesel Initiative the most important source category strategy the Department will pursue under this program.

The Initiative is also a key strategy for the Department in supporting and realizing the goals of the Governor's Sustainability Executive Order. The Department is forming a Clean Diesel Workgroup to develop a strategy that further promotes clean diesel technology in Oregon. This workgroup will prepare a list of recommendations and actions by spring 2004.

**Background** Diesel engines are well known for their durability, reliability, power and fuel economy. These advantages have led to their widespread use in heavy duty applications. Today, diesel engines in trucks, locomotives and tugs are responsible for 94 percent of the freight movement in the United States. However, these engines are disproportionate emitters of nitrogen oxides (NOx) and respirable fine particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). Heavy-duty diesel vehicles account for about 6 percent of all motor vehicles in Oregon but

emit about 35 percent of the NOx and about 65 percent of the particulate matter from motor vehicles. An increasing body of medical evidence points to diesel particulate matter as a potent carcinogen. Preliminary assessment of toxic air contaminants in Oregon shows diesel particulate to be the number one health risk, by an order of magnitude, among all other outdoor air toxics. (Figure 1)

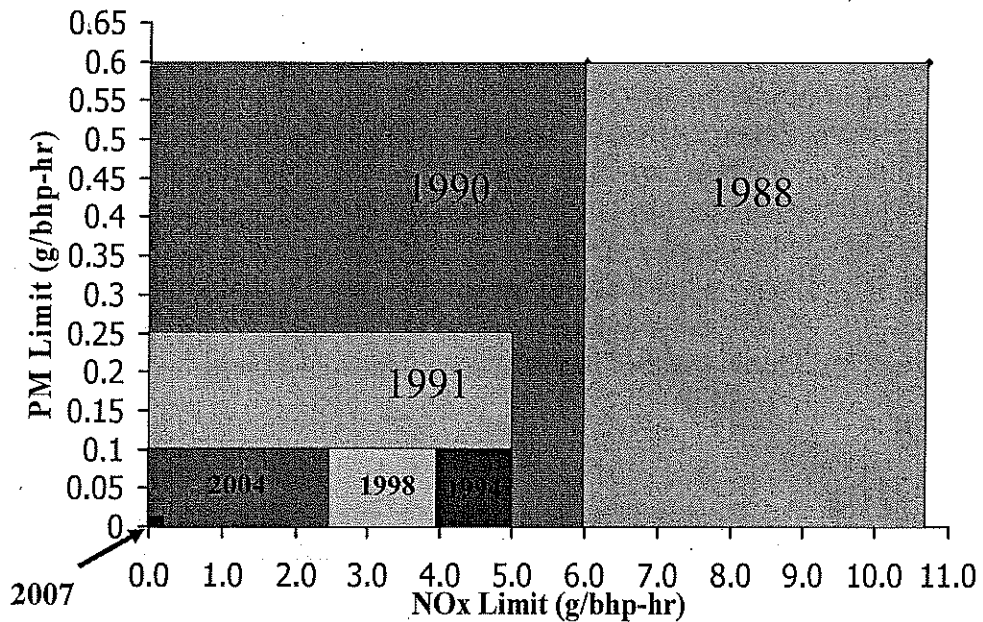
Figure 1 Statewide Risk For All Air Toxics



Diesel engines have gotten cleaner over the past several years as shown in Figure 2. Although the 2007 standards represent a significant milestone for reducing emissions from diesel engines, any air pollution benefit must come from turnover in the fleet, which is much slower than for light duty vehicles because of the durability of a diesel engine. The Environmental Protection Agency projects that substantial benefits from the 2007 rule will not be realized for another 15 to 20 years.

In Oregon, fleet turnover appears to be happening even more slowly because the average age of a heavy-duty diesel vehicle in this state is one to two years greater than the national fleet. Full realization of the benefits from stricter engine standards is also confounded by an increase in the use of diesel powered vehicles, where not only the number of vehicles has grown but the vehicle miles traveled has increased even faster.

