

**OREGON  
ENVIRONMENTAL QUALITY  
COMMISSION MEETING  
MATERIALS 02/22/2008**



**State of Oregon  
Department of  
Environmental  
Quality**

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**DRAFT**  
**EQC Meeting Agenda**  
**Thursday, February 21 and Friday, February 22, 2008**  
**DEQ Headquarters, Room EQC-A**  
**811 SW 6th**  
**Portland, Oregon**

**Thursday, February 21--Regular Meeting**

Time	Item	Topic	Presenter/Status	Background
11:00 15 min	A	Preliminary Commission Business: Adoption of Minutes of the December 13 - 14, 2007 Regular Meeting and January 8, 2008 Special Meeting		Routine
11:15 30 min	B	Informational Item: Update on the Status of the Umatilla Chemical Agent Disposal Facility (UMCDF)	Joni Hammond and Rich Duval	Routine
11:45 45 min	I	Informational Item: Recycled water re-use rules <b>**THIS ITEM NEEDS TO BE TAKEN OUT OF ORDER**</b>	Neil Mullane and Judy Johndohl, Mark Yeager, City of Albany (representing ACWA), Ken Kauffman, Department of Human Services	Informational item in preparation for April rulemaking.
12:30 45 min		Working Lunch: Executive Session		
1:15 15 min	C	Action item: Director's Transactions for Commission Review	Kerri Nelson and Judy Hatton	Oregon Accounting Policy and DEQ policy require that the EQC review and approve certain financial transactions of the DEQ Director annually.
1:30 15 min	D	Action Item: Align Tank Rules with Federal Regulations, Improve Existing Rules	Wendy Wiles and Mitch Scheel	Adopt rule
1:45 45 min	E	Informational Item: Director's Dialogue	Dick Pedersen	
2:30 30 min	F	Action Item: Division 11 "Disclosure of rule relationship to federal requirements" rule	Larry McAllister and AQ manager TBD	Adopt rule
3:00 15 min		Break		
3:15 30 min	G	Public Forum		

Time	Item	Topic	Presenter/Status	Background
3:45 30 min	H	Action Item: Clean water state revolving fund program rules	Neil Mullane and Larry McAllister	Adopt rule
4:15 15 min	J	Action Item: Approval of Bond Issue	Kerri Nelson and Jim Harris	Approve resolution authorizing the issuance of bonds by DEQ
4:30 30 min	K	Informational Item: EQC's own Performance Measures	Wendy Simons and Joanie Stevens-Schwenger	Status update on EQC's progress in meeting FY2007 performance measures. Formal report scheduled for September 2008.
5:00		End of First Day		

### Friday, February 22--Regular Meeting

Time	Item	Topic	Presenter/Status	Background
8:00 90 min		Executive Session		
9:30 60 min	L	Informational Item: Field burning	Andy Ginsburg, Lisa Hanson, Department of Agriculture	Follow up report from December EQC meeting.
10:30 15 min		Break		
10:45 15 min	M	Action Item: Amend Plant Site Emission Applicability Rule	Andy Ginsburg and Gregg Dahmen	Adopt temporary rule
11:00 60 min	N	Informational Item: Preliminary 2009 Legislative Agenda	Greg Aldrich and Program Administrators	Update for the EQC about preliminary legislative concepts and policy packages.
12:00 15 min	O	Informational Item: Commissioner Reports	Commission members	
12:15		Adjourn		

# Oregon Environmental Quality Commission Meeting

February 21 and 22, 2008

Department of Environmental Quality Headquarters  
Room EQC A  
811 SW 6<sup>th</sup> Avenue  
Portland, Oregon

**Thursday, February 21—Regular meeting begins at 11:00 am**

**A. Preliminary Commission Business: Adoption of Minutes of the December 13-14, 2007 Regular Meeting and January 8, 2008 Special Meeting**

The Environmental Quality Commission (Commission, EQC) will review, amend if necessary, and approve draft minutes of the December 13-14, 2007, regular Commission meeting and January 8, 2008, special Commission meeting.

**B. Informational Item: Update on the Status of the Umatilla Chemical Agent Disposal Facility (UMCDF)**

Joni Hammond, Department of Environmental Quality (Department, DEQ) Eastern Region Division Administrator, and Rich Duval, Administrator of DEQ's Chemical Demilitarization Program will give an update on the status of recent activities at the Umatilla Chemical Agent Disposal Facility (UMCDF). In August 2004, the Commission gave approval to start chemical weapon destruction at UMCDF and DEQ's Chemical Demilitarization Program continues close oversight of work at the facility.

*Joni Hammond and Rich Duval, Department of Environmental Quality*

**I. Informational Item: Recycled Water Re-use Rules**

*\*Note: This item will be taken out of order to accommodate out-of-town presenters.\**

The term "recycled water," also referred to as reclaimed water, means the water discharged from a municipal wastewater treatment facility that is used for a specific beneficial purpose, depending on the quality of treatment. Recycled water may not be used for drinking water. The use of recycled water requires a water quality permit and is regulated under rules adopted by the EQC in 1990. A 2005 Governor's Executive Order directed DEQ to make appropriate revisions to Department rules and policies to remove potential regulatory barriers and to encourage water reuse in Oregon. DEQ convened a Water Reuse Task Force in May 2006 to develop recommendations for rule revisions. This information item is intended to prepare the Commission to consider adopting the proposed revisions at its April meeting.

*Neil Mullane and Judy Johndohl, Department of Environmental Quality, Ken Kauffman, Department of Human Services, Mark Yeager, City of Albany*



## **Working Lunch**

The Commission will hold an Executive Session from 12:30 p.m. to 1:15 p.m. to consider the employment of a new Department director. Only representatives of the media may attend and media representatives may not report on any deliberations taking place during the session.[1]

### **C. Action Item: Director's Transactions for Commission Review**

Oregon Accounting Policy and Department of Environmental Quality Policy require that the Environmental Quality Commission review and approve certain financial transactions of the DEQ Director on an annual basis.

*Kerri Nelson and Laura Arcidiacono, Department of Environmental Quality*

### **D. Action Item: Align Tank Rules with Federal Regulations, Improve Existing Rules**

The Department proposes that the Commission adopt amendments to the state's Underground Storage Tank (UST) Compliance Rules (OAR Chapter 340, Division 150). The proposed changes protect federal grant funding by aligning DEQ's UST regulations with federal law (Energy Act of 2005), implement changes approved by the 2007 Oregon Legislature (SB 104) and ensure operating facilities have pollution liability insurance to clean up leaks.

*Wendy Wiles and Mitch Scheel, Department of Environmental Quality*

### **E. Informational Item: Director's Dialogue**

Dick Pedersen, DEQ Acting Director, will discuss current events and issues involving the Department.

### **F. Action Item: Division 11 "Disclosure of Relationship between Proposed Rules and Federal Requirements" Rule**

The Department proposes that the Commission adopt amendments to align DEQ's rules with statutory changes made by Senate Bill 107, Section 3 enacted by the 2007 legislature. The amendments would modify the Department's disclosure procedures and allows stakeholders subject to the Title V permit program an additional opportunity for a hearing before the EQC.

*Larry McAllister, Department of Environmental Quality*

### **G. Public Forum**

The Commission will break the meeting to provide members of the public an opportunity to speak to the Commission on environmental issues that are 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.

### **H. Action Item: Clean Water State Revolving Fund Program Rules**

The Department proposes that the Commission adopt amendments to the Clean Water State Revolving Fund (CWSRF) program rules. The CWSRF program is a federal Clean Water Act program that has been administered by DEQ since the program's inception in 1987. This loan program provides low-interest loans to public entities to resolve water pollution problems, and then the loan repayments are loaned out again to other communities. The proposed rule amendments will provide DEQ with the authority to implement an updated state

environmental review process and remain eligible for the annual federal EPA capitalization grant.

*Neil Mullane and Larry McAllister, Department of Environmental Quality*

**I. Informational Item: Recycled Water Re-Use Rules**

*\*This item will be taken out of order – see above under Item B.\**

**J. Action Item: Approval of Bond Issue**

Under ORS 286.033, state agency issuance of bonds requires a resolution by the agency's governing body. The Department proposes that the Commission adopt a resolution giving DEQ the authority to authorize both the issuance of bonds and the use of bond proceeds. Approval of this bond sale will provide DEQ with \$4.5 million for the Orphan-Site Cleanup program in the 2007-2009 biennium and \$4.8 million in matching funds for up to \$24 million of federal Clean Water State Revolving Fund (CWSRF) grants in the same period.

*Kerri Nelson and Jim Harris, Department of Environmental Quality*

**K. Informational Item: EQC's Own Performance Measures**

At the direction of the 2005 legislature, the EQC formally adopted a performance measure in December 2006. The EQC's measure is the percentage achieved in an annual self-assessment against 15 best practices for boards and commissions, as laid out by the Department of Administrative Services (DAS) and customized by the EQC. This item is a mid-year update on the Commission's progress in meeting the 15 best practices identified in its performance measure.

*Joanie Stevens-Schwenger and Wendy Simons, Department of Environmental Quality*

**Friday, February 22—Regular meeting begins at 9:30 am**

The Commission will hold an Executive Session from 8:00 am to 9:30 am to consult with counsel concerning legal rights and duties regarding current or potential litigation against the DEQ. Only representatives of the media may attend and media representatives may not report on any deliberations during the session. [2]

**L. Informational Item: Field Burning**

As requested by the Commission at its December 2007 meeting, DEQ and the Oregon Department of Agriculture (ODA) will provide an update on field burning. ODA and Lane County will provide an update on the status of new research into alternatives to field burning, while DEQ will describe a study to be undertaken regarding the health effects of exposure to fine particulates.

*Andy Ginsburg, Department of Environmental Quality, and Lisa Hanson, Oregon Department of Agriculture*

**M. Action Item: Amend Plant Site Emission Applicability Rule**

The Department proposes that the Commission adopt a temporary rule to correct an error that was recently discovered within the Air Quality permitting programs rules. If left uncorrected, the rule will cause a significant amount of unnecessary work by the Department and unnecessary cost to regulated facilities without benefiting the environment.

*Andy Ginsburg and Gregg Dahmen, Department of Environmental Quality*

**N. Informational Item: Preliminary 2009 Legislative Agenda**

Every two years, state agencies must develop legislative concepts and budget policy packages as part of the legislative and budget development process. Greg Aldrich, the Department's Government Relations manager, will inform the Commission about development of legislative concepts and budget policy packages since the December 2007 Commission meeting. This information will allow Commissioners to provide guidance to staff as the development process continues into 2008.

*Greg Aldrich, Department of Environmental Quality*

**O. Informational Item: Commissioner Reports**

**Adjourn**

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[1] This executive session will be held pursuant to ORS 192.660(2)(a).

[2] This executive session will be held pursuant to ORS 192.660(2)(f), (h).

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*Future Environmental Quality Commission meeting dates include:*

April 24 - 25, 2008  
June 19 - 20, 2008  
August 21 - 22, 2008  
October 23 - 24, 2008  
December 11 - 12, 2008

**Agenda Notes**

**Staff Reports:** Staff reports for each item on this agenda can be viewed and printed from DEQ's Web site at <http://www.deq.state.or.us/about/eqc/eqc.htm>. To request a particular staff report be sent to you in the mail, contact the EQC Assistant, Department of Environmental Quality, Director's Office, 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 the EQC Assistant as soon as possible, but at least 48 hours in advance of the meeting.

**Public Forum:** The Commission will provide time in the meeting during the afternoon of Thursday, February 21, for members of the public to speak to the Commission. 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 the 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.

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.

**Lynn Hampton, Chair**

Lynn Hampton recently retired 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.

**Ken Williamson, Commissioner**

Ken Williamson is head of the School of Chemical, Biological and Environmental Engineering at Oregon State University. He received his B.S. and M.S. at Oregon State University and his Ph.D. at Stanford University. Commissioner Williamson was appointed to the EQC in February 2004 and reappointed in May, 2007. He lives in Corvallis. He represents the EQC on the Oregon Watershed Enhancement Board (OWEB).

**Judy Uherbelau, Commissioner**

Judy Uherbelau is a graduate of Ball State University with a B.S. in Economics/Political Science. She received a J.D. from UCLA School of Law and recently closed her law practice with Thomas C. Howser, PC in Ashland. Judy served in the Peace Corps and the Oregon House of Representatives as well as numerous boards and commissions. Commissioner Uherbelau was appointed to the EQC in February 2005 and lives in Ashland.

**Donalda Dodson, Commissioner**

Donalda Dodson is currently Interim Executive Director of the Oregon Child Development Coalition. Previously, she served as Administrator of the Department of Human Services Office of Family Health and as Manager of the Maternal/Child Health Program at the Marion County Health Department. Donalda has a Bachelor of Science degree in nursing and a master's degree in public health. She has chaired or served on nearly a dozen public health committees and task forces and expresses a strong interest in bringing environmental issues into the public health arena.

Commissioner Dodson was appointed to the EQC in August of 2005 and reappointed in July of 2007. She resides in Salem.

**Bill Blosser, Vice Chair**

Bill Blosser is owner of William Blosser Consulting. He is employed by, and has held several positions with CH2M Hill in Portland. Bill served as Director of the Oregon Department of Land Conservation and Development from 2001-2002 and was formerly president of Sokol Blosser Winery in Dundee, Oregon. Bill has served on and chaired numerous commissions and task forces, including terms as chair of the Water Resources Commission, chair of the Land Conservation and Development Commission and chair of the Policy Advisory Committee on Water Quality to the EQC. Bill has a Bachelor of Arts degree in history and humanities from Stanford University and a master's degree in regional planning from the University of North Carolina, Chapel Hill. Commissioner Blosser was appointed to the EQC in January 2006 and lives in Portland.

**Dick Pedersen, Acting 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)

Wendy Simons, Assistant to the Commission

Telephone: (503) 229-5301

Approved \_\_\_\_\_  
Approved with Corrections \_\_\_\_\_

Minutes are not final until approved by Commission.

## **Oregon Environmental Quality Commission Minutes of the Three Hundred and Forty-first Meeting**

**December 13 – 14, 2007**

**Thursday, December 13 – Regular meeting began at 8:30  
DEQ Headquarters, 811 SW 6<sup>th</sup> Avenue, Room EQCA  
Portland, Oregon 97204**

### **Regular Meeting**

The Environmental Quality Commission (EQC, Commission) held a public meeting beginning at 8:30 a.m. on December 13, 2007, at the Department of Environmental Quality (DEQ, Department) Headquarters building, 811 SW 6<sup>th</sup>, Room EQCA, Portland, Oregon.

The following members of the Environmental Quality Commission were present:

Lynn Hampton, Chairwoman  
Bill Blosser, Vice Chairman  
Kenneth Williamson, Member  
Donalda Dodson, Member

Commissioner Judy Uherbelau was absent.

#### **A. Preliminary Commission Business: Adoption of Minutes of the October 17 – 19, 2007 Meeting**

The Commission reviewed and approved draft minutes of the October 17-19, 2007, Commission meeting.

#### **B. Informational Item: Update on the Status of the Umatilla Chemical Agent Disposal Facility (UMCDF)**

DEQ gave an update on the status of recent activities at the Umatilla Chemical Agent Disposal Facility (UMCDF). Joni Hammond, Eastern Region Division Administrator, and Rich Duval, Administrator of DEQ's Chemical Demilitarization Program, reported that processing of GB nerve agent munitions/bulk items has been completed, and the facility has changed over to VX processing, with VX operations beginning October 29, 2007. Two EQC determinations concerning best available

remain, scheduled for public comment by March 2008 and a hearing before the EQC in June 2008. The Government Accountability Project (GASP) filed a lawsuit against the EQC and DEQ on November 13, 2007, challenging a recent BAT determination by the EQC on secondary wastes.

**C. Informational Item: Director's Dialogue**

Dick Pedersen, acting DEQ director, discussed current events and issues involving the Department and the state.

**D. Action Item: New Director Selection Criteria and Appointment of Acting Director**

A motion was made by Vice Chairman Blosser and seconded by Commissioner Williamson to appoint Dick Pedersen as acting director of DEQ until a permanent director is hired. The motion passed. Twyla Lawson, executive recruiter from the Department of Administrative Services, presented the hiring process timeline and recruitment announcement for the new director search. The Commissioners offered suggestions for additional selection criteria, working with Ms. Lawson to refine the wording of the announcement.

**E. Public Comment on Criteria for New Director Selection**

The Commission provided members of the public an opportunity to provide input on the selection criteria for the new director.

- Richard Dezeeuw of AFSCME asked the Commissioners to look for a well-rounded leader who will ask a lot of DEQ employees and maintain a stable, emotionally safe, and inclusive working environment. Above all, his members want a director with "unyielding integrity." Mr. Dezeeuw provided written comments to the Commission.
- Christine Caurant of the Sierra Club asked on behalf of the club's members that the Commission look for a candidate with a background in natural resource conservation, and with the ability to provide vision and astute political judgment, as well as be an effective manager for DEQ programs. Ms. Caurant provided written comments to the Commission.
- Andrea Durbin of the Oregon Environmental Council stressed the importance of the new director being able to work well with and provide motivation for DEQ staff, to be accountable, to put forward innovative approaches, and to be capable of addressing big environmental issues like climate change, environmental health, and improving water quality. Ms. Durbin provided her suggested additional selection criteria in writing.
- Travis Williams, Willamette Riverkeeper stressed that DEQ needs more general fund money for its activities. He commented further that the agency's mission is public service, not customer service; the new director needs to advocate for environmental improvements beyond maintaining the status quo, and needs to understand core regulatory programs and the importance of adhering to them; and that the EQC and DEQ have the discretion to go beyond federal laws. Mr. Williams would like to ask new director candidates if they've read "Fire at Eden's Gate."

- Glenn Thompson, Sierra Club member and concerned citizen, testified that in his opinion Oregon citizens are very concerned about the Willamette River. He wants to the new director to focus on improving the environment.

**F. Action Item: Adopt Criteria for New Director Selection**

After considering Item G out of order, Twyla Lawson presented the compiled director selection criteria, taking into account the suggestions of Commissioners and comments from the public. Commissioner Dodson moved and Vice Chairman Blosser seconded the motion to approve the criteria as amended. The motion passed unanimously. Commissioner Williamson moved and Vice Chairman Blosser seconded a motion to approve the proposed hiring timeline presented by Ms. Lawson. The motion passed unanimously.

**G. Action Item: Pollution Control Tax Credit Considerations**

(Considered out of order) Maggie Vandehey from DEQ presented recommendations to the Commission on final certification of pollution control facilities. Vice Chairman Blosser abstained from voting on any tax credit considerations for businesses in which he has an interest. Commissioner Dodson moved to approve final certification of facilities as recommended by staff. Commissioner Williamson seconded the motion. Commissioner Williamson moved to certify the equipment presented by the Department as substantially meeting the definition of a "wood chipper" under law. Commissioner Dodson seconded the motion. Vice Chairman Blosser moved to revoke, reissue or transfer certificates as recommended by staff. Commissioner Williamson seconded the motion. All three motions passed unanimously.

**H. Informational Item: Align Tank Rules with Federal Regulations, Improve Existing Rules**

Wendy Wiles, DEQ land quality administrator, presented information on proposed rule revisions to the underground storage tank program to prepare the Commissioners for a rule adoption item at the February, 2008 meeting.

**Working Lunch**

The Commission held an executive session from approximately 12:00 to 1:30 to consult with counsel concerning legal rights and duties regarding current or potential litigation against the DEQ.

**I. Action Item: 2008-09 Rulemaking Agenda**

Larry McAllister, the Department's rules coordinator, along with the program administrators for air quality, water quality, land quality, and compliance and enforcement, briefed the Commissioners about proposed rules for 2008-09. The Commissioners asked clarifying questions and let the Department know the extent to which individual Commissioners and the Commission as a whole would like to be informed and involved as the rulemaking process unfolds for each proposed rule.



**Informational Item: Update on Internal Strategic Directions Measures**

Karen Whisler, DEQ organizational consultant, presented the Department's internal performance measures which allow the Department to track its progress on achieving its strategic directions. The Commission reviews the Department's internal and external measures each once a year.

**J. Environmental Quality Commission Recognition of Outgoing Director, Stephanie Hallock**

The Commissioners presented Stephanie Hallock with a plaque honoring her accomplishments as DEQ director, and expressed their appreciation for her work.

**Friday, December 14 – Regular meeting began at 9:00 am.**

**K. Introduction to Topics for the Day**

Dick Pedersen, acting DEQ director, explained that Friday's agenda items were selected and developed in response to interests and concerns expressed by Commissioners during the strategic planning discussion in October.

**L. Informational Item: Oregon's Actions to Address Climate Change**

Andy Ginsburg, air quality administrator, and David Van't Hof, the Governor's sustainability advisor, provided an update to the Commission on efforts to address climate change in Oregon. DEQ is implementing two of the initiatives: the Oregon low emission vehicle program and the development of greenhouse gas mandatory reporting rules.

**M. Informational Item: Life Cycle Analysis and New Directions in DEQ's Solid Waste Program**

David Allaway and Loretta Pickerell of DEQ's solid waste program gave a presentation on life cycle analysis (LCA) and the ways in which LCA is informing decision-making about packaging choices, the design of recycling programs, and how to account for the environmental impacts of various economic activities.

**N. Public Forum**

Karen Williams, representing AFSCME 3336 which represents DEQ employees, presented a summary of the employees' concerns about the modification of the Chemical Waste Management permit. Ms. Williams presented her written comments to the Commission, and informed the Commission that AFSCME 3336 will be submitting public comments to the Department on this issue on December 17, 2007.

**O. Informational Item: Selected DEQ Toxics Reductions Efforts**

Kevin Masterson, DEQ's toxics coordinator, presented an overview of toxics reduction efforts, including an assessment of the Department's knowledge and resources in relation to the scope of the problem. Most regulatory programs focus on the end of the lifecycle of toxic chemicals. Some current programs aim to influence purchasing and use decisions by industry and consumers to lessen harmful impacts, while "green chemistry" reform groups are working on providing alternatives to the

use of toxic chemicals in the future. Mr. Masterson presented detailed information about the Department's pesticide stewardship partnerships program, while David Livengood presented information about the Department's toxics use and hazardous waste reduction assistance program.

**P. Informational Item: Pharmaceutical Take Back Program**

Tom Penpraze of the City of Corvallis, Janet Gillaspie of the Association of Clean Water Agencies, and Abby Boudouris of the Department presented the recommendations of the pharmaceutical take-back stakeholder group. The group recommends that pharmaceutical manufacturers and over-the-counter drug companies voluntarily devise and implement a program for consumers to dispose of unwanted medicines. The Commission expressed its support for the proposal, and asked that the proposal's backers give the Commission guidance on how and when to most effectively lend its support.

**Q. Informational Item: Preliminary 2009 Legislative Agenda**

Greg Aldrich, government relations manager at DEQ, reviewed the legislative and budget development process with the Commission, referring to a handout with the timeline for the process. He presented the Governor's natural resource priorities, which are: climate change, toxics, water (Headwaters to Ocean or "H<sub>2</sub>O" initiative), marine reserves, and sustainability. The Department's legislative concepts and budget policy packages are still in a preliminary stage, but are organized around DEQ's strategic directions (excellence, promoting sustainable practices, improving Oregon's air and water, protecting people and the environment from toxics, and involving Oregonians in solving problems). Between this meeting and the February meeting, the Department will work on bringing more definition to legislative concepts and budget policy packages for presentation to the Commission. The February legislative presentation and discussion will focus on budget development.

**R. Informational Item: Commissioner Reports**

Vice Chairman Blosser reported that DEQ has put in a request to DAS to lease retrofitted hybrid vehicles. Commissioner Williamson reported on recent discussions of the federal forest advisory group, of which he is a member. The advisory group is zeroing in a few key issues, but is hampered by a lack of funding and rising expenses related to forest fires. The group is currently discussing the retrieval of biomass, and the proliferation of juniper.

**Adjournment**

Approved \_\_\_\_\_  
Approved with Corrections \_\_\_\_\_

Minutes are not final until approved by Commission.

**Oregon Environmental Quality Commission  
Minutes of Special Meeting Concerning Hazardous  
Waste Permit at Umatilla Chemical Agent Disposal  
Facility**

**January 8, 2008  
8:00 a.m.  
Special Telephone Meeting**

*Telephone connections available at DEQ Headquarters, 811 SW 6<sup>th</sup> Avenue, Room 10,  
Portland, Oregon and conference room of DEQ's Hermiston office, 256 E. Hurlburt Ave.,  
Hermiston*

**Tuesday, January 8 – Executive session meeting began at 8:00 a.m.**

**Public meeting began at 8:20 a.m.**

The following members of the Environmental Quality Commission were in attendance by telephone:

Lynn Hampton, Chairwoman  
Bill Blosser, Vice Chairman  
Kenneth Williamson, Member  
Donalda Dodson, Member

Commissioner Judy Uherbelau was not in attendance.

Vice Chairman Blosser moved the following: "The EQC will reopen public testimony on the matter of the Secondary Waste BAT, with a goal of having an updated recommendation presented at the April (and no later than June) meeting, will receive BAT recommendations on Mustard and PFS at the August 2008 meeting, and request DOJ to take any steps necessary in the GASP IV matter consistent with this decision."

Commissioner Dodson seconded the motion. Chairwoman Hampton called the roll. All members voted "Yes," and hence the motion passed unanimously.

**Adjourned.**



State of Oregon  
Department of  
Environmental  
Quality

**Umatilla Chemical Demilitarization Program  
Status Update  
Environmental Quality Commission  
February 21, 2008  
(Agenda Item B)**

**Agent Processing at the Umatilla Chemical Agent Disposal Facility (UMCDF)**

**VX Operations:**

The VX agent trial burns for the three incinerators (Deactivation Furnace System, Metal Parts Furnace, and Liquid Incinerators) have all been completed. In addition, the sole VX ton container was processed November 26, 2007, the VX spray tank campaign was completed December 23, 2007, and the VX rocket campaign was completed January 23, 2008. VX trial burns began December 18, 2007, and were completed January 22, 2008.

The next campaign, VX 155 mm projectiles, is scheduled to begin in late March.

VX munitions/bulk items comprise 7.7 percent of the total Umatilla stockpile (by agent weight). As of February 7, 2008, the UMCDF had destroyed 14,513 VX rockets, one VX ton container, and 156 VX spray tanks resulting in over 372,300 pounds of VX nerve agent.

This represents approximately:

- 100 percent of the VX rockets
- 100 percent of the VX spray tanks
- 23.5 percent of the VX munitions
- 51 percent of the VX agent

Processing VX-contaminated secondary wastes in the Metal Parts Furnace continues. The UMCDF intends to process all VX-contaminated secondary wastes as they are generated, rather than transporting them to permitted storage in J-Block.

**GB Operations:**

Treatment of the remaining GB-contaminated wastes in permitted storage will not resume until the multiagent monitoring design changes, specific to GB monitoring, have been completed by late March 2008.

**Cumulative Operations:**

As of February 7, 2008, 45 percent of all Umatilla munitions and bulk containers and 25.4 percent of the original Umatilla stockpile (by agent weight) have been destroyed.

**Other UMCDF Chemical Demilitarization Program News**

**GASP I Judgment:** The EQC must make two remaining determinations required by the GASP I judgment as to whether the UMCDF is utilizing the best available technology (BAT) and has no major adverse impact on public health and the environment as it pertains to:

- Destruction of mustard ton containers containing significantly higher mercury levels than identified in the original application, and
- The role of the Pollution Abatement Carbon Filter System (PFS).

These determinations are scheduled to be available for public comment by March 2008, and before the EQC by June 2008.

**Ensuing GASP/GAP Lawsuit:** The extended public comment period for the secondary waste BAT began January 15, 2008 and will close February 29, 2008. A public meeting was held February 5, 2008. An additional informational presentation will occur February 21, 2008 at the Citizens Advisory Committee meeting.

**EPA Audit:** EPA Region X conducted an oversight audit of UMCDF December 17-20, 2007. The audit encompassed all activities authorized by the Air Contaminant Discharge Permit and the Hazardous Waste Treatment and Storage Permit. At the December 20 outbrief, EPA staff identified no compliance issues and were very complimentary of facility operations.

**Army Staffing Changes:** Conrad Whyne has been named the Director of the U.S. Army's Chemical Materials Agency. Don Barclay, Umatilla Site Project Manager since 2001, has accepted the position of Deputy Director of the U.S. Army's Chemical Materials Agency.

**UMCDF PMR Activity:**

SUBMITTALS		
PMR#	Title	Submitted
UMCDF-07-027-ACS(1R)*	Removal of ACS Filter Requirements for VX and HD Operations	12/20/2007
UMCDF-07-031-MISC(1N)*	Redline Annual Update-DEMIL and MDB	12/20/2007
UMCDF-07-022-WAP(2TA)	Alternate Decontamination Solution and WAP Update (EA 2192)	1/8/2008
UMCDF-08-001-MDB(1N)*	Simulated Toxic Area Training As-Built	1/16/2008
UMCDF-08-003-MISC(1N)	Redline Annual Update-General PAS	1/30/2008
<i>* Also approved or accepted during this reporting period.</i>		
APPROVALS/ACCEPTANCES		
PMR#	Title	Approved
UMCDF-07-032-HVC(2TA)	MDB HVC Carbon Filter Change Out	12/5/2007
UMCDF-07-033-MPF(2)	VX Agent Trial Burn Plans	12/12/2007
UMCDF-07-027-ACS(1R)	Removal of ACS Filter Requirements for VX and HD Operations	12/20/2007
UMCDF-07-031-MISC(1N)	Redline Annual Update-DEMIL and MDB	12/20/2007
UMCDF-08-001-MDB(1N)	Simulated Toxic Area Training As-Built	1/16/2008
UMCDF-06-010-CMP(3)	CMP Sampling and Analysis Plan Changes	2/4/2008

**IN PROCESS:** The following PMN and PMRs are under Department review (includes PMRs 07-022 and 08-003 which were also submitted during this period).

PMR#	Title	Received	Public Comment Period Close	Target Decision Date
UMCDF-05-034-WAST(3)	Deletion of the DUN and Addition of the CMS	10/25/05	12/24/05 <sup>1</sup>	TBD
UMCDF-07-005-MISC(2)	Condition ILM-Liability Insurance Requirement Changes	01/30/07	04/02/07	10/01/08
UMCDF-07-006-DFS(3TA)	Minimum Temperature Limit Change on the DFS	01/16/07	01/25/08 <sup>2</sup>	11/15/07
UMCDF-07-014-MPF(2)	MPF DAL Low-Temperature Monitoring Changes	02/20/07	04/23/07	11/30/07
UMCDF-07-022-WAP(2TA)	Alternate Decontamination Solution and WAP Update (EA 2192)	01/08/08	03/10/08	04/07/08
UMCDF-08-003-MISC(1N)	Redline Annual Update-General PAS	01/30/08	N/A	03/31/08

<sup>1</sup> Initial (permittee) public comment period.  
<sup>2</sup> Department (draft permit) public comment period.

### Significant Events at Other Demilitarization Facilities

#### **Anniston Chemical Agent Disposal Facility (ANCDF), Alabama**

The ANCDF continues to process VX 155 mm artillery projectiles. As of February 6, 2008, the ANCDF has destroyed 39 percent of its stockpile and reduced the storage risk by 98 percent.

#### **Newport Chemical Agent Disposal Facility (NECDF), Indiana**

As of February 5, 2008, the NECDF has neutralized 1,979,777 pounds (approximately 234,578 gallons) of VX. This represents approximately 78 percent of the original Newport stockpile. The U.S. has received credit for destroying 1,586,144 pounds of the Newport stockpile under the CWC treaty.

#### **Pine Bluff Chemical Agent Disposal Facility (PBCDF), Arkansas**

The PBCDF began VX operations in October 2007 with the processing of VX rockets. As of January 28, 2008, the PBCDF has processed 15,776 VX rockets and 152,447 pounds of VX.

#### **Tooele Chemical Agent Disposal Facility (TOCDF), Utah**

As of February 6, 2008, the TOCDF has destroyed 70 percent of its stockpile and reduced its storage risk by 99 percent.

As of September 16, 2007, TOCDF has processed 2,017 ton containers containing HD mustard (blister) agent, 29 percent of the HD ton containers stored at the Deseret Chemical Depot. Processing continues to be limited to only those ton containers that show a concentration of 1 ppm or less of mercury contamination. Work continues on designing a carbon filtration system that will provide sufficient flue gas mercury removal to allow the processing of mustard that has been determined to have mercury concentrations in excess of 1 ppm.

On November 1, 2007, the TOCDF began destroying the first of more than 50,000 mustard-filled 155mm projectiles. Because of agent solidification during storage, the agent will not be drained from the projectiles before conveying them to the Metal Parts Furnace. Instead, a new burster-well punch system, which will clear a path for furnace heat into the projectile agent cavity, will facilitate combustion of liquid and solid agent contents. In addition, some of the explosive components inadvertently bonded to the interior components of the projectiles during storage. To address this, a new remotely-operated burster rotating adapter device has been developed to rotate the “stuck” explosive components (the bursters) to allow removal.

**Pueblo Chemical Agent Destruction Pilot Plant (PCAPP), Colorado**  
**Blue Grass Chemical Agent Destruction Pilot Plant (BGCAPP), Kentucky**

Neutralization followed by biotreatment will be used to destroy the Pueblo 2,611-ton stockpile, while neutralization followed by supercritical water oxidation will be used to destroy the Blue Grass 523-ton stockpile.

Road and fencing work has been completed at Pueblo, the access control point is shortly to open, and work continues on site grading and the early phases of construction. Site preparation and utility installation also continues at the Blue Grass stockpile site, which will be the last destruction plant built in the United States. Chemical agent operations are slated to begin 2017 and to be completed by 2023.

## **Chemical Weapons Destruction Program Glossary of Acronyms and Terms of Art**

ABCDF – Aberdeen Chemical Agent Disposal Facility, located at the Aberdeen Proving Grounds in Maryland

ACAMS – Automatic Continuous Air Monitoring System – the chemical agent monitoring instruments used by the Army to provide low-level, near real time analysis of chemical agent levels in the air

ANCDF – Anniston Chemical Agent Disposal Facility, located at Anniston Army Depot in Alabama

ATB – agent trial burn – test burns on incinerators to demonstrate compliance with emission limits and other permit conditions

AWFCO instrument– Automatic Waste Feed Cutoff – an instrument that monitors key operating parameters of a high temperature incinerator and automatically shuts off waste feed to the incinerator if prescribed operating limits are exceeded

BGCA – Blue Grass Chemical Activity, located at the Blue Grass Army Depot in Kentucky

BGCAPP – Blue Grass Chemical Agent Destruction Pilot Plant, new designation for BGCA.

BRA – Brine Reduction Area – the hazardous waste treatment unit that uses steam evaporators and drum dryers to convert the salt solution (brine) generated from pollution abatement systems on the incinerators into a dry salt that is shipped off-site to a hazardous waste landfill for disposal

CAC – Chemical Demilitarization Citizens Advisory Commission – the nine member group appointed by the Governor to receive information and briefings and provide input and express concerns to the U.S. Army regarding the Army's ongoing program for disposal of chemical agents and munitions – each state with a chemical weapons storage facility has its own CAC – in Oregon the DEQ's Chemical Demilitarization Program Administrator and the Oregon CSEPP Manager serve on the CAC as non-voting members

CAMDS – Chemical Agent Munitions Disposal System – the former research and development facility for chemical weapons processing, located at the Deseret Chemical Depot in Utah

CDC – Centers for Disease Control and Prevention – a federal agency that provides oversight and technical assistance to the U.S. Army related to chemical agent monitoring,



laboratory operations, and safety issues at chemical agent disposal facilities (Website: <http://www.cdc.gov/nceh/demil/>)

CMA – U.S. Army's Chemical Materials Agency, the agency responsible for chemical weapons destruction (website: <http://www.cma.army.mil/>)

CMP – comprehensive monitoring program – a program designed to conduct sampling of various environmental media (air, water, soil and biota) required by the EQC in 1997 to confirm the projections of the Pre-Trial Burn Health and Ecological Risk Assessment.

CMS – carbon micronization system – a new treatment system that is proposed to be used in conjunction with the deactivation furnace system to process spent carbon generated at UMCDP during facility operations – the CMS would pulverize the spent carbon and then inject the powder into the deactivation furnace system for thermal treatment to destroy residual chemical agent adsorbed onto the carbon

CSEPP – Chemical Stockpile Emergency Preparedness Program – the national program that provides resources for local officials (including emergency first responders) to provide protection to people living and working in proximity to chemical weapons storage facilities and to respond to emergencies in the event of an off-post release of chemical warfare agents (Website: <http://csepp.net/>)

CWWG – Chemical Weapons Working Group, an international organization opposed to incineration as a technology for chemical weapons destruction and a proponent of alternative technologies, such as chemical neutralization (Website: <http://www.cwwg.org/>)

DAAMS – Depot Area Air Monitoring System – the system that is utilized for perimeter air monitoring at chemical weapons depots and to confirm or refute ACAMS readings at chemical agent disposal facilities – samples are collected in tubes of sorbent materials and taken to a laboratory for analysis by gas chromatography

DAL – discharge airlock – a chamber at the end of MPF used to monitor treated waste residues prior to release.

DCD – Desert Chemical Depot – the chemical weapons depot located in Utah

DFS – deactivation furnace system – a high temperature incinerator (rotary kiln with afterburner) used to destroy rockets and conventional explosives (e.g., fuses and bursters) from chemical weapons

DPE – demilitarization protective ensemble – the fully-encapsulated personal protective suits with supplied air that are worn by workers in areas with high levels of agent contamination

DUN – dunnage incinerator – high temperature incinerator included in the original UMCDF design and intended to treat secondary process wastes generated from munitions destruction activities – this incinerator was never constructed at UMCDF

ECR – Explosive Containment Room – UMCDF has two ECRs used to process explosively configured munitions. ECRs are designed with reinforced walls, fire suppression systems, pressure sensors, and automatic fire dampers to detect and contain explosions and/or fire that might occur during munitions processing

EONC – Enhanced Onsite Container – Specialized vessel used for the transport of munitions and bulk items from UNCD to UMCDF and for the interim storage of those items in the UMCDF Container Handling Building until they are unpacked for processing

G.A.S.P. – a Hermiston-based anti-incineration environmental group that has filed multiple lawsuits in opposition to the use of incineration technology for the destruction of chemical weapons at the Umatilla Chemical Depot – G.A.S.P. is a member of the Chemical Weapons Working Group

GB – the nerve agent sarin

HD – the blister agent mustard

HVAC – heating, ventilation, and air conditioning

HW – hazardous waste

I-Block – the area of storage igloos where ton containers of mustard agent are stored at UMCD

IOD – integrated operations demonstration – part of the Operational Readiness Review process when UMCDF demonstrates the full functionality of equipment and operators prior to the start of a new agent or munition campaign.

JACADS – Johnston Atoll Chemical Agent Disposal System, the prototype chemical agent disposal facility located on the Johnston Atoll in the Pacific Ocean (now closed and dismantled)

J-Block – the area of storage igloos where secondary wastes generated from chemical weapons destruction are stored at UMCD

K-Block – the area of storage igloos where chemical weapons are stored at UMCD

LIC1 & LIC2 – liquid incinerators #1 & #2 – high temperature incinerators (liquid injection with afterburner) used to destroy liquid chemical agents

MDB – munitions demilitarization building – the building that houses all of the incinerators and chemical agent processing systems. The MDB has a cascaded air filtration system that keeps the building under a constant negative pressure to prevent the escape of agent vapor. All air from inside the MDB travels through a series of carbon filters to ensure it is clean before it is released to the atmosphere.

MPF – metal parts furnace – high temperature incinerator (roller hearth with afterburner) used to destroy secondary wastes and for final decontamination of metal parts and drained munitions bodies

NECDF – Newport Chemical Agent Disposal Facility, located at the Newport Chemical Depot in Indiana

NRC – National Research Council

ORR – operational readiness review – a formal documented review process by internal and external agencies to assess the overall readiness of UMCDF to begin a new agent or munitions processing campaign.

PBCDF – Pine Bluff Chemical Agent Disposal Facility, located at the Pine Bluff Arsenal in Arkansas

PCAPP – Pueblo Chemical Agent Destruction Pilot Plant, new designation for PUCDF.

PFS – the carbon filter system installed on the pollution abatement systems of the incinerators used for chemical agent destruction

PICs – products of incomplete combustion – by-product emissions generated from processing waste materials in an incinerator

PMR – permit modification request

PMN – permit modification notice

PUCDF – Pueblo Chemical Agent Disposal Facility, located at the Pueblo Chemical Depot in Colorado

SAP – sampling and analysis plan

SETH – simulated equipment test hardware – “dummy” munitions used by UMCDF to test processing systems and train operators before the processing of a new munitions type. SETH munitions are often filled with ethylene glycol to simulate the liquid chemical agent so that all components of the system, including the agent draining process, can be tested.

TAR – Temporary Authorization Request

TOCDF – the Tooele Chemical Agent Disposal Facility, located at the Deseret Chemical Depot in Utah

UMCD – Umatilla Chemical Depot

UMCDF – Umatilla Chemical Agent Disposal Facility

WAP – waste analysis plan – a plan required for every RCRA permit which describes the methodology that will be used to characterize wastes generated and/or managed at the facility.

WDC – Washington Demilitarization Company, LLC – the Systems Contractor for the U.S. Army at UMCDF.

VX – a nerve agent

# Umatilla Chemical Depot

February 2008 Update

# Oversight activities

- Permit Process

  - Reinstated use of permit regulations

  - Eliminated use of Notice of Deficiency process

  - Reduced permit modification turn around by 2/3

- Facility Compliance

  - Engaged facility to improve compliance performance. Violations dropped from 27 in 2006 to 5 in 2007.

- Our inspection schedule has remained the same as in recent years, with one thorough inspection each month in addition to the 2-3 facility walkthroughs each week.

- EPA Oversight Audit

At my request, EPA conducted an audit December 17-20, 2007

Covered both air quality and hazardous waste

Final report is expected in March, but no issues were uncovered that will require EPA action

# Coming opportunities

- Legal issues

Three “best available technology” and “no major impact” determinations

Secondary waste and pollution filter system scheduled for June EQC meeting

High mercury mustard agent scheduled for August EQC meeting

Human health and ecologic risk assessment is to be presented to EQC at the April meeting

EQC participation – Special meeting, presentation at regular meeting, teleconference, or individual meetings



- Title V air permit has been drafted and is being reviewed by Eastern Region air quality staff. May have to also renew portions of the existing air permit
- Renewal of hazardous waste permit is underway

# Facility status

- VX spray tanks and 155mm rockets have been completed.
- Changeover to projectiles is underway, along with installation of the monitoring equipment necessary for GB secondary waste processing.

State of Oregon

Department of Environmental Quality

Memorandum

**Date:** February 4, 2008

**To:** Environmental Quality Commission

**From:** Dick Pedersen, Acting Director

**Subject:** Agenda Item C, Action Item: Director's Transactions for Commission Review  
February 21 – 22, 2008 EQC meeting.

**Proposed Action** Oregon Accounting Policy 10.90.00 and Department of Environmental Quality (Department, DEQ) Policy A10.90.00 (Attachments A and B) require that the Environmental Quality Commission (Commission, EQC) review and approve certain financial transactions of the DEQ Director on an annual basis. A summary of these transactions and copies of the relevant documents are provided in Attachments C and D.

**Background** In 2001, the Department of Administrative Services (DAS) adopted a policy requiring Commission review and approval of certain Director's transactions, including monthly time reports, vacation pay, travel expenses, and the Small Purchase Order Transaction System (SPOTS) credit card use. In September 2001, the Commission adopted a policy delegating review and approval of these transactions to the Management Services Division Administrator, with annual Commission review of the approved transactions.

**Department Recommendation** The Department recommends that the Commission review and approve these transactions. This review will be documented in the Commission meeting minutes as directed by State policy.

**Attachments**

- A. Oregon Accounting Manual (OAM) Policy No. 10.90.00.PO.
- B. DEQ Policy re: Approval of Director's Transactions.
- C. Summary of Director's Financial Transactions as defined by OAM 10.90.00 for the period 1/1/2007 – 12/31/2007 for Stephanie Hallock.
- D. Summary of Director's Financial Transactions as defined by OAM 10.90.00 for the period 12/13/2007 – 12/31/2007 for Dick Pedersen, Acting Director.

Approved:

Section:

Division:

Report Prepared by: Judy Hatton

Phone: 503-229-5389

<b>OREGON ACCOUNTING MANUAL</b>		Number 10.90.00.PO
Oregon Department of Administrative Services State Controller's Division	<b>Policy</b>	Effective Date July 16, 2001
Chapter	<b>Internal Control</b>	.1 OF .3
Part	<b>Approval of Agency Head Transactions</b>	
Section		Approval Signature on file at SCD

### Accountability and Control Standards

- .101 This policy sets accountability and control standards for the determination and delegation of review and approval authority for the agency head's monthly time report, requests for vacation payoff, use of exceptional performance leave, travel expense reimbursement claims, and Small Purchase Order Transaction System (SPOTS) card purchases. This policy is intended to ensure that these transactions are reviewed for completeness and accuracy and that they are in conformance with and measured against the documentation and compliance standards provided herein. In the case of agency heads that are elected, this policy may be applied at the option of that elected official.

### Establishing Review and Approval Authority

- .102 Agency heads appointed by the Governor shall delegate review and approval authority for agency head financial transactions to the chief financial officer or to the person who holds the position of second-in-command to the agency head. The delegation shall be in writing.

Agency heads appointed by or reporting to a board or commission shall work with that body to create a review and approval structure for financial transactions of the agency head. The board or commission may delegate the review and approval authority, by direct designation or motion, in writing, to the board or commission chair or ranking officer. Or, the board or commission may delegate to the agency second-in-command, chief financial officer, or may choose to retain an active role in the approval process. Boards and commissions choosing to take an active role in the review and approval process must make the review and approvals of financial transactions a part of their regular meetings and document them in the minutes.

Boards and commissions delegating the review and approval process must at least annually review the financial transactions of the agency head approved as delegated. These post transaction reviews and approvals must be documented in the minutes of the board or commission annual meeting.

### Requirement for Internal Procedure and Review

- .103 This policy requires agencies to develop internal procedures for the review and approval of the following agency head transactions:
- (a) Time reporting: Review and approve the agency head's monthly report of sick leave, vacation, holiday or other leave hours used. Review for completeness and accuracy and to ensure that all time that has been taken has been reported. Ensure that leave hours comply with HRSD 60.000.01 Sick Leave, 60.000.05 Vacation Leave, 60.010.01 Holidays, 60.000.15 Family Medical Leave, 60.005.01 Leave Without Pay and 60.000.10

Special Leaves with Pay. Time reporting (leave usage) must be documented using either paper or electronic timekeeping methods. The documentation must show that the time reports have been reviewed and approved by the appropriate authority, which, in the case of a board or commission, may be the ranking officer of the board. Note: Heads of agencies are classified as exempt from the Fair Labor Standards Act (FLSA) and as such should not be required to report actual hours worked. The time reporting review is intended to focus only on hours related to the categories defined above. The documentation must provide evidence for an audit trail and must be maintained by the agency for the prescribed IRS retention schedule for time records of three years and one quarter as well as the current record retention standards per Secretary of State, Archives Division.

- (b) Travel expense reimbursements: Review and approve all travel claims submitted by the agency head, whether for in-state or out-of-state travel. Ensure compliance with DAS Travel Rules **OAM 40 10 00 PO** as well as **OAM 10 40 00 PO**, Expenditures. The review and approval of travel transactions must be documented to provide an audit trail and evidence that the review complies with and was conducted in accordance with the prevailing state policies as listed.
- (c) Exceptional Performance Leave: This leave shall be granted to agency heads using the criteria set forth in HRSD 60.000.10 "Special Leaves With Pay". For agency heads appointed by the Governor, this leave shall only be granted by the Governor or by the Director of the Department of Administrative Services on behalf of the Governor. For agency heads reporting to a board or commission, this leave shall be granted by that body or by the board or commission chair and documented in the minutes of the board or commission. The review and approval responsibility is to ensure that the Exceptional Performance leave was granted based on appropriate criteria and authority and is in compliance with HRSD policy 60.000.10. The review and approval of these transactions must be documented to provide an audit trail and evidence that the review complies with and was conducted in accordance with the prevailing state policies as listed. The documentation must clearly demonstrate the criteria upon which the leave was granted. The documentation must include copies of the written request and approval granting the leave and copies of the board or commission minutes, if applicable. The documentation must be retained according to the current record retention standards per Secretary of State, Archives Division.
- (d) Vacation Payoff: Review and approve ensuring compliance with HRSD policy 60 000.05 "Vacation Leave". The review and approval of these transactions must be documented to provide an audit trail and evidence that the review complies with and was conducted in accordance with HRSD 60.000.05. That review must clearly demonstrate that the vacation payoff was approved in accordance with Section (6)(b) of that policy which mandates that a vacation payoff is only granted when taking vacation leave is not appropriate. Copies of the written request and approval granting the vacation payoff and copies of the board or commission minutes, if applicable, must be part of the documentation for these transactions.
- (e) Use of the Small Purchase Order Transaction System (SPOTS) purchase card: Review purchases to ensure that they are appropriate expenditures that further the business of the state and the mission of the agency and that the use of the SPOTS card complies with **OAM 55 30 00 PO**. The review must be conducted by someone other than the person whose name appears on the card. The review and approval of transactions must be documented to provide an audit trail and evidence that the review complies with and was conducted in accordance with the prevailing state policies as listed.

The documentation for all of the above should be retained according to the current record retention standards per Secretary of State, Archives Division.

### **Fiscal Officer Responsibility**


- .104 Agency fiscal officers processing these financial transactions for the agency head have a duty to pre-audit and verify that the transactions comply with this policy.

### **Seeking Guidance from State Controller's Division**

- .105 For the purposes of this policy, those persons delegated to review and approve financial transactions for state agency heads have a duty to comply with the provisions of this policy. Any agency head requests to deviate from this policy must be approved by the State Controller. Those persons delegated review and approval authority having reservations or questions about an agency head financial transaction may seek guidance from the State Controller's Division.

### **Transactions Subject to Audit**

- .106 All financial transactions of state agency heads are subject to periodic audit by the Secretary of State Audits Division.

<b>DEPARTMENT OF ENVIRONMENTAL QUALITY</b>  <b>POLICIES AND PROCEDURES</b>	POLICY NUMBER: A10.90.00.PO
	SEPTEMBER 20, 2001
	PAGE 1 OF 1
SUBJECT: APPROVAL OF DIRECTOR'S TRANSACTIONS	APPROVAL: 

**INTENT:** to set accountability and control standards for the review and approval of the director's financial transactions.

**AUTHORITY:** Oregon Accounting Manual (OAM) Policy No. 10.90.00.PO

**POLICY:** As delegated by the Environmental Quality Commission, the Management Services Division administrator will review and approve the Director's monthly time reports, requests for vacation payoff, use of exceptional performance leaves, travel expense reimbursement claims, and Small Purchase Order Transaction System (SPOTS) card purchases. This review will be performed in accordance with OAM 10.90.00.PO.

Annually, at the time of the Director's evaluation, the Commission will review the transactions approved as delegated. These post transaction reviews and approvals will be documented in the minutes of the Commission meeting.

**Summary of Director's Financial Transactions  
as defined by OAM 10.90.00.PO  
1/01/07 - 12/31/07  
STEPHANIE HALLOCK**

**TIME REPORTING**

**Summary of leave taken:**

Exceptional Performance Leave	40 hours
Governor's Leave	8 hours
Holiday	72 hours
Personal Business	24 hours
Sick Leave	69 hours
Vacation	254.34 hours
Miscellaneous Paid Leave	3.5 hours

**VACATION LEAVE PAYOFF: None**

**USE OF SMALL PURCHASE ORDER TRANSACTION SYSTEM (SPOTS) PURCHASING CARD: None**

**TRAVEL EXPENSE REIMBURSEMENTS**

<u>Date</u>	<u>Destination</u>	<u>Reason for Travel</u>	<u>Total Cost</u>	<u>Amount Reimbursed</u>	<u>Net Cost to DEQ</u>
2/22 - 2/23/07	Salem, OR	EQC Meeting	\$114.75	\$0.00	\$114.75
2/26 - 2/27/07	Salem, OR	Meeting with Legislators	\$114.75	\$0.00	\$114.75
3/11 - 3/12/07	Seattle, WA	Pacific Northwest Directors' Meeting	\$541.02	\$0.00	\$541.02
3/18 - 3/21/07	Washington, DC	ECOS Spring Meeting	\$836.72	\$836.72 *	\$0.00
5/7 - 5/8/07	Boise, ID	Region 10 Agriculture Forum	\$469.07	\$0.00	\$469.07
5/15 - 5/16/07	Lincoln City, OR	Fish Consumption Workshop	\$162.50	\$0.00	\$162.50
5/31 - 6/1/07	Bend, OR	Staff Meeting	\$148.50	\$0.00	\$148.50
7/15 - 7/17/07	Omaha, NE	ECOS Strategic Planning Meeting	\$325.50	\$0.00	\$325.50
7/19 - 7/20/07	Seattle, WA	Pacific Northwest Directors' Meeting	\$697.26	\$0.00	\$697.26
7/26 - 7/27/07	Bend, OR	ACWA Conference	\$73.70	\$0.00	\$73.70
8/1 - 8/2/07	Canyonville, OR	Cow Creek Tribe Meeting	\$138.42	\$0.00	\$138.42



**Summary of Director's Financial Transactions  
as defined by OAM 10.90.00.PO  
1/01/07 - 12/31/07  
STEPHANIE HALLOCK**

**TRAVEL EXPENSE REIMBURSEMENTS (continued)**

<u>Date</u>	<u>Destination</u>	<u>Reason for Travel</u>	<u>Total Cost</u>	<u>Amount Reimbursed</u>	<u>Net Cost to DEQ</u>
8/6 - 8/8/07	Christmas Valley, OR	Governor's Economic Revitalization Team - Directors' Field Trip	\$245.91	\$0.00	\$245.91
9/15 - 9/18/07	Sun Valley, ID	2007 ECOS Annual Meeting	\$976.87	\$976.87 *	\$0.00
10/2 - 10/3/07	Coos Bay, OR	Economic Revitalization Team Field Trip	\$143.85	\$0.00	\$143.85
10/24 - 10/26/07	Hermiston, OR	Yearly visit to Eastern Region Offices and Staff	\$247.30	\$0.00	\$247.30
11/1 - 11/2/07	Medford, OR	Yearly visit to Western Region Staff	\$150.70	\$0.00	\$150.70
<b>TOTAL:</b>			<b><u>\$5,386.82</u></b>	<b><u>\$1,813.59</u></b>	<b><u>\$3,573.23</u></b>

\* Reimbursement from the Environmental Council of the States (ECOS)

OREGON STATE PAYROLL SYSTEM

EMPLOYEE MONTHLY TIMESHEET

PAYROLL AGENCY # 34000	PERSONNEL AGENCY # 34000	SHIFT 1	CHECK DISTRIBTN 11000	CUMMINS, STEPHANIE H	EMPLOYEE ID # OR0084689	CONC JOB 1	POSITION # 0000001	CLASS MESN Z7014	PAY BASIS S	APPT TYPE P	WORK SCHED AA7	TIME SHEET # 1-
START TIME 0000	O/T NE	BEN PKG XX	COST CENTER DISTRIBUTION 074100414010 100.00%		%	%					PERIOD ENDING 01/31/07	

LINE	DATE - DAY																															PAY TYPE	REG HRS	LWOP	MISC HRS
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31				
01	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	RG			
02																																HO			
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* * *	PRELIMINARY AND FINAL TOTALS																																		

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

SAVE BALANCES OF:	# OF DAYS WORKED: 21	FORECAST: 21	PRELIM	FINAL	
TIME SHEET	START DATE: 01/01/07	END DATE: 01/31/07	FULL TIME HOURS: 184.00	EMPLOYEE: <i>Stephanie Cummins</i>	SUPERVISOR: <i>Ronnie...</i>

SIGNED, CERTIFYING TRUE AND ACCURATE

OREGON STATE PAYROLL SYSTEM

EMPLOYEE MONTHLY TIMESHEET

PAYROLL AGENCY # 000 PERSONNEL AGENCY # 34600 SHIFT 1 CHECK DISTRIBUTN 11000 EMPLOYEE ID # 0084689 CONC JOB 0000001 POSITION # 77014 CLASS S PAY BASIS P APPT TYPE AA7 WORK SCHED TIME SHEET 1-0 H  
 NAME XX BEN PKG COST CENTER DISTRIBUTION 074100414010 100.00 % % % PERIOD ENDING 02/28/07

	DATE - DAY																															P TYPE	REG HRS	LWOP	MISC HRS		
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31						
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PRELIMINARY AND FINAL TOTALS																																					

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

LIVE BALANCES OF: ME SHEET START DATE 02/28/07 FULL TIME HOURS 160.0 EMPLOYEE: SUPERVISOR: SIGNED, CERTIFYING TRUE AND ACCURATE:

OREGON STATE PAYROLL SYSTEM

EMPLOYEE MONTHLY TIMESHEET

FINAL COPY

FORM # AD1743

PAYROLL AGENCY # 34000	PERSONNEL AGENCY # 34000	SHIFT 1	CHECK DISTRIBTN 11000	EMPLOYEE ID # Cummins, Stephanie OR0084689	CONC JOB 1	POSITION # 0000001	CLASS MESN Z7014	PAY BASIS S	APPT TYPE P	WORK SCHED AA7	TIME SHEET # 1-0 H
START TIME 000	O/T NE	BEN PKG XY	COST CENTER DISTRIBUTION 074100414010 100.00%		%	%					PERIOD ENDING 03/31/07

LINE	DATE - DAY																															PAY TYPE	REG HRS	LWOP	MISC HRS																														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31																																		
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08																		8																VA	8																														
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* *	PRELIMINARY AND FINAL TOTALS																																																																

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

SAVE BALANCES S OF:	START DATE 1/1/07	END DATE 3/31/07	FULL TIME HOURS 176.00	EMPLOYEE: <i>[Signature]</i>	SIGNED, CERTIFYING TRUE AND ACCURATE <i>[Signature]</i>	SUPERVISOR: <i>[Signature]</i>	# OF DAYS WORKED: 22	FORECAST	PRELIM	FINAL
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OREGON STATE PAYROLL SYSTEM

EMPLOYEE MONTHLY TIMESHEET

ROLL AGENCY #	PERSONNEL AGENCY #	SHIFT	CHECK DISTRIBUTN	EMPLOYEE ID #	CONC JOB	POSITION #	CLASS	PAY BASIS	APPT TYPE	WORK SCHED	TIME SHEET #	
34000	34000	1	11000	DR0084689	1	0000001	MESN Z7014	S	P	AA7	1-	
ART #	O/T	BEN PKG	COST CENTER DISTRIBUTION									PERIOD ENDING
100	NE	XX	074100414010 100.00 %									04/30/07

																															DATE - DAY				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	PAY TYPE	REG HRS	LWOP	MISC HRS	
SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO		RG				
																																HO			
																																CTBS			
																																RG			
																																HO			
																																CTBS			
																																VA	5		
																																SL	5		
																																CTL			
																																PB			
																																LO			
																																OT			
																																HP			
																																SDE			
																																CTA			
PRELIMINARY AND FINAL TOTALS																																			

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

POSITIVE BALANCES OF:	# OF DAYS WORKED:	FORECAST	PRELIM	FINAL
		21		
START DATE	END DATE	FULL TIME HOURS	EMPLOYEE:	SUPERVISOR:
4/01/07	04/30/07	168.0	<i>[Signature]</i>	<i>[Signature]</i>

SIGNED, CERTIFYING TRUE AND ACCURATE

OREGON STATE PAYROLL SYSTEM

EMPLOYEE MONTHLY TIMESHEET

PAYROLL AGENCY # 34000	PERSONNEL AGENCY # 34000	SHIFT 1	CHECK DISTRIBUTN 11000	CUMMINS, STEPHANIE H	EMPLOYEE ID # OR0084689	CONC JOB 1	POSITION # 0000001	CLASS MESN Z7014	PAY BASIS S	APPT TYPE P	WORK SCHED AA7	TIME SHEET # 1-
START TIME 0000	O/T NE	BEN PKG XX	COST CENTER DISTRIBUTION 074100414010 100.00 %			%	%	%	%	PERIOD ENDING 05/31/07		

LINE	DATE - DAY																															PAY TYPE	REG HRS	LWOP	MISC HRS	
	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH					
11																																RG				
12																																HO				
13																																CTS				
14																																RG				
15																																HO	8			
16																																CTS				
17																																				
18																																VA				
19																																SL	4			
20																																CTL				
21																																PB				
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PRELIMINARY AND FINAL TOTALS																																				

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

AVE BALANCES OF:	# OF DAYS WORKED:	FORECAST:	PRELIM:	FINAL:
TIME SHEET	START DATE: 05/01/07	END DATE: 05/08/07	FULL TIME HOURS: 184.0	EMPLOYEE: Stephanie Cummins
				SIGNED, CERTIFYING TRUE AND ACCURATE:
				SUPERVISOR: [Signature]

**OREGON STATE PAYROLL SYSTEM**

**EMPLOYEE MONTHLY TIMESHEET**

FINAL COPY

FORM # AD1743

PAYROLL AGENCY #	PERSONNEL AGENCY #	SHIFT	CHECK DISTRIBTN	EMPLOYEE ID #		CONC JOB	POSITION #	CLASS	PAY BASIS	APPT TYPE	WORK SCHED	TIME SHEET #	
34000	34000	1	11000	CUMMINS, STEPHANIE H		OR0084689	1	0000001	MESN Z7014	S	P	AA7	1-
START TIME	O/T	BEN PKG	COST CENTER DISTRIBUTION										PERIOD ENDING
000	NE	XX	074100414010 100.00 %										06/30/07

*(Handwritten signature/initials)*

	DATE - DAY																																	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	PAY TYPE	REG HRS	LWOP
1	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	RG			
2																															HO			
3																															CTS			
4																															RG			
5																															HO			
6																															CTS			
7																																		
8																															VA	6		
9																															SL	6		
0																															CTL			
1																															PB			
2																																		
3																																		
4																															LD			
5																																		
6																															OT			
7																															HP			
8																															SDE			
9																															CTA			
0																																		
PRELIMINARY AND FINAL TOTALS													—																					

24

222

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

AVERAGE BALANCES OF:		# OF DAYS WORKED: 21		FORECAST	PRELIM	FINAL
IME SHEET	START DATE: 5/01/07	END DATE: 06/30/07	FULL TIME HOURS: 168.0	EMPLOYEE: <i>(Signature)</i>		
	SUPERVISOR: <i>(Signature)</i>			SIGNED, CERTIFYING TRUE AND ACCURATE		

OREGON STATE PAYROLL SYSTEM

EMPLOYEE MONTHLY TIMESHEET

PAYROLL AGENCY # 34000	PERSONNEL AGENCY # 34000	SHIFT 1	CHECK DISTRIBTN 11000	EMPLOYEE ID # CUMMINS, STEPHANIE H	CONC JOB OR0084689	POSITION # 1	CLASS 0000001	MESN Z7014	PAY BASIS S	APPT TYPE P	WORK SCHED AA7	TIME SHEET # 1-
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START TIME 1000	O/T NE	BEN PKG XX	COST CENTER DISTRIBUTION 074100414010 100.00 %	%	%	%	%	PERIOD ENDING 07/31/07
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		DATE - DAY																																	
		SU			MO			TU			WE			TH			FR			SA			SU			MO			TU			PAY TYPE	REG HRS	LWOP	MISC HRS
1																												RG							
2																													HO						
3																													CTSS						
4																													RG						
5				8																									HO	8					
6																													CTSS						
7																																			
8			6			8																							VA	34					
9			2					2																					SL	4					
0																													CTL						
1												3																	PB	3					
2																																			
3																																			
4																														LD					
5																																			
6																														OT					
7																														HP					
8																														SDE					
9																														CTA					
0																																			
		PRELIMINARY AND FINAL TOTALS																																	

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

AVE BALANCES OF:	# OF DAYS WORKED: 21	FORECAST 21	PRELIM	FINAL
TIME SHEET	START DATE 7/01/07	END DATE 07/31/07	FULL-TIME HOURS 176.0	EMPLOYEE <i>[Signature]</i>
		SIGNED, CERTIFYING TRUE AND ACCURATE		SUPERVISOR <i>[Signature]</i>



# OREGON STATE PAYROLL SYSTEM

# EMPLOYEE MONTHLY TIMESHEET

PAYROLL AGENCY # <b>34000</b>	AGENCY # <b>34000</b>	SHIFT <b>1</b>	CHECK DISTRIBUTN <b>11000</b>	CUMMINS, STEPHANIE H	EMPLOYEE ID # <b>OR0084689</b>	CONC JOB <b>1</b>	POSITION # <b>0000001</b>	CLASS <b>MESN 27014</b>	PAY BASIS <b>S</b>	APPT TYPE <b>P</b>	WORK SCHED <b>AA7</b>	TIME SHEET # <b>1-</b>	
START TIME <b>0000</b>	O/T <b>NE</b>	BEN PKG <b>XX</b>	COST CENTER DISTRIBUTION <b>094100414010 100.00 %</b>			%	%	%	%	<i>DD</i>			PERIOD ENDING <b>08/31/07</b>

LINE	DATE - DAY																															PAY TYPE	REG HRS	LWOP	MISC HRS																													
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31																																	
01																																		RG																														
02																																		HO																														
03																																		CTS																														
04																																		RG																														
05																																		HO																														
06																																		CTS																														
07																																																																
08																																		VA																														
09																																		SL	<b>20</b>																													
10																																		CTL																														
11																																		PB	<b>4</b>																													
12																																																																
13																																																																
14																																			LD																													
15																																																																
16																																			OT																													
17																																			HP																													
18																																			SDE																													
19																																			CTA																													
20																																																																
* * *	PRELIMINARY AND FINAL TOTALS																																																															

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

LEAVE BALANCES 3 OF:	# OF DAYS WORKED:	FORECAST	PRELIM	FINAL
TIME SHEET	START DATE <b>08/01/07</b>	END DATE <b>08/31/07</b>	FULL TIME HOURS <b>184.0</b>	EMPLOYEE <i>Stephanie H. Cummins</i>
			SIGNED, CERTIFYING TRUE AND ACCURATE	
			SUPERVISOR: <i>A. P. I.</i>	

# OREGON STATE PAYROLL SYSTEM

# EMPLOYEE MONTHLY TIMESHEET

PAYROLL AGENCY # 34000	PERSONNEL AGENCY # 34000	SHIFT 1	CHECK DISTRIBUTN 11000	CUMMINS, STEPHANIE H	EMPLOYEE ID # OR0084689	CONC JOB 1	POSITION # 0000001	CLASS MESN 27014	PAY BASIS S	APPT TYPE P	WORK SCHED AA7	TIME SHEET # 1-
START TIME 0000	O/T NF	BEN PKG XX	COST CENTER DISTRIBUTION 094100414010 100.00 %									PERIOD ENDING 09/30/08

LINE	DATE - DAY																														PAY TYPE	REG HRS	LWOP	MISC HRS										
	1 SA	2 SU	3 MO	4 TU	5 WE	6 TH	7 FR	8 SA	9 SU	10 MO	11 TU	12 WE	13 TH	14 FR	15 SA	16 SU	17 MO	18 TU	19 WE	20 TH	21 FR	22 SA	23 SU	24 MO	25 TU	26 WE	27 TH	28 FR	29 SA	30 SU					31									
11																																RG												
12																																HO												
13																																CTS												
14								8	8	8	6.5	8			8	8	8	8	8			8	8	8	8						RG	116.5												
15			8																													HO	8											
16																																CTS												
17																																												
18																																VA												
19																																SL	2											
20																																CTL												
21																																PB												
22				8	8	8	8																									DL	32											
23												1.5																				MPL	1.5											
24																																LO												
25																																												
26																																OT												
27																																HP												
28																																SDE												
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PRELIMINARY AND FINAL TOTALS																																												

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

LEAVE BALANCES	START DATE	END DATE	FULL TIME HOURS	EMPLOYEE	SIGNED, CERTIFYING TRUE AND ACCURATE	SUPERVISOR	# OF DAYS WORKED:	FORECAST	PRELIM	FINAL
3 OF:	09/01/07	09/30/07	160.0	Stephanie H. Cummins	[Signature]	[Signature]	19			

OREGON STATE PAYROLL SYSTEM

EMPLOYEE MONTHLY TIMESHEET

FINAL COPY

FORM # AD1743

PAYROLL AGENCY # 34000	PERSONNEL AGENCY # 34000	SHIFT 1	CHECK DISTRIBTN 11000	CUMMINS, STEPHANIE H	EMPLOYEE ID # OR0084689	CONC JOB 1	POSITION # 0000001	CLASS MEAH Z7014	PAY BASIS S	APPT TYPE P	WORK SCHED AA7	TIME SHEET # 3-
START TIME 0000	O/T NE	BEN PKG XX	COST CENTER DISTRIBUTION 094100414010 100.00 %									PERIOD ENDING 10/31/0

LINE	DATE - DAY																															PAY TYPE	REG HRS	LWOP	MISC HRS																														
	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE																																		
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* * *	PRELIMINARY AND FINAL TOTALS																																																																

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

LEAVE BALANCES S OF:	START DATE 07/01/07	END DATE 10/31/07	FULL TIME HOURS 194.0	EMPLOYEE: <i>[Signature]</i>	SIGNED, CERTIFYING TRUE AND ACCURATE <i>[Signature]</i>	SUPERVISOR: <i>[Signature]</i>	# OF DAYS WORKED: 23	FORECAST 23	PRELIM	FINAL
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PAYROLL AGENCY # 34000	PERSONNEL AGENCY # 34000	SHIFT 1	CHECK DISTRIBTN 11000	CUMMINS, STEPHANIE H	EMPLOYEE ID # DR0084689	CONC JOB 1	POSITION # 0000001	CLASS MEAH 27014	PAY BASIS S	APPT TYPE P	WORK SCHED AA7	TIME SHEET # 2-
START TIME 1000	OT NE	BEN PKG XX	COST CENTER DISTRIBUTION 094100414010 100.00 %		%	%	%	%	PERIOD ENDING 11/30/07			

LINE	DATE - DAY																															PAY TYPE	REG HRS	LWOP	MISC HRS																														
	1 TH	2 FR	3 SA	4 SU	5 MO	6 TU	7 WE	8 TH	9 FR	10 SA	11 SU	12 MO	13 TU	14 WE	15 TH	16 FR	17 SA	18 SU	19 MO	20 TU	21 WE	22 TH	23 FR	24 SA	25 SU	26 MO	27 TU	28 WE	29 TH	30 FR	31																																		
11																																	RG																																
12																																	HO																																
13																																	CTS																																
14	8	8		8	8	8	8	6				8	2						7	7	6						6.66					RG	90.66																																
15											8										8												HO	16																															
16																																	CTS																																
17																																																																	
18																											1	1.34	8	8	8			VA	26.34																														
19								2					6						1	1	2												SL	12																															
20																																		CTL																															
21																8											7						PB	15																															
22															8																			DL	8																														
23																								8										GL	8																														
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PRELIMINARY AND FINAL TOTALS																																																																	

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

SAVE BALANCES \$ OF:

# OF DAYS WORKED:

FORSETT 20

PRELIM

FINAL

TIME SHEET 11/30/07 11/30/07 FULL TIME HOURS 176.0

SIGNED, CERTIFYING TRUE AND ACCURATE

EMPLOYEE: Stephanie Hallock

SUPERVISOR: [Signature]

FORM # AD1743 **OREGON STATE PAYROLL SYSTEM** **EMPLOYEE MONTHLY TIMESHEET** FINAL COPY *JS*

PAYROLL AGENCY # <b>34000</b>	PERSONNEL AGENCY # <b>34000</b>	SHIFT <b>1</b>	CHECK DISTRIBUTN <b>11000</b>	EMPLOYEE ID # <b>CUMMINS, STEPHANIE H.</b>	CONC JOB <b>DR0084689</b>	POSITION # <b>1</b>	CLASS <b>MEAH 27014</b>	PAY BASIS <b>S</b>	APPT TYPE <b>P</b>	WORK SCHED <b>AA7</b>	TIME SHEET # <b>2-0</b>
START TIME <b>0000</b>	O/T <b>NE</b>	BEN PKG <b>XX</b>	COST CENTER DISTRIBUTION <b>094100414010 100%</b>		%	%	%	%	PERIOD ENDING <b>12/31/07</b>		

LINE	DATE - DAY																															PAY TYPE	REG HRS	LWOP	MISC HRS																															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31																																			
	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO																																			
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14																																				RG																														
15																											8									HO	8																													
16																																				CTS																														
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18				8	8	8	8	8		8	8	8	8	8			8	8	8	8	8			8		8	8	8			8			VA	160																															
19																																				SL																														
20																																				CTL																														
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	PRELIMINARY AND FINAL TOTALS																																																																	

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

*12/31/07 retirement*

SAVE BALANCES OF: \_\_\_\_\_ # OF DAYS WORKED: \_\_\_\_\_ FORECAST \_\_\_\_\_ PRELIM \_\_\_\_\_ FINAL \_\_\_\_\_

TIME SHEET START DATE \_\_\_\_\_ END DATE \_\_\_\_\_ FULL TIME HOURS \_\_\_\_\_ EMPLOYER: \_\_\_\_\_ SIGNED, CERTIFYING TRUE AND ACCURATE \_\_\_\_\_ SUPERVISOR: *[Signature]*

**STATE OF OREGON  
TRAVEL EXPENSE DETAIL SHEET**



301/VPT24197

1. Name of Employee <i>10R0084689</i> Stephanie Hallock		2. Agency DEQ		3. Period (Month and Year) February-07	
4. Official Station HQ		5. Division/ Work Unit OD		6. Regular Schedule Work Shift 8:00 am - 5:00 <input checked="" type="checkbox"/> pm <input type="checkbox"/> Other    to	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input checked="" type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> AFSCME    Other <input type="checkbox"/>			

60  
39

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging	
					Breakfast	Lunch	Dinner			
02/22/07	6:30		Salem, Oregon	19.50	N/A	provided	19.50	60.00	79.50	
02/23/07		4:30 pm	Portland, Oregon	29.25	9.75	9.75	9.75		29.25	
				<b>15. Totals</b>	48.75	9.75	9.75	29.25	60.00	<b>\$108.75</b>

16. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
14010-41004		Personal Vehicle Mileage		0.485		
4101	48.75	Hotel tax @ 10% on \$60.00				6.00
4106	66.00					
<b>Totals</b>						<b>\$6.00</b>

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.) Director Hallock participated at the DEQ EQC meeting in Salem on 2/22 - 23/07	26. Grand Total Amount	<b>\$114.75</b>
	27. Travel Advance Amount	
	28. Amount Due Employee/State	<b>\$114.75</b>
	29. Received Training      Conducted Training	<input checked="" type="checkbox"/>

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.	30. Signature of Employee <i>Stephanie Hallock</i>	31. Title      Date Director      3-1-07
I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.	32. Approved By <i>Rene-Lara Mangis</i>	33. Title      Date MSB Adm      3-2-07

**STATE OF OREGON  
TRAVEL EXPENSE DETAIL SHEET**



1. Name of Employee <b>Stephanie Hallock</b>		2. Agency <b>DEQ</b>		3. Period (Month and Year) <b>February-07</b>	
4. Official Station <b>HQ</b>		5. Division/ Work Unit <b>OD</b>		6. Regular Schedule Work Shift <input checked="" type="checkbox"/> 8:00 am - 5:00 pm <input type="checkbox"/> Other _____ to _____	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input checked="" type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> <b>AFSCME</b>		Other <input type="checkbox"/>	

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging
					Breakfast	Lunch	Dinner		
02/26/07	12 pm		Salem, Oregon	29.25	N/A	9.75	19.50	60.00	89.25
02/27/07		8 am	Portland, Oregon	19.50	9.75	9.75			19.50
<b>15. Totals</b>				48.75	9.75	19.50	19.50	60.00	<b>\$108.75</b>

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16. Accounting Codes		17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses		19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount	
14010-41004			Personal Vehicle Mileage			0.485			
			Hotel tax @ 10% on \$60.00					6.00	
4101		48.75							
4106		66.00							
Totals		114.75							
							<b>23. Section Total</b>		<b>\$6.00</b>

24. I did/will  did not/will not accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to , airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.) Director Hallock had several late meeting with legislators on 2/26 and stayed over at the Phoenix Grand Hotel. She understands that she will only be reimbursed per diem amount (\$60 +10% tax on per diem amount)*	26. Grand Total Amount	<b>\$114.75</b>
	27. Travel Advance Amount	
	28. Amount Due Employee/State	<b>\$114.75</b>
	29. Received Training      Conducted Training	

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.	30. Signature of Employee	31. Title	Date
	<i>Stephanie Hallock</i>	Director	3-1-07
I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.	32. Approved By	33. Title	Date
	<i>Rene-Marc Manj</i>	MSD Adm	3/2/07

STATE OF OREGON  
TRAVEL EXPENSE DETAIL SHEET



310/VPT24447

1. Name of Employee 10R0084689 Stephanie Hallock Cummins		2. Agency DEQ		3. Period (Month and Year) March-07	
4. Official Station HQ		5. Division/ Work Unit OD		6. Regular Schedule Work Shift 8:00 am - 5:00 pm <input type="checkbox"/> Other <input type="checkbox"/> to	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input checked="" type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> AFSCME		Other <input type="checkbox"/>	

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8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	12. Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging	
					Breakfast	Lunch	Dinner			
03/11/07	12 pm		Seattle WA	49.00		16.00	32.00	136.00	184.00	
03/12/07		8 pm	Portland OR	64.00	16.00	16.00	32.00		64.00	
15. Totals					112.00	16.00	32.00	64.00	136.00	\$248.00

16. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
14010-41004		Personal Vehicle Mileage		0.485		
		Hotel Tax @ 16.7%				21.22
4151	112.00	Shuttle Service (PREPAID-Spots card - \$17.00)	SEC		REVERSE SIDE	
4150	157.22	Airport parking				16.00
4160	16.00					
Totals						285.22
23. Section Total						\$37.22

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
Director Hallock attended the PNW Spring meeting in Seattle to discuss various environmental issues.