Figure 2 Federal Heavy Duty Diesel Engine Certification Standards



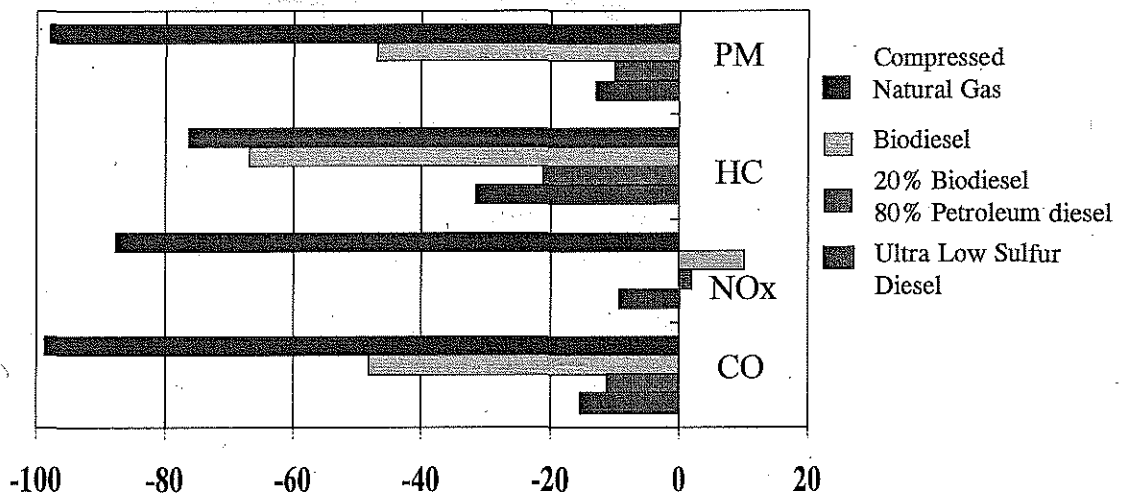
The goal of the Clean Diesel Initiative is to reduce the risk in Oregon by reducing emissions from in-use diesel vehicles while the new engine standards phase in. A number of techniques to reduce emissions from in-use vehicles are possible. These include cleaner fuels, retrofit emission control equipment and combinations of cleaner fuel and exhaust controls.

Figure 3 shows emission benefits resulting from several approaches relying on fuel change alone. For instance, a long-standing approach has been to repower heavy-duty engines with compressed or liquefied natural gas. Compared to standard diesel engines, natural gas vehicles show excellent emission reductions with regulated pollutants, however operational constraints have prevented widespread acceptance of this fuel/engine powertrain. At twenty to forty thousands dollars more per natural gas vehicle, cost is a significant barrier. This does not include the additional expenditures needed for fueling infrastructure.

Biodiesel is another fuel that has recently sparked interest because of its many environmentally-friendly qualities. Biodiesel is a renewable diesel fuel derived from any number of vegetable oils and recycled animal fats. Although it can be used at full strength, biodiesel is often blended 20 percent with petroleum diesel to reduce certain operational limitations and lower the

cost. This blending also reduces the environmental benefits. The fuel is clearly superior to petroleum diesel on measures of energy security, energy renewability, and global warming, but is mixed on air quality benefits. While there are reductions in particulate (PM), hydrocarbon (HC) and carbon monoxide (CO) emissions, the use of biodiesel does result in an increase in NOx emissions. Biodiesel is overall a less effective, and more costly, air quality strategy than other available approaches. For instance, it costs eleven times more to reduce the same amount of particulate with biodiesel than with catalyzed soot filters. Nonetheless, the Department supports the development of biodiesel as an element of an overall sustainable program to reduce harmful emissions from diesel engines, especially if the feedstock and production processes are part of an economic development strategy for Oregon and the Northwest.