26. Grand Total Amount	\$285.22
27. Travel Advance Amount	
28. Amount Due Employee/State	10 \$285.22
29. Received Training	Conducted Training

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.	30. Signature of Employee <i>Stephanie Hallock</i>	31. Title Director	Date 3-23-07
	I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.	32. Approved By <i>Kelli-Lane Mang</i>	33. Title MSD Admin

3/31 5:00 PM



## Itinerary Detail - Combined

**Azumano  
Travel**  
Est. 1949

**Back Office Data**

**STATE OF OREGON**

Trip Departures from 03/11/2007 to 03/12/2007

Report Parameters: Passenger = CUMMINS

<b>CUMMINS/STEPHANIE H</b>						
Actual:	\$172.81	Savings:	\$1.00	Val Carrier: ALASKA AIR (AS)	Account: OR State Dept. of Environmental	
Lowest:	\$172.81	Lost Amt:	\$0.00	Ticket #: 7623166730	Break 1: 34000	
Service Fees:	\$30.00			Invoice #: 775330891	Break 2: TONEASHA	
Exception:	GOVERNMENT CITY PAIR USED			Inv Date: 2/16/2007	Break 3: 5032295990	
Itinerary				Airline	Flt #	Class
PORTLAND,OR	SEATTLE TACOMA,WA	3/11/2007	15:00-15:47	ALASKA AIR (AS)	2454	L
SEATTLE TACOMA,WA	PORTLAND,OR	3/12/2007	18:00-18:54	ALASKA AIR (AS)	2263	L
<b>Total Cost of Trip:</b>		<b>\$202.81</b>				

<b>CUMMINS/STEPHANIE H</b>						
** This is an "Exchange" record. Original Ticket # was 7623166730						
Actual:	\$5.99	Savings:	\$0.00	Val Carrier: ALASKA AIR (AS)	Account: OR State Dept. of Environmental	
Lowest:	\$5.99	Lost Amt:	\$0.00	Ticket #: 7623167085	Break 1: 34000	
Service Fees:	\$30.00			Invoice #: 775331185	Break 2: TONEASHA	
Exception:	EXCHANGE (ADD/COLLECT/EVEN)			Inv Date: 2/21/2007	Break 3: 5032295990	
Itinerary				Airline	Flt #	Class
PORTLAND,OR	SEATTLE TACOMA,WA	3/11/2007	13:30-14:20	ALASKA AIR (AS)	2362	Y
SEATTLE TACOMA,WA	PORTLAND,OR	3/12/2007	18:00-18:54	ALASKA AIR (AS)	2263	L
<b>Total Cost of Trip:</b>		<b>\$35.99</b>				

<b>Report Totals</b>					
Air Totals		Car Rental Totals		Hotel Booking Totals	
# of Air Trips:	2	# of Rentals:	0	# of Stays:	0
Air Charges:	\$178.80	# of Days Rented:	0	# of Room Nights:	0
Avg Cost per Trip:	\$89.40	Car Rental Charges:	\$0.00	Hotel Booking Charges:	\$0.00
Total Svc Fees:		Avg # of Days Rented:	0.00	Avg # of Nights:	0.00
Total All Charges:		Avg Booked Rate:	0.00	Avg Booked Rate:	\$0.00
\$238.80		Avg Cost per Day:	\$0.00	Avg Cost/RoomNight:	\$0.00

**OREGON DEPT OF ENVIRONMENTAL QUALITY  
OUT-OF-STATE TRAVEL AUTHORIZATION**

1. NAME OF EMPLOYEE: Stephanie Hallock  
 2. AGENCY/OFFICIAL STATION: HQ/OD  
 3. REQUEST #: 312-07 ✓

4. AGENCY ACCOUNTING INFORMATION: 07-14010-41004  
 5. TRAVEL JUSTIFICATION ATTACHED?  Yes  No

6. PURPOSE OF TRIP: (Be specific, include dates/times of meeting or conference)  
 Attending Spring 2007 Pacific Northwest Directors' Meeting & meet with EPA Administrator, Elim Miller

7. ITINERARY:  
 Destination city/state: Seattle, WA  
Portland, OR  
 Departure date/time: 3/11/2007, 12 pm  
 Return date/time: 3/12/07, 8/ pm

8. TRANSPORTATION: (Airfare, train fare or state motor pool vehicle (circle one). For rental cars, see #11, for misc. ground transportation, see #12)  
 TOTAL: 238.80  
\$0.00

9. LODGING: Lodging per diem rate: \_\_\_\_\_  
 Amount per night: 136.00 ✓  
 Room tax per night: 21.22  
 # of nights: 1  
 TOTAL: \$157.22 ✓

10. MEALS: Daily meal per diem rate: \$64.00 ✓

	Rate	# Meals	Total
Breakfast: (25%)	16.00	1	16.00
Lunch: (25%)	16.00	2	32.00
Dinner: (50%)	32.00	2	64.00
TOTAL:			<u>\$112.00</u> ✓

11. CAR RENTAL: (See OAM 40.10.00.PO, section .115. The state has a price agreement with Enterprise Rent-A-Car. Optional insurance will not be reimbursed).  
 Days @ \$28 plus tax, gas TOTAL: \_\_\_\_\_

12. MISCELLANEOUS COSTS: (Identify specific expenses - taxis, shuttles, phone, vehicle mileage, etc.)

a. Private vehicle mileage	_____	0.00
b. Shuttle	(# of miles) _____	17.00
c. Other (specify below)	_____	16.00
Airport parking		
TOTAL:		<u>\$33.00</u>

13. TRAINING RELATED? (if yes, attach agenda)  
 Yes  No

14. STATUS:  
 Executive/Mgmt Svc:  
 AFSCME:  
 Other: Explain: \_\_\_\_\_

15. TRAVEL AWARDS: Agencies are mandated to maintain records on employee accumulation of travel awards as reported on their travel expense detail sheets. Travel awards include, but may not be limited to airline frequent flyer miles and hotel or car rental frequent customer awards or miles.

16. ESTIMATED COST OF TRIP:

Transportation:	<u>\$0.00</u> <u>238.80</u>
Lodging:	<u>\$157.22</u> ✓
Meals:	<u>\$112.00</u> ✓
Car Rental:	<u>\$0.00</u>
Misc:	<u>\$33.00</u> ✓
TOTAL:	<u>\$302.22</u> <u>541.02</u>

17. I certify that this trip is necessary and essential to the normal discharge of DEQ responsibilities; that required monies are budgeted and allotted for expenditure; that the trip meets all the requirements mandated by ORS 292.230, OAM Policy 40.10.00, and DEQ policy.

18. EMPLOYEE SIGNATURE: Stephanie Hallock DATE: 3-23-07

9. SUPERVISOR SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

20. DA/EMT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

21. MSD DA SIGNATURE: Rene-Marc Haug DATE: 4/2/07

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** March 22, 2007

**To:** Accounting Dept

**From:** Toneasha Kelly  
Director's Office

**Subject:** After the fact out of state travel authorization form

Please accept the following out of state travel authorization form at this time. I neglected to complete and receive approval for this form prior to travel because I forgot this procedure due to the close distance from Portland Oregon to Seattle Washington. I spoke with Lauri Hunter who suggested I submit the travel authorization form at this time along with the reimbursement form.

Please advise if additional information is required.

Thank you.



STATE OF OREGON  
TRAVEL EXPENSE DETAIL SHEET



316/VPT24473

1. Name of Employee Stephanie Hallock		2. Agency DEQ		3. Period (Month and Year) March-07	
4. Official Station HQ		5. Division/ Work Unit OD		6. Regular Schedule Work Shift 8:00 am - 5:00 pm <input type="checkbox"/> Other <input type="checkbox"/>	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input checked="" type="checkbox"/>		Board/Commission <input type="checkbox"/>		Volunteer <input type="checkbox"/>	
Bargaining Unit Name <input type="checkbox"/> AFSCME		Other <input type="checkbox"/>			

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8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	13. Individual Meal Reimbursement			14. Total Meals and Lodging	
					Breakfast	Lunch	Dinner		
03/18/07	7:00 am		Washington DC	48.00		16.00	32.00	236.00	
03/19/07			Washington DC	64.00	16.00	16.00	32.00	252.00	
03/20/07			Washington DC	64.00	16.00	16.00	32.00	252.00	
03/21/07		8 pm	Portland OR	64.00	16.00	16.00	32.00	64.00	
				<b>15. Totals</b>	240.00	48.00	64.00	128.00	564.00

16. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
10001-42004	M20000	Personal Vehicle Mileage		0.485		
		Hotel Tax				60.72
4151	240.00	Taxi in DC				20.00
4150	624.72	Airport parking				32.00
4160	52.00					
<b>Totals</b>						<b>916.72</b>

23. Section Total **\$112.72**

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
Director Hallock attended the 2007 ECOS Spring Meeting in DC to participate in several discussion regarding environmental issues/the presidents proposed budget/affects to EPA and states. She also participated in a walk on Capitol Hill to talk with several members of Congress ECOS will reimburse DEQ.

26. Grand Total Amount **\$916.72**

27. Travel Advance Amount

28. Amount Due Employee/State  **\$916.72**

29. Received Training  Conducted Training

30. Signature of Employee  
*Stephanie Hallock*

31. Title *Director* Date *3-23-07*

32. Approved By  
*Renee Laney*

33. Title *MSD Adm* Date *4/2/07*

Less: Amount received from Hallocks for meals provided **\$80.00**  
**\$836.72**

All reimb. has sent

**ECOS TRAVEL REIMBURSEMENT FORM**

<b>ADDRESS</b>	
Name	Stephanie Hallock
Organization	Oregon Dept. of Environmental Quality
Address	811 SW Sixth Avenue
City/State/ZIP	Portland OR 97204-1390
Phone	(503) 229-5300
Fax	(503) 229-6730
Email	

**Instructions:**  
 \*\*\*\*\*PLEASE COMPLETE ELECTRONICALLY\*\*\*\*\*  
 Type in the requested information. Calculations will be done automatically.  
 Please mail a signed hard copy of this completed form and corresponding original receipts for all items \$25 and more to ECOS for reimbursement.

**Mail to:**  
 ECOS  
 444 North Capitol Street, NW  
 Suite 445  
 Washington, DC 20001 Phone: (202) 624-3660

**Meeting Name (specify):** 2007 ECOS Spring Meeting

**Meeting Location and Dates (specify):** Washington DC, March 19 - 21, 2007

**Travel Start and End Dates and Times (specify):** March 18, 2007 - 7:00 AM - March 21, 2007 - 8:00 PM

	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Day 8	Day 9	TOTALS
	Enter Date	Enter Date	Enter Date	Enter Date	Enter Date	Enter Date	Enter Date	Enter Date	Enter Date	
Dates of Trip (m/d/y)	3/18/2007	3/19/2007	3/20/2007	3/21/2007						
<b>TRANSPORTATION</b>										
Air/Train Fare										-
Personal Car Mileage										-
Mileage Charges	-	-	-	-	-	-	-	-	-	-
Taxi/Van/Metro	20.00									20.00
Airport Parking	8.00	8.00	8.00	8.00						32.00
<b>Transportation Subtotal</b>	<b>28.00</b>	<b>8.00</b>	<b>8.00</b>	<b>8.00</b>						<b>\$ 52.00</b>
<b>MEALS &amp; INCIDENTALS (M&amp;IE):</b> See GSA page for per diem rates:	<a href="http://www.gsa.gov/Portal/gsa/ep/contentView.do?programId=9704&amp;channelId">http://www.gsa.gov/Portal/gsa/ep/contentView.do?programId=9704&amp;channelId</a>									
Breakfast		Prov 16.00	Prov 16.00	Prov 16.00						48.00
Lunch	16.00	Prov 16.00	16.00	Prov 16.00						64.00
Dinner	32.00	32.00	32.00	32.00						128.00
Incidentals										-
<b>M&amp;IE Subtotal</b>	<b>48.00</b>	<b>64.00</b>	<b>64.00</b>	<b>64.00</b>						<b>\$ 240.00</b>
<b>HOTEL AND OTHER (Please specify "other" charges)</b>										
Hotel	208.24	208.24	208.24							624.72
Other										-
Other										-
<b>Hotel and Other Subtotal</b>	<b>208.24</b>	<b>208.24</b>	<b>208.24</b>							<b>\$ 624.72</b>
<b>GRAND TOTAL AMOUNT OWED</b>										<b>\$ 916.72</b>

\* current rate is \$ 0.485 per mile

I certify that the above claim is correct and in accordance with ECOS Travel Policy (Please sign and date):

Make Check Payable To: Oregon Dept. of Environmental Quality

*Stephanie Hallock* 4-10-07

Mail Check to :  Address on File or  Above Address (NEW USERS ONLY)

<b>M&amp;IE Breakdown</b>	<b>\$39</b>	<b>\$44</b>	<b>\$49</b>	<b>\$54</b>	<b>\$59</b>	<b>\$64</b>
Breakfast	7	8	9	10	11	12
Lunch	11	12	13	15	16	18
Dinner	18	21	24	26	29	31
Incidentals	3	3	3	3	3	3



<b>OFFICE USE ONLY</b>
APPROVED
CODE
CHECK #

**OREGON DEPT OF ENVIRONMENTAL QUALITY  
OUT-OF-STATE TRAVEL AUTHORIZATION**

<b>1. NAME OF EMPLOYEE:</b> Stephanie Hallock		<b>2. AGENCY/OFFICIAL STATION:</b> HQ		<b>3. REQUEST #:</b> 255-07																					
<b>4. AGENCY ACCOUNTING INFORMATION:</b> 07-14040-41004			<b>5. TRAVEL JUSTIFICATION ATTACHED?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																						
<b>6. PURPOSE OF TRIP:</b> (Be specific, include dates/times of meeting or conference) Stephanie Hallock is an ECOS Officer and will attend the ECOS Spring meeting in Alexandria VA, including participation with ECOS members visits to Capitol Hill, departing Portland on 3/18 and departing Alexandria VA on 3/21 to return to Portland.																									
<b>7. ITINERARY:</b>			<b>8. TRANSPORTATION:</b> (Airfare, train fare or state motor pool vehicle (circle one). For rental cars, see #11, for misc. ground transportation, see #12)																						
Destination city/state:                      Alaxandria VA			ECOS will pay directly TOTAL: <u>          \$0.00</u>																						
Departure date/time:                            3/18 in AM <i>Sun</i>																									
Return date/time:                                3/21 in early PM <i>Wed</i>																									
<b>9. LODGING:</b> Lodging per diem rate: <u>          \$188.00</u>			<b>10. MEALS:</b> Daily meal per diem rate: <u>          \$64.00</u>																						
Amount per night: <u>          188.00</u>			<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align:center">Rate</th> <th style="text-align:center"># Meals</th> <th style="text-align:center">Total</th> </tr> </thead> <tbody> <tr> <td>Breakfast: (25%)</td> <td style="text-align:center">16.00</td> <td style="text-align:center">3</td> <td style="text-align:center">48.00</td> </tr> <tr> <td>Lunch: (25%)</td> <td style="text-align:center">16.00</td> <td style="text-align:center">4</td> <td style="text-align:center">64.00</td> </tr> <tr> <td>Dinner: (50%)</td> <td style="text-align:center">32.00</td> <td style="text-align:center">4</td> <td style="text-align:center">128.00</td> </tr> <tr> <td colspan="3" style="text-align:right"><b>TOTAL:</b></td> <td style="text-align:center"><u>          \$240.00</u></td> </tr> </tbody> </table>				Rate	# Meals	Total	Breakfast: (25%)	16.00	3	48.00	Lunch: (25%)	16.00	4	64.00	Dinner: (50%)	32.00	4	128.00	<b>TOTAL:</b>			<u>          \$240.00</u>
	Rate	# Meals	Total																						
Breakfast: (25%)	16.00	3	48.00																						
Lunch: (25%)	16.00	4	64.00																						
Dinner: (50%)	32.00	4	128.00																						
<b>TOTAL:</b>			<u>          \$240.00</u>																						
Room tax per night: <u>          10.50</u>																									
# of nights: <u>              3</u>																									
<b>TOTAL:</b> <u>          \$595.50</u>																									
<b>11. CAR RENTAL:</b> (See OAM 40.10.00.PO, section .115. The state has a price agreement with Enterprise Rent-A-Car. Optional insurance will not be reimbursed). Days @ \$28 plus tax, gas                      TOTAL:                      _____			<b>12. MISCELLANEOUS COSTS:</b> (Identify specific expenses - taxis, shuttles, phone, vehicle mileage, etc.)																						
			a. Private vehicle mileage <u>                          0.00</u>																						
			b. Shuttle <u>                          (# of miles)</u>																						
			c. Other (specify below) <u>                          50.00</u>																						
			Taxi and/or metro <u>                          50.00</u>																						
			<b>TOTAL:</b> <u>          \$50.00</u>																						
<b>13. TRAINING RELATED?</b> (if yes, attach agenda) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																									
<b>14. STATUS:</b> <input checked="" type="checkbox"/> Executive/Mgmt Svc: <input type="checkbox"/> AFSCME: <input type="checkbox"/> Other:    Explain: _____																									
<b>15. TRAVEL AWARDS:</b> Agencies are mandated to maintain records on employee accumulation of travel awards as reported on their travel expense detail sheets. Travel awards include, but may not be limited to airline frequent flyer miles and hotel or car rental frequent customer awards or miles.																									
<b>16. ESTIMATED COST OF TRIP:</b>																									
Transportation: <u>          \$0.00</u>																									
Lodging: <u>          \$595.50</u>																									
Meals: <u>          \$240.00</u>																									
Car Rental: <u>          \$0.00</u>																									
Misc: <u>          \$50.00</u>																									
<b>TOTAL:</b> <u>          \$885.50</u>																									
<b>17. I certify that this trip is necessary and essential to the normal discharge of DEQ responsibilities; that required monies are budgeted and allotted for expenditure; that the trip meets all the requirements mandated by ORS 292.230, OAM Policy 40.10.00, and DEQ policy.</b>																									
<b>18. EMPLOYEE SIGNATURE:</b> <i>Stephanie Hallock</i>				<b>DATE:</b> <i>2-5-07</i>																					
<b>SUPERVISOR SIGNATURE:</b>				<b>DATE:</b>																					
<b>20. DA/EMT SIGNATURE:</b> <i>Renee Lee</i>				<b>DATE:</b>																					
<b>21. MSD DA SIGNATURE:</b> <i>Renee Lee</i>				<b>DATE:</b> <i>2/7/07</i>																					

10R0084689



341/VPT 24788

STATE OF OREGON TRAVEL EXPENSE DETAIL SHEET

1. Name of Employee Stephanie Hallock		2. Agency DEQ		3. Period (Month and Year) May-07	
4. Official Station HQ		5. Division/ Work Unit OD		6. Regular Schedule Work Shift 8:00 am - 5:00 pm <input type="checkbox"/> Other <input checked="" type="checkbox"/>	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input type="checkbox"/> Board/Commission <input checked="" type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> AFSCME <input type="checkbox"/> Other <input type="checkbox"/>			

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-19

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging
					Breakfast	Lunch	Dinner		
05/07/07	5:30 pm		Boise Idaho	24.50			24.50	79.00	428.00 / 103.50
05/08/07		10 pm	Portland Oregon	49.00	12.25	12.25	24.50		49.00
				73.50					152.50
15. Totals				49.00	12.25	12.25	49.00	79.00	\$177.00

18. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
14010-41004		Personal Vehicle Mileage		0.485		
4151	73.50	Hotel Tax				10.27
4150	89.27	Airport Parking				16.00
4160	59.51	Rental car				43.51
Totals						222.28
23. Section Total						\$69.78

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
Stephanie Hallock attended the 2007 Agriculture Forum in Boise Idaho, please see attached agenda.

26. Grand Total Amount	222.28 \$246.78
27. Travel Advance Amount	
28. Amount Due Employee/State	222.28 \$246.78
29. Received Training	Conducted Training

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.

30. Signature of Employee <i>Stephanie Hallock</i>	31. Title Director	Date 5-11-07
32. Approved By <i>Paul Marc Mang</i>	33. Title ASD Admin	Date

015 travel rec.

5/29 consistent

## Itinerary Detail - Combined

**Azumano  
Travel**  
Est. 1949

*Back Office Data*

**STATE OF OREGON**

Trip Departures from 05/06/2007 to 05/10/2007

Report Parameters: ticket # = 7624983236

<b>CUMMINS/STEPHANIE H</b>							
Actual:	\$216.79	Savings:	\$0.00	Val Carrier:	ALASKA AIR (AS)	Account:	OR State Dept. of Environmental
Lowest:	\$216.79	Lost Amt:	\$0.00	Ticket #:	7624983236	Auth 1:	34000
Service Fees:	\$30.00			Invoice #:	775339509	Auth 2:	TONEASHA
Exception:	GOVERNMENT FARE USED			Inv Date:	4/27/2007	Auth 3:	5032295990
				Itinerary		Airline	
	PORTLAND,OR	BOISE,ID	5/7/2007	19:49-22:00	ALASKA AIR (AS)		Flt # 2335
	BOISE,ID	PORTLAND,OR	5/8/2007	19:00-19:20	ALASKA AIR (AS)		Class L
<b>Total Cost of Trip:</b>	<b>\$246.79</b>						

### Report Totals

Air Totals		Car Rental Totals		Hotel Booking Totals	
# of Air Trips:	1	# of Rentals:	0	# of Stays:	0
Air Charges:	\$216.79	# of Days Rented:	0	# of Room Nights:	0
Avg Cost per Trip:	\$216.79	Car Rental Charges:	\$0.00	Hotel Booking Charges:	\$0.00
Total Svc Fees:	\$30.00	Avg # of Days Rented:	0.00	Avg # of Nights:	0.00
<b>Total All Charges:</b>	<b>\$246.79</b>	Avg Booked Rate:	0.00	Avg Booked Rate:	\$0.00
		Avg Cost per Day:	\$0.00	Avg Cost/RoomNight:	\$0.00



**OREGON DEPT OF ENVIRONMENTAL QUALITY  
OUT-OF-STATE TRAVEL AUTHORIZATION**

<b>1. NAME OF EMPLOYEE:</b> Stephanie Hallock	<b>2. AGENCY/OFFICIAL STATION:</b> DEQ	<b>3. REQUEST #:</b> 404-07 ✓
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<b>4. AGENCY ACCOUNTING INFORMATION:</b> 07-14010-41004	<b>5. TRAVEL JUSTIFICATION ATTACHED?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

**6. PURPOSE OF TRIP:** (Be specific, include dates/times of meeting or conference)  
To attend the Agriculture Forum (tri state w/ EPA) in Boise Idaho

**7. ITINERARY:**

Destination city/state: Boise Idaho

Departure date/time: 5/7, 5:30 pm

Return date/time: 5/8, 10 pm

**8. TRANSPORTATION:** (Airfare, train fare or state motor pool vehicle (circle one). For rental cars, see #11, for misc. ground transportation, see #12)

*Alaska Airlines*

TOTAL: 246.79  
~~\$0.00~~

**9. LODGING:** Lodging per diem rate: \$79.00

Amount per night: 79.00

Room tax per night: 10.27

# of nights: 1

TOTAL: \$89.27

**10. MEALS:** Daily meal per diem rate: \$49.00

	Rate	# Meals	Total
Breakfast: (25%)	12.25	1	12.25
Lunch: (25%)	12.25	1	12.25
Dinner: (50%)	24.50	2	49.00
<b>TOTAL:</b>			<u>\$73.50</u>

**11. CAR RENTAL:** (See OAM 40.10.00.PO, section .115. The state has a price agreement with Enterprise Rent-A-Car. Optional insurance will not be reimbursed).

Days @ \$28 plus tax, gas TOTAL: \$43.51

**12. MISCELLANEOUS COSTS:** (Identify specific expenses - taxis, shuttles, phone, vehicle mileage, etc.)

a. Private vehicle mileage 0.00

b. Shuttle 16.00 (# of miles)

c. Other (specify below) 16.00

Airport Parking & Rental Car

TOTAL: \$16.00

**13. TRAINING RELATED?** (if yes, attach agenda)

Yes  No

**14. STATUS:**

Executive/Mgmt Svc:

AFSCME:

Other: Explain: \_\_\_\_\_

**16. ESTIMATED COST OF TRIP:**

Transportation:	<u>246.79</u>
Lodging:	<u>\$89.27</u>
Meals:	<u>\$73.50</u>
Car Rental:	<u>\$43.51</u>
Misc:	<u>\$16.00</u>
<b>TOTAL:</b>	<u>469.07</u> <u>\$222.28</u> <i>Wm</i>

**15. TRAVEL AWARDS:** Agencies are mandated to maintain records on employee accumulation of travel awards as reported on their travel expense detail sheets. Travel awards include, but may not be limited to airline frequent flyer miles and hotel or car rental frequent customer awards or miles.

**17.** I certify that this trip is necessary and essential to the normal discharge of DEQ responsibilities; that required monies are budgeted and allotted for expenditure; that the trip meets all the requirements mandated by ORS 292.230, OAM Policy 40.10.00, and DEQ policy.

**18. EMPLOYEE SIGNATURE:** *Stephanie Hallock* DATE: 5-24-07

**SUPERVISOR SIGNATURE:** \_\_\_\_\_ DATE: \_\_\_\_\_

**20. DA/EMT SIGNATURE:** \_\_\_\_\_ DATE: \_\_\_\_\_

**21. MSD DA SIGNATURE:** *Kevin-Steve Murray* DATE: 5/29/07

State of Oregon  
Department of Environmental Quality

Memorandum

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**Date:** May 24, 2007  
**To:** Business Office  
**From:** Toneasha Kelly  
Director's Office  
**Subject:** After the fact Out-of-state travel authorization

Attached is a travel authorization that Director Hallock signed after travel occurred. Director Hallock was not aware that a travel authorization form was not processed prior to her trip.

I was out of the office at a 2-day training class when my counterpart was covering my desk completed the travel arrangements for this trip. I assumed an out-of-state travel authorization form was completed as well since the person who was covering my job duties made all other travel arrangements for this trip (flights, rental car, lodging, etc.)

However, since I am Director Hallock's assistant and it is my responsibility to insure these types of matters are handled, I should have verified this was taken care of upon returning to the office. For all future out-of-state travel arrangements, I will add a note inside the appointment on the Director's calendar to remind myself that I need to process an out-of-state travel authorization form upon receipt of the agenda. This will alleviate any future after the fact out-of-state travel authorization forms.



10R0084689  
**STATE OF OREGON**  
**TRAVEL EXPENSE DETAIL SHEET**



341/VPT 24788

1. Name of Employee Stephanie Hallock		2. Agency DEQ		3. Period (Month and Year) May-07	
4. Official Station HQ		5. Division/ Work Unit OD		6. Regular Schedule Work Shift 8:00 am - 5:00 pm <input checked="" type="checkbox"/> Other <input type="checkbox"/>	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input checked="" type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> AFSCME <input type="checkbox"/> Other <input type="checkbox"/>			

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49

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	13. Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging	
					Breakfast	Lunch	Dinner			
05/15/07	3:30 pm		Lincoln City, Oregon	34.50			24.50	89.00	113.50	
05/16/07		6:30 pm	Portland, Oregon	49.00	12.25	12.25	24.50		49.00	
			* Lodging rate over per diem approved by Rick Peterson & Quade Hutton. See attached emails.							
<b>15. Totals</b>				73.50	12.25	12.25	49.00	89.00	<b>\$162.50</b>	

16. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
14010-41004		Personal Vehicle Mileage		0.485		
4431	73.50					
4433	89.00					
<b>Totals</b>					<b>162.50</b>	<b>\$0.00</b>

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
 Director Hallock participated at the Fish Consumption Workshop that was held at the Chinook Winds Casino in Lincoln City Oregon.

26. Grand Total Amount	<b>\$162.50</b>
27. Travel Advance Amount	
28. Amount Due Employee/State	<b>\$162.50</b>
29. Received Training	Conducted Training

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.	30. Signature of Employee <i>Stephanie Hallock</i>	31. Title Director	Date 5-21-07
	I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.	32. Approved By <i>Renee Lane King</i>	33. Title MSD Adm.

10R0084689  
**STATE OF OREGON**  
**TRAVEL EXPENSE DETAIL SHEET**



313/VPT 24869

1. Name of Employee Stephanie Hallock		2. Agency DEQ		3. Period (Month and Year) May-07	
4. Official Station HQ		5. Division/ Work Unit OD		6. Regular Schedule Work Shift 8:00 am - 5:00 <input type="checkbox"/> pm <input type="checkbox"/> Other to	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input checked="" type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> AFSCME <input type="checkbox"/> Other <input type="checkbox"/>			

79  
44

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	13. Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging
					Breakfast	Lunch	Dinner		
05/31/07	8 am		Bend Oregon	33.00		11.00	22.00	75.00	108.00
06/01/07		4:30 pm	Portland Oregon	33.00	11.00	11.00	11.00		33.00
				<b>15. Totals</b>	11.00	22.00	33.00	75.00	<b>\$141.00</b>

16. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
14010-41004		Personal Vehicle Mileage		0.485		
		hotel tax @ 10%				7.50
4101	66.00					
4106	82.50					
<b>Totals</b>						<b>148.50</b>
<b>23. Section Total</b>						<b>\$7.50</b>

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
 Traveled to Bend to attend a staff meeting in the new temporary Bend DEQ office. Director Hallock updated staff about the DEQ budget and legislative activities.

26. Grand Total Amount	<b>\$148.50</b>
27. Travel Advance Amount	
28. Amount Due Employee/State	<b>\$148.50</b> <i>ncm</i>
29. Received Training	Conducted Training

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.	30. Signature of Employee <i>Stephanie Hallock</i>	31. Title Director	Date 6-5-07
	I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.	32. Approved By <i>Roué-Marc Blang</i>	33. Title MSD Adm.

*J*

10R 0084689

STATE OF OREGON TRAVEL EXPENSE DETAIL SHEET



305/VPT 25162

1. Name of Employee Stephanie Hallock Cummins		2. Agency DEQ		3. Period (Month and Year) July-07	
4. Official Station Portland		5. Division/ Work Unit Office of the Director - Administration		6. Regular Schedule Work Shift 8:00 am - 5:00 <input checked="" type="checkbox"/> pm <input type="checkbox"/> Other to	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input checked="" type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> AFSCME <input type="checkbox"/> Other <input type="checkbox"/>			

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49

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	12. Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging
					Breakfast	Lunch	Dinner		
07/15/07	5:00 a.m.		Omaha, NE	49.00	39.00			60.00	-99.00 109.00
07/16/07			Omaha, NE	49.00	39.00			60.00	-99.00 109.00
07/17/07		8:00 p.m.	Portland, OR	49.00	39.00				-39.00 49.00
				147.00				120.00	267.00
15. Totals				447.00				120.00	\$237.00

16. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
QT27344		Personal Vehicle Mileage		0.485		
	15-16	Sales & Lodging taxes (2 nights x \$6)				12.00
14010-4104	07/15/07	Shuttle to hotel from NE airport				22.50
	15-17	Parking for state vehicle @ PDX				24.00
4151	147.00					
4150	132.00					
4160	46.50					
Totals	325.50					
23. Section Total						\$58.50

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
To attend the ECOS strategic planning meeting.

26. Grand Total Amount **325.50 / \$295.50**

27. Travel Advance Amount

28. Amount Due Employee/State **325.50 / \$295.50**

29. Received Training  Conducted Training

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.

30. Signature of Employee  
*Stephanie Hallock*

31. Title  
DIRECTOR

I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.

32. Approved By  
*[Signature]*

33. Title  
Rep Dir

Date  
7/18/07

**OREGON DEPT OF ENVIRONMENTAL QUALITY  
OUT-OF-STATE TRAVEL AUTHORIZATION**

<b>1. NAME OF EMPLOYEE:</b> Stephanie Hallock	<b>2. AGENCY/OFFICIAL STATION:</b> DEQ/OD	<b>3. REQUEST #:</b> 15-08																				
<b>4. AGENCY ACCOUNTING INFORMATION:</b> 7-14010-41004		<b>5. TRAVEL JUSTIFICATION ATTACHED?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No																				
<b>6. PURPOSE OF TRIP:</b> (Be specific, include dates/times of meeting or conference) Director Hallock is an Executive Officer of ECOS and she is needed to participate at an executive committee meeting held in Nebraska City, NE.																						
<b>7. ITINERARY:</b> Destination city/state: <i>Otoe County</i> Nebraska City NE Departure date/time: 7/15/07 @ 5 am Return date/time: 7/17/07 @ 9 pm		<b>8. TRANSPORTATION:</b> (Airfare, train fare or state motor pool vehicle (circle one). For rental cars, see #11, for misc. ground transportation, see #12) <del>PAID BY ECOS DIRECTLY</del>  TOTAL: <u>\$0.00</u>																				
<b>9. LODGING:</b> Lodging per diem rate: <u>\$84.00</u> ✓  Amount per night: <u>60.00</u>  Room tax per night: <u>6.00</u>  # of nights: <u>2</u>  TOTAL: <u>\$132.00</u> ✓		<b>10. MEALS:</b> Daily meal per diem rate: <u>\$49.00</u> ✓  <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>Rate</th> <th># Meals</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Breakfast: (25%)</td> <td align="center">12.25</td> <td align="center">3</td> <td align="center">36.75</td> </tr> <tr> <td>Lunch: (25%)</td> <td align="center">12.25</td> <td align="center">3</td> <td align="center">36.75</td> </tr> <tr> <td>Dinner: (50%)</td> <td align="center">24.50</td> <td align="center">3</td> <td align="center">73.50</td> </tr> <tr> <td colspan="3">TOTAL:</td> <td align="center"><u>\$147.00</u> ✓</td> </tr> </tbody> </table>		Rate	# Meals	Total	Breakfast: (25%)	12.25	3	36.75	Lunch: (25%)	12.25	3	36.75	Dinner: (50%)	24.50	3	73.50	TOTAL:			<u>\$147.00</u> ✓
	Rate	# Meals	Total																			
Breakfast: (25%)	12.25	3	36.75																			
Lunch: (25%)	12.25	3	36.75																			
Dinner: (50%)	24.50	3	73.50																			
TOTAL:			<u>\$147.00</u> ✓																			
<b>11. CAR RENTAL:</b> (See OAM 40.10.00.P.O., section .115. The state has a price agreement with Enterprise Rent-A-Car. Optional insurance will not be reimbursed). Days @ \$28 plus tax, gas TOTAL: <u>N/A</u>		<b>12. MISCELLANEOUS COSTS:</b> (Identify specific expenses - taxis, shuttles, phone, vehicle mileage, etc.)  a. Private vehicle mileage <u>0.00</u> b. Shuttle <u>(# of miles)</u> c. Other (specify below) <u>50.00</u> <i>Taxi</i>  TOTAL: <u>\$50.00</u>																				
<b>13. TRAINING RELATED?</b> (if yes, attach agenda)  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																						
<b>14. STATUS:</b> <input checked="" type="checkbox"/> Executive/Mgmt Svc: <input type="checkbox"/> AFSCME: <input type="checkbox"/> Other: Explain: _____		<b>16. ESTIMATED COST OF TRIP:</b>  Transportation: <u>\$0.00</u> Lodging: <u>\$132.00</u> ✓ Meals: <u>\$147.00</u> ✓ Car Rental: <u>N/A</u> Misc: <u>\$50.00</u> ✓  TOTAL: <u>\$329.00</u> <i>20m</i>																				
<b>15. TRAVEL AWARDS:</b> Agencies are mandated to maintain records on employee accumulation of travel awards as reported on their travel expense detail sheets. Travel awards include, but may not be limited to airline frequent flyer miles and hotel or car rental frequent customer awards or miles.																						
<b>17.</b> I certify that this trip is necessary and essential to the normal discharge of DEQ responsibilities; that required monies are budgeted and allotted for expenditure; that the trip meets all the requirements mandated by ORS 292.230, OAM Policy 40.10.00, and DEQ policy.																						
<b>18. EMPLOYEE SIGNATURE:</b> <i>Stephanie Hallock</i>		<b>DATE:</b> 7-2-07																				
<b>SUPERVISOR SIGNATURE:</b> <i>[Signature]</i>		<b>DATE:</b> 7/3/07																				
<b>20. DA/EMT SIGNATURE:</b> <i>[Signature]</i>		<b>DATE:</b>																				
<b>21. MSD DA SIGNATURE:</b> <i>[Signature]</i>		<b>DATE:</b> 7/3/07																				

10R0084689  
**STATE OF OREGON**  
**TRAVEL EXPENSE DETAIL SHEET**



310/VPT25198

1. Name of Employee Stephanie Hallock Cummins		2. Agency DEQ		3. Period (Month and Year) July-07	
4. Official Station Portland		5. Division/ Work Unit Office of the Director - Administration		6. Regular Schedule Work Shift 8:00 am - 5:00 <input checked="" type="checkbox"/> pm <input type="checkbox"/> Other _____ to _____	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input checked="" type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> AFSCME <input type="checkbox"/> Other <input type="checkbox"/>			

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8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging
					Breakfast	Lunch	Dinner		
07/19/07	7:00 am	9:50 am	Arrive Seattle, WA	48.00				285.00	* 333.00
07/20/07	5:30 pm	8:00 pm	Arrive Portland, OR	48.00		provided			48.00
			* Over expenses claim lodging approved. See attached email.						
<b>15. Totals</b>				96.00				285.00	<b>\$381.00</b>

16. Accounting Codes		17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
QT27344			Personal Vehicle Mileage		0.485		
<del>41010-11004</del>		07/19/07	Lodging Tax				44.46
		07/19/07	Shuttle to hotel from Seattle airport				17.00
4151	96.00	07/19/20	Parking for state vehicle @ PDX				16.00
4150	329.46						
4160	33.00						
<b>Totals</b>							<b>\$77.46</b>

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
 To attend the Pacific Northwest Directors Meeting

26. Grand Total Amount	<b>\$458.46</b>
27. Travel Advance Amount	
28. Amount Due Employee/State	<b>\$458.46</b>
29. Received Training	Conducted Training

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.	30. Signature of Employee <i>Stephanie Hallock</i>	31. Title Director, DEQ	Date 07/25/07
	I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.	32. Approved By <i>Rene-Marc Blong</i>	33. Title MSD Adm

**KELLY Toneasha**

---

**From:** MURPHY Kathy M  
**Sent:** Tuesday, July 17, 2007 1:27 PM  
**To:** KELLY Toneasha  
**Subject:** FW: Lodging comparison - Hallock

Sylvia,

Stephanie's over per diem lodging for her Seattle trip has been approved.

Thanks,  
Kathy

-----Original Message-----

**From:** PEDERSEN Dick  
**Sent:** Tuesday, July 17, 2007 12:17 PM  
**To:** MURPHY Kathy M  
**Subject:** RE: Lodging comparison - Hallock

Kathy,

I approve.

Dick

-----Original Message-----

**From:** MURPHY Kathy M  
**Sent:** Tuesday, July 17, 2007 11:58 AM  
**To:** PEDERSEN Dick  
**Subject:** FW: Lodging comparison - Hallock

Dick,

Please see the email messages below.

Do you approve the over per diem room rate of \$285/night for Stephanie Hallock's stay in Seattle?

Thanks,  
Kathy

-----Original Message-----

**From:** HATTON Judy  
**Sent:** Tuesday, July 17, 2007 11:05 AM  
**To:** MURPHY Kathy M  
**Subject:** RE: Lodging comparison

Yes.

-----Original Message-----

**From:** MURPHY Kathy M  
**Sent:** Tuesday, July 17, 2007 10:59 AM  
**To:** HATTON Judy  
**Subject:** FW: Lodging comparison

Judy,



Attached is a Conference/Meeting Lodging Comparison Worksheet for Stephanie Hallock's hotel room in Seattle. This is for the Pacific NW Directors meeting that was moved from Coeur d'Alene to Seattle last Thursday, July 12. The impact of this last minute decision resulted in only higher than per diem hotel rooms being available.

Day Marshall reserved a room for Stephanie at the Crowne Plaza Hotel for \$285/night. Do you want to recommend the room rate of \$285 to Dick Pedersen for his approval?

Thanks,  
Kathy

-----Original Message-----

**From:** KELLY Toneasha  
**Sent:** Tuesday, July 17, 2007 10:34 AM  
**To:** MURPHY Kathy M  
**Subject:** Lodging comparison

As we discussed...

Thank you!

Sylvia Herrley  
(filling in for Toneasha Kelly July 16 - 18)

Toneasha Kelly  
Assistant to Director Stephanie Hallock  
Oregon DEQ Director's Office  
503.229.5990

## Itinerary Detail - Combined

**Azumano  
Travel**  
Est. 1948

*Back Office Data*

**STATE OF OREGON**

Trip Departures from 07/15/2007 to 07/23/2007

Report Parameters: Passenger = CUMMINS

<b>CUMMINS/STEPHANIE H</b>							
Actual:	\$178.80	Savings:	\$8.00	Val Carrier: ALASKA AIR (AS)	Account: OR State Dept. of Enviromental		
Lowest:	\$178.80	Lost Amt:	\$0.00	Ticket #: 7141491969	Auth 1: 34000		
Service Fees:	\$30.00			Invoice #: 775346981	Auth 2: DAY		
Exception:	GOVERNMENT FARE USED			Inv Date: 7/3/2007	Auth 3: 5032295990		
Itinerary							
				Airline	Flt #	Class	
PORTLAND,OR	SPOKANE,WA	7/19/2007	08:50-09:50	ALASKA AIR (AS)	2512	L	
SPOKANE,WA	PORTLAND,OR	7/20/2007	18:15-19:25	ALASKA AIR (AS)	2357	L	
<b>Total Cost of Trip:</b>		<b>\$208.80</b>					

<b>CUMMINS/STEPHANIE H</b>							
** This is an "Exchange" record. Original Ticket # was 7141491969							
Actual:	\$0.00	Savings:	\$0.00	Val Carrier: ALASKA AIR (AS)	Account: OR State Dept. of Enviromental		
Lowest:	\$0.00	Lost Amt:	\$0.00	Ticket #: 7141492968	Auth 1: 34000		
Service Fees:	\$30.00			Invoice #: 775348030	Auth 2: DAY		
Exception:	EXCHANGE TICKET			Inv Date: 7/13/2007	Auth 3: 5032295990		
Itinerary							
				Airline	Flt #	Class	
PORTLAND,OR	SEATTLE TACOMA, WA	7/19/2007	09:00-09:50	ALASKA AIR (AS)	2434	L	
SEATTLE TACOMA, WA	PORTLAND,OR	7/20/2007	17:30-18:25	ALASKA AIR (AS)	2459	Y	
<b>Total Cost of Trip:</b>		<b>\$30.00</b>					

<b>Report Totals</b>					
Air Totals	Car Rental Totals	Hotel Booking Totals			
# of Air Trips:	# of Rentals:	# of Stays:	2	0	0
Air Charges:	# of Days Rented:	# of Room Nights:	\$178.80	0	0
Avg Cost per Trip:	Car Rental Charges:	Hotel Booking Charges:	\$89.40	\$0.00	\$0.00
Total Svc Fees:	Avg # of Days Rented:	Avg # of Nights:	\$60.00	0.00	0.00
<b>Total All Charges:</b>	Avg Booked Rate:	Avg Booked Rate:	<b>\$238.80</b>	0.00	\$0.00
	Avg Cost per Day:	Avg Cost/RoomNight:		\$0.00	\$0.00

**OREGON DEPT OF ENVIRONMENTAL QUALITY  
OUT-OF-STATE TRAVEL AUTHORIZATION**

<b>1. NAME OF EMPLOYEE:</b> Stephanie Hallock	<b>2. AGENCY/OFFICIAL STATION:</b> DEQ - Portland	<b>3. REQUEST #:</b> 19-08 Revised
--	--	---------------------------------------

<b>4. AGENCY ACCOUNTING INFORMATION:</b> J8.14010.41004	<b>5. TRAVEL JUSTIFICATION ATTACHED?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

**6. PURPOSE OF TRIP:** (Be specific, include dates/times of meeting or conference)  
Meeting with Pacific NW directors of environmental agencies on July 19 - 20. NOTE: This meeting was originally slated to take place in Coeur d'Alene, ID, but last week it was moved to Seattle, WA.

**7. ITINERARY:**

Destination city/state: Seattle, WA

Departure date/time: 19 July, '07 @ 9:00 a.m.

Return date/time: 20 July, '07 @ 6:25 p.m.

**8. TRANSPORTATION:** (Airfare, train fare or state motor pool vehicle (circle one). For rental cars, see #11, for misc. ground transportation, see #12)  
Flight \$208.80 + Azumano service fee of \$30.

TOTAL: \$258.00

**9. LODGING:** Lodging per diem rate: \$136.00 ✓

Amount per night: 285.00 \*

Room tax per night: 44.46

\* # of nights: 1

*Over per diem  
lodging approved -  
see attached email*

TOTAL: \$329.46 ✓

**10. MEALS:** Daily meal per diem rate: \$64.00 ✓

	Rate	# Meals	Total
Breakfast: (25%)	16.00	1	16.00
Lunch: (25%)	16.00	2	32.00
Dinner: (50%)	32.00	2	64.00
<b>TOTAL:</b>			<b>\$112.00</b> ✓

**11. CAR RENTAL:** (See OAM 40.10.00.P0, section .115. The state has a price agreement with Enterprise Rent-A-Car. Optional insurance will not be reimbursed).

Days @ \$28 plus tax, gas TOTAL: \_\_\_\_\_

**12. MISCELLANEOUS COSTS:** (Identify specific expenses - taxis, shuttles, phone, vehicle mileage, etc.)

a. Private vehicle mileage 0.00

b. Shuttle (# of miles) 40.00

c. Other (specify below) 30.00

Shuttle to/from airport/hotel; (possibly parking @ PDX)

TOTAL: \$70.00 ✓

**13. TRAINING RELATED?** (if yes, attach agenda)

Yes  No

**14. STATUS:**

Executive/Mgmt Svc:

AFSCME:

Other: Explain: \_\_\_\_\_

**16. ESTIMATED COST OF TRIP:**

Transportation:	<u>\$258.00</u> ✓
Lodging:	<u>\$329.46</u> ✓
Meals:	<u>\$112.00</u> ✓
Car Rental:	<u>\$0.00</u>
Misc:	<u>\$70.00</u> ✓
<b>TOTAL:</b>	<b><u>\$769.46</u></b> <i>7/18/07</i>

**15. TRAVEL AWARDS:** Agencies are mandated to maintain records on employee accumulation of travel awards as reported on their travel expense detail sheets. Travel awards include, but may not be limited, to airline frequent flyer miles and hotel or car rental frequent customer awards or miles.

**17. I certify that this trip is necessary and essential to the normal discharge of DEQ responsibilities; that required monies are budgeted and allotted for expenditure; that the trip meets all the requirements mandated by ORS 292.230, OAM Policy 40.10.00, and DEQ policy.**

**18. EMPLOYEE SIGNATURE:** Stephanie Hallock **DATE:** 7-18-07

**SUPERVISOR SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**20. DA/EMT SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**21. MSD DA SIGNATURE:** Ross Lane **DATE:** 7/18/07

*Email sent 7/18/07*

10R0084689

STATE OF OREGON  
TRAVEL EXPENSE DETAIL SHEET



310/VPT 25257

1. Name of Employee Stephanie Hallock		2. Agency DEQ		3. Period (Month and Year) July-07	
4. Official Station Portland Headquarters		5. Division/ Work Unit Director's Office		6. Regular Schedule Work Shift <input checked="" type="checkbox"/> 8:00 am - 5:00 pm <input type="checkbox"/> Other to	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input checked="" type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> AFSCME <input type="checkbox"/> Other <input type="checkbox"/>			

75  
44

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	13. Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging
					Breakfast	Lunch	Dinner		
7.26.07	1pm		Bend Oregon	0			Provdd	57.00 ✓	57.00 ✓
7.27.07		3pm	Portland Oregon	* 11.00	Provided	11.00			11.00 ✓
			* See attached notes						
<b>15. Totals</b>				11.00		11.00		57.00 ✓	<b>\$68.00 ✓</b>

16. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
44010-41004		Personal Vehicle Mileage		0.485		
	07/26/07	Room Tax				5.70 ✓
4431	11.00					
4433	62.70					
<b>Totals</b>						<b>73.70</b>
<b>23. Section Total</b>						<b>\$5.70 ✓</b>

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
ACWA conference held in Bend Oregon on July 27.

26. Grand Total Amount	<b>\$73.70 ✓</b>
27. Travel Advance Amount	
28. Amount Due Employee/State	<b>\$73.70 Km</b>
29. Received Training	Conducted Training

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.	30. Signature of Employee <i>Stephanie Hallock</i>	31. Title Director	Date 08/03/07
	I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.	32. Approved By <i>René Haufland</i>	33. Title MSD Admin

10R0084689  
**STATE OF OREGON**  
**TRAVEL EXPENSE DETAIL SHEET**



314/VPT 25277

1. Name of Employee Stephanie Hallock		2. Agency DEQ		3. Period (Month and Year) August-07	
4. Official Station Portland Headquarters		5. Division/ Work Unit Directors Office		6. Regular Schedule Work Shift 8:00 am - 5:00 pm <input checked="" type="checkbox"/> pm <input type="checkbox"/> Other to	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input checked="" type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> AFSCME <input type="checkbox"/> Other <input type="checkbox"/>			

60  
39

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	13. Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging
					Breakfast	Lunch	Dinner		
08/01/07	8am		Canyonville Oregon (via Eugene mtg)	29.25		9.75	19.50	74.00*	103.25
08/02/07		5pm	Portland Oregon	29.25	9.75	9.75			49.50-29.25
* Over per diem amount rate approved. See attached email.									
** See attached email.									
<b>15. Totals</b>				58.50	9.75	19.50	19.50	74.00	132.50 \$122.75

16. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
14010-41004		Personal Vehicle Mileage		0.485		
	08/01/07	Room Tax				5.92
4101	58.50					
4106	79.92					
<b>Totals</b>						138.42
<b>23. Section Total</b>						\$5.92

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
 Meet with staff in Eugene and continue on to Canyonville for meeting with Cow Creek Tribe on 8/2 at the Seven Feather's Hotel.

26. Grand Total Amount	138.42 \$128.67
27. Travel Advance Amount	
28. Amount Due Employee/State	138.42 \$128.67 <i>K/m</i>
29. Received Training	Conducted Training

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.	30. Signature of Employee *	31. Title	Date
	<i>Stephanie Hallock</i>	Director	08/03/07
I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.	32. Approved By	33. Title	Date
	<i>Renee Marie Mang</i>	MSD Admin	08/06/07

10R0084689

STATE OF OREGON TRAVEL EXPENSE DETAIL SHEET



318/VPT 25296

1. Name of Employee: Stephanie Hallock; 2. Agency: DEQ; 3. Period (Month and Year): August-07; 4. Official Station: HQ - Portland; 5. Division/ Work Unit: OD; 6. Regular Schedule Work Shift: 8:00 am - 5:00 pm; 7. Unrepresented: [ ]; Management Service: [ ]; Executive Service: [x]; Board/Commission: [ ]; Volunteer: [ ]; Bargaining Unit Name: AFSCME; Other: [ ]

Table with columns: 8. Date, 9. Time of Departure, 10. Time of Arrival, 11. Destination, 12. Per Diem/ Hourly Allowance, Individual Meal Reimbursement (Breakfast, Lunch, Dinner), 13. Lodging, 14. Total Meals and Lodging. Includes rows for 08/06/07, 08/07/07, 08/08/07, and a Totals row.

Table with columns: 16. Accounting Codes, 17. Date, 18. Miscellaneous Expenses (Fares, Private Mileage, Room Tax, Telephone, Other Expenses), 19. Training Related?, 20. Rate Per Mile, 21. Private Car Miles, 22. Amount. Includes rows for Personal Vehicle Mileage, Room Tax, and a Totals row.

24. I did/will [ ] did not/will not [x] accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank.

25. REASON FOR TRAVEL: (Be specific.) Economic Revitalization Team - Directors' Field Trip.. Organized by Governor's Office. Visited Lake and Klamath counties and visited with commissioners and local officials. 26. Grand Total Amount: 245.91 / \$250.41; 27. Travel Advance Amount; 28. Amount Due Employee/State: 245.91 / \$250.41; 29. Received Training / Conducted Training

30. Signature of Employee: Stephanie Hallock; 31. Title: Director; Date: August 10, 2007; 32. Approved By: Renee Marie Mang; 33. Title: MSD Admin; Date: 8/15/07

✓ for dup.

X

10R0084689



STATE OF OREGON TRAVEL EXPENSE DETAIL SHEET

305/VPT 25568

1. Name of Employee: Stephanie Hallock  
 2. Agency: DEQ  
 3. Period (Month and Year): September-07  
 4. Official Station: Portland Headquarters  
 5. Division/ Work Unit: Directors Office  
 6. Regular Schedule Work Shift: 8:00 am - 5:00 pm  pm  Other to  
 7. Unrepresented  Management Service  Executive Service  Board/Commission  Volunteer   
 Bargaining Unit Name: AFSCME Other

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	12. Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging
					Breakfast	Lunch	Dinner		
09/15/07	8am		Sun Valley ID (ECOS)	14.75	14.75	14.75	prov	129.00	143.75
09/16/07				29.50	14.75		prov	29.50	458.50
09/17/07				44.25	14.75		prov	29.50	173.25
09/18/07		4:43pm	Portland Oregon	29.50			prov	14.75	29.50
				132.75					519.75
<b>15. Totals</b>				<b>448.00</b>	<b>29.50</b>	<b>29.50</b>	<b>73.75</b>	<b>387.00</b>	<b>\$505.00</b>

16. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
10001-42004	09/15-09/18	Parking for state car				32.00
M:20000	09/18/07	Room Tax				42.57
4432	132.75					
4434	429.57					
4441	32.00					
<b>Totals</b>	<b>594.32</b>					<b>\$74.57</b>

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
2007 ECOS Annual Meeting in Sun Valley, Idaho

26. Grand Total Amount: **\$579.57**

27. Travel Advance Amount:  **594.32**

28. Amount Due Employee/State: **\$579.57**

29. Received Training  Conducted training

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.

30. Signature of Employee: *Stephanie Hallock*  
 31. Title: Director Date: 09/25/07

I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.

32. Approved By: *Dave R.*  
 33. Title: Deputy Director Date: 9/26/07

0/5 rec.  Less: Amount received by Hallock for meals provided: **(44.25)**  
**\$550.07**

Travel Expense Claim.xls - Revised Jan. 2006 by Dale Chipman

ECOS TRAVEL REIMBURSEMENT FORM

**ADDRESS**

Name: Stephanie Hallock  
 Organization: Oregon Dept. of Environmental Quality  
 Address: 811 SW Sixth Avenue  
 City/State/ZIP: Portland OR 97204-1390  
 Phone: (503) 229-5300  
 Fax: (503) 229-6730  
 Email:

**Instructions:**  
 \*\*\*\*\*PLEASE COMPLETE ELECTRONICALLY\*\*\*\*\*  
 Type in the requested information. Calculations will be done automatically.  
 Please mail a signed hard copy of this completed form and corresponding original receipts for all items \$25 and more to ECOS for reimbursement.  
**Mail to:**  
 ECOS  
 444 North Capitol Street, NW  
 Suite 445  
 Washington, DC 20001 Phone: (202) 624-3660

**Meeting Name (specify):** 2007 ECOS Annual Meeting

**Meeting Location and Dates (specify):** Sun Valley, ID, September 15 - 18, 2007

**Travel Start and End Dates and Times (specify):** September 15, 2007 - 8:00 AM - September 18, 2007 - 4:43 PM

	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Day 8	Day 9	TOTALS
	Enter Date	Enter Date	Enter Date	Enter Date	Enter Date	Enter Date	Enter Date	Enter Date	Enter Date	
Dates of Trip (m/d/y):	9/15/2007	9/16/2007	9/17/2007	9/18/2007						
<b>TRANSPORTATION</b>										
Air/Train Fare	426.80									426.80
Personal Car Mileage										
Mileage Charges	-	-	-	-	-	-	-	-	-	-
Taxi/Van/Metro										
Airport Parking	8.00	8.00	8.00	8.00						32.00
<b>Transportation Subtotal</b>	<b>434.80</b>	<b>8.00</b>	<b>8.00</b>	<b>8.00</b>	<b>8.00</b>					<b>\$ 458.80</b>
<b>MEALS &amp; INCIDENTALS (M&amp;IE):</b> See GSA page for per diem rates: <a href="http://www.gsa.gov/Portal/gsa/ep/contentView.do?programId=9704&amp;channelId">http://www.gsa.gov/Portal/gsa/ep/contentView.do?programId=9704&amp;channelId</a>										
Breakfast		14.75	14.75	-						29.50
Lunch	14.75	-	-	14.75						29.50
Dinner	-	29.50	29.50	14.75						73.75
Incidentals										-
<b>M&amp;IE Subtotal</b>	<b>14.75</b>	<b>44.25</b>	<b>44.25</b>	<b>29.50</b>						<b>\$ 132.75</b>
<b>HOTEL AND OTHER</b> (Please specify "other" charges)										
Hotel	143.19	143.19	143.19							429.57
Other										-
Other										-
<b>Hotel and Other Subtotal</b>	<b>143.19</b>	<b>143.19</b>	<b>143.19</b>							<b>\$ 429.57</b>
<b>GRAND TOTAL AMOUNT OWED</b>										<b>\$ 1,021.12</b>

\* current rate is \$ 0.485 per mile  
 I certify that the above claim is correct and in accordance with ECOS Travel Policy (Please sign and date):  
 Make Check Payable To: Oregon Dept. of Environmental Quality

*Stephanie Hallock*

Mail Check to:  Address on File or  Above Address (NEW USERS ONLY)

M&IE Breakdown	\$39	\$44	\$49	\$54	\$59	\$64
Breakfast	7	8	9	10	11	12
Lunch	11	12	13	15	16	18
Dinner	18	21	24	26	29	31
Incidentals	3	3	3	3	3	3



**OFFICE USE ONLY**

APPROVED

CODE

CHECK #



## Itinerary Detail - Combined

**Azzumano  
Travel**  
Est. 1989

**Back Office Data**

**STATE OF OREGON**

Trip Departures from 09/13/2007 to 09/20/2007

Report Parameters: Passenger = CUMMINS

<b>CUMMINS/STEPHANIE H</b>						
Actual:	\$396.80	Savings:	\$0.00	Val Carrier: DELTA (DL)	Account: OR State Dept. of Environmental	
Lowest:	\$396.80	Lost Amt:	\$0.00	Ticket #: 7141494706	Auth 1: 34000	
Service Fees:	\$30.00			Invoice #: 775349871	Auth 2: DAY	
Exception:	LOWEST FARE ACHIEVED			Inv Date: 8/1/2007	Auth 3: 5832295990	
Itinerary				Airline	Ftr #	Class
PORTLAND,OR	SALT LAKE CITY,UT	9/15/2007	10:10-12:35	DELTA (DL)	4864	U
SALT LAKE CITY,UT	SUN VALLEY,ID	9/15/2007	13:35-14:41	DELTA (DL)	3682	U
SUN VALLEY,ID	SALT LAKE CITY,UT	9/18/2007	13:05-14:09	DELTA (DL)	3689	U
SALT LAKE CITY,UT	PORTLAND,OR	9/18/2007	15:45-16:43	DELTA (DL)	4075	U
<b>Total Cost of Trip:</b>		<b>\$426.80</b>				

Report Totals					
Air Totals		Car Rental Totals		Hotel Booking Totals	
# of Air Trips:	1	# of Rentals:	0	# of Stays:	0
Air Charges:	\$396.80	# of Days Rented:	0	# of Room Nights:	0
Avg Cost per Trip:	\$396.80	Car Rental Charges:	\$0.00	Hotel Booking Charges:	\$0.00
Total Svc Fees:	\$30.00	Avg # of Days Rented:	0.00	Avg # of Nights:	0.00
Total All Charges:	\$426.80	Avg Booked Rate:	0.00	Avg Booked Rate:	\$0.00
		Avg Cost per Day:	\$0.00	Avg Cost/RoomNight:	\$0.00

**OREGON DEPT OF ENVIRONMENTAL QUALITY  
OUT-OF-STATE TRAVEL AUTHORIZATION**

<b>1. NAME OF EMPLOYEE:</b> Stephanie Hallock	<b>2. AGENCY/OFFICIAL STATION:</b> DEQ	<b>3. REQUEST #:</b> 121-08																				
<b>4. AGENCY ACCOUNTING INFORMATION:</b> 09-14010-44004-09-10001-42004-M20000		<b>5. TRAVEL JUSTIFICATION ATTACHED?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																				
<b>6. PURPOSE OF TRIP:</b> (Be specific, include dates/times of meeting or conference) To attend ECOS Meeting in Sun Valley, ID, on September 15 - 18, 2007.																						
<b>7. ITINERARY:</b>  Destination city/state:                      Sun Valley, ID  Departure date/time:                              9/15/2007  Return date/time:                                      9/18/2007	<b>8. TRANSPORTATION:</b> (Airfare, train fare or state motor pool vehicle (circle one). For rental cars, see #11, for misc. ground transportation, see #12)   <div style="text-align: right;">TOTAL:      <u>\$426.80</u></div>																					
<b>9. LODGING:</b> Lodging per diem rate: <u>\$71.00</u>  Amount per night: <u>129.00</u>  Room tax per night: <u>14.19</u>  # of nights: <u>3</u>  <i>Over per diem room rate approved.</i> TOTAL: <u>\$429.57</u>	<b>10. MEALS:</b> Daily meal per diem rate: <u>\$59.00</u>  <table border="1" style="width:100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th></th> <th>Rate</th> <th># Meals</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Breakfast: (25%)</td> <td>14.75</td> <td>1</td> <td>14.75</td> </tr> <tr> <td>Lunch: (25%)</td> <td>14.75</td> <td>2</td> <td>29.50</td> </tr> <tr> <td>Dinner: (50%)</td> <td>29.50</td> <td>3</td> <td>73.75</td> </tr> <tr> <td colspan="3">TOTAL:</td> <td><u>\$118.00</u></td> </tr> </tbody> </table>			Rate	# Meals	Total	Breakfast: (25%)	14.75	1	14.75	Lunch: (25%)	14.75	2	29.50	Dinner: (50%)	29.50	3	73.75	TOTAL:			<u>\$118.00</u>
	Rate	# Meals	Total																			
Breakfast: (25%)	14.75	1	14.75																			
Lunch: (25%)	14.75	2	29.50																			
Dinner: (50%)	29.50	3	73.75																			
TOTAL:			<u>\$118.00</u>																			
<b>11. CAR RENTAL:</b> (See OAM 40.10.00, PO, section .115. The state has a price agreement with Enterprise Rent-A-Car. Optional insurance will not be reimbursed). Days @ \$28 plus tax, gas      TOTAL:      _____	<b>12. MISCELLANEOUS COSTS:</b> (Identify specific expenses - taxis, shuttles, phone, vehicle mileage, etc.)  a. Private vehicle mileage                      0.00 b. Shuttle    (# of miles) _____ c. Other (specify below) <u>32.00</u> Airport parking  <div style="text-align: right;">TOTAL:      <u>\$32.00</u></div>																					
<b>13. TRAINING RELATED?</b> (if yes, attach agenda)  <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>16. ESTIMATED COST OF TRIP:</b>  <table style="width:100%;"> <tr><td>Transportation:</td><td style="text-align: right;"><u>\$426.80</u></td></tr> <tr><td>Lodging:</td><td style="text-align: right;"><u>\$429.57</u></td></tr> <tr><td>Meals:</td><td style="text-align: right;"><u>\$118.00</u></td></tr> <tr><td>Car Rental:</td><td style="text-align: right;"><u>\$0.00</u></td></tr> <tr><td>Misc:</td><td style="text-align: right;"><u>\$32.00</u></td></tr> <tr><td><b>TOTAL:</b></td><td style="text-align: right;"><b><u>\$1,006.37</u></b> <i>9670</i></td></tr> </table>		Transportation:	<u>\$426.80</u>	Lodging:	<u>\$429.57</u>	Meals:	<u>\$118.00</u>	Car Rental:	<u>\$0.00</u>	Misc:	<u>\$32.00</u>	<b>TOTAL:</b>	<b><u>\$1,006.37</u></b> <i>9670</i>								
Transportation:	<u>\$426.80</u>																					
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Meals:	<u>\$118.00</u>																					
Car Rental:	<u>\$0.00</u>																					
Misc:	<u>\$32.00</u>																					
<b>TOTAL:</b>	<b><u>\$1,006.37</u></b> <i>9670</i>																					
<b>14. STATUS:</b> <input type="checkbox"/> Executive/Mgmt Svc: <input type="checkbox"/> AFSCME: <input type="checkbox"/> Other:      Explain: _____																						
<b>15. TRAVEL AWARDS:</b> Agencies are mandated to maintain records on employee accumulation of travel awards as reported on their travel expense detail sheets. Travel awards include, but may not be limited to airline frequent flyer miles and hotel or car rental frequent customer awards or miles.																						
<b>17. I certify that this trip is necessary and essential to the normal discharge of DEQ responsibilities; that required monies are budgeted and allotted for expenditure; that the trip meets all the requirements mandated by ORS 292.230, OAM Policy 40.10.00, and DEQ policy.</b>																						
<b>18. EMPLOYEE SIGNATURE:</b> <i>Stephanie Hallock</i>	<b>DATE:</b> <u>9-25-07</u>																					
<b>SUPERVISOR SIGNATURE:</b> <i>Debra P...</i>	<b>DATE:</b> <u>9/26/07</u>																					
<b>20. DA/EMI SIGNATURE:</b> <i>[Signature]</i>	<b>DATE:</b> <u>9/26/07</u>																					
<b>21. MSD DA SIGNATURE:</b> <i>[Signature]</i>	<b>DATE:</b> <u>↓</u>																					

10R0084689



320/VPT 25642

STATE OF OREGON  
TRAVEL EXPENSE DETAIL SHEET

1. Name of Employee Stephaine Hallock		2. Agency DEQ		3. Period (Month and Year) October 2-3, 2007	
4. Official Station HQ/OD		5. Division/ Work Unit OD		6. Regular Schedule Work Shift <input type="checkbox"/> Other 7am to 5:30am	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input checked="" type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> AFSCME <input type="checkbox"/> Other <input type="checkbox"/>			

70  
39

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging
					Breakfast	Lunch	Dinner		
10/02/07	5:45am		Coos Bay ERT trip	39.00	9.75	9.75	19.50	70.00	109.00
10/03/07	6am	1:15	Coos Bay ERT trip	29.25	9.75	9.75	9.75		49.50 29.25
				15. Totals	78.00	19.50	19.50	70.00	138.25 \$128.50

16. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
14010 - 4100-4		Personal Vehicle Mileage		0.485		
	Oct. 2	Tax for Hotel room			5.60	-4.90
4101	68.25					
4106	75.60					
Totals						143.85 \$4.90

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.) ERT Field trip to Coos Bay	26. Grand Total Amount	143.85 \$133.40
	27. Travel Advance Amount	
	28. Amount Due Employee/State	143.85 \$133.40
	29. Received Training Conducted Training	

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.	30. Signature of Employee <i>Stephaine Hallock</i>	31. Title Director	Date 10-5-07
	I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.	32. Approved By <i>[Signature]</i>	33. Title Rep Dir

4

10R0084689



334/VPT 25943

STATE OF OREGON  
TRAVEL EXPENSE DETAIL SHEET

1. Name of Employee Hallock Stephaine		2. Agency DEQ		3. Period (Month and Year) October-07	
4. Official Station		5. Division/ Work Unit OD		6. Regular Schedule Work Shift 8:00 am - 5:00 pm <input type="checkbox"/> pm <input type="checkbox"/> Other <input type="checkbox"/> to	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> AFSCME <input type="checkbox"/> Other <input type="checkbox"/>			

70  
39

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	13. Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging	
					Breakfast	Lunch	Dinner			
10/24/07	7:30am		Hermiston	29.25	9.75	9.75	19.50	70.00	145.30	
10/25/07	7:59am		Pendleton	39.00	9.75	9.75	19.50	75.00	114.00	
10/26/07		12-noon	Portland	19.50	9.75	9.75			19.50	
			A Per phone conversation with Dennis Schreiner.							
				15. Totals		29.25	29.25	39.00	145.00	232.75

16. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
14010-41004		Personal Vehicle Mileage		0.485		
	10/24/07	Oxford Suites Hermiston-Room Tax				225.630
4101	10/26/07	Red Lion Hote-Room Tax				8.25
4106						
Totals						14.55
23. Section Total						\$10.50

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
Yearly visit to Eastern Region offices and staff.

26. Grand Total Amount	247.30 \$259.30
27. Travel Advance Amount	
28. Amount Due Employee/State	247.30 \$259.30
29. Received Training	Conducted Training <input checked="" type="checkbox"/>

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.	30. Signature of Employee <i>Stephaine Hallock</i>	31. Title Director	Date 11-05-07
	I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.	32. Approved By <i>Dick Pelt</i>	33. Title Director

✓ for dup

10R0084689  
**STATE OF OREGON**  
**TRAVEL EXPENSE DETAIL SHEET**



323/VPT25886

1. Name of Employee Stephanie Hallock		2. Agency DEQ		3. Period (Month and Year) November-07	
4. Official Station		5. Division/ Work Unit OD		6. Regular Schedule Work Shift 8:00 am - 5:00 pm <input type="checkbox"/> Other <input type="checkbox"/>	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name <input type="checkbox"/> AFSCME <input type="checkbox"/> Other <input type="checkbox"/>			

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	13. Individual Meal Reimbursement			14. Total Meals and Lodging	
					Breakfast	Lunch	Dinner		
77 11/01/07	<del>7:30am</del> 7:30am		Medford	33.00	<del>11.00</del>	11.00	22.00	77.00 ✓	
44 11/02/07		3:00pm		33.00	11.00	11.00	11.00	22.00-33.00	
				15. Totals	66.00	22.00	22.00	22.00	77.00 ✓

16. Accounting Codes	17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
14010-41004		Personal Vehicle Mileage		0.485		
		Room Tax			7.70	-6.93
4101	66.00					
4106	84.70					
Totals					150.70	7.70
23. Section Total						\$6.93

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
 Yearly visit to Western Region with Staff

26. Grand Total Amount	150.70 \$149.93
27. Travel Advance Amount	
28. Amount Due Employee/State	150.70 \$149.93
29. Received Training	Conducted Training

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.	30. Signature of Employee <i>Stephanie Hallock</i>	31. Title Director	Date 11-05-07
	I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.	32. Approved By <i>[Signature]</i>	33. Title Rep Dir

**Summary of Director's Financial Transactions  
as defined by OAM 10.90.00.PO  
12/13/07 - 12/31/07  
DICK PEDERSEN, Acting Director**

**TIME REPORTING**

**Summary of leave taken:**

Exceptional Performance Leave	0 hours
Governor's Leave	6 hours
Holiday	8 hours
Personal Business	0 hours
Sick Leave	0 hours
Vacation	0 hours
Miscellaneous Paid Leave	0 hours

**VACATION LEAVE PAYOFF: None**

**USE OF SMALL PURCHASE ORDER TRANSACTION SYSTEM (SPOTS) PURCHASING CARD: None**

**TRAVEL EXPENSE REIMBURSEMENTS**

<u>Date</u>	<u>Destination</u>	<u>Reason for Travel</u>	<u>Total Cost</u>	<u>Amount Reimbursed</u>	<u>Net Cost to DEQ</u>
12/19 - 12/20/07	Pendleton, OR	Meeting with Legislators	\$434.65	\$0.00	\$434.65
<b>TOTAL:</b>			<b>\$434.65</b>	<b>\$0.00</b>	<b>\$434.65</b>

OREGON STATE PAYROLL SYSTEM

EMPLOYEE MONTHLY TIMESHEET

PAYROLL AGENCY # <b>34000</b>	PEL AGENCY # <b>34000</b>	SHIFT <b>1</b>	CHECK DISTRIBTN <b>11300</b>	EMPLOYEE ID # <b>PEDERSEN, RICHARD J</b>	CONC JOB <b>OR0127253</b>	POSITION # <b>1</b>	CLASS <b>0000175</b>	MESN <b>Z7012</b>	PAY BASIS <b>S</b>	APPT TYPE <b>P</b>	K ED <b>AA7</b>	TIME SHEET # <b>4</b>	PERIOD ENDING <b>12/31/07</b>		
START TIME <b>1800</b>	O/T <b>NE</b>	BEN PKG <b>XX</b>	COST CENTER DISTRIBUTION <b>098992000000 100.00 %</b>										%	%	%

LINE	DATE - DAY																															PAY TYPE	REG HRS	LWOP	MISC HRS																															
	1 SA	2 SU	3 MO	4 TU	5 WE	6 TH	7 FR	8 SA	9 SU	10 MO	11 TU	12 WE	13 TH	14 FR	15 SA	16 SU	17 MO	18 TU	19 WE	20 TH	21 FR	22 SA	23 SU	24 MO	25 TU	26 WE	27 TH	28 FR	29 SA	30 SU	31 MO																																			
01																									3		7						RG																																	
02																										8								HO																																
03																																		6TS																																
04																																			RG																															
05																										8								HO	9																															
06																																		6TS																																
07																																																																		
08																																			VA																															
09																																			SL																															
10																																			CTL																															
11																																			PB																															
12																										5		1							6L6																															
13																																																																		
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16																																				OT																														
17																																				HP																														
18																																				SDE																														
19																																				CTA																														
20																																																																		
*	PRELIMINARY AND FINAL TOTALS																																																																	

OTHER ADJUSTMENTS, BASED ON NUMBER OF INCIDENTS:

LEAVE BALANCES AS OF:	START DATE <b>12/01/07</b>	END DATE <b>12/31/07</b>	FULL TIME HOURS <b>168.0</b>	EMPLOYEE: <i>[Signature]</i>	SIGNED, CERTIFYING TRUE AND ACCURATE	# OF DAYS WORKED: <b>20</b>	FORECAST	PRELIM	FINAL
TIME SHEET				SUPERVISOR: <i>[Signature]</i>					

10R0127253



STATE OF OREGON  
TRAVEL EXPENSE DETAIL SHEET

1. Name of Employee Dick Pedersen		2. Agency DEQ		3. Period (Month and Year) December-07	
4. Official Station Portland		5. Division/ Work Unit OD		6. Regular Schedule Work Shift 8:00 am - 5:00 pm <input checked="" type="checkbox"/> Other <input type="checkbox"/>	
7. Unrepresented <input type="checkbox"/> Management Service <input type="checkbox"/> Executive Service <input checked="" type="checkbox"/> Board/Commission <input type="checkbox"/> Volunteer <input type="checkbox"/>		Bargaining Unit Name: AFSCME		Other <input type="checkbox"/>	

8. Date	9. Time of Departure	10. Time of Arrival	11. Destination	12. Per Diem/ Hourly Allowance	12. Individual Meal Reimbursement			13. Lodging	14. Total Meals and Lodging	
					Breakfast	Lunch	Dinner			
12/19/07	11:00am		Pendleton, Oregon	29.25		9.75	19.50	70.00	99.25	
12/20/07		11:00pm	Portland, Oregon	39.00	12.25	12.25	24.50		49.00	
					9.75	9.75	19.50			
				15. Totals	68.25	12.25	22.00	44.00	70.00	138.25
										\$148.25

Accounting Codes		17. Date	18. Miscellaneous Expenses Fares, Private Mileage, Room Tax, Telephone, Other Expenses	19. Training Related?	20. Rate Per Mile	21. Private Car Miles	22. Amount
14010-41004			Personal Vehicle Mileage		0.485		
		12/19/07	Hotel tax				7.80
4101	68.25	12/20/07	PDX parking				19.69
4106	77.80						
4108	19.69						
Totals							165.74
						23. Section Total	\$27.49

24. I did/will  did not/will not  accept travel awards as a result of, or associated with this state business trip. Completion of this block is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards included, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles. Review instructions on reverse of the form.