Figure 3 Reduction of Regulated Emissions



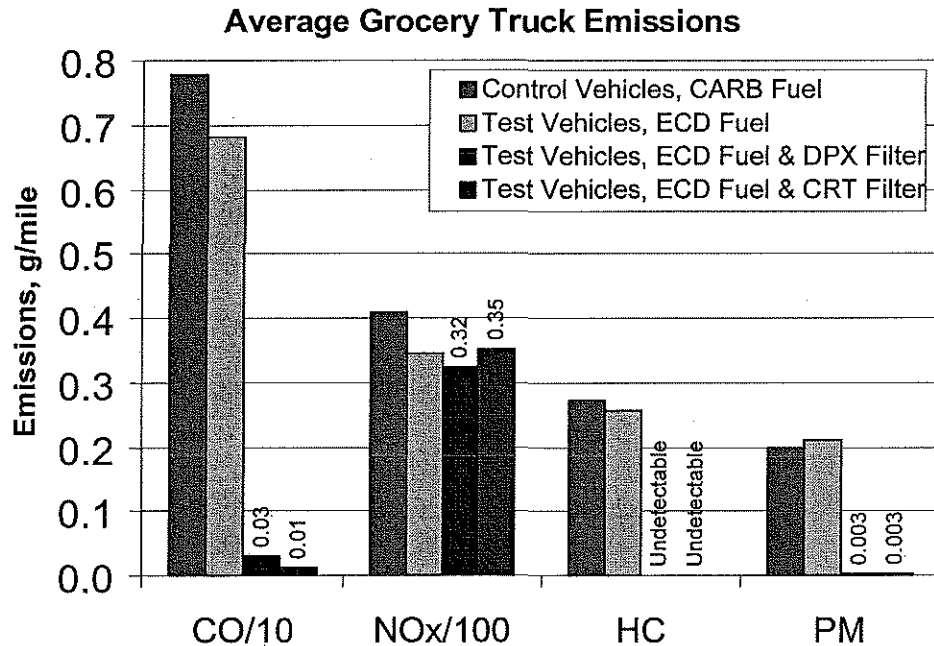
Percent Reduction vs. Regular Diesel

Advances in pollution control technology and a cleaner formulation of petroleum diesel fuel (called Ultra Low Sulfur Diesel Fuel) make it possible for many diesel engines already on the road to operate with very low emissions. Figure 4 shows emission test results from a California study on heavy-duty trucks comparing baseline emissions to vehicles using just the fuel, here branded by British Petroleum as ECD™, and vehicles fitted with each of two different types of catalytic soot filters, the DPX™ filter manufactured by Engelhard and the CRT™ filter made by Johnson-Matthey. The resulting emissions are dramatically lower for carbon monoxide,



hydrocarbon and particulate emissions. Little or no change in nitrogen oxide emissions are anticipated as these devices are not intended for NOx control. Diesel vehicles using the fuel and filters have an emissions profile that is very similar to a compressed natural gas vehicle for carbon monoxide, hydrocarbons and particulates. However, this is achieved at a much lower cost and while still retaining the operational advantages of a diesel engine. Biodiesel is naturally low sulfur fuel and would also enable the use of catalytic soot filters.

Figure 4 Emissions Reductions with ULSD and Filters



**Clean Diesel Efforts to date**

The Oregon Clean Diesel Initiative is intended to encourage retrofitting of existing vehicles with catalyzed soot filters along with the use of the ultra low sulfur fuel in order to realize the environmental and public health protections made possible by these technological improvements.

The Department's recent efforts have focused on identifying and aggregating demand for ultra low sulfur fuel in order to demonstrate a large enough market in Oregon to warrant early introduction of the fuel. So far, the Department has received commitments for over 5 million gallons of annual fuel use and anticipates securing another 10 million gallons of demand by this

fall. This will put Oregon well above the 10 million gallon target established by the oil refiners for market viability. Initially, the fuel will be available in the Portland area followed by other portions of the Willamette Valley, central Oregon and southern Oregon. The Department is working with agencies in Washington state to ensure early introduction of the fuel east of the Cascades as well.

Several fleets have already committed to demonstrating the effectiveness and utility of the catalytic soot filters on at least forty vehicles around the state on school buses, garbage trucks and over-the-road trucks.

The Initiative is also exploring other opportunities to reduce emissions from diesel engines. For example, the Department is partnering with Puget Sound Clean Air Agency to investigate cost effective emission control options for diesel engines in construction, marine and railroad operations. Engines operating in these settings tend to be more heavily polluting than onroad vehicles but operational issues associated with these applications hinders straightforward technology transfer from highway vehicles when retrofitting existing engines. The Department is encouraging EPA to adopt nonroad engine certification standards and fuel requirement for new engines that are similar in stringency to highway diesel engines.

The Department is working with other partners to explore ways to help save fuel and reduce air pollution from truck idling. Operators idle their diesel engines for a number of reasons. In some cases, particularly at truck stops, drivers idle their vehicle to maintain personal comfort systems during federally mandated rest periods. The Initiative has undertaken efforts to partner with federal and state transportation, energy and environmental agencies along the west coast to develop a regional strategy along the Interstate 5 corridor for truck stop electrification. This is a promising technique that offers a variety of services for truckers including cable television, Internet access, as well as heat or air conditioning in the sleeper compartments of their vehicles while reducing their fuel costs and wear and tear on their vehicle's engines.

**EQC  
Involvement**

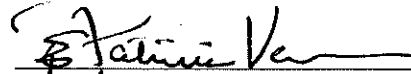
In January 2001, the Environmental Quality Commission amended rules for the Pollution Control Facilities Tax Credit Program to make "nonpoint source" facilities eligible for the credit. This includes retrofitting of diesel engines with exhaust aftertreatment controls. The Clean Diesel Initiative is an example of a source category approach that could be employed under the air toxics program under consideration for approval by the Commission at this same meeting.

**Further  
Information  
Available**

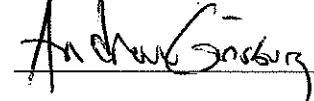
Other information about clean diesel efforts in Oregon is found at <http://www.deq.state.or.us/air/diesel/index.htm>. Information about the Voluntary Diesel Retrofit program sponsored by the Environmental Protection Agency can be located at <http://www.epa.gov/otaq/retrofit/index.htm>.

Approved:

Section:

  
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Division:

  
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Report Prepared By: Kevin Downing

Phone: 503.229.6549