25. REASON FOR TRAVEL: (Be specific.)  
Meeting with legislators 12/19 (Sen. Nelson and Rep. Jensen) and CTUIR (12/20) in Pendleton  
14010 PCA 41004

26. Grand Total Amount	165.74 \$175.74
27. Travel Advance Amount	
28. Amount Due Employee/State	165.74 \$175.74
29. Received Training	Conducted Training

I certify that all reimbursements claimed reflect actual duty required expenses or allowances entitled; that no part thereof has been heretofore claimed or will be claimed from any other source.	30. Signature of Employee	31. Title	Date
		Interim Director	12/24/07
I certify that the above claimed expenses are authorized duty required expenses. Funds for payment of this claim are available in the approved budget for the period covered and have been allotted for expenditure.	32. Approved By	33. Title	Date
		Acting MSD Administrator	12/26/07



# Itinerary Detail - Combined



**Back Office Data**

**STATE OF OREGON**

Trip Departures from 12/19/2007 to 12/20/2007

Report Parameters: Passenger = PEDERSEN


<b>PEDERSEN/RICHARD</b>							
Actual:	\$238.91	Savings:	\$0.00	Val Carrier:	ALASKA AIR (AS)	Account:	OR State Dept. of Environmental
Lowest:	\$238.91	Lost Amt:	\$0.00	Ticket #:	7154753811	Auth 1:	34000
Service Fees:	\$30.00			Invoice #:	775363820	Auth 2:	AMY
Exception:	LOWEST FARE ACHIEVED			Inv Date:	11/28/2007	Auth 3:	5032295343
				Itinerary	Airline	Flt #	Class
	PORTLAND,OR	PENDLETON,OR	12/19/2007	11:05-12:35	ALASKA AIR (AS)	2092	L
	PENDLETON,OR	PORTLAND,OR	12/20/2007	18:55-19:55	ALASKA AIR (AS)	2096	Y
<b>Total Cost of Trip:</b>		<b>\$268.91</b>					

### Report Totals

Air Totals	Car Rental Totals	Hotel Booking Totals
# of Air Trips: 1	# of Rentals: 0	# of Stays: 0
Air Charges: \$238.91	# of Days Rented: 0	# of Room Nights: 0
Avg Cost per Trip: \$238.91	Car Rental Charges: \$0.00	Hotel Booking Charges: \$0.00
Total Svc Fees: \$30.00	Avg # of Days Rented: 0.00	Avg # of Nights: 0.00
	Avg Booked Rate: 0.00	Avg Booked Rate: \$0.00
	Avg Cost per Day: \$0.00	Avg Cost/RoomNight: \$0.00
<b>Total All Charges: \$268.91</b>		

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** February 4, 2008  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Acting Director   
**Subject:** Agenda Item D, Rule Adoption: Align Tank Rules with Federal Regulations, Improve Existing Rules  
February 21-22, 2008 EQC Meeting

**Why this is Important** The proposed changes protect federal grant funding by aligning Department of Environmental Quality (Department, DEQ) Underground Storage Tank (UST) regulations with the federal law (Energy Policy Act of 2005). In addition, the proposed rules implement changes approved by the 2007 Oregon Legislature in Senate Bill (SB) 104 and ensure operating facilities have pollution liability insurance to clean up leaks.

**Department Recommendation** The Department recommends that the Environmental Quality Commission (Commission, EQC) adopt proposed UST rule revisions as presented in Attachments A.1 through A.4.

**Background and Need for Rulemaking** Oregon has regulated USTs since 1988 to protect Oregon's water, human health and the environment from leaking tanks. Underground storage tanks that are installed, operated, and maintained properly should not leak, thus eliminating contamination and cleanup problems. The Department regulates approximately 1,100 permittees at 1,866 facilities with 5,543 tanks.

The proposed changes protect federal grant funding by aligning DEQ's UST regulations with federal law which requires states receiving funding under a Leaking Underground Storage Tank (LUST) Cooperative Agreement to comply with the requirements of the Energy Policy Act of 2005. Oregon's LUST grant is \$2 million a biennium. In addition, aligning DEQ rules with federal rules is important in order for the Department to obtain State Program Approval from the U.S. Environmental Protection Agency. The Department made a commitment to stakeholders and the 2001 Legislature to pursue obtaining State Program Approval and will continue to work toward achieving this goal.

The proposed rule revisions also implement directives approved by the 2007 Oregon Legislature in Senate Bill 104, as well as reformatting and clarifying rule language.

**Effect of Rule** *Aligns state rules with federal law:*

- Expands operator training requirements to include an additional class of operator (see OAR 340-150-0210, attachment A.1, page 38);

- Prohibits fuel delivery to tanks that are out of compliance (see OAR 340-150-0152, attachment A.1, page 21); and
- Requires secondary containment and monitoring for new and replaced tanks and piping (see OAR 340-150-0300, attachment A.1, page 42).

***Implements amendments to state law (SB 104):***

- Increases the annual compliance tank fee from \$85/year to \$135/year (see OAR 340-150-0110, attachment A.1, page 17);
- Makes the pilot expedited enforcement program (i.e., field tickets) permanent, expanding the type of violations that can receive a field ticket and increases the maximum penalty amount per violation from \$100 to \$500, and the total penalty amount per facility from \$300 to \$1500 (see OAR 340-150-0250, attachment A.1, page 40).

***Improves existing UST regulations:***

- Requires operating facilities to have a valid operation certificate, which must be renewed annually (see OAR 340-150-0110, attachment A.1, page 17). Current rules do not require any renewals for tank permits once issued. This change is intended to ensure operating facilities have pollution liability insurance in place to clean up leaks and to compensate third parties who are affected by the leak.

***Aligns UST Definition:***

- Aligns definition of an UST in Division 122 to that in Division 150 (see OAR 340-122-0210, attachment A.2, page 1).

***Revises UST Service Provider renewal period:***

- Revises the UST service provider license renewal period from 12 to 24 months in Division 160 (see OAR 340-160-0030, attachment A.3, page 1).
- Revises the UST service provider license renewal period from 12 to 24 months in Division 162 (see OAR 340-162-0150, attachment A.4, page 5).
- Removes obsolete sections in Division 162 (see OAR 340-162-0040 & 162-0054, attachment A.4, pages 4 and 5, respectively).

**Commission Authority**

The Commission has authority to take this action under ORS 466.706 through 466.835, 466.994 and 466.995.

**Stakeholder Involvement**

The Department convened a workgroup that assisted with the proposed rule revisions. The workgroup met on March 2, 2006, and June 26, 2007. A list of workgroup members is provided in Attachment C. The workgroup supports the proposed rule revisions.

Agenda Item D, Rule Adoption: Aligning Tank Rules with Federal Regulations, Improving Existing Rules

February 21, 2008 EQC Meeting

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**Public Comment** Public comment was taken from November 1, 2007, to November 23, 2007, and included public hearings in Portland, Bend and Eugene. Results of public input are provided in Attachment D.

**Next Steps** If adopted at the February 21, 2008, Commission meeting, the rules become effective after filing with the Secretary of State's Office. Implementation of the rules will take place as soon as possible after the rules become effective.

- 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.
- In March 2008, the Department will provide "reader friendly" guidance documents for tank owners to explain the expanded expedited enforcement process and general rule requirements. Additional training will be conducted for regional inspection staff.

**Attachments**

- A. Redlined Versions of Proposed Rule Revisions
  - A.1 Division 150
  - A.2 Division 122
  - A.3 Division 160
  - A.4 Division 162
- B. Summary of Public Comments and Agency Responses
- C. UST Workgroup Membership List
- D. Presiding Officer's 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 Comments Received
- 4. Rule Implementation Plan

Approved:

Section:

Mitch Scheel

Division:

Windy wife  
Report Prepared By: Mitch Scheel  
Phone: (503) 229-6704

# DEPARTMENT OF ENVIRONMENTAL QUALITY

## DIVISION 150

### UNDERGROUND STORAGE TANK RULES

#### 340-150-0006

##### Applicability and General Requirements

- (1) An owner and permittee of an UST system as defined by OAR 340-150-0010(864) must comply with this division, except to the extent the system is exempted or compliance deferred or limited by OAR 340-150-0008 ~~or limited by 340-150-0135(8)~~.
- (2) An owner and permittee of an UST system must apply to the department for a general permit registration certificate under OAR 340-150-0020 if the UST system:
  - (a) Is in operation on or after May 1, 1988;
  - (b) Was taken out of operation between January 1, 1974, and May 1, 1988, and not permanently closed by a method that meets the requirements of OAR 340-150-0168(4);  
or
  - (c) Was taken out of operation before January 1, 1974, but still contains a regulated substance (i.e., the UST is not empty).
- (3) Each chamber or compartment of a multichamber or multicompartment UST is an individual tank for the purpose of OAR chapter 340, divisions 150 and 151.

[**Note:** Throughout this division, the term "owner and permittee" is used to denote joint responsibility for compliance. Where the owner and permittee are different, compliance by either will be deemed compliance by both.]

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.706, ORS 466.710 & ORS 466.746

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

#### 340-150-0008

##### Exemptions and Deferrals

(1) An owner of an UST located in Indian Country lands, as defined in **18 U.S.C. Subpart 1151**, is exempt from the requirements of OAR chapter 340, divisions 150 and 151.

(2) Heating oil tanks are exempt from OAR chapter 340, divisions 150 and 151, but the heating oil tank owner must comply with the requirements of ORS 466.858 through 466.882 and OAR chapter 340, division 177.

(3) ~~An owner of~~ The following types of USTs and any connected piping are exempt from the requirements of OAR chapter 340, divisions 150 and 151:

(a) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes (i.e., not for resale);

(b) Septic tanks;

(c) Pipeline facilities (including gathering lines) that are:

(A) ~~Regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 60101App. 1671, et seq.); or~~

(B) ~~Intrastate pipeline facilities regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (State laws as provided in 49 U.S.C. 60101App. 2001, et seq.); or,~~

~~(C) and which are determined by the Secretary of Transportation, U.S. Department of Transportation to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline. Intrastate pipeline facilities regulated under state laws comparable to the provisions of the law referred to in paragraph (A) or (B) of this subsection.;~~

(d) Surface impoundments, pits, ponds or lagoons;

(e) Storm water or wastewater collection systems;

(f) Flow-through process tanks;

(g) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;

(h) Storage tanks situated in an underground area (such as a basement, cellar, mine-working, drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor;

(i) UST systems holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act (SWDA) or a mixture of such hazardous waste and other regulated substances;

(j) Wastewater treatment tank systems that are part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;

(k) Equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift tanks and electrical equipment tanks;

(l) UST systems with a capacity of 110 gallons or less;

(m) UST systems that have never contained more than a "de minimis" concentration of regulated substances; and

(n) Emergency spill or overflow containment UST systems that are expeditiously (i.e., as soon as practicable after emergency has been abated) emptied after use.

(4) The following UST systems are deferred from the requirements of this division, with the exception of owners must comply with the conditions of sections (5) and (6) of this rule:

(a) Wastewater treatment tank systems;

(b) UST systems containing radioactive materials that are regulated under the Atomic Energy Act of 1954 (**42 U.S.C. 2011** and following);

(c) UST systems that are part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under **4010 CFR Part 50 Appendix A**;

(d) Airport hydrant fuel distribution systems; and

(e) UST systems with field constructed tanks.

(5) Installation of ~~A person may not install~~ an UST system listed in section (4) of this rule for the purpose of storing regulated substances is prohibited unless the UST system (whether of single- or double wall construction):

(a) Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

(b) Is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material or designed in a manner to prevent the release or threatened release of any stored substance; and

(c) Is constructed or lined with material that is compatible with the stored substance.

(6) An owner of any UST system listed in section (4) of this rule must conduct corrective action in the event of a release from the system.

(7) An owner may use **The National Association of Corrosion Engineers Standard Recommended Practice RP0285, "Control of External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection on Metallic Buried, Partially Buried or Submerged Liquid Storage Systems," (2002)** as guidance for complying with sections (4) and (5) of this rule.

(8) An owner and permittee of any UST system used solely to contain fuel for emergency power generators or used to contain fuel for both emergency power generators and heating must comply with all provisions of this division, except for the release detection requirements of OAR 340-150-0400 through 340-150-0470. Notwithstanding the foregoing, all new and replacement USTs used solely to contain fuel for emergency power generators, or used to contain fuel for both emergency power generators and heating, and connected piping must be secondarily contained and monitored using the interstitial monitoring release detection method specified in 340-150-0465 as provided in 340-150-0300(5).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 465.200 - 465.455, ORS 466.706 - ORS 466.835, ORS 466.994, ORS 466.995

Stats. Implemented: ORS 465.205, ORS 465.400, ORS 466.710 - ORS 466.720, ORS 466.746

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0010**

#### **Definitions**

For the purpose of this division and as applicable for OAR chapter 340, divisions 151 and 160, the following definitions apply:

(1) "Ancillary equipment" means any devices including, but not limited to, connected piping, fittings, flanges, valves and pumps used to distribute, meter or control the flow of regulated substances to and from an UST.

(2) "As built drawing" or "as built" means a line drawing to-scale that accurately illustrates the location of USTs, underground piping and all related equipment in relation to buildings or other structures at an UST facility and provides thorough construction documentation. Note: Other terms used in lieu of "as built" are "record drawing" or "measured drawing", which indicate that the drawing is for an existing structure or UST system.



(3) "Cathodic protection" means a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, an UST system can be cathodically protected through the application of either galvanic anodes or impressed current.

(4) "Cathodic protection tester" means a person who demonstrates an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged underground metal piping and tank equipment.

(5) "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

(6) "Change-in-service" means to transfer an UST system containing a regulated substance from regulated status (i.e., subject to the requirements of this division) to nonregulated status while the UST remains in its original location.

(7) "Class A operator" means the individual designated by the owner and permittee as having the primary responsibility for operation and maintenance of the UST system.

(8) "Class B operator" means the individual designated by the owner and permittee as having control of or responsibility for the day to day operation of an UST system, including the on-site operation and maintenance of the system in a manner that ensures the UST system is in compliance with applicable state and federal regulations and industry standards.

(9) "Class C operator" means an individual that is responsible for responding to alarms or other indications of emergencies caused by spills or releases from UST systems.

(107) "Closure" means to permanently decommission an UST (by removal, filling in-place with an inert material or change-in-service) or to temporarily remove an UST from operation.

(118) "Commission" means the Oregon Environmental Quality Commission.

(129) "Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the UST system under conditions likely to be encountered in the UST.

(130) "Confirmed release" means:

(a) For petroleum. Contamination observed in soil or groundwater as a sheen, stain or petroleum odor or petroleum contamination detected in soil by the Northwest Total Petroleum Hydrocarbon Identification Analytical Method (NWTPH-HCID, DEQ, December 1996) or detected in groundwater by any appropriate analytical method specified in OAR 340-122-0218 $\frac{1}{2}$  or

(b) For hazardous substances other than petroleum. Contamination observed in soil or groundwater as a sheen, stain or identifiable odor or as detected in soil, surface water or groundwater by any appropriate analytical method specified in "Test Methods for Evaluating Solid Waste," SW-846, 3rd Edition, Revised May 1997 (U.S. Environmental Protection Agency EPA).

(141) "Connected piping" means all piping located beneath the ground surface or otherwise covered by earthen materials, including valves, elbows, joints, flanges and flexible connectors attached to an UST system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

(152) "Corrective action" means remedial action taken to protect the present or future public health, safety, welfare or the environment from a release of a regulated substance. "Corrective action" includes but is not limited to:

(a) The prevention, elimination, removal, abatement, control, investigation, assessment, evaluation or monitoring of a hazard or potential hazard or threat, including migration of a regulated substance; or

(b) Transportation, storage, treatment or disposal of a regulated substance or contaminated material from a site.

(163) "Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged underground metal piping systems and metal tanks. Corrosion experts must be accredited or certified by NACE (National Association of Corrosion Engineers) and licensed by the department under OAR chapter 340, division 160.

(174) "Decommission" means temporary or permanent closure, including temporary or permanent removal from operation, filling in-place, removal from the ground or change-in-service to a nonregulated status.

(185) "Deferred" means an UST system that may be subject to state or federal regulation at some point in the future.

(196) "De minimis" means an insignificant amount of regulated substance (e.g., meets the definition of "empty") or is less than a reportable quantity as defined under CERCLA.

(2017) "Department" means the Oregon Department of Environmental Quality.

(218) "Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate an UST system from the

surrounding soils. Dielectric bushings are used to electrically isolate portions of an UST system (e.g., the tank from underground piping).

(2219) "Dispenser" means a device that is used for the delivery of a regulated substance from an UST (e.g., fuel from an UST to a motor vehicle). The term includes associated metering, delivery mechanisms and other equipment contained inside a housing unit for the dispenser.

(230) "Distributor" means a person who is engaged in the business of selling, distributing or delivering regulated substances to an owner or permittee of an UST.

(241) "Earthen Materials" means materials originating from the earth (including, but not limited to, dirt, sand, gravel and rocks) or any other materials (including, but not limited to, wood) that have the potential to cause corrosion when placed in contact with a tank.

(252) "Electrical equipment" means equipment that is located beneath the ground surface or otherwise covered by earthen materials and contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

(263) "Emergency generator" means an engine that uses fuel (regulated substance) to produce auxiliary electrical or mechanical energy for use in emergencies.

(274) "Empty" means that all materials have been removed using commonly employed practices so that no more than one inch (2.5 centimeters) of residue or 0.3 percent by weight of the total capacity of the tank remain in the UST system.

(285) "Excavation zone" means an area containing an UST system and backfill material bounded by the ground surface, walls and floor of the pit and trenches into which the UST system is placed at the time of installation.

(296) "Farm tank" means a tank located on a tract of land devoted to the production of crops or raising animals, including fish and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

(3027) "Fee" means a fixed charge or service charge.

(3128) "Field constructed tank" means an UST that is constructed at the location it will be installed rather than factory-built.

(329) "Field penalty" means a civil penalty amount assessed in a field citation.

(330) "Flow-through process tank" means a tank that forms an integral part of a production process through which there is a steady, variable, recurring or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials before their introduction into the

production process or for the storage of finished products or by-products from the production process.

(341) "Free product" means a regulated substance that is present as a nonaqueous phase liquid (e.g., liquid not dissolved in water).

(352) "Gathering lines" means any pipeline, equipment, facility or building used in the transportation of oil or gas during oil or gas production or gathering operations.

(363) "General permit" means a permit issued for a category of UST activities (e.g., installing, decommissioning or operating an UST) in lieu of individual permits developed for each UST facility.

(374) "Hazardous substance UST system" means an UST system that contains a hazardous substance defined in section 101(14) of CERCLA or any mixture of such substances and petroleum and which is not a petroleum UST system (but not including any substance regulated as a hazardous waste under Subtitle C of the SWDA).

(385) "Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

(396) "Heating oil tank" means a tank used for storing heating oil for consumptive use on the premises where stored (i.e., the tank is located on the same property where the stored heating oil is used).

(4037) "Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators and other similar devices.

(4138) "Install" or "installation" means the physical construction of all or part of an UST system, including, but not limited to, activities such as excavating, backfilling, testing, placement of the tank, underground piping, release detection devices, corrosion protection systems, spill and overflow devices and any associated administrative activities such as notifications, record keeping and record submissions.

(4239) "Interstitial" means the space between the primary and secondary containment systems (i.e., the space between the inner and outer walls of a tank or pipe).

(430) "Investigation" means monitoring, surveying, testing, sampling, analyzing or other information gathering techniques.

(441) "Leak" has the same meaning as "release" as defined by OAR 340-150-0010(673).

(452) "Liquid traps" means sumps, well cellars and other traps used in association with oil and gas production, gathering and extraction operations (including gas production plants), for the purpose of collecting oil, water and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream or may collect and separate liquids from a gas stream.

(463) "Maintenance" means the normal operational upkeep to prevent an UST system from releasing a regulated substance or to ensure that a release is detected.

(474) "Modification" means to change an UST system currently in use by the installation of new UST system components. This includes, but is not limited to, the addition of corrosion protection to a previously lined tank, installation of new underground piping or replacement of existing underground piping, changing the primary release detection method to one of the methods listed in OAR 340-150-0450 through 340-150-0470 or adding secondary containment. "Modification" does not include those activities defined as "repair" or "replacement".

(485) "Motor fuel" means petroleum or a petroleum based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel or any grade of gasohol and is typically used in the operation of a motor engine.

(496) "Multichamber" or "multicompartment" means an UST that contains two or more chambers or compartments created by the presence of an interior wall so that two or more regulated substances can be stored at the same time within a single tank shell. Even if the same regulated substance is stored in all chambers or compartments, the UST is a multichambered or multicompartimented UST for the purpose of these rules.

(5047) "Native soil" means the soil outside of the immediate boundaries of the pit that was originally excavated for the purpose of installing an UST.

(5148) "OAR" means Oregon Administrative Rules.

(5249) "Operate" or "operation" means depositing a regulated substance into an UST, storing a regulated substance in or dispensing a regulated substance from an UST and such other activities, including, but not limited to, performing release detection, maintaining corrosion protection, preventing spills and overfills, investigating and confirming suspected releases, conducting maintenance, additions, modifications, replacements and repairs of equipment, maintaining a financial responsibility mechanism and keeping and submitting records on the UST and underground pipings' performance.

(530) "Operational life" means the period beginning when installation of the UST system has commenced until the time the UST system is permanently closed.

(541) "ORS" means Oregon Revised Statutes.

(552) "Owner" means a person who currently owns an UST or owned an UST during the tank's operational life of the tank, including:

(a) In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use or dispensing of regulated substances; and

(b) In the case of an UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

(563) "Permittee" means the owner or person designated by the owner, who is in control of or has responsibility for daily UST system operation and maintenance, financial responsibility and UST operator training requirements under a general permit pursuant to OAR 340-150-0160 through 340-150-0168.

(574) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, joint venture, consortium, association, state, municipality, commission, political subdivision of a state or any interstate body, any commercial entity or the federal government or any agency of the federal government.

(585) "Petroleum" or "oil" means gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse and crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils, diesel fuels and any other petroleum-related product or waste or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute. For the purposes of chapter 340, divisions 150 and 160, blends of gasoline with ethanol and diesel fuels with biodiesel are "petroleum". "Petroleum" does not include any substance identified as a hazardous waste under 40 CFR Part 261.

(596) "Petroleum UST system" means an UST system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.

(6057) "Pipe" or "piping" means a hollow cylinder or tubular conduit that is constructed of nonearthen materials.

(6158) "Pipeline facilities" (including gathering lines) means new and existing pipe rights-of-way and any associated equipment, facilities or buildings.

(6259) "Probability of detection" means the likelihood, expressed as a percentage, that a test method will correctly identify a release from an UST system.

- (630) "Probability of false alarm" means the likelihood, expressed as a percentage, that a test method will incorrectly identify an UST system as leaking when a release is not occurring.
- (641) "Property owner" means the legal owner of the real property on which an UST is located.
- (652) "Registration certificate" means a document issued by the department that authorizes a person to install, operate or decommission an UST system under a general permit pursuant to OAR 340-150-0160 through 340-150-0168.
- (663) "Regulated substance" includes, but is not limited to:
- (a) Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under Subtitle C of the SWDA);
  - (b) Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute); and
  - (c) Petroleum based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.
- (674) "Release" means the discharge, deposit, injection, dumping, spilling, emitting, leaking or placing of a regulated substance from an UST into the air or into or on land or the waters of the state, other than as authorized by a permit issued under state or federal law.
- (685) "Release detection" or "leak detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment, into the interstitial space between the UST system and its secondary barrier or into a secondary containment unit or sump around the UST.
- (696) "Repair" means to restore any portion of an UST system that has failed, but does not include the activities defined by "modification" or "replacement".
- (7067) "Replacement" means to effect a change in any part of an UST system by exchanging one unit for a like or similar unit, but does not include activities defined as "repair" or "modification".
- (7168) "Residential tank" means a tank located on property used primarily for single family dwelling purposes.

- (7269) "Septic tank" means a watertight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.
- (730) "Service provider" means a person licensed by the department to offer to perform or perform UST services on USTs regulated under OAR chapter 340, division 150.
- (741) "Storm water" or "wastewater collection system" means piping, pumps, conduits and any other equipment necessary to collect and transport the flow of surface water run off resulting from precipitation or domestic, commercial or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.
- (752) "Supervisor" means an individual licensed by the department to direct and oversee specific UST services.
- (763) "Surface impoundment" means a natural topographic depression, human-made excavation or diked area formed primarily of earthen materials (although it may be lined with human-made materials) that is not an injection well.
- (774) "Suspected release" has the same meaning as described in OAR 340-150-0500(1).
- (785) "Tank" means a stationary device designed to contain an accumulation of regulated substances and is constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.
- (796) "Tank tightness testing" means a method used to determine if an UST is leaking and is used to supplement another release detection method (such as inventory control or manual tank gauging) and to verify a suspected release when another method indicates a failure.
- (8077) "Temporary closure" means a halt in operation activities of an UST system for a limited time where the UST system will be brought back into operation or permanently decommissioned at some future date. For example, an UST may be temporarily closed due to corrective action activities on site, abandonment by the owner and permittee, bankruptcy proceedings, failure to maintain a financial responsibility mechanism, sale in progress or for any other reason that a permittee may choose to stop operating the UST. The term applies to an UST system that meets the definition of "temporary closure" whether or not the department has issued a registration certificate for this activity to the owner and permittee.
- (8178) "Testing" means applying a method to determine the integrity or operational status of any part of an UST system.



(8279) "Third party evaluation" means an evaluation of a method or system including, but not limited to, a release detection system or tank integrity assessment method that is conducted by an independent organization. The evaluation includes certification that the method evaluated will operate as designed and includes information about any limitations of the method. As used in this definition, "independent" means that the organization that conducted the evaluation may not be owned, controlled by or associated with any client, industry organization or any other institution with a financial interest in the method or system evaluated.

(83) "Under-Dispenser Containment" means containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater. Such containment must:

(a) Be liquid-tight on its sides, bottom, and at any penetrations;

(b) Be compatible with the substance conveyed by the piping; and

(c) Allow for visual inspection and access to the components in the containment system, be monitored, or both.

(840) "Underground area" means an underground room, such as a basement, cellar, shaft or vault that provides enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

(851) "Underground piping" means connected piping that is located beneath the ground surface or otherwise covered by earthen materials.

(862) "Underground storage tank" or "UST" means any one or combination of tanks (including connected underground pipes) that contains or used to contain a regulated substance and the volume of which (including the volume of connected underground pipes) is 10 percent or more beneath the ground surface or otherwise covered by earthen materials.

(873) "UST facility" means the real property on which an UST is installed or will be installed. An UST facility encompasses all contiguous real property owned by the same property owner that is associated with the operation of the UST system.

(884) "UST services" includes without limitation, installation, decommissioning, modification, testing (e.g., cathodic protection and tank tightness) and inspection of UST systems.

(895) "UST system" means an underground storage tank, underground piping, underground ancillary equipment and containment system, if any.

(9086) "UST system operator" means the individual designated by the owner and permittee as having control of or responsibility for the operation of an UST system,

including the on-site operation and maintenance of the system in a manner to ensure that the UST system is in compliance with applicable state and federal regulations and industry standards.

(9187) "Wastewater treatment tank" means a tank that is designed to receive and treat influent wastewater through physical, chemical or biological methods.

[Publications: Publications referenced are available from the agency department.]

Stat. Auth.: ORS 466.706 - ORS 466.835, 466.994 & 466.995

Stats. Implemented: ORS 466.706, 466.746

Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 21-1989(Temp), f. & cert. ef. 9-18-89; DEQ 10-1990, f. & cert. ef. 3-13-90; DEQ 20-1990, f. & cert. ef. 6-7-90; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03; DEQ 6-2003, f. & cert. ef. 2-14-03; DEQ 6-2003, f. & cert. ef. 2-14-03; DEQ 8-2003(Temp), f. & cert. ef. 5-21-03 thru 11-14-03; DEQ -16-2003, f. 11-10-03 cert. ef. 11-15-03

**340-150-0020**

### **UST General Permit Registration Certificate Required**

(1) A person may not install, operate or ~~close decommission~~ an UST without applying for and being issued a general permit registration certificate from the department for one of the following ~~UST general permit registration categories~~ actions:

(a) Installation;

(b) Operation; ~~or~~

(c) Decommissioning, including ~~temporary and permanent closure by change-in-service, removal or filling in-place; or~~

(d) Temporary closure.

(2) An owner or proposed permittee must ~~submit an application to the department~~ apply for a registration certificate at least 30 days before installing, operating or decommissioning an unregistered UST. The application must include, but is not limited to, the following information and attachments:

(a) The legal name, signature and mailing address of the owner of the UST;

(b) The legal name, signature and mailing address of the owner of the real property on which the UST system is located;

(c) The legal name, signature and mailing address of the permittee.

(A) ~~The owner must designate a specific person as the permittee. If the person designated as the permittee is a corporation, a naturaleontact person must be identified as the contact person.~~

(B) If a permittee is not designated, the owner is the permittee.

(d) A completed EPA Notification for Underground Storage Tanks or equivalent form developed by the department; and

(e) A signed statement by the owner or proposed permittee that the owner or permittee (must identify which one) will comply with the financial responsibility requirements of OAR chapter 340, division 151 before operation of the UST system.

(3) The owner or proposed permittee must include the appropriate registration fee with the application in accordance with OAR 340-150-0110(1) ~~and (6)~~ for an installation certificate for new USTs to be installed or 340-150-0110(65) for an operation or decommissioning certificate for USTs that should have been registered previously.

(4) An application that is incomplete, unsigned or that does not include the required attachments or fees will be returned to the owner or proposed permittee for completion. The application will be considered to be withdrawn if the required information is not submitted within 90 days of the date that the application was returned by the department.

(5) If the department determines that a general permit is not required, the owner and proposed permittee will be notified in writing and any fees submitted will be refunded. This notification constitutes final action by the department on the application.

(6) When an application is determined to be complete, the UST facility and each individual UST will be assigned a unique identification number (i.e., UST facility ID number and tank permit number) by the department.

(7) A general permit registration certificate is issued to the permittee for each UST facility. In all cases, the permittee must comply with the general permit requirements whether or not an actual registration certificate is issued.

(8) For the purpose of this rule only, the term "legal name" means the business name registered with the Oregon Secretary of State's Office, Corporation Division (if registered) or full name of an individual.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.760

Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 20-1990, f. & cert. ef. 6-7-90; DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

**340-150-0021**

## Termination of Temporary Permits

Any owner or permittee holding a temporary permit to operate an UST on or before December 22, 1998, who was not issued an *operation certificate* by the department by December 23, 1998, must apply for decommission the UST under a general permit for temporary closure, pursuant to OAR 340-150-0167 or decommission the UST under a general permit for permanent closure or change-in-service pursuant to OAR 340-150-0166 through and 340-150-0168.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746, ORS 466.750, ORS 466.760 & ORS 466.765

Hist.: DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

### 340-150-0052

#### **Modification of Registration Certificates For Changes in Ownership and Permittee**

(1) A new owner or proposed new permittee must submit an application to modify the UST general permit registration modification application to the department certificate if any of the following occur:

- (a) Change of ownership of property on which an UST system is located;
- (b) Change in UST ownership; or
- (c) Change in the designated permittee.

(2) The modification application must be signed by the owner, permittee and property owner. The new owner or proposed permittee must submit an application to the department promptly upon confirmation that the change has been legally documented (i.e., property sale is complete). Failure to submit the required modification application will result in termination of the general permit registration certificate~~operation certificate~~ 60 days after the change in accordance with OAR 340-150-0102(1).

(3) The modification application must include a copy of the financial assurance assistance mechanism (e.g., insurance certificate or endorsement, trust fund, etc.) that demonstrates compliance with the requirements of OAR chapter 340, division 151.

(4) A \$75 general permit modification fee must accompany the modification application. Checks or money orders must be payable to the Department of Environmental Quality.

(5) A new *operation certificate* will be issued to the permittee upon receipt of all required information and payment of the fee.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746, ORS 466.760, ORS 466.765 & ORS 466.783  
Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### 340-150-0102

#### **Termination of General Permit Registration Certificates for Installation, Operation and Temporary Closure**

- (1) A general permit registration certificate will automatically terminate ~~60~~<sup>120</sup> days after any of the changes set forth in OAR 340-150-0052(1) have occurred, unless the department has received an application for modification by that date.
- (2) ~~An~~ registration certificate for installation ~~certificate~~ will automatically terminate when the department issues an registration certificate for operation ~~certificate~~.
- (3) ~~An~~ registration certificate for operation ~~certificate~~ will automatically terminate:
  - (a) When the department issues a registration certificate for temporary closure ~~certificate~~;
  - (b) On the date that temporary closure occurred or is discovered by the department if a registration certificate for temporary closure ~~certificate~~ has not been issued; or
  - (c) On the date change-in-service or permanent closure begins.
- (4) A temporary closure certificate will automatically terminate upon completion of all change-in-service or permanent closure requirements or if the UST system is returned to operational status (OAR 340-150-0167(2)(b)).

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746 & ORS 466.760  
Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### 340-150-0110

#### **UST General Permit Registration, Annual Compliance and Other Fees**

- (1) An owner and permittee must pay a \$400 installation fee for each UST or UST compartment installed and the general permit registration fee for each tank. This fee must accompany the application for a UST general permit registration certificate ~~application~~. The registration fee is the same amount as the annual compliance fee listed in section (2) of this rule.
- (2) Each calendar year (January 1 to December 31) following installation, the owner and permittee must pay an annual compliance fee for each UST that has not been permanently decommissioned, for any portion of the year, according to the following schedule:

- (a) \$25 per tank for the years 1988, 1989, 1990, 1991, 1992 and 1993;
- (b) \$35 per tank for the years 1994, 1995, 1996 and 1997;
- (c) \$60 per tank for the years 1998, 1999, 2000 and 2001, except that for 1998 and 1999 the fee is \$35 for any permittee that self-certifies its compliance with 1998 technical standards to the department;
- (d) \$105 per tank for 2002, which includes a \$20 surcharge per tank; ~~and~~
- (e) \$85 per tank for the years 2003, 2004, ~~and 2005, 2006 and 2007; and.~~
- (f) \$135 per tank for 2008 and subsequent years.

(3) For multichambered or multicompartmented USTs, the general permit registration fee and annual compliance fee must be paid for each chamber or compartment.

(4) The department will issue an invoice to each permittee for the annual compliance fees due for each UST facility for each calendar year. The permittee must pay fees by the due date listed on the invoice. A \$35 late fee will be added to the total amount due for each invoice for which payment is not received by the due date. At its discretion, the department may allow the permittee to make alternative arrangements for payment.

(5) Each year following installation, an annual operation certificate that identifies the underground storage tank(s) at the facility that are eligible for delivery, deposit or acceptance of a regulated substance will be issued to the permittee provided the department has received:

(a) proof of compliance with financial responsibility requirements in OAR chapter 340, division 151;

(b) payment of UST fees due under OAR chapter 340, division 150; and

(c) payment of any civil penalty due pursuant to an order issued under ORS 466.706 to 466.882 or ORS 466.994 that is final either upon appeal or by operation of law.

(65) For any UST that was not permitted by May 1, 1988, or that was not permitted before installation during any year thereafter, the owner and permittee must pay the annual compliance fee for each calendar year or part of a calendar year since installation, except that the total amount of fees owed will not be more than \$500 per tank. These fees must be paid before the department will approve a 30-day or 3-day notice to decommission the UST.

~~(6) In addition to the general permit registration fee, an owner and permittee must pay a \$400 installation fee for each UST installed. This fee must be included with the general permit registration application.~~

(7) All checks or money orders for fees must be made payable to the Department of Environmental Quality.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994, ORS 466.995 & Ch. 767, OL 1997

Stats. Implemented: ORS 466.783, ORS 466.785

Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 20-1989(Temp), f. & cert ef. 8-1-89 (and corrected 8-3-89); DEQ 34-1989, f. & cert. ef. 12-14-89; DEQ 20-1990, f. & cert. ef. 6-7-90; DEQ 7-1994, f. & cert. ef. 3-22-94; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

**340-150-0115** [Renumbered to 340-150-0600]

**340-150-0125** [Renumbered to 340-150-0620]

**340-150-0135**

### **General Requirements for Owners, and Permittees and UST System Operators**

(1) ~~The~~An owner and permittee must comply with the UST operator training requirements in OAR 340-150-0200 or OAR 340-150-0210, as applicable, designate a specific person as the UST system operator. If an UST system operator is not designated, the permittee is the UST system operator.

(2) The property owner, UST owner and permittee must allow any department employee or authorized representative of the department access to property where an UST is located at any reasonable time to interview persons, inspect equipment and site conditions, collect samples, take still or video pictures, conduct an investigation or review and copy records.

(3) An owner and permittee of a petroleum UST system subject to this division must continuously comply with the financial responsibility requirements of OAR chapter 340, division 151.

(4) An owner and permittee must provide information regarding an UST system, UST facility or, UST system operator ~~or UST facility attendant~~ to the department upon request.

(5) An owner and permittee must notify the department ~~in writing within~~ at least 30 days before of any of the following:

(a) A change in contents of an UST as listed on the *operation certificate* from one regulated substance to another (e.g., gasoline to diesel);

(b) A change in the name of the contact person for the permittee, if the permittee has not changed;

(c) A change in the mailing address or phone number of the property owner, owner or permittee, and

~~(d) A decision by the owner and permittee to place any UST system into temporary closure status.~~

(6) Upon receipt of any information submitted in accordance with section (5) of this rule, the department may issue a modified *operation certificate* or a *temporary closure certificate*. The \$75 registration certificate modification fee is not applicable to the ~~unless these changes are reported described in this subsection, to the department at the same time as a change specified under OAR 340-150-0052.~~

(7) An owner and permittee of an UST system subject to this division must also comply with the following release reporting, site investigation and corrective action requirements:

(a) OAR 340-122-0205 through 340-122-0360 for petroleum USTs.

(b) OAR 340-122-0010 through 340-122-0115 for USTs containing nonpetroleum regulated substances, except that any releases must be reported in accordance with the requirements of OAR chapter 340, division 142.

~~(8) An owner and permittee of any UST system used solely to contain fuel for emergency power generators must comply with all provisions of this division, except for the release detection requirements of OAR 340-150-0400 through 340-150-0470 and the training and emergency response information requirements of 340-150-0200.~~

~~(89) In addition to any other requirements of this division, an owner and permittee must decommission any UST system that does not meet the requirements of this division in accordance with the general permit registration requirements for permanent closure (OAR 340-150-0166 or 340-150-0168).~~

~~(910) Any notification made to the department by an owner and permittee may be made in writing sent by U.S. mail, electronic mail, facsimile or verbally by telephone provided it is received by the department by the required due date, unless otherwise specified by rule.~~

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746, ORS 466.765, ORS 466.805 & ORS 466.815

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0150**

#### **Depositing Regulated Substances in USTs**



(1) ~~No~~A person ~~shall~~~~may not~~ allow delivery, deposit, or cause to be deposited or accept deposit of a regulated substance into an UST unless the owner and permittee of the UST facility have a current valid annual operation certificate for the UST posted in a conspicuous location at the facility clearly visible to distributors depositing regulated substances into the UST for the tank.

(2) Before arranging for delivery of a regulated substance, an owner and permittee must provide the operation certificate number and the identification number for each UST to any person depositing a regulated substance into the UST.

(3) If a general permit registration certificate is revoked, suspended or terminated, an owner and permittee must return the operation certificate ~~provide written notice of the change in status to any person who previously deposited a regulated substance into the UST. A copy of the notice must be provided to the department.~~

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.760

Hist.: DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88; DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0152**

#### **Requirements for Distributors of Regulated Substances for Deposit into USTs**

(1) ~~In addition to the requirements of OAR 340-150-0150(1), a~~Each distributor must obtain and maintain a written record of operation certificate numbers for every UST facility and the identification number for each UST into which it delivers or deposits a regulated substance.

(2) A distributor may not deliver or deposit a regulated substance into an UST unless a valid operation certificate for the UST is posted in a conspicuous location at the UST facility clearly visible to those depositing regulated substances into the UST.

(3~~2~~) Upon request by the department, a distributor must provide a written record of all USTs into which it delivered or deposited a regulated substance during the past three years, regardless of whether the UST is registered with or regulated by the department. The list must include, but is not limited to, customer name, delivery address, operation certificate number (as applicable), UST identification number, ~~and the type of regulated substance delivered~~ and delivery date.

Stat. Auth.: ORS 466.706 - 466.835, 466.994 & 466.995

Stats. Implemented: ORS 466.746

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0160**

## General Permit Requirements for Installing an UST System

~~(1) Notwithstanding OAR 340-150-0150(1), the department may, at its discretion, approve the deposit of a regulated substance into the UST before the issuance of an operation certificate on a case by case basis. Dispensing of a regulated substance from the UST is strictly prohibited. Following approval by the department, the permittee must:~~

~~(a) Provide the distributor of the regulated substance with the installation certificate number and UST identification number for each tank, including an explanation that the certificate number will be superseded by an operation certificate number (OAR 340-150-0150(2));~~

~~(b) Report, investigate and perform corrective action for any confirmed release that may occur after delivery of a regulated substance (OAR 340-150-0135(7)); and~~

~~(c) Provide proof of compliance with the financial responsibility requirements of OAR chapter 340, division 151 to the department before accepting delivery of petroleum (OAR 340-150-0135(3)).~~

~~(12) To maintain compliance with a general permit installation certificate, the permittee must:~~

~~(a) Install all UST system components and ancillary equipment in accordance with the following performance standards and requirements:~~

~~(A) For installation of USTs and underground piping, OAR 340-150-0300 and 340-150-0302;~~

~~(B) Install under-dispenser containment for each new, moved or replaced fuel dispenser system. This rule does not apply to repairs of a dispenser system;~~

~~(CB) For spill and overfill protection, OAR 340-150-0310;~~

~~(DE) For corrosion protection, OAR 340-150-0320 and 340-150-0325; and~~

~~(ED) For release detection, OAR 340-150-0400 through 340-150-0470.~~

~~(b) Allow the department access to the UST facility and records (OAR 340-150-0135(2));~~

~~(c) Provide information to the department upon request and submit information regarding UST system or UST facility changes (OAR 340-150-0135(4) and (5)); and~~

~~(d) Comply with all installation notification and written report requirements (OAR 340-150-0300); and~~

~~(2e) Except as provided by OAR 340-150-0156, all UST installation services must be performed under the supervision of a person licensed as a DEQ UST services supervisor who is working for a company licensed as a DEQ UST services service provider in accordance with OAR chapter 340, division 160. Not allow any person other than a service provider or supervisor licensed by the department to perform UST installation services, except as provided by OAR 340-150-0156.~~

(32) Notwithstanding OAR 340-150-0150(1), the department may, at its discretion, approve the deposit of a regulated substance into the UST before the issuance of an operation certificate on a case by case basis. Dispensing of a regulated substance from the UST is strictly prohibited. Following approval by the department, the permittee must:

(a) Provide the distributor of the regulated substance with the installation certificate number and UST identification number for each tank, including an explanation that the certificate number will be superseded by an operation certificate number (OAR 340-150-0150(2));

(b) Report, investigate and perform corrective action for any confirmed release ~~that may occur after delivery~~ of a regulated substance (OAR 340-150-0135(7)); and

(c) Provide proof of compliance with the financial responsibility requirements of OAR chapter 340, division 151 to the department before accepting delivery of petroleum (OAR 340-150-0135(3)).

~~(43)~~ The UST system installation will be considered complete upon final review and approval by the department of the completed installation checklist and certification of compliance signed by the owner, permittee and service provider (i.e., the tank installer) as required by OAR 340-150-0300(98). An operation certificate will be issued to the permittee once the installation has been approved by the department.

~~(54)~~ The general permit registration certificate for installation certificate automatically expires upon issuance of an general permit registration certificate for operation certificate (OAR 340-150-0102(2)).

Stat. Auth.: ORS 466.706 - ORS 466.995

Stats Implemented: ORS 466.706, ORS 466.740, ORS 466.746, ORS 466.750, ORS 466.760, ORS 466.765, ORS 466.770, ORS 466.783 ORS 466.775, ORS 466.785, ORS 466.800, ORS 466.805, ORS 466.810 & ORS 466.815

Hist.: DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0163**

#### **General Permit Requirements for Operating an UST System**

~~(1) An operation certificate will be issued to the permittee upon approval by the department of the UST installation and receipt of proof of compliance with the financial~~

~~responsibility requirements of OAR chapter 340, division 151 for petroleum USTs. Delivery and deposit of a regulated substance is allowed under the operation certificate, once the permittee has provided the distributor with the operation certificate number and UST identification number for each tank.~~(2) To maintain compliance with the general permit-operation registration certificate for operation, the permittee must operate and maintain the UST system in accordance with the following performance standards and requirements:

(a) The valid annual operation certificate must be posted in a conspicuous location at the UST facility clearly visible to distributors depositing regulated substances into the UST (OAR 340-150-0150);

(ba) Prevent spills and overfills (OAR 340-150-0310);

(cb) Maintain corrosion protection, including testing, record keeping and reporting of test failures (OAR 340-150-0320 and 340-150-0325);

(de) Perform release detection for USTs and underground piping, including monitoring, testing and record keeping (OAR 340-150-0400 through 340-150-0470);

(ed) Periodically inspect internally lined USTs and report to the department any inspection failures (OAR 340-150-0360);

(fe) Report to the department any suspected release of regulated substances within 24 hours (OAR 340-150-0500) and investigate suspected releases within seven days (340-150-0510);

(gf) Report to the department any spills, overfills or confirmed releases within 24 hours and investigate or take corrective action as required by:

(A) OAR 340-122-0205 through 340-122-0360 for petroleum USTs.

(B) OAR 340-122-0010 through 340-122-0115 for USTs containing nonpetroleum regulated substances, except that releases must be reported in accordance with the requirements of OAR chapter 340, division 142.

(hg) Repair, modify or replace UST system components as necessary to correct, detect or prevent releases (OAR 340-150-0350 through 340-150-0354);

(ih) Continuously maintain a financial responsibility mechanism for petroleum UST systems (OAR chapter 340, division 151);

(ji) Allow the department access to the UST facility and records (OAR 340-150-0135(2));

(kj) Provide information to the department upon request and submit information regarding UST system or UST facility changes (OAR 340-150-0135(4) and (5));

~~(lk)~~ Pay all annual compliance fee invoices by the specified due date or be subject to late fees (OAR 340-150-0110);

~~(ml)~~ Submit application for modification of registration certificate Report to the department upon any change in ownership of the property, tank UST system or designated permittee (OAR 340-150-0052). Failure to submit a request for modification is cause for automatic termination of the operation certificate (OAR 340-150-0102(1)); and

~~(n)~~ Comply with all applicable UST operator training requirements (OAR 340-150-0200 or OAR 340-150-0210).

~~(2m)~~ Except as provided by OAR 340-150-0156, all UST services shall be performed under the supervision of a person licensed as a DEQ UST services supervisor who is working for a company licensed as a DEQ UST services service provider in accordance with OAR chapter 340, division 160. ~~Not allow any person other than a service provider or supervisor licensed by the department to perform UST services, except as provided by OAR 340-150-0156.~~

~~(3)~~ ~~The permittee must have a designated UST system operator and comply with the training requirements of OAR 340-150-0200 after the required date.~~

~~(34)~~ The permittee may not operate an UST that does not meet the conditions and requirements of the operation certificate and all other applicable rules and statutes. The permittee must:

(a) Immediately take all actions necessary to bring the UST system into compliance; or

(b) Submit a 30-day notice of permanent closure to the department and immediately begin to manage the UST system in compliance with the conditions and requirements of a general permit for permanent closure in accordance with OAR 340-150-0166 or 340-150-0168.

~~(45)~~ When an UST system will no longer be operated due to proposed change-in-service, temporary or permanent closure, the permittee must notify the department of the proposal in writing 30 days in advance of the change.

~~(56)~~ The operation certificate for an UST will terminate upon issuance of a temporary closure certificate or when temporary closure, change-in-service or permanent closure begins (OAR 340-150-0102(3)).

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats Implemented: ORS 466.706, ORS 466.740, ORS 466.746, ORS 466.750, ORS 466.760, ORS 466.765, ORS 466.770, ORS 466.775, ORS 466.783, ORS ORS 466.785, ORS 466.805, ORS 466.810 & ORS 466.815

Hist.: DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

**General Permit Requirements for Closure of an UST System by Change-in-Service**

(1) ~~A permittee may continue to use a~~ An UST system may be used to store a nonregulated substance without removal of the tank (i.e., change-in-service), ~~except that~~ A an UST or any underground piping that has held a regulated substance may not be used under any circumstances to store water for consumption by humans or livestock or for the watering of feed crops.

(2) At least 30 days before beginning the change-in-service, the permittee must submit an application for a change-in-service general permit to the department. The department may allow a shorter notice period on a case by case basis. In addition to general information about the UST facility, tank ownership and UST system, the application must include:

(a) Information about the proposed use of the UST system;

(b) A written site assessment plan that meets the requirements of OAR 340-150-0180; and

(c) Any other information the department may require.

(3) After approval of the site assessment plan by the department and at least three working days before beginning the change-in-service, the permittee must notify the department of the confirmed date and time the change-in-service will begin to allow observation by the department.

(4) A general permit registration certificate will not be issued. The permittee must, however, comply with the requirements of the general permit for decommissioning by change-in-service. In addition to all other requirements of this rule, the permittee must:

(a) Report to the department any spills, overfills or confirmed releases within 24 hours and investigate or take corrective action as required by:

(A) OAR 340-122-0205 through 340-122-0360 for petroleum USTs.

(B) OAR 340-122-0010 through 340-122-0115 for USTs containing nonpetroleum regulated substances, except that releases must be reported in accordance with the requirements of OAR chapter 340, division 142.

(b) Continuously maintain a financial responsibility mechanism for petroleum UST systems required by OAR chapter 340, division 151, until the department has determined that the change-in-service is complete;

(c) Allow the department access to the UST facility and records (OAR 340-150-0135(2));

(d) Provide information to the department upon request and submit information regarding UST system or UST facility changes (OAR 340-150-0135(4) and (5)); and

(e) Pay all annual compliance fees when due and any applicable invoices by the specified due date or be subject to late fees (OAR 340-150-0110); and

(4f) Except as provided by OAR 340-150-0156, all UST services shall be performed under the supervision of a person licensed as a DEQ UST services supervisor who is working for a company licensed as a DEQ UST services service provider in accordance with OAR chapter 340, division 160. Not allow any person other than a service provider and supervisor licensed by the department to perform UST services, except as provided by OAR 340-150-0156.

(5) The permittee must empty the UST system and clean it by removing all liquids and accumulated sludge. The USTs and removed materials must be recycled or disposed of in accordance with all federal, state and local requirements. One or more of the following cleaning and closure procedures must be used:

(a) American Petroleum Institute RP 1604, "Closure of Underground Petroleum Storage Tanks" ~~(1996)~~;

(b) American Petroleum Institute Publication 2015, "Cleaning Petroleum Storage Tanks" ~~(2001)~~;

(c) American Petroleum Institute RP 1631 ~~(2001)~~, "Interior Lining of Underground Storage Tanks" (contains guidance information); or

(d) The National Institute for Occupational Safety and Health "Criteria for a Recommended Standard: Working in Confined Space" (Publication No. 80-106; ~~December 1979~~) (guidance for conducting safe closure procedures at some hazardous substance USTs).

(6) Within 30 days of completion of the field work or other period approved by the department, the permittee must complete and submit a change-in-service checklist and site assessment report (OAR 340-150-0180 ~~(87)~~) signed by the owner, permittee and service provider to the department.

(7) The UST system change-in-service will be considered complete upon final review and approval by the department of the completed change-in-service checklist and site assessment report. The department will provide a letter to the permittee indicating that the change-in-service has been completed.

(8) The permittee must maintain records of change-in-service, including the site assessment report and associated documents, for three years after the change-in-service checklist and report have been approved by the department. If the UST facility is sold

within this time period the permittee must provide these records to the new property owner (OAR 340-150-0140).

[Publications: Publications referenced are available from the department/agency.]

Stat. Auth.: ORS 466.706 - ORS 466.995 & ORS 465.200 - ORS 465.990

Stats Implemented: ORS 465.200, ORS 465.210, ORS 465.255, ORS 465.260, ORS 466.706, ORS 466.710, ORS 466.740, ORS 466.746, ORS 466.750, ORS 466.760, ORS 466.765, ORS 466.770, ORS 466.775, ORS 466.785, ORS 466.800, ORS 466.805, ORS 466.810 & ORS 466.815

Hist.: DEQ 24-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0167**

#### **General Permit Requirements for Temporary Closure of an UST System**

(1) At least 30 days before beginning temporary closure, the owner and permittee must submit an application for a temporary closure general permit to the department. The department may allow a shorter notice period on a case by case basis.

~~(2) The department will issue a temporary closure certificate to the permittee upon receipt of the required notice in accordance with OAR 340-150-0135(5)(d). A This temporary closure certificate will expire one year from the date of issuance. At least thirty days before the expiration date, the permittee must submit one of the following to the department:~~

(a) An application for a change-in-service (OAR 340-150-0166) or permanent closure (340-150-0168) general permit;

(b) A written request to return the UST system to operational status; or

~~(c) A written request for an to extension of the expiration date of the temporary closure certificate.~~

(A) Requests to extend the temporary closure certificate will be considered by the department only if all USTs identified under the initial temporary closure certificate are empty of all regulated substances and a site assessment (OAR 340-150-0180) has been conducted to determine if a release has occurred. In lieu of a site assessment, the department may accept other documentation that indicates no release has occurred. If the department approves the request for extension, the expiration period date will be extended to a date determined by the department and a revised temporary closure certificate will be issued to the permittee.

(B) If the department denies the request, the permittee must decommission the UST system by permanent closure or change-in-service by the date established by the



department. The department will notify the permittee of the denial in writing and include the reasons the request was denied.

(32) To maintain compliance with the general permit temporary closure certificate, the permittee must:

(a) Cap and secure all lines, pumps, access-ways and ancillary equipment, except the vent lines, if the UST system is temporarily closed for three months or more;

(b) Report suspected releases of regulated substances to the department within 24 hours (OAR 340-150-0500) and investigate suspected releases within seven days (340-150-0510);

(c) Report to the department any confirmed releases within 24 hours and investigate or take corrective action as required by:

(A) OAR 340-122-0205 through 340-122-0360 for petroleum USTs.

(B) OAR 340-122-0010 through 340-122-0115 for USTs containing nonpetroleum regulated substances, except that releases must be reported in accordance with the requirements of OAR chapter 340, division 142.

(d) Continuously maintain a financial responsibility mechanism for petroleum UST systems (OAR chapter 340, division 151);

(e) Allow the department access to the UST facility and records (OAR 340-150-0135(2));

(f) Provide information to the department upon request and submit information regarding UST system or UST facility changes (OAR 340-150-0135(4) and (5));

(g) Pay all annual compliance fees when due and any applicable late fees (OAR 340-150-0110) invoices by the specified due date or be subject to late fees (OAR 340-150-0110); and

(h) Report to the department any change in ownership of property, UST system or tank or designated permittee (OAR 340-150-0052); ~~and~~

(4i) Except as provided by OAR 340-150-0156, all UST services shall be performed under the supervision of a person licensed as a DEQ UST services supervisor who is working for a company licensed as a DEQ UST services service provider in accordance with OAR chapter 340, division 160. Not allow any person other than a service provider or supervisor licensed by the department to perform UST services, except as provided by OAR 340-150-0156.

(53) If the UST is empty of all regulated substances, the permittee must comply with the requirements of section (32) of this rule and must submit documentation to the

department that the tank was emptied and that the removed regulated substance and sludge was recycled or disposed of in accordance with state, federal and local regulations. This documentation must be submitted with the notice provided to the department (OAR 340-150-016735(15)(d)) or within 30 days after the tank has been emptied.

(64) If the UST is not empty, the permittee must comply with the requirements of section (32) of this rule and perform release detection for USTs and underground piping, including monitoring, testing and record keeping in accordance with OAR 340-150-0400 through 340-150-0470.

(7a) If the UST and underground piping are metal, the permittee must operate, test and maintain equipment and keep records for corrosion protection in accordance with OAR 340-150-0320 and 340-150-0325.

(8b) If the UST is lined, the permittee must periodically inspect the lining in accordance with OAR 340-150-0360.

(9e) When necessary to correct, detect or prevent releases, the permittee must repair, modify or replace UST system components (OAR 340-150-0350 through 340-150-0354).

(105) The permittee must maintain all records related to the temporary closure for three years after a change-in-service or permanent closure checklist and site assessment report have been approved by the department. If the UST facility is sold within this time period, the permittee must provide these records to the new property owner (OAR 340-150-0140).

Stat. Auth.: ORS 465.200 - ORS 465.455 & ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 465.205, ORS 465.400, ORS 466.706, ORS 466.740, ORS 466.746, ORS 466.750, ORS 466.760, ORS 466.765, ORS 466.770, ORS 466.775, ORS 466.783, ORS 466.785, ORS 466.805, ORS 466.810 & ORS 466.815

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0168**

#### **General Permit Requirements for Decommissioning an UST System by Permanent Closure**

(1) At least 30 days before beginning permanent closure, the owner and permittee, or the licensed service provider on behalf of the owner and permittee, must submit an application for a permanent closure general permit to the department. The department may allow a shorter notice period on a case by case basis.

(2) If the owner or permittee is proposing to permanently close the UST in-place and fill it with an inert material or if the UST contains a hazardous substance other than petroleum, the application must include a written site assessment plan that meets the

requirements of OAR 340-150-0180. Permanent closure cannot begin until the department approves the site assessment plan.

(3) At least three working days before beginning permanent closure, the owner and permittee, or the licensed service provider on behalf of the owner and permittee, must notify the department of the confirmed date and time permanent closure will begin to allow observation by the department.

(4) The permittee must empty the UST system and clean it by removing all liquids and accumulated sludge. The USTs and removed materials must be recycled or disposed of in accordance with all federal, state and local requirements. One or more of the following cleaning and closure procedures must be used:

(a) American Petroleum Institute RP 1604, "Closure of Underground Petroleum Storage Tanks"-(1996);

(b) American Petroleum Institute Publication 2015, "Cleaning Petroleum Storage Tanks" (2001);

(c) American Petroleum Institute RP 1631-(2001), "Interior Lining of Underground Storage Tanks"-(2001) (contains guidance information); or

(d) The National Institute for Occupational Safety and Health (NIOSH) "Criteria for a Recommended Standard: Working in Confined Space" (Publication No. 80-106, December 1979) (guidance for conducting safe closure procedures at some hazardous substance USTs).

(5) The permittee must perform a site assessment that meets the requirements of OAR 340-150-0180 after the UST system and all ancillary equipment have been removed from the tank pit. If the UST is closed in-place, the site assessment must be conducted in accordance with the approved site assessment plan. If any equipment (i.e., tanks or piping) are to be disposed of instead of recycled, ~~the permittee must first have the disposal location~~ must be approved in advance in writing by the department.

(6) Within 30 days of completion of the field work or other period approved by the department, the permittee must complete and submit to the department a permanent closure checklist and site assessment report (OAR 340-150-0180) signed by the owner, permittee and service provider to the department.

(7) A general permit registration certificate will not be issued to the permittee. However, the permittee must comply with the requirements of this general permit for permanent closure. In addition to all other requirements of this rule, the permittee must:

(a) Report to the department any spills or confirmed releases within 24 hours and investigate or take corrective action as required by:

(A) OAR 340-122-0205 through 340-122-0360 for petroleum USTs.

(B) OAR 340-122-0010 through 340-122-0115 for USTs containing nonpetroleum regulated substances, except that releases must be reported in accordance with the requirements of OAR chapter 340, division 142.

(b) Continuously maintain a financial responsibility mechanism for petroleum UST systems (OAR chapter 340, division 151);

(c) Allow the department access to the UST facility and records (OAR 340-150-0135(2));

(d) Provide information to the department upon request and submit information regarding UST system or UST facility changes (OAR 340-150-0135(4) and (5));

(e) Pay all annual compliance fees when due and any applicable late fees (OAR 340-150-0110), invoices by the specified due date or be subject to late fees (OAR 340-150-0110); and

(8f) Except as provided by OAR 340-150-0156, all UST services shall be performed under the supervision of a person licensed as a DEQ UST services supervisor who is working for a company licensed as a DEQ UST services service provider in accordance with OAR chapter 340, division 160. ~~Not allow any person other than a service provider and supervisor licensed by the department to perform UST services, except as provided by OAR 340-150-0156.~~

(98) The UST system permanent closure will be considered complete upon approval by the department of the completed permanent closure checklist and site assessment report (OAR 340-150-0180). The department will provide a letter to the permittee indicating that the permanent closure has been completed.

(109) The permittee must maintain records of permanent closure, including the site assessment report and associated documents, for three years after the permanent closure checklist and report have been approved. If the UST facility is sold within this time period the permittee must provide these records to the new property owner (OAR 340-150-0140).

[Publications: Publications referenced are available from the departmentagency.]

Stat. Auth.: ORS 465.200 - ORS 465.455 & ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 465.205, ORS 465.400, ORS 466.706, ORS 466.740, ORS 466.746, ORS 466.750, ORS 466.760, ORS 466.765, ORS 466.770, ORS 466.775, ORS 466.783, ORS 466.785, ORS 466.805, ORS 466.810 & ORS 466.815

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

**340-150-0180**

### **Site Assessment Requirements for Permanent Closure or Change-In-Service**

(1) ~~Before a change-in-service (OAR 340-150-0166) or permanent closure (340-150-0168) is completed, a~~ An owner and permittee must complete a site assessment to measure for the presence of a release where contamination is most likely to be present at the UST facility and submit results of the assessment to the department when the following events occur:

(a) Change-in-service (OAR 340-150-0166);

(b) Permanent Closure (OAR 340-150-0168);

(c) Request for Extension of Temporary Closure Certificate (OAR 340-150-0167(2)(c)(A))

(d) Underground piping is replaced, decommissioned by removal or abandoned; and

(e) Fuel dispensers are moved, replaced, decommissioned or abandoned.

(2) In selecting sample types, sample locations and measurement methods, an owner and permittee must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater and other factors appropriate for identifying the presence of a release.

(32) For USTs containing petroleum, the owner and permittee must measure for the presence of a release by following the sampling and analytical procedures specified in OAR 340-122-0205 through 340-122-0360 and section (54) of this rule.

(43) For USTs containing regulated substances other than petroleum (including waste oil tanks), petroleum USTs to be closed in-place and USTs to undergo a change-in-service, an owner and permittee must submit a written site assessment plan (i.e., sampling plan) to the department and receive department approval before beginning permanent closure or change-in-service. The plan must include the following information:

(a) A site diagram, drawn to scale, that identifies:

(A) The location of all USTs and underground piping, dispenser islands, buildings and nearby properties;

(B) All surface water bodies within 1/4 mile of the UST facility;

(C) Any potential conduits for spreading contamination that may exist (e.g., water or sewer lines); and

(D) All proposed sample locations, clearly marked.

- (b) A list of analytical procedures and sample collection methods to be used;
- (c) General information about the sample collector and UST facility;
- (d) The location of all proposed sampling points that meet the requirements of section (54) of this rule; and
- (e) Any other information as specified by the department.

(54) Unless otherwise directed or approved by the department, an owner and permittee must meet the following requirements for sampling and analysis:

- (a) Soil samples must be collected from the native soils located no more than two feet beneath the bottom of the tank pit in areas where contamination is most likely to be found;
- (b) For in-place closure or change-in-service of an UST, a minimum of four soil samples must be collected, one each from beneath both ends of the tank and on each side;
- (c) For the removal of a single tank, two to four soil samples must be collected as appropriate based on site conditions, including the condition of the removed tank;
- (d) For the removal of multiple USTs from the same pit, in addition to subsection (c) of this section, one soil sample must be collected for each 100 square feet of area in the pit from areas where contamination is most likely to be found;
- (e) For underground piping; ~~or where piping runs were located in the past:~~
  - (A) For piping runs between 5 and 20 feet, Aa minimum of two soil samples must be collected from the native soils directly beneath the areas where contamination is most likely to be found, unless otherwise approved by the department; and
  - (B) For piping runs of more than 20 feet in length, beginning at the dispensers, at least one additional soil sample must be collected at each 20-foot interval;
- (f) For dispensers, at least one soil sample must be collected from the native soils directly beneath each dispenser;
- (g) For UST components (e.g., underground piping or dispensers) located directly above an area to be excavated, the area must be visually assessed before excavation work is conducted and soil samples collected if contamination is observed or suspected;
- (h) All soil samples must be analyzed by the Northwest Total petroleum Hydrocarbon Identification Analytical Method (NWTPH-HCID, DEQ, December 1996)) test specified in OAR 340-122-0218(1)(d)(A) to determine if a confirmed petroleum release exists; and

(i) If water is present in the UST pit, regardless of whether obvious contamination is present, the department must be notified within 24 hours of discovery.

(65) The guidance contained in Appendix K of this division may be used to comply with sections (43) and (54) of this rule.

(76) An owner and permittee must report a confirmed release to the department within 24 hours of confirmation whether by observance or receipt of analytical results. Upon discovery of a release, an owner and permittee must:

(a) Immediately initiate corrective action. An owner and permittee may request and the department may approve a specific time schedule to initiate corrective action on a case by case basis depending on the severity of the contamination or other relevant factors; and

(b) Follow the requirements of OAR 340-122-0225 for "Initial Abatement and Site Check" and 340-122-0235 for "Free Product Removal" as appropriate.

(87) An owner and permittee must submit a written report of the results of the site assessment to the department within 30 days of completion of the field work or other period approved by the department.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0200**

#### **Training Requirements for UST System Operators and Emergency Response Information**

(1) This rule is effective through August 7, 2009, after which it is superseded by the provisions of OAR 340-150-0210 (except to the extent expressly incorporated into that rule).

(2) The owner and permittee of each UST facility ~~issued an operation certificate by the department~~ that dispenses a regulated substance from an UST to a motor vehicle or container must:

(a) employ trained personnel who can properly operate and maintain the UST system; and

(b) ~~must~~ provide emergency response information to any person that dispenses a regulated substance from the UST system.

(32) UST system operator. An owner and permittee must require that the designated UST system operator complete training ~~that meets the following requirements:~~

~~(a) An individual designated as the UST system operator before February 1, 2004, must complete one of the training options in section (4) of this rule by before that date.~~

~~(b) An individual designated as the UST system operator after February 1, 2004, must complete training within 90 days of designation, unless the individual has previously completed a training option and a copy of the training documentation is maintained at the UST facility.~~

~~(c) The department may extend the initial training compliance date beyond February 1, 2004, if the department determines that there are an insufficient number of training options available.~~

(43) Elements of required training.

(a) All training options must include the essential training elements listed in Appendix L of this division and as further described in an UST system operator training manual developed by the department; and

(b) The department may periodically audit or review any of the training options to verify that the training follows the department's training manual.

(54) Training options. The UST system operator must either:

(a) Attend a training session sponsored by a training vendor listed by the department. A training vendor is a person, company or organization listed by the department that has agreed to present UST system operator training using the training manual developed by the department;

(b) Successfully pass an examination designed for UST system operators offered by a national service and approved by the department;

(c) Complete an internet or computer software training or examination program approved by the department; or

(d) Complete any other equivalent training method approved by the department.

(65) Documentation and record keeping. An owner and permittee must submit verification of UST system operator training completion to the department on or after ~~by before~~ March 1, 2004.

(a) Verification may include a copy of the certificate of training completion signed by the UST system operator along with any examination results or a list of persons who attend a training session as submitted by the training vendor. The list must include: the UST system operator's name and signature; the date training was completed; and the name, site address and the department's UST facility identification number for the UST facility that the UST system operator serves. The list must also include a confirmation statement by



the training vendor that the training session was conducted using the department's UST system operator training manual.

(b) An owner and permittee must permanently retain each certificate of completion signed by the UST system operator on file at the UST facility, including a copy of any examination results. If training records are not kept at the UST facility, an owner and permittee must have the records available for review by the department upon request.

(76) Exemption or deferral from training. The department may exempt an owner and permittee from the training requirements for an UST system operator if an owner and permittee demonstrates to the department's satisfaction that a hardship condition exists. Additionally, the department may defer the compliance date for UST system operator training to an alternate date on a case-by-case basis for an owner and permittee who meets the requirements of this section.

(a) To be considered for an UST system operator hardship exemption or deferral, an owner and permittee must demonstrate that the following conditions exist:

(A) The owner and permittee are the same person and owns only one UST facility;

(B) The permittee is both the UST system operator and the only person regularly on site who can operate the UST system equipment; and

(C) The permittee has been unable to locate another person to operate the UST facility for the permittee for a scheduled training session date or for the amount of time needed to complete a training option.

(b) The permittee must submit a written request for a hardship exemption or deferral to the department. The request must include the following information:

(A) A brief description of how the permittee meets the requirements ~~under~~of subsection (a) of this section; and

(B) A list of available training options and other possible solutions explored by the permittee together with an explanation demonstrating why none of these alternatives are feasible.

(c) The department will review exemption and deferral requests within 60 days of receipt of the completed request. Upon approval by the department, the permittee must review the training manual developed by the department and sign an affidavit stating that the permittee has read and understands the UST operation and maintenance requirements. ~~The permittee must submit the affidavit to the department by March 1, 2004, or other date designated by the department.~~

(d) The permittee must keep a copy of all records pertaining to approval of a hardship exemption or deferral, including the written request for hardship and signed affidavit;

Records must be kept permanently at the UST facility. If records are not kept at the UST facility, the permittee must have the records available for review by the department upon request; and

(e) UST facilities where the permittee has been granted a hardship exemption will be placed on a priority list for technical assistance and inspection by the department.

(87) Emergency response information. In addition to the requirements of sections (1) through (76) of this rule, an owner and permittee must provide information about emergency response procedures to any person who dispenses a regulated substance, including, but not limited to, procedures for overfill protection during delivery of regulated substances, operation of emergency shut off system and alarm response, release reporting and any site specific emergency procedures. The information must include any emergency response requirements made necessary by site specific human health and safety issues or the presence of environmentally sensitive areas, such as nearby streams, wetlands or potential conduits for spreading contamination. The emergency response information must be provided by:

(a) Written instructions that are provided to any person who dispenses a regulated substance at the UST facility;

(b) Signage posted in prominent areas of the UST facility that is easily visible to any person dispensing a regulated substance; or

(c) A combination of both subsections (a) and (b) of this section.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.743 & ORS 466.746

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0210**

#### **Training Requirements for UST Operators**

(1) On or after August 8, 2009, owners and permittees must comply with the training requirements for UST operators in this rule.

(2) The owner and permittee of each UST facility issued an operation certificate by the department must employ Class A, Class B and Class C operators who can properly operate and maintain the UST system and respond to events indicating emergency conditions or responding to alarms caused by spills or releases from the UST system. The three classes of operators are generally identified in the following table:

	<b>Class A Operator</b>	<b>Class B Operator</b>	<b>Class C Operator</b>
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<b><u>Who fits this class of operator?</u></b>	The individual who generally focuses on the statutory and regulatory requirements related to operating and maintaining the underground storage tank system	The individual who is generally responsible for field implementation of applicable underground storage tank regulatory requirements and implements day-to-day aspects of operating, maintaining, and recordkeeping at one or more facilities	Those who are generally the first line of response to events indicating emergency conditions or responding to alarms
<b><u>What are the training requirements?</u></b>	Broad overview of regulatory requirements	In-depth training on implementing regulatory requirements	Actions to take in the event of a leak or other emergency

(3) Beginning August 8, 2009, an owner and permittee must designate their Class A, Class B and Class C operators and require that those operators complete training that meets the following requirements:

(a) An individual designated as a Class A or Class B operator must complete one of the training options in section 5 of this rule within 90 days of designation unless the individual has previously completed a training option under OAR 340-150-0200(5) and can provide verification of the training completion consistent with OAR 340-150-0200(6)(a).

(b) An individual designated as a Class C operator must be trained before dispensing a regulated substance or assuming responsibility for responding to emergencies.

(c) An individual who is designated to more than one operator class must be trained in each operator class for which he or she is designated.

(d) Individuals designated as a Class A or Class B operator for a UST facility that fails an UST compliance inspection must repeat one of the training options in section (5) of this rule within 90 days of the UST facility failing the compliance inspection.

(4) All training options for Class A and Class B operators must include the essential training elements listed in Appendix L of this division.

(5) Training options. Class A and Class B operators must either:

(a) Attend a training session sponsored by a training vendor approved by the department. A training vendor is a person, company or organization approved by the department that has agreed to present UST system operator training in accordance with all requirements of this rule;

(b) Successfully pass an examination designed for UST Class A operators or Class B operators, whichever applicable, offered by a national service and approved by the department;

(c) Complete an internet or computer software training or examination program designed for Class A or Class B operators, whichever is applicable, and approved by the department; or

(d) Complete any other equivalent training method approved by the department.

(6) Emergency response information.

(a) Trained Class A or Class B operators must provide training to Class C operators on emergency response procedures, including, but not limited to, procedures for overflow protection during delivery of regulated substances, operation of emergency shut off systems, alarm identification and response, release reporting and any site specific emergency procedures. The information must include any emergency response requirements made necessary by site specific human health and safety issues or the presence of environmentally sensitive areas, such as nearby streams, wetlands or potential conduits for spreading contamination. The emergency response information must be provided by :

(A) Written instruction to any person who is designated a Class C operator at the UST facility; and

(B) Signage posted in prominent areas of the UST facility that is easily visible to any person that is designated as a Class C operator or dispenses a regulated substance.

(7) Documentation and record keeping.

(a) Written verification of training completion for Class A, B and C operators must include: the UST operator's name, the date training was completed, and the name, site address and the department's UST facility identification number for the UST facility that the UST operator serves.

(b) An owner and permittee must permanently retain each certificate of completion on file at the UST facility, including a copy of any examination results. If training records are not kept at the UST facility, an owner and permittee must have the records available for review by the department upon request.

**340-150-0250**

### **Expedited Enforcement Process**

(1) Nothing in this rule shall affect the department's use of OAR chapter 340, division 12 "Enforcement Procedures and Civil Penalties" for compliance with the UST regulations,

except as specifically noted. Nothing in this rule requires the department to use the expedited enforcement process for any particular violation. The field penalty amounts assigned in section (4) of this rule are only applicable to actions taken by the department under this rule.

(2) An owner and permittee is excluded from participation in the expedited enforcement process if:

(a) The total field penalty amount for all violations identified during a single inspection or file review would exceed \$31,500;

(b) The department has issued a field penalty or civil penalty to the owner or permittee for the same violation at the same UST facility within the previous three years; or

(c) At its discretion, the department determines that an owner and permittee is not eligible for the expedited process. This determination will be done on a case by case basis. (One example may be when an owner and permittee of multiple UST facilities has received multiple field citations for the same or similar violations, but has not made corrections at all facilities.)

(3) For any owner and permittee with documented violations or conditions that exclude participation in the expedited enforcement process as provided in section (2) of this rule, the department will take appropriate enforcement action in accordance with OAR chapter 340, division 12.

(4) The following field penalties will be assessed for those documented violations or conditions cited using the expedited enforcement process under this rule, in lieu of the enforcement process in OAR chapter 340, division 12:

(a) A class I UST violation listed in OAR 340-12-0067(1) or 340-12-0053(1): \$1050 - \$500;

(b) A class II UST violation listed in OAR 340-012-0067(2) or 340-12-0053(2): \$50 - 150; and

(c) A class III violation listed in OAR 340-012-0067(3) when an owner or permittee has received prior notice of the violation through a field citation and has not corrected the violation: \$50.

(5) An owner or permittee issued a field citation has 30 calendar days from the date of issuance to submit payment for the total field penalty amount. Payment is deemed submitted when received by the department. A check or money order in the amount of the field penalty must be submitted to: Department of Environmental Quality -- Business Office, 811 SW Sixth Avenue, Portland, OR 97204. Participation in the expedited enforcement process is voluntary -- by submitting payment, the owner and permittee agree to accept the field citation as the final order by the commission and to waive any

right to an appeal or any other judicial review of the determination of violation, compliance schedule or assessment of the field penalty in the field citation.

Stat. Auth.: ORS 466.706 - 466.835, 466.994 & 466.995

Stats. Implemented: ORS 466.746 & 466.835

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03; DEQ 11-2004, f. 12-22-04, cert. ef. 3-1-05; DEQ 12-2004, f. & cert. ef. 12-27-04

### 340-150-0300

#### Installation of USTs and Piping

(1) An owner and permittee must have an installation certificate issued by the department before beginning installation of the UST (OAR 340-150-0160). The requirements and procedures for applying for an UST installation certificate are described in OAR 340-150-0020.

(2) An owner and permittee must install USTs and underground piping in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions. The codes and standards listed in Appendix A of this division may be used to comply with the requirements of this rule.

(3) An owner and permittee must install USTs and underground piping that are made of or lined with materials that are compatible with the substance stored in the UST system. An owner and permittee storing alcohol blends may use the codes listed in Appendix B of this division to comply with the requirements of this section of the rule.

(4) An owner and permittee ~~may only~~must install UST systems that meet the following performance standards:

(a) Spill and overfill prevention equipment and requirements (OAR 340-150-0310);

(b) Corrosion protection performance standards for USTs and underground piping (OAR 340-150-0320); and

(c) Release detection performance standards (OAR 340-150-0400 through 340-150-0470).

(5) All new and replacement USTs and connected piping must be secondarily contained and monitored using the interstitial monitoring release detection method specified in 340-150-0465. Secondary containment systems must be designed, constructed and installed to contain regulated substances released from the UST system until they are detected and removed, and prevent the release of regulated substances to the environment any time during the operational life of the UST system. In the case of replacement of an existing UST or existing underground piping, secondary containment and interstitial monitoring

are required only for the UST or piping being replaced, not to other USTs and connected pipes comprising such systems. Note: This rule does not apply to UST system repairs as specified in OAR 340-150-0350.

Note: DEQ's guidance document, *Replacement of Underground Piping*, describes when partial replacement of piping requires an entire run of piping to be secondarily contained.

(65) The person installing the UST system must be licensed by the department to perform UST services (OAR chapter 340, division 160), except as provided by OAR 340-150-0156.

(76) At least 30 days before beginning the UST system installation, an owner and permittee, or a licensed service provider acting on behalf of the owner and permittee, must provide notice to the department on an application provided by the department. The department may allow a shorter notice period on a case by case basis.

(87) At least three working days before beginning UST installation, an owner and permittee, or a licensed service provider acting on behalf of the owner and permittee, must notify the department of the confirmed date and time the installation will begin. The department may request additional prior notifications of the start date and time of specific installation or related testing activities.

(98) An owner and permittee must complete an installation checklist on a form provided by the department and submit the checklist to the department before an ~~installation~~ operating certificate can be issued. The checklist requires information about installation procedures and standards used, including any observations made by a service provider during the installation of the UST system. The checklist must include:

(a) A certification of compliance signed by the owner, permittee and service provider (i.e., the tank installer) that certifies that:

(A) The UST system was installed in accordance with required methods and standards;

(B) The UST system was installed and in compliance with requirements for cathodic protection, release detection and spill and overfill protection; and

(C) that the owner and permittee will meet requirements for financial responsibility;

(b) One copy of the as-built drawing for the UST facility that includes the locations of all USTs, underground piping and ancillary equipment;

(c) A list of major UST components installed;

(d) All manufacturer specifications, completed checklists or other installation documents for USTs and components, including warranties;

(e) A copy of third party evaluation approval summaries, as applicable to any release detection equipment or methods;

(f) A copy of approval documents (sign-off or pressure test results) provided by the state fire marshal or local fire department, if available; and

(g) Photographs (or color copies of photographs) of key phases of the installation, including, but not limited to, major equipment (i.e., USTs and underground piping) and materials to be used in the installation, the excavation area before placement of USTs or underground piping, installation area after the placement of USTs and underground piping, but before backfilling and any other items of interest that document the installation process. Videos, negatives, floppy disks, undeveloped film, etc. are not acceptable substitutes for standard color photographs.

(109) An operation certificate will be issued to the permittee in accordance with OAR 340-150-01603(41) after department review and approval of the completed installation checklist and all required documentation.

[**Note 1:** USTs and underground piping must be installed to meet all requirements of the ~~Oregon Uniform Fire Code~~ International Fire Code pertaining to USTs in accordance with OAR chapter 837, division 40 "Fire and Life Safety Regulations" (Department of Oregon State Police, Office of State Fire Marshal).]

[**Note 2:** Appendix J of this division includes a list of additional guidance documents that owners and permittees may find useful.]

[ED. NOTE: Appendices & Publications referenced are available from the ~~department~~ agency.]

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0310**

#### **Spill and Overfill Prevention Equipment and Requirements**

(1) An owner and permittee must install, operate and maintain spill prevention equipment, such as a spill catchment basin or spill bucket, that will prevent the release of a regulated substance to the environment when the transfer hose is detached from the fill pipe.



(2) An owner and permittee must install, operate and maintain overfill prevention equipment and follow fill procedures that prevent any of the fittings located on top of the UST from being exposed to a regulated substance due to overfilling; and

(a) Automatically shuts off flow into the UST when the UST is no more than 95 percent full; or

(b) Alerts the person depositing the regulated substance into the UST when the UST is no more than 90 percent full by restricting the flow into the tank or by triggering a high level alarm.

(3) For all UST systems installed or overfill equipment replaced on or after March 1, 2003, an owner and permittee must be able to provide visual verification that the overfill equipment functions as required by section (2) of this rule. For overfill equipment installed before March 1, 2003, an owner and permittee must be able to demonstrate to the department that the equipment is functions properly by any method deemed acceptable by the department.

(4) In addition to the overfill requirements of section (2) of this rule, an owner and permittee must:

(a) Measure the volume of regulated substance in each UST to confirm that the volume available is greater than the volume of the regulated substance to be deposited into the UST before each deposit is made; and

(b) Develop and implement procedures to ensure that each deposit of a regulated substance into the UST is monitored constantly to prevent overfilling and spilling.

(5) An owner and permittee may use the codes and procedures listed in Appendix C of this division to comply with the requirements of this rule.

(6) Spill and overfill prevention equipment is not required if the UST system is filled by deposits of a regulated substance of no more than 25 gallons at one time (a waste oil tank may be one example).

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0350**

#### **UST System Repairs**

(1) An owner and permittee of an UST system requiring repair must effect the repair such that the repair will prevent and detect releases due to structural failure or corrosion as long as the UST system is used to store a regulated substances.

(2) Metal pipe sections and fittings that have released a regulated substance as a result of corrosion or other damage ~~cannot~~ may not be repaired, and they must be replaced with new piping that complies with the installation requirements for new UST systems (OAR 340-150-0300) ~~as a modification to an UST system in accordance with OAR 340-150-0352(4).~~

(3) Repair methods. An owner and permittee must repair UST system components according to the manufacturer's specifications and perform repairs in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory. The codes and standards listed in Appendix H of this division may be used to comply with this section. A manufacturer's authorized representative may make repairs to fiberglass or other nonmetallic USTs.

(4) Lined tanks. An owner and permittee of an UST that has been previously repaired or upgraded using the interior lining method may repair the UST by restoring or adding additional lining to the UST if the metal portion of the UST has been determined to be structurally sound by use of the integrity assessment (inspection) method specified by American Petroleum Institute Publication 1631 (2001), "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks." An owner and permittee must refer to OAR 340-150-0352 and 340-150-0360 for additional requirements for internally lined tanks. An owner and permittee must permanently decommission an UST if the integrity assessment determines that the UST is no longer structurally sound.

(5) Tanks. Before operating a repaired or newly lined UST, an owner and permittee must:

(a) Have the UST tightness tested after completion of the repair and report to the department any test failures (OAR 340-150-0445); and

(b) For all repaired tanks except those repaired by lining, obtain written documentation that the original manufacturer has recertified the repaired UST as meeting current UST performance requirements (OAR 340-150-0300). If the original manufacturer is not available (e.g., no longer in business, unknown, etc.) another manufacturer of the same tank brand or type must certify in writing that the UST meets the current UST performance requirements.

(6) Piping. Before operating repaired piping, an owner and permittee must have the underground piping tightness tested after completion of the repair and report to the department any test failure (OAR 340-150-0410).

(7) Corrosion protection. An owner and permittee must have a cathodic protection system tested within six months following a repair to ensure proper operation and report to the department any test failure (OAR 340-150-0325).

(8) Spill and overfill. An owner and permittee must repair spill and overfill equipment when necessary; following repair, the spill and overfill equipment must meet the requirements of OAR 340-150-0310.

(9) Record keeping. An owner and permittee must maintain records that demonstrate compliance with the requirements of this rule for the remaining operating life of the UST system. Records must include information such as a description of the work, date performed, name and address of the company that performed the work, equipment model number (as appropriate), test results and any other related data. An owner and permittee must make all repair records available for review by the department upon request.

[Publications: Publications referenced are available from the agencydepartment.]

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### 340-150-0352

#### **UST System Modifications and Additions**

(1) An owner and permittee, or a licensed service provider on behalf of the owner and permittee, must:

(a) Notify the department of their intent to modify an UST system at least 30 days before any modification work is scheduled to start by submitting an application for UST system modification to the department.

(b) Notify the department of the confirmed date and time the modification will begin at least three working days before beginning the modification to allow observation by the department.

(2) The owner or permittee must submit a completed UST system modification checklist to the department within 30 days after completion of the modification.

(34) An owner and permittee must follow the requirements of this rule when making UST system modifications. ~~For any other modifications including any not specifically listed below, an owner and permittee must follow sections (5) through (7) of this rule.~~

(42) An owner and permittee of a metal UST previously protected with cathodic protection may modify the UST by the addition of internal lining if all of the following requirements are met:

(a) Before the addition of a lining, the integrity of the tank is assessed by a method that has been third party evaluated and approved on a national level (e.g., the method is on a

list of approved alternative integrity assessment methods published by the Environmental Protection Agency);

(b) The lining is installed in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory; and

(c) The modifications comply with all requirements of OAR 340-150-0360(2) for internally lined tanks.

(53) An owner and permittee of an UST that has been internally lined may modify the UST by the addition of corrosion protection if all of the following requirements are met:

(a) Before the addition of corrosion protection, the integrity of the UST is assessed using the method specified by **American Petroleum Institute Publication 1631-(2001)**, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks" to ensure that the tank is structurally sound and free of corrosion holes and that the lining is still performing according to manufacturer requirements;

(b) The corrosion protection system meets the performance standards of OAR 340-150-0320(3); and

(c) The modifications comply with all requirements of OAR 340-150-0360(2) for internally lined USTs.

(64) For modification of an UST system by the addition of new piping or replacement of damaged piping, an owner and permittee must comply with the installation requirements for new UST systems (OAR 340-150-0300) and this rule.

(75) An owner and permittee may use the codes and standards listed in Appendix H of this division to comply with this rule.

~~(6) An owner and permittee must notify the department of their intent to modify an UST system at least 30 days before any modification work is scheduled to start by submitting an application for UST system modification to the department.~~

~~(a) At least three working days before beginning the modification, an owner or permittee must notify the department of the confirmed date and time the modification will begin to allow observation by the department.~~

~~(b) The owner or permittee must submit a completed UST system modification checklist to the department within 30 days after completion of the modification.~~

(87) An owner and permittee must maintain records that demonstrate compliance with the requirements of this rule for the remaining operating life of the UST system. Records must include a description of the work, date performed, name and address of the company that performed the work, equipment model number (as appropriate), test results,

modification application and checklist and any other related data. An owner and permittee must make all records for UST system modifications and additions available for review by the department upon request.

[Publications: Publications referenced are available from the agency department.]

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0354**

#### **UST System Replacements**

(1) An owner and permittee must replace any part of an UST system as necessary for the UST system to meet the following performance standards:

(a) Spill and overflow protection (OAR 340-150-0310);

(b) Corrosion protection (OAR 340-150-0320 and 340-150-0325); and

(c) Release detection (OAR 340-150-0400 through 340-150-0470).

(2) ~~For the purpose of these rules, the replacement of metal pipe sections and fittings that have released a regulated substance as a result of corrosion or other damage is considered a must be replaced with new piping that complies with the installation requirements for new UST systems (OAR 340-150-0300) modification and the owner and permittee must comply with OAR 340-150-0352(4) and 340-150-0300 instead of this rule.~~

(3) An owner and permittee must maintain records that demonstrate compliance with the requirements of this rule for the remaining operating life of the UST system. Records must include information such as a description of the work, date performed, name and address of the company that performed the work, equipment model number (as appropriate), test results and any other related data. An owner and permittee must make all records for UST system replacements available for review by the department upon request.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0360**

#### **Requirements for Internally Lined USTs**

(1) Internally lined USTs without corrosion protection. An owner and permitteeoperator of an internally lined UST that does not have corrosion protection must have the UST internally inspected or assessed in accordance with a method that has been evaluated and approved by a third party to ensure the tank is structurally sound and the lining is still performing in accordance with all original design specifications. An owner and permittee must have the internal lining inspections or assessments conducted:

- (a) Within ten years after lining; and
- (b) Every five years thereafter.

(2) Internally lined USTs with corrosion protection. An owner and permittee of an internally lined USTtank that has corrosion protection must conduct internal lining inspections or assessments of the UST as required by section (1) of this rule. However, internal inspections are not required if the owner and permittee meet each of the following conditions:

(a) The integrity of the UST iswas inspected or assessed before the addition of corrosion protection; and

(b) Written documentation of the inspection results and the internal inspection or assessment is provided to the department that demonstrates the work was conducted in accordance with a code of practice developed by a nationally recognized association, an independent testing laboratory or by a method that has been third party evaluated and approved; and

(c) If the original integrity inspection or assessment was not conducted, documentation is not available or the documentation is not sufficient as determined by the department, an owner and permittee must complete at least one internal inspection of the tank lining using the method specified by **American Petroleum Institute Publication 1631-(2001)**, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks".

(3) The owner and permittee must permanently decommission an UST system if any internal inspection determines that the UST is no longer structurally sound.

[Publications: Publications referenced are available from the agencydepartment.]

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

**340-150-0410**

### **Release Detection Requirements and Methods for Underground Piping**

(1) For underground piping that routinely contains a regulated substances, an owner and permittee of a petroleum UST system must provide release detection which meets the requirements of this rule.

(2) Pressurized piping. For underground piping that conveys regulated substances under pressure, an owner and permittee must insure that the piping is equipped with an automatic line leak detector that alerts an owner and permittee to the presence of a leak by restricting or shutting off the flow of regulated substances through underground piping or by triggering an audible or visual alarm. Interstitial monitoring sensor systems or stand alone "sump" sensors are not an acceptable alternative for a line leak detector. In addition,

(a) The line leak detector must be approved by a national organization (e.g., the National Work Group on Leak Detection);

(b) The line leak detector must be capable of detecting a leak of three gallons per hour at ten pounds per square inch line pressure within one hour; and

(c) An annual test of the operation of the line leak detector must be conducted in accordance with the manufacturer's requirements.

(3) In addition to the requirements of section (2) of this rule, an owner and permittee with pressurized piping must conduct an annual line tightness test that can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure. Interstitial monitoring sensors may replace the annual line tightness test if:

(a) The equipment is designed, constructed and installed to monitor all portions of the underground piping that routinely contains a regulated substance; and

(b) The requirements for interstitial monitoring (OAR 340-150-0465) are met.

(4) Suction piping. For underground piping that conveys a regulated substance under suction (i.e., piping that operates at less than atmospheric pressure), an owner and permittee must check the piping for the presence of air in the pipeline in accordance with the **National Fire Protection Association standard NFPA, 329 (1999)** "Recommended Practices for Handling Releases of Flammable and Combustible Liquids and Gases" Chapter 5, Release Detection of Tanks and Piping, subsection 5-2.3.2(b), if any of the following indicator conditions are observed by any person dispensing a regulated substance:

(a) If there are indications of air in the pipeline or other unusual operating conditions are observed (refer to **National Fire Protection Association standard NFPA, 329** subsection 5-2.3.2(a) for specific indicators), the pipeline check valve should be inspected to determine if it is seated tightly. The check valve must be repaired, replaced or sealed off as appropriate depending on the results of the inspection; and

(b) The requirements of OAR 340-150-0350 through 340-150-0354 must be met for any repair, modification or replacement actions taken to correct a problem.

(5) In addition to the requirements of section (4) of this rule, an owner and permittee of suction piping must conduct a line tightness test at least once every three years in accordance with manufacturers requirements that can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure.

(6) Release detection is not required for suction piping that is designed and constructed to meet the following standards:

(a) The below grade underground piping operates at less than atmospheric pressure;

(b) The below grade underground piping is sloped so that the contents of the pipe will drain back into the UST if the suction is released;

(c) Only one check valve is present in each suction line;

(d) The check valve is located directly below and as close as practical to the suction pump; and

(e) A method is provided that allows the department to readily determine compliance with this section of the rule.

(7) In lieu of conducting ~~annual~~ line tightness tests on either pressurized or suction piping, an owner and permittee may conduct monthly monitoring by one of the applicable release detection methods described in OAR 340-150-0450 through 340-150-0470, if the method is designed to detect a release from any portion of the underground piping that routinely contains a regulated substance.

(8) An owner and permittee must retain at a minimum the last completed line test, line leak detector test or the most current 12 consecutive months of release detection records for piping.

(9) An owner and permittee must report to the department any leak test results or other observations or results indicating the possibility of a release within 24 hours as a suspected release (OAR 340-150-0500) and immediately begin investigation in accordance with 340-150-0510.

[Publications: Publications referenced are available from the agency department.]

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

**340-150-0430**



## **Inventory Control Method of Release Detection**

(1) An owner and permittee using inventory control as a release detection method must meet the requirements of this rule. Inventory control cannot be used as a release detection method for underground piping.

(2) Use of inventory control as a release detection method is allowed for a period of:

(a) Ten years after the installation of the UST system; or

(b) Ten years after the UST system achieved compliance with corrosion protection requirements; ~~except~~

(c) In no case may inventory control be used as a primary release detection method after December 22, 2008; and

(d) After the period of use has expired as listed in subsections (a) through (c) of this section, an owner and permittee must use one of the release detection methods in OAR 340-150-0435 or 340-150-0450 through 340-150-0470.

(3) Regulated substance (i.e., product) inventory control must be recorded daily and reconciled monthly to detect a release of at least 1.0 percent of flow-through plus 130 gallons on a monthly basis.

(4) Inventory volume measurements for regulated substance inputs (deliveries), withdrawals and the amount still remaining in the UST must be recorded each operating day.

(5) The equipment used to measure the level of regulated substance in the UST (e.g., stick or automatic tank gauge) must be capable of measuring the level of the regulated substance over the full range of the tank's height to the nearest one-eighth of an inch.

(6) Regulated substance inputs must be reconciled with delivery receipts by measurement of the tank inventory volume before and after each delivery.

(7) Regulated substance deliveries must be made through a drop tube that extends to within one foot of the tank bottom.

**Note:** To meet Stage I air quality vapor control requirements, drop tubes must be within six inches of the tank bottom.

(8) Regulated substance dispensing must be metered and recorded within the local standards for meter calibration or an accuracy of six cubic inches for every five gallons of the regulated substance withdrawn.

(9) The measurement of any water level in the bottom of the tank must be made to the nearest one-eighth of an inch at least once a month.

(10) Any monthly inventory reconciliation (positive or negative) that exceeds the comparison number of 1.0 percent of flow-through plus 130 gallons or greater leak rate in any single month is considered to be a release detection failure.

(a) An owner and permittee must:

(a) Report to the department ~~report~~ a release detection failure that occurs for two consecutive months within 24 hours as a suspected release ~~to the department within 24 hours~~ (OAR 340-150-0500) and immediately begin investigation in accordance with 340-150-0510; and

(b) ~~Immediately~~ An owner and permittee must ~~immediately~~ investigate all larger-than-normal or reoccurring variations in results, including widely fluctuating water levels in the UST and report such variations to the department as a suspected release if the variation cannot be accounted for, without waiting to obtain a second month of data.

(11) An owner and permittee must have USTs tightness tested (OAR 340-150-0445) at least once every five years when inventory control is used as the sole or primary release detection method.

(12) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records and the last two tightness test results.

(13) An owner and permittee may use the practices described in the **American Petroleum Institute Publication 1621**, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets" (1993), where applicable, as guidance in meeting the requirements of this rule.

[Publications: Publications referenced are available from the agency department.]

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0450**

#### **Automatic Tank Gauging Release Detection Method**

(1) An owner and permittee using equipment for automatic tank gauging (ATG) that tests for the loss of a regulated substance and conducts inventory control as a release detection method must use equipment that meets the requirements of this section. ~~(a)~~ The ATG system must:

(a) Be able to detect a 0.2 gallon per hour leak rate with a probability of detection of at least 95 percent and a probability of false alarm of no more than 5 percent for all portions of the UST that routinely contain a regulated substance; and

(b) The ATG system must be an approved leak detection method or equipment as listed by a national organization (e.g., the National Work Group on Leak Detection).

(2) For USTs, an owner and permittee must monitor and test for releases at least once every 30 days and record the results for each month.

(3) For underground piping, an owner and permittee must monitor and test for releases if the ATG system is designed to detect a release from any portion of the underground piping that routinely contains a regulated substance and record the results for each month as follows:

(a) Daily for pressurized piping.

(b) Once every 30 days for suction piping.

(4) An owner and permittee must:

(a) Report to the department any leak test results indicating the possibility of a release (i.e., test failure) within 24 hours as a suspected release (OAR 340-150-0500) and immediately begin investigation in accordance with OAR 340-150-0510; and

(b) Immediately investigate all larger-than-normal or reoccurring variations in results, including widely fluctuating water levels in the tank and report such variations as a suspected release if the variation cannot be accounted for, without waiting to obtain a second month of data.

(5) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records.

(6) ATG systems installed before December 22, 1990, are exempt from the leak rate quantities, probability limits and third party evaluation requirements of this rule, except:

(a) The ATG system must be able to detect a 0.2 gallon per hour leak rate from any portion of the UST that routinely contains a regulated substance; and

(b) An owner and permittee can only use the ATG system to obtain daily regulated substance volumes for the inventory control release detection method (OAR 340-150-0430) if the ATG does not meet the requirements of section (1) of this rule.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### Vapor Monitoring Release Detection Method

(1) An owner and permittee may use testing or monitoring for vapors within the soil gas of the excavation zone as a release detection method for an UST or underground piping if the method is approved by the department in writing before installing or operating any portion of the vapor monitoring system, including wells.

(2) ~~An owner and permittee must submit to the department, a~~At least 30 days before installing any portion of the vapor monitoring system, an owner and permittee must submit a written design plan (including all technical data and design information) to the department prepared and signed by a registered professional engineer or a registered geologist specially qualified by education and experience to design release detection systems. The design plan must meet the following minimum requirements:

(a) The materials used as backfill must be sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

(b) The stored regulated substance or a tracer compound placed in the UST system, must be sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

(c) The measurement of vapors by the monitoring device must not be rendered inoperative by groundwater, rainfall or soil moisture or other known interferences so that a release could go undetected for more than 30 days;

(d) The level of background contamination in the excavation zone must not interfere with the method used to detect releases from the tank; and

(e) The vapor monitors must be designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the UST system, a component or components of that substance or a tracer compound placed in the UST system.

(3) Before installation of monitoring wells, an owner and permittee must have the site assessed to demonstrate compliance with the requirements of this rule~~section~~ and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the UST or underground piping that routinely contains a regulated substance.

(4) The department will approve the installation if, after reviewing the design plan, it determines that the vapor monitoring system proposed is capable of detecting a release from any portion of the UST or underground piping that routinely contains a regulated substance.

(5) An owner and permittee must mark and secure monitoring wells at all times to prevent unauthorized access and tampering.

(6) Release detection observation, documentation and reporting requirements. An owner and permittee must:

(a) Operate and maintain the continuous monitoring device or manual method so the equipment will detect the presence of vapors as noted in subsection (2)(e) of this rule;

(b) Perform an alarm test at least once each month;

(c) Check the excavation zone for releases and record the observation results for each month. At a minimum, records must include documentation that the system is properly operated and maintained and include results of alarm tests which must be made, according to the following schedule:

(A) On a daily basis for USTs and pressurized piping.

(B) Once every 30 days for suction piping.

(d) Report to the department any observations or alarms indicating the possibility of a release to the department within 24 hours as a suspected release (OAR 340-150-500) and immediately begin investigation in accordance with OAR 340-150-0510.

(7) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records and vapor well installation approval documents must be available for department review upon request.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0460**

#### **Groundwater Monitoring Release Detection Method**

(1) An owner and permittee may use testing or monitoring for liquid regulated substances on or in the groundwater as a release detection method for an UST or underground piping if the method is designed to detect a release from any portion of the UST or underground piping that routinely contains a regulated substance.

(2) ~~An owner and permittee must submit to the department, a~~ At least 30 days before installing or operating any portion of the groundwater monitoring system, an owner and permittee must submit to the department a written design plan (including all technical data and design information) prepared and signed by a registered professional engineer or

a registered geologist specially qualified by education and experience to design release detection systems. The design plan must meet the following minimum requirements:

- (a) The regulated substance stored must be immiscible in water and have a specific gravity of less than one;
  - (b) Sufficient data must be included, and periodically checked, to demonstrate that groundwater will never be more than 20 feet from the ground surface and the hydraulic conductivity of the soil between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);
  - (c) The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;
  - (d) Monitoring wells must be sealed from the ground surface to the top of the filter pack; and
  - (e) Monitoring wells or devices must intercept the excavation zone or arebe as close to it as is technically feasible.
- (3) Before installation of monitoring wells, an owner and permittee must have the site assessed to demonstrate compliance with the requirements of this rule~~section~~ and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the UST or piping that routinely contains a regulated substance.
- (4) The department will approve the installation if, after reviewing the design plan, it determines that the groundwater monitoring system proposed is capable of detecting a release from any portion of the UST or underground piping that routinely contains a regulated substance.
- (5) An owner and permittee must mark and secure monitoring wells at all times to prevent unauthorized access and tampering.
- (6) Release detection observation, documentation and reporting requirements. An owner and permittee must:
- (a) Operate and maintain the continuous monitoring device or manual method so the equipment will detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells;
  - (b) Perform an alarm test at least once each month;

(c) Check the excavation zone for releases and record the observation results for each month. At a minimum, records must include documentation that the system is properly operated and maintained and include results of alarm tests, which must be made, according to the following schedule:

(A) On a daily basis for USTs and pressurized piping.

(B) Once every 30 days for suction piping.

(d) Report to the department any observations or alarms indicating the possibility of a release within 24 hours as a suspected release (OAR 340-150-500) and immediately begin investigation in accordance with OAR 340-150-0510.

(7) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records and groundwater well installation approval documents must be available for department review upon request.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0465**

#### **Interstitial Monitoring Release Detection Method**

(1) An owner and permittee may use an interstitial monitoring system as a release detection method if:

(a) The system is designed, constructed and installed in accordance with a national code of practice or industry standard and the interstitial monitoring system is an approved leak detection system (method and equipment) for that system as listed by a national organization (e.g., the National Work Group on Leak Detection); and

(b) The system is able to detect a leak from any portion of an UST or underground piping that routinely contains a regulated substance.

(2) An owner and permittee must meet the following requirements for the specific type of UST system or piping:

(a) Multiwalled UST systems. The sampling or testing method must be able to detect a release through the inner wall in any portion of the UST. The provisions outlined in the Steel Tank Institute's "Standard for Dual Wall Underground Storage Tanks" (2001) may be used as guidance for aspects of the design and construction of underground metal double walled tanks.

(b) UST systems with a secondary barrier within the excavation zone. The sampling or testing method used must be able to detect a release between the UST system and the secondary barrier.

(A) The secondary barrier around or beneath the UST system must consist of artificially constructed material that is sufficiently thick and impermeable (at least 10<sup>-6</sup> cm/sec for the regulated substance stored) to direct a release to the monitoring point and permit its detection;

(B) The secondary barrier must be compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier or allow a release to pass through the barrier;

(C) For USTs with corrosion protection, the secondary barrier must be installed so that it does not interfere with the proper operation of the corrosion protection system;

(D) Groundwater, soil moisture or rainfall cannot render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days or one day if used for pressurized underground piping;

(E) Before installation, an owner and permittee must have the site assessed to demonstrate that the secondary barrier is always above the seasonal high groundwater level and not in a 25-year flood plain, unless the barrier and monitoring system are designed for use under such conditions; and

(F) An owner and permittee must mark and secure monitoring wells at all times to prevent unauthorized access and tampering.

(c) USTs with an internally fitted liner. An automated device must be able to detect a release between the inner wall of the UST and the liner and the liner must be compatible with the regulated substance stored.

(d) Double walled pressurized piping. Interstitial monitoring sensors must be installed in any ~~transition~~-sump which houses a noncontinuous junction of the interstitial space (e.g., any and all points along the piping run where the interstitial space is no longer continuous).

(3) An owner and permittee must monitor the UST and underground suction piping for a release at least every 30 days and record the results for each month.

(4) An owner and permittee must monitor pressurized underground piping for a release daily and record the results daily for each month.

(5) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records. Records must include, at a minimum, the date the system was checked, observations made and the name or initials of the person conducting



the monitoring. In addition, records for electronic systems must include: power status (on or off), alarm indication status (yes or no) and sensor malfunction noted (yes or no).

(6) An owner and permittee must report to the department any leak test observations, alarms or results indicating the possibility of a release to the interstitial area within 24 hours as a suspected release (OAR 340-150-0500) and immediately begin investigation in accordance with 340-150-0510.

[Publications: Publications referenced are available from the agency department.]

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0470**

#### **Other Methods of Release Detection**

(1) An owner and permittee may use a release detection method for an UST or underground piping not otherwise specified in OAR 340-150-0410 through 340-150-0465 if:

(a) ~~†~~The device is able to detect a 0.2 gallon per hour leak rate with a probability of detection of at least 95 percent and a probability of false alarm of no more than 5 percent for all portions of the UST or underground piping that routinely contains a regulated substance;

(b) The method and is an approved leak detection method or equipment as listed by a national organization (e.g., the National Work Group on Leak Detection).

(2) An owner and permittee must monitor the UST and underground suction piping for a release at least every 30 days and record the results for each month.

(3) An owner and permittee must monitor pressurized underground piping for a release daily and record the results daily for each month.

(4) An owner and permittee must:

(a) Report to the department any release detection test results indicating the possibility of a release (i.e., test failure or alarm) within 24 hours as a suspected release (OAR 340-150-0500) and immediately begin investigation in accordance with OAR 340-150-0510; and

(b) Immediately investigate all larger-than-normal or reoccurring variations in monitoring results and, if the variation cannot be accounted for, report such variations to the

department as a suspected release if the ~~variation cannot be accounted for~~, without waiting to obtain a second confirmation of data.

(5) An owner and permittee must retain at a minimum the most current 12 consecutive months of release detection records.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0510**

#### **Suspected Release Investigation and Confirmation Steps**

(1) Following the discovery of a suspected release of a regulated substance, an owner and permittee must immediately initiate investigation and confirmation of at the suspected release ~~of a regulated substance~~ as required by this rule. This investigation must be completed within seven days or as otherwise approved or directed by the department.

(2) Upon expiration of the 7-day period or other period approved by the department, an owner and permittee must notify the department of the investigation results by submitting to the department:

(a) A written description of the system test ~~conducted confirming that~~ confirmed a release did not occur, including any test results; or

(b) A written plan of action to complete the suspected release investigation system test or site assessment. Any plan of action must include a firm schedule for completion.

(3) System test.

(a) An owner and permittee must conduct tightness testing to determine whether a leak exists in any portion of the UST that routinely contains a regulated substance (OAR 340-150-0445) or the underground piping (340-150-0410) or both.

(b) An owner and permittee must investigate the cause of a release into any secondary containment unit including, but not limited to, underground piping, turbine sumps, transition sumps and dispenser pans by conducting tests in accordance with manufacturer requirements or as directed by the department. All regulated substances (product) or product and water mixture must be removed from the containment system and properly disposed in accordance with all state, federal and local requirements.

(ca) If the suspected release was not reported due to any of the conditions described in OAR 340-150-0500(1)(a) and the system test results do not indicate that a release has occurred, further investigation is not required, unless otherwise directed by the department.

(db) If the suspected release was reported due to any of the conditions described in OAR 340-150-0500(1)(a) or the system test results indicate that a release exists, an owner and permittee must assess and repair, replace or modify the UST system and begin corrective action in accordance with sections (4) and (5) of this rule.

(4) Site assessment.

(a) If the test results for the UST, piping or secondary containment units do not indicate that a release exists, but the suspected release was reported due to any of the conditions described in OAR 340-150-0500(1)(a) or if directed by the department, an owner and permittee must conduct a site assessment for contaminated soil or groundwater. An owner and permittee must measure for the presence of a release where contamination is most likely to be present based on all information available. In selecting sample types, sample locations and measurement methods, an owner and permittee must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth to groundwater and other factors appropriate for identifying the presence and source of the release. The requirements for sample collection, analytical tests and methods contained in OAR 340-122-0205 through 340-122-0360 must be used as appropriate. The department may require that a sampling plan be submitted for approval before conducting any sampling on a case by case basis. In addition:

(ba) If the site assessment results do not indicate that a release has occurred, further investigation is not required unless specifically directed by the department.

(cb) If the site assessment results indicate that a release has occurred, an owner and permittee must begin corrective action in accordance with section (5) of this rule.

(5) If the suspected release investigation confirms that a release has occurred, an owner and permittee must report the confirmed release to the department within 24 hours of confirmation and comply with the following release reporting, site investigation and corrective action requirements:

(a) For petroleum USTs; OAR 340-122-0205 through 340-122-0360.

(b) For USTs containing non petroleum regulated substances; OAR 340-122-0010 through 340-122-0115, except that releases must be reported in accordance with the requirements of OAR chapter 340, division 142.

(6) The department may require that an owner and permittee perform additional actions not specifically listed in this rule on a case by case basis to address actual or potential threat to human health or the environment.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

340-150-0555

**Compliance Dates for USTs and Piping**

(1) An owner and permittee must comply with all release detection requirements for a new or existing UST system or permanently close the UST system by the following schedule:

(a) For UST systems installed before 1965 and for UST systems where the installation date is unknown:

(A) December 22, 1989, for tanks and suction piping.

(B) December 22, 1990, for pressurized piping.

(b) For UST systems installed between 1965 and 1969 - December 22, 1990, for tanks, suction piping and pressurized piping.

(c) For UST systems installed between 1970 and 1974:

(A) December 22, 1990, for pressurized piping.

(B) December 22, 1991, for tanks and suction piping.

(d) For UST systems installed between 1975 and 1979:

(A) December 22, 1990, for pressurized piping.

(B) December 22, 1992, for tanks and suction piping.

(e) For UST systems installed between 1980 and December 22, 1988:

(A) December 22, 1990, for pressurized piping.

(B) December 22, 1993, for tanks and suction piping.

(f) For tanks, suction piping and pressurized piping, release detection requirements must be met upon date of installation for all new UST systems installed after December 22, 1988.

(2) An owner and permittee of a new UST system installed after December 22, 1988, must comply with the corrosion protection performance standards for tanks and piping (OAR 340-150-0320 and 340-150-0325) at the time of installation ~~by no later than December 22, 1998.~~

(3) An owner and permittee of an existing UST system installed on or before December 22, 1988, must comply with the requirements for upgrading USTs and piping (OAR 340-150-0560) by no later than December 22, 1998.

(4) ~~In lieu of complying with section (2) or (3) of this rule, a~~An owner and permittee that does not comply with section (2) or (3) of this rule must decommission the UST system in compliance with the requirements of OAR 340-150-0166 through 340-150-0168 by no later than December 22, 1998.

(5) An owner and permittee of a hazardous substance UST system (e.g., an UST containing any nonpetroleum regulated substance) installed on or before December 22, 1988, must comply with the release detection requirements of OAR 340-150-0400 and 340-150-0410 until December 22, 1998. After December 22, 1998, an owner and permittee of a ~~H~~-hazardous substance UST systems must comply with the requirements of OAR 340-150-0420.

(6) An owner and permittee of a new or existing UST system that does not meet the performance standards in OAR 340-150-0300 or 340-150-0560 may use monthly inventory control and annual tank tightness testing as a release detection method until December 22, 1998. After that date, an owner and permittee must upgrade or permanently close the UST system.

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995

Stats. Implemented: ORS 466.746 & ORS 466.765

Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-150-0560**

#### **Upgrading Requirements for Existing UST Systems**

This rule describes the technical requirements for UST systems that an owner and permittee was required to meet by December 22, 1998, in accordance with OAR 340-150-0555(3). The equivalent federal rule citation has been included for reference.

(1) Tank upgrading requirements. An owner and permittee of a steel UST must upgrade the UST system to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory (40 § CFR 280.21(b)):

(a) Interior lining. An UST may be upgraded by internal lining (40 CFR § 280.21(b)(1) if:

(A) The lining is installed in accordance with the requirements of 40 CFR § 280.33 (OAR 340-150-0352); and

(B) Within ten years after lining and every five years thereafter, the lined UST is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications (OAR 340-150-0360).

(b) Cathodic protection (40 CFR § 280.21(b)(2)). An UST may be upgraded by the addition of cathodic protection if the cathodic protection system meets the requirements of 40 CFR § 280.20(a)(2)(ii), (iii) and (iv) (OAR 340-150-0320(3)) and the integrity of the UST is ensured using one of the following methods:

(A) The UST is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes before installing the cathodic protection system;

(B) The UST has been installed for less than ten years and is monitored monthly (or daily as required by the specific method) for releases in accordance with 40 CFR § 280.43(d) through (h) (OAR 340-150-0450 through 340-150-0470);

(C) The UST has been installed for less than ten years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements of 40 CFR § 280.43(c) (OAR 340-150-0445). The first tightness test must be conducted before installing the cathodic protection system. The second tightness test must be conducted between three and six months following the first operation of the cathodic protection system; or

(D) The UST is assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is no less protective of human health and the environment than the methods described in paragraphs (A) through (C) of this subsection.

(c) Internal lining combined with cathodic protection (40 CFR § 280.21(b)(3)). An UST may be upgraded by both internal lining and cathodic protection if:

(A) The lining is installed in accordance with the requirements 40 CFR § 280.33 (OAR 340-150-0352); and

(B) The cathodic protection system meets the requirements of 40 CFR § 280.20(a)(2)(ii), (iii) and (iv) (OAR 340-150-0320(3)).

(2) An owner and permittee may use the following codes and standards to comply with section (1) of this rule:

(a) American Petroleum Institute Publication 1631-(2001), "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks";

(b) National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection";

(c) National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried or Submerged Liquid Storage Systems"; and

(d) American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems."

(3) Piping upgrading requirements (40 § CFR 280.21(c)). An owner and permittee of steel metal underground piping that routinely contains a regulated substance ~~substances~~ must cathodically protect the piping in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and meet the requirements of 40 CFR § 280.20(b)(2)(ii) (iii) and (iv) (OAR 340-150-0320(2) through (4)). An owner and permittee may use the following codes and standards to comply with this requirement (40 CFR § 280.20(b)):

(a) Underwriters Laboratories Subject 971, "UL Listed Non-Metal Pipe";

(b) Underwriters Laboratories Standard 567, "Pipe Connectors for Flammable and Combustible and LP Gas";

(c) Underwriters Laboratories of Canada Guide ULC-107, "Glass Fiber Reinforced Plastic Pipe and Fittings for Flammable Liquids"; and

(d) Underwriters Laboratories of Canada Standard CAN 4-S633-M81, "Flexible Underground Hose Connectors."

(4) Spill and overfill prevention equipment (40 CFR § 280.21(d)). To prevent spilling and overfilling associated with transfer of a regulated substance to the UST system, an owner and permittee of an existing UST system must comply with new UST system spill and overfill prevention equipment requirements specified in 40 CFR § 280.20(c) (OAR 340-150-0310).

(5) Reporting requirements (40 CFR § 280.21(e) as previously modified by OAR 340-150-0003(41)). At least 30 days before beginning the upgrading of an existing UST system under sections (1) and (32) of this rule, an owner and permittee must notify the department, on a form provided by the department, of their intent to upgrade an existing UST system. Unless the department agrees to waive the requirement, at least three working days before beginning the upgrade, an owner, permittee or licensed service provider performing the work must notify the department of the confirmed date and time the upgrade will begin to allow observation by the department. An owner, permittee or licensed service provider must submit a completed installation checklist to the department within 30 days after completion of the upgrade.

[Publications: Publications referenced are available from the agency department.]

Stat. Auth.: ORS 466.706 - ORS 466.835, ORS 466.994 & ORS 466.995  
Stats. Implemented: ORS 466.746 & ORS 466.765  
Hist.: DEQ 6-2003, f. & cert. ef. 2-14-03

## **APPENDIX A**

### **OAR 340-150-0300**

#### **Installation of USTs and Piping**

*The following codes and standards may be used to comply with this rule:*

- (1) American Petroleum Institute Publication 1615—(1996), “Installation of Underground Petroleum Storage System”;
- (2) Petroleum Equipment Institute Publication RP100-2000—(2000), “Recommended Practices for Installation of Underground Liquid Storage Systems”;
- (3) National Fire Protection Association Standard 30—(2000), “Flammable and Combustible Liquids Code”; and
- (4) American Petroleum Institute Publication 2200—(1994), “Repairing Crude Oil, Liquefied Petroleum Gas and Product Pipelines”.

## **APPENDIX B**

### **OAR 340-150-0300(3)**

#### **Installation of USTs and Piping**

*The following codes may be used for USTs or underground piping storing alcohol blends to comply with this section of the rule:*

- (1) American Petroleum Institute Publication 1626 (1985), “Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations”; and
- (2) American Petroleum Institute Publication 1627—(1986), “Storing and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations”.

## **APPENDIX C**

### **340-150-0310**

#### **Spill and Overfill Prevention Equipment and Requirements**

*The following codes and standards may be used to comply with this rule:*

- (1) Transfer procedures described in National Fire Protection Association Publication 385—(1990);
- (2) Further guidance on spill and overfill prevention appears in:
  - (a) American Petroleum Institute Publication 1621—(1993), “Recommended Practice for Bulk Liquid Stock Control at Retail Outlets,” and
  - (b) National Fire Protection Association Standard 30—(2000), “Flammable and Combustible Liquids Code”.



## APPENDIX D1-USTs

### 340-150-0320(2)

#### Corrosion Protection Performance Standards for USTs and Piping

*The following standard may be used for USTs constructed of fiberglass-reinforced plastic to comply with this section of the rule:*

Underwriters Laboratories Standard 1316—(1994), “Standard for Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols and Alcohol Gasoline Mixtures”.

## APPENDIX D2-Piping

### 340-150-0320(2)

#### Corrosion Protection Performance Standards for USTs and Piping

*The following codes and standards may be used for underground piping constructed of fiberglass-reinforced plastic to comply with this section of the rule:*

(1) Underwriters Laboratories Subject 971—(1995), “UL Non Metallic Underground Piping for Flammable Liquids Listed Non-Metal Pipe”;

(2) Underwriters Laboratories Standard 567—(1996), “Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Petroleum Products and LP-Gas Pipe Connectors for Flammable and Combustible and LP-Gas”; and

(3) American Petroleum Institute Standard 2610—(1994), “Design, Construction, Operation, Maintenance and Inspection of Terminal & Tank Facilities”.

## APPENDIX E1-USTs

### OAR 340-150-0320(3)

#### Corrosion Protection Performance Standards for USTs and Piping

*The following codes and standards may be used for USTs constructed of steel or other metal to comply with this section of the rule:*

(1) Steel Tank Institute STI-010-50-1000P3-00 (2000), “Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks”;

(2) Underwriters Laboratories Standard 1746 (1993), “External Corrosion Protection Systems for Steel Underground Storage Tanks”; and

(3) National Association of Corrosion Engineers Standard RP 0285-2002, Standard Recommended Practice: “Corrosion Control of Underground Storage Tank Systems by Cathodic Protection Control of External Corrosion on Metallic Buried, Partially Buried or Submerged Liquid Storage Systems,” and Underwriters Laboratories Standard 58, “Standard for Steel Underground Tanks for Flammable and Combustible Liquids”.

## **APPENDIX E2-Piping**

### **OAR 340-150-0320(3)**

#### **Corrosion Protection Performance Standards for USTs and Piping**

*The following codes and standards may be used for underground piping constructed of steel or other metal to comply with this section of the rule:*

- (1) National Fire Protection Association Standard 30—(2000), “Flammable and Combustible Liquids Code”;
- (2) American Petroleum Institute Publication 1615—(1996), “Installation of Underground Petroleum Storage Systems”;
- (3) American Petroleum Institute Publication 1632—(1996), “Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems”;
- (4) Steel Tank Institute —~~STI-030-50-1000R922-00~~—(2000), “Specification for Permatank”;
- (5) Steel Tank Institute -F961-060—(2000), “ACT-100-U Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks”;
- (6) National Association of Corrosion Engineers RP-0169-2002—(01-JUL-02), Standard Recommended Practice: “Control of External Corrosion on Underground or Submerged Metallic Piping Systems”;
- (7) National Association of Corrosion Engineers Test Method TM 0101-2001—(2001), “Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic ~~Tank~~Piping Systems”;
- (8) Steel Tank Institute —~~STI-700-50-6005aR892-91~~—(1991), “Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems”;
- (9) Steel Tank Institute -R972-0698—(1998), “Recommended Practice for the Installation of Supplemental Anodes for STI-P3 USTs”; and
- (10) National Association of Corrosion Engineers Test Method TM 0497-2002 (2002), “Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems”.

## **APPENDIX F**

### **OAR 340-150-0320(4)**

#### **Corrosion Protection Performance Standards for USTs and Piping**

*The following codes may be used for USTs constructed of steel-fiberglass reinforced plastic composite to comply with this section of the rule:*

- (1) Underwriters Laboratories Standard 1746—(1993), “External Corrosion Protection Systems for Steel Underground Storage Tanks”;
- (2) Steel Tank Institute -F894-060—(2000), “ACT-100 Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks”; and
- (3) Steel Tank Institute -F961-060—(2000), “ACT-100U Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks”.

## APPENDIX G

### 340-150-0325

#### Operation and Maintenance of Corrosion Protection

*The following standard may be used to comply with this rule:*

The National Association of Corrosion Engineers Standard RP-0285-2002-(2002), "Standard Recommended Practice: Corrosion Control of Underground Storage Tank Systems by Cathodic Protection".

## APPENDIX H

### 340-150-0350(3) UST System Repairs

#### 340-150-0352 UST System Modifications and Additions

*The following codes and standards may be used to comply with these rules:*

(1) National Fire Protection Association Standard 326-(1999), "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning or Repair";

(2) American Petroleum Institute Publication 1631-(2001), "Recommended Practice for the Interior Lining of Existing and Periodic Inspection of Steel Underground Storage Tanks";

(3) National Association of Corrosion Engineers Standard RP-0285-2002, "Corrosion Control of Underground Storage Tank Systems by Cathodic Protection~~Control of External Corrosion on Metallic Buried, Partially Buried or Submerged Liquid Storage Systems~~";

(4) American Petroleum Institute Publication 1632-(1996), "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems";

(5) Ken Wilcox Associates-(1999), "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera";

(6) National Association of Corrosion Engineers Standard RP-0178-9503, "Fabrication Details, Surface Finish Requirements, and Proper Design Consideration for Tanks and Vessels to be lined for Immersion Service~~Recommended Practice: Design, Fabrication and Surface Finish of Metal Tanks and Vessels to be Lined for Chemical Immersion Service~~";

(7) National Association of Corrosion Engineers Standard RP-0184-91-(1991), "Recommended Practice: Repair of Lining systems";

(8) National Association of Corrosion Engineers Standard RP-0288-904-(1994), "Standard Recommended Practice: Inspection of Linings on Steel and Concrete";

(9) ~~Fiberglass Petroleum Tank & Pipe Institute Recommended Practice T 95-02 (1995), "Remanufacturing of Fiberglass Reinforced Underground Storage Tanks";~~

(9) American Society of Testing and Materials G 158-98-(1998), "Standard Guide for Three Methods of Assessing Buried Steel Tanks"; and

(10) American Society of Testing and Materials E 1990-98 (1998), "Standard Guide for Performing Evaluations of Underground Storage Tank Systems for Operational Compliance with 40 CFR, Part 280 Regulations".

## APPENDIX I

### OAR 340-150-0400

#### General Release Detection Requirements for All UST Systems

*The following code may be used to comply with this rule:*

American Society of Testing and Materials E 1526-93-(1993), "Standard Practice for Evaluating the Performance of Release Detection Systems for Underground Storage Tank Systems".

## APPENDIX J

#### General Guidance Documents for UST Owners and Permittees

*The following codes and standards may be useful for UST owners and permittees:*

(1) American Petroleum Institute Recommended Practice 2003—(1998), "Protection Against Ignitions Arising Out of Static, Lightning and Stray Currents";

(2) American Petroleum Institute Publication 2005—(1996), "Service Station Safety";

(3) National Association of Corrosion Engineers Standard RP 0177-9500—(1995) Recommended Practice: "Mitigation of Alternating Current and Lightning Effects on Metallic Structures and Corrosion Control Systems";

(4) National Fire Protection Association 30A—(1996), "Code for Motor Fuel Dispensing Facilities and Repair Garages~~Automotive and Marine Service Station Code~~";

(5) National Fire Protection Association 385—(1990), "Standard for Tank Vehicles for Flammable and Combustible Liquids"; and

(6) Underwriters Laboratories 58—(1996), Standard for Safety: "Steel Underground Tanks for Flammable and Combustible Liquids".

## APPENDIX K

### 340-150-0180

#### Site Assessment Requirements for Permanent Closure or Change-In-Service

Written site assessment plans must be submitted to the department for review and approval before initiating:

- Permanent closure in-place;
- Change-in-service from regulated to nonregulated status; or
- Decommissioning an UST that contains a hazardous substance other than petroleum (by removal, closure in-place or change-in-service).

The site assessment plan may be prepared by completing a form provided by the department or the plan may be a written report that covers all elements of this Appendix. The requirements of OAR 340-150-0180(3) and (4) must be met. This Appendix includes the required information.

UST facility and permittee information:

Name and address of the UST facility, UST Facility ID number issued by DEQ and name, address and contact number for the permittee. The permittee must sign and date the completed report as true and correct.

Service provider and supervisor information:

Name, address and contact number for the service provider performing the work (including license number and expiration date) and supervisor assigned to the project (including license number and expiration date). The supervisor must sign and date the completed report as true and correct.

UST information:

For each UST: tank material or type, date installed, size, and contents. Include any information about tank history that could be significant (e.g., previous suspected or confirmed release reported, repairs, testing failures, etc.).

Type of decommissioning:

State which type of decommissioning will be performed: permanent closure in-place or change-in-service from regulated to nonregulated status for petroleum USTs or decommissioning an UST that contains a hazardous substance other than petroleum by removal, closure in-place or change-in-service.

Site diagram:

A site diagram (*drawn approximately to scale*) that notes the location of all USTs and underground piping, buildings and nearby properties must be attached to the site assessment plan. Note if there are any surface water bodies within ¼ mile of the UST facility or if any potential conduits exist that could spread contamination (e.g., water or sewer lines). Important: Identify the proposed location of all samples to be collected on the site diagram.

Site conditions:

The site assessment plan must address the possibility of encountering groundwater. If questionable, verify the depth to groundwater *and be prepared with contingency sampling should groundwater be encountered.*

- If there were to be a release of a regulated substance during the decommissioning process, could surface water be impacted, either directly or via conduits such as surface drainage systems? If yes, discuss strategy developed to prevent a discharge to surface water or other contingency plans. Any release that results in sheen to surface waters must be reported and cleaned up immediately.

Sample collection methods and analytical procedures:

- Describe the sample collection and analytical methods to be used for this project. The Hydrocarbon Identification analytical procedure specified in OAR 340-122-0218(1)(d) (NWTPH-HCID) must be used for determining whether a confirmed petroleum release exists and then quantified by the appropriate method. For hazardous substances other than petroleum, describe the specific analytical method to

be used and sample collection procedures to be followed.

Soil sample locations:

The site assessment plan and site diagram must address where and how samples will be collected.

*General Information*

- The UST and associated systems must be evaluated for contamination in all areas where contamination is likely to be present. If contamination is observed or suspected *at any time* during decommissioning, samples must be collected from the contaminated soil.
- If water is present in the UST pit, regardless of whether obvious contamination is or is not present, the department must be notified of this fact within 24 hours of discovery.
- If contamination is discovered, the permittee must report the release to the department within 24 hours. If not reported within 24 hours, the licensed service provider must provide the required notice to the department within 72 hours. If contamination is found to be present, removal of the UST may be required.
- Note: This Appendix addresses site assessment plans only. Correct industry practices or codes, safety measures and report preparation requirements for actual decommissioning of the UST system must be complied with at all times.

*USTs*

- All areas exposed during the uncovering of the UST when it is cut open and cleaned must be examined for signs of contamination. The UST must also be examined for holes by doing an examination of the interior after cleaning. Holes in the UST may be an indication of leakage and contamination.
- For an individual UST, four samples must be collected; one each from beneath both ends of the tank and on each side or as otherwise directed by the department (e.g., only two may be required if collected through a hole cut in the bottom of the tank). For multiple USTs in the same pit, a minimum of one sample must be collected for each 100 square feet of area in the pit. Soil samples must be collected from the native soils located no more than two feet beneath the UST pit in areas where contamination is most likely to be found.

*Piping and Dispensers*

- In cases where UST components (e.g., underground piping or dispensers) are located above an area to be excavated as part of the UST decommissioning, the area must first be visually assessed and soil samples collected if contamination is observed or suspected before conducting the excavation work.
  - *For underground piping*, a minimum of two soil samples must be collected from the native soils directly beneath the areas where contamination is most likely to be found and must be collected at 20-foot intervals;
    - Include information about the fate of lines containing a regulated substance. Regulated substance line trenches must be opened up and visually assessed during removal of the underground piping and soil samples collected from impacted areas.
    - If lines that contained a regulated substance are to remain in-place, samples must be collected from the native soils directly beneath the areas where

contamination is observed, in addition to samples collected at 20 lineal foot intervals beginning at the dispensers.

- *For dispensers*, at least one soil sample must be collected from the native soils directly beneath each dispenser.
  - Dispenser areas must also be evaluated for signs of contamination during the process of removal. If contamination is observed or suspected, samples must be collected from the contaminated soil. If contamination is not observed, collect one sample from beneath each dispenser.

## **APPENDIX L**

### **OAR 340-150-0200 and OAR 340-150-0210**

#### **Training Elements**

The following topics must be covered in each UST system operator training session or by an equivalent training or testing method to meet UST system operation and maintenance training requirements:

- (1) General overview of department UST program administrative requirements:
  - (a) Types of registration certificates (i.e., permits) and process for modification of registration certificates;
  - (b) Notification process and general technical requirements for new UST installation, decommissioning, equipment replacement and retrofits, confirmed releases, suspected releases (including confirmation steps for suspected releases) and other system or test failures;
  - (c) Annual UST compliance fees and invoicing process;
  - (d) General requirements for maintaining financial responsibility;
  - (e) Department process for inspections and technical assistance resources available; and
  - (f) Enforcement process for violations.
- (2) General overview of other regulations pertaining to USTs, including, but not limited to, fire codes, occupational health and safety and any related industry practices pertaining to safety.
- (3) Spill prevention and overfill protection:
  - (a) Rule requirements, including record keeping;
  - (b) Equipment requirements; and
  - (c) Operation and maintenance needs.
- (4) Release detection: For each type of release detection method listed in OAR 340-150-0400 through 340-150-0470 for both USTs and underground piping:
  - (a) Rule requirements, including record keeping;
  - (b) Monitoring and equipment, including third party approval requirements; and
  - (c) Operation and maintenance requirements.
- (5) Corrosion protection, galvanic and impressed current:
  - (a) UST rule requirements (OAR chapter 340, division 150), including record keeping;
  - (b) Equipment requirements; and
  - (c) Operation and maintenance needs, including periodic inspections and testing.

(6) Lined USTs:

(a) Rule requirements, including record keeping; and

(b) Operation and maintenance needs, including periodic inspections an



# DEPARTMENT OF ENVIRONMENTAL QUALITY

## DIVISION 122

### HAZARDOUS SUBSTANCE REMEDIAL ACTION RULES

#### Cleanup Rules for Leaking Petroleum UST Systems

**340-122-0210**

#### **Definitions**

Terms not defined in this rule have the meanings set forth in ORS 465.200 and 466.706. Additional terms are defined as follows unless the context requires otherwise:

- (1) "*Above-Ground Release*" means any release to the land surface or to surface water. This includes, but is not limited to, releases from the above ground portion of a petroleum UST system and releases associated with overfills and transfer operations during petroleum deliveries to or dispensing from a petroleum UST system.
- (2) "*Acceptable Risk Level*" has the meanings set forth in OAR 340-122-0115(1) through (6).
- (3) "*Ancillary Equipment*" means any device, including but not limited to, piping, fittings, flanges, valves and pumps used to distribute, meter or control the flow of petroleum to and from a petroleum UST system.
- (4) "*Aquatic Sediments*" means any collection of fine-, medium-, and coarse-grained minerals and organic particles that are found within aquatic habitats.
- (5) "*Below-Ground Release*" means any release to the land subsurface having concentrations detected by the Northwest Total Petroleum Hydrocarbon Identification Analytical Method (NWTPH-HCID, DEQ, December 1996) or to groundwater having concentrations detected by any appropriate analytical method specified in OAR 340-122-0218. This includes, but is not limited to, releases from the below ground portion of a petroleum UST system and releases to the land subsurface or groundwater associated with overfills and transfer operations as the petroleum is delivered to or dispensed from a petroleum UST system.

(6) "*Buildings*" means any structure occupied by residents, workers or visitors, including convenience stores for retailing of food. For purposes of these rules, "buildings" does not include service station kiosks less than 45 square feet in size if the kiosk is exclusively dedicated to services for motor vehicles.

(7) "*Certified Drinking Water Protection Area*" means an area that has been delineated by the Oregon Health Division in accordance with OAR 333-061-0057 and certified by the department in accordance with OAR 340-040-0180.

[**Note:** To obtain information about certified drinking water protection areas, contact the Oregon Health Division's Drinking Water Program (503-731-4010).]

(8) "*Confirmed Release*" means petroleum contamination observed in soil or groundwater as a sheen, stain or petroleum odor, or petroleum contamination detected in soil by the Northwest Total Petroleum Hydrocarbon Identification Analytical Method (NWTPH-HCID, DEQ, December 1996) or detected in groundwater by any appropriate analytical method specified in OAR 340-122-0218.

(9) "*Contaminant of Concern*" means a hazardous constituent contained in petroleum present at a concentration posing a potentially unacceptable risk to public health, safety or welfare or the environment.

(10) "*Engineering Control*" means a remedial method used to prevent or minimize exposure to petroleum and hazardous substances, including technologies that reduce the mobility or migration of petroleum and hazardous substances. Engineering controls may include, but are not limited to, capping, horizontal or vertical barriers, hydraulic controls and alternative water supplies.

(11) "*Excavation Zone*" means an area containing a petroleum UST system and backfill material bounded by the ground surface, walls and floor of the pit and trenches into which the petroleum UST system is placed at the time of installation.

(12) "*Free Product*" means nonaqueous phase liquid petroleum.

(13) "*Gasoline*" means any petroleum distillate used primarily for motor fuel of which more than 50 percent of its components have hydrocarbon numbers of C10 or less. For purposes of OAR 340-122-0205 through 340-122-0360, the concentration of gasoline in soil or groundwater is the level determined by the Northwest Total Petroleum Hydrocarbon Method NWTPH-Gx.

(14) "*Groundwater*" means any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands, flows, percolates or otherwise moves.

(15) "*Hazardous Substance*" has the meaning set forth in OAR 340-122-0115(30).

(16) "*Heating Oil*" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, or No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); or other fuels when used as substitutes for one of these fuel oils.

(17) "*Heating Oil Tank*" means any one or combination of underground tanks and above ground or underground pipes connected to the tank, which is used to contain heating oil used for space heating a building with human habitation, or water heating not used for commercial processing.

(18) "*Institutional Control*" means a remedial method such as a legal or administrative tool or action used to reduce the potential for exposure to petroleum and hazardous substances. Institutional controls may include, but are not limited to, use restrictions and site access and security measures.

(19) "*Motor Fuel*" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or 2 diesel fuel or any grade of gasohol, typically used in the operation of a motor engine.

(20) "*Native Soil*" means the soil outside of the immediate boundaries of the pit that was originally excavated for the purpose of installing an underground storage tank.

(21) "*NonGasoline Fraction*" means diesel and any other petroleum distillate used for motor fuel or heating oil, of which more than 50 percent of its components have hydrocarbon numbers of C11 or greater. For purposes of OAR 340-122-0205 through 340-122-0360, the concentration of nongasoline fraction in soil or groundwater is the level determined by the Northwest Total Petroleum Hydrocarbon Method NWTPH-Dx.

(22) "*Petroleum*" or "*oil*" means gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse and crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils, diesel fuels and any other petroleum-related product or waste or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute. "*Petroleum*" does not include any substance identified as a hazardous waste under 40 CFR Part 261.

(23) "*Petroleum UST System*" has the same meaning as given in OAR 340-150-0010(55).

(24) "*Remediation*" or "*Remedial Measures*" include "remedial action" as defined in ORS 465.200(22), "removal" as defined in ORS 465.200(24) and "corrective action" as defined in ORS 466.706(3).

(25) "*Remediation Level*" means a concentration of petroleum or petroleum constituents in environmental media such as soil and groundwater that alone, or in combination with institutional controls or engineering controls, is determined to be protective of public health, safety and welfare and the environment in accordance with this division.

(26) "*Residential Heating Oil Tank*" means a heating oil tank used primarily for single family dwelling purposes.

(27) "*Responsible Person*" includes "owner" as defined in OAR 340-150-0010(51), "permittee" as defined in OAR 340-150-0010(52), "owner or operator" as defined in ORS 465.200(19) and any other person liable for or voluntarily undertaking remediation under ORS 465.200, et seq. or ORS 466.706, et seq.

(28) "*Risk-Based Concentration*" means a concentration of petroleum or petroleum constituents in environmental media such as soil and groundwater that is determined to be protective of public health, safety and welfare and the environment in accordance with these rules without requiring institutional controls or engineering controls.

(29) "*Soil*" means any unconsolidated geologic materials including, but not limited to, clay, loam, loess, silt, sand, gravel and tills or any combination of these materials.

(30) "*Surface Water*" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, wetlands, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(31) "*Suspected Release*" means those conditions described in OAR 340-150-0500.

(32) "*Underground storage tank*" or "*UST*" means any one or combination of tanks (including connected underground pipes) that contains or is used to contain a ~~an~~ accumulation of regulated substances and the volume of which (including the volume of connected underground pipes) is 10 percent or more beneath the surface of the ground surface or otherwise covered by earthen materials.

[**Note:** OAR 340-150-0500 requires owners and permittees of UST systems to report suspected releases to the department. Owners and permittees must refer to OAR chapter 340, division 150 for complete information on requirements for underground storage tanks.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 465.400 & ORS 466.746

Stats. Implemented: ORS 465.200 - ORS 465.455 & ORS 466.706 - ORS 466.83

Hist.: DEQ 29-1988, f. & cert. ef. 11-9-88; DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 13-1992, f. 6-9-92, cert. ef. 10-1-92; DEQ 23-1998, f. & cert. ef. 11-2-98; DEQ 6-2003, f. & cert. ef. 2-14-03

## 340-122-0330

### Evaluation Parameters

The site-specific parameters are to be scored as specified in this section. If any of the parameters in sections (1)-(5) of this rule is unknown, that parameter must be given a score of ten:

(1) Depth to Groundwater: This is the vertical distance (rounded to the nearest foot) from the surface of the ground to the highest seasonal elevation of the saturated zone. The score for this parameter is:

- (a) > 100 feet, 1;
- (b) 51-100 feet, 4;
- (c) 25-50 feet, 7;
- (d) < 25 feet, 10.

(2) Mean Annual Precipitation: This measurement may be obtained from the nearest appropriate weather station. The score for this parameter is:

- (a) < 20 inches, 1;
- (b) 20-45 inches, 4;
- (c) > 45 inches, 10.

(3) Native Soil or Rock Type: The score for this parameter is:

- (a) Low permeability materials such as clays, silty clays, compact tills, shales, and unfractured metamorphic and igneous rocks, 1;
- (b) Moderate permeability materials such as fine and silty sands, sandy loams, loamy sands, and clay loams; moderately permeable limestones, dolomites and sandstones; and moderately fractured igneous and metamorphic rocks, 5;
- (c) High permeability materials such as sands and gravels, highly fractured igneous and metamorphic rocks, permeable basalts and lavas, and karst limestones and dolomites, 10.

(4) Sensitivity of the Uppermost Aquifer: Due to the uncertainties involved in the Matrix evaluation process, this factor is included to add an extra margin of safety in situations where critical aquifers have the potential to be affected. The score for this parameter is:

(a) Unusable aquifer, either due to water quality conditions such as salinity, etc.; or due to hydrologic conditions such as extremely low yield, 1;

(b) Potable aquifer not currently used for drinking water, but the quality is such that it could be used for drinking water, 4;

(c) Potable aquifer currently used for drinking water; alternate unthreatened sources of water readily available, 7;

(d) Sole source aquifer currently used for drinking water; there are no alternate unthreatened sources of water readily available, 10.

(5) Potential Receptors: The score for potential receptors is based on both the distance to the nearest well and also the number of people at risk. Each of these two components is to be evaluated using the descriptors defined in this section:

(a) The distance to the nearest well is measured from the area of contamination to the nearest well that draws water from the aquifer of concern. If a closer well exists which is known to draw water from a deeper aquifer, but there is no evidence that the deeper aquifer is completely isolated from the contaminated aquifer, then the distance must be measured to the closer, deeper well. The distance descriptors are:

(A) Near, < 1/2 mile;

(B) Medium, 1/2-2 miles;

(C) Far,  $\leq$  2 miles.

(b) The number of people at risk is to include all people served by drinking water wells which are located within two miles of the contaminated area. For public wells, count the number of users listed with the Oregon Health Division, Drinking Water Systems Section. For private wells, assume three residents per well. In lieu of a door-to-door survey of private wells, it may be assumed that there is one well per residence. The number descriptors are:

(A) Many, > 3000;

(B) Medium, 100-3000;

(C) Few, < 100.

(c) The score for this parameter is taken from the combination of the two descriptors using the following grid: [Grid not included. See ED. NOTE.]

(6) The Matrix Score for a site is the sum of the five parameter scores in sections (1)-(5) of this rule.

[ED. NOTE: The Grid referenced in this rule is available from the agency.]

Stat. Auth.: ORS 465.400 & ORS 466.746

Stats. Implemented: ORS 465.200 - ORS 465.455 & ORS 466.706 - ORS 466.835

Hist.: DEQ 15-1989, f. & cert. ef. 7-28-89 (and corrected 8-3-89); DEQ 46-1990, f. 12-26-90, cert. ef. 3-1-91; DEQ 23-1998, f. & cert. ef. 11-2-98

# DEPARTMENT OF ENVIRONMENTAL QUALITY

## DIVISION 160

### REGISTRATION AND LICENSING REQUIREMENTS FOR UNDERGROUND STORAGE TANK SERVICE PROVIDERS

**340-160-0030**

#### **Licensing of UST Service Providers**

(1) To apply for a service provider license, a person must submit an application to the department on a form provided by the department that includes:

(a) The name, address and telephone number of the applicant;

(b) The category(ies) of UST services to be performed;

(c) A summary of the UST services provided by the applicant within the two year period immediately preceding the application, including the number of UST service projects completed in each category of UST services and identification of any other industry or government licenses held by the applicant related to specific UST services;

(d) A list of employees with supervisor licenses, the specific UST services for which they are licensed, the date the employee received a license from the department and each employee's license number;

(e) A signed statement that certifies that:

"I [insert name], am the chief executive officer of [insert company name] and do hereby certify that I have obtained a copy of the applicable laws and rules pertaining to the regulation of underground storage tanks in the State of Oregon and that I have read them and will direct the employees and principals of this company to perform the UST services rendered by this company in accordance with those laws and rules"; and

(f) The required license fee.

(2) The department will review the application for completeness. If the application is incomplete, the applicant will be notified in writing of the deficiencies.



(3) The department may deny, in writing, a license to an applicant who has not satisfied the license application requirements.

(4) If the application is approved, a service provider license will be issued to the applicant. The license is valid for a period of ~~12~~ 24 months.

(5) License renewals must be applied for in the same manner as required for an initial license, except the service provider must submit the complete renewal application to the department at least 30 days before the expiration date of the current license.

(6) The department may suspend, revoke or refuse to issue a license if the service provider:

(a) Fraudulently obtains or attempts to obtain a license;

(b) Fails at any time to satisfy the requirements for a license or to comply with the rules of this division or OAR chapter 340, division 150;

(c) Fails to meet any applicable state or federal standard relating to the UST services performed under the license; or

(d) Fails to employ and designate a licensed supervisor for each UST service project.

(7) A service provider who has a license suspended or revoked may reapply for a license after demonstrating to the department that the cause of the suspension or revocation has been resolved.

(8) If a service provider no longer employs a licensed supervisor, the service provider must immediately cease providing UST services. The service provider cannot provide UST services until a licensed supervisor is again employed by the service provider and written notice of the hiring of a licensed supervisor is received by the department.

Stat. Auth.: ORS 466.746 & ORS 466.750

Stats. Implemented: ORS 466.750

Hist.: DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 6-2003, f. & cert. ef. 2-14-03

### **340-160-0150**

#### **Fees**

(1) The nonrefundable application fee for a service provider license is ~~\$600~~ \$300.

(2) The nonrefundable application fee for a supervisor license is \$150. This fee covers up to four supervisor license categories, if the expiration date is the same for all license categories.

Stat. Auth.: ORS 466.746 & ORS 466.750

Stats. Implemented: ORS 466.750

Hist.: DEQ 3-1989, f. & cert. ef. 3-10-89; DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 6-2003, f. & cert. ef. 2-14-03

# DEPARTMENT OF ENVIRONMENTAL QUALITY

## DIVISION 162

### REGISTRATION AND LICENSING REQUIREMENTS FOR UNDERGROUND STORAGE TANK SOIL MATRIX

#### CLEANUP SERVICE PROVIDERS AND SUPERVISORS

**340-162-0005**

#### **Authority, Purpose, and Scope**

- (1) These rules are promulgated in accordance with and under the authority of ORS 466.750.
- (2) The purpose of these rules is to provide for the regulation of firms and persons who cleanup soil contamination resulting from spills and releases of oil from underground storage tanks utilizing the soil matrix standards in OAR 340-122-03205 to 340-122-0360. These rules establish standards for:
  - (a) Licensing of firms performing underground storage tank soil matrix cleanup services for underground storage tanks;
  - (b) Examination, qualification and licensing of individuals who supervise soil matrix cleanup services for underground storage tanks;
  - (c) Administration and enforcement of these rules by the Department.
- (3) Scope:
  - (a) OAR 340-162-0005 through 340-162-0150 applies to the cleanup by any person of soil contamination resulting from spills and releases of oil from underground storage tanks regulated by ORS 466.706 through 466.835 and ORS 466.895 through 466.995 and OAR Chapter 340, Division 150;
  - (b) OAR 340-162-0005 through 340-162-0150 do not apply to services performed by the tank owner, property owner or permittee.
- (4) Service Providers and Supervisors licensed under this Division are also licensed to perform work under OAR Chapter 340, Division 163 -- Registration and Licensing

Requirements for Heating Oil Tank Soil Matrix Cleanup Service Providers and Supervisors.

Stat. Auth.: ORS 466.706 - ORS 466.895 & ORS 466.995

Stats. Implemented: ORS 466.750

Hist.: DEQ 27-1990, f. & cert. ef. 7-6-90

**340-162-0010**

**Definitions**

As used in these rules:

- (1) "Commission" means the Environmental Quality Commission.
- (2) "Closure" means to remove an underground storage tank from operation, either temporarily or permanently, by abandonment in place or by removal from the ground.
- (3) "Department" means the Oregon Department of Environmental Quality.
- (4) "Director" means the Director of the Oregon Department of Environmental Quality.
- (5) "Facility" means the location at which underground storage tanks are in place or will be placed. A facility encompasses the entire property contiguous to the underground storage tanks that is associated with the use of the tanks.
- (6) "Fee" means a fixed charge or service charge.
- (7) "Firm" means any business, including but not limited to corporations, limited partnerships, and sole proprietorship, engaged in the performance of tank services.
- (8) "Licensed" means that a firm or an individual with supervisory responsibility for the performance of tank services has met the Department's experience and qualification requirements to offer or perform services related to underground storage tanks and has been issued a license by the Department to perform those services.
- (9) "Oil" means gasoline, crude oil, fuel oil, diesel oil, lubrication oil, sludge, oil refuse and any other petroleum related product or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.
- (10) "Permittee", as used in this section, has the meaning set forth in ORS 466.706(915).
- (11) "Soil Matrix Cleanup" means action taken to comply with OAR 340-122-03205 through 340-122-0360.

(12) "Supervisor" means a licensed individual operating alone or employed by a contractor and charged with the responsibility to direct and oversee the performance of tank services at a facility.

(13) "Tank" means underground storage tank.

(14) "Tank Services" include but are not limited to soil cleanup.

(15) "Tank Services Provider" is an individual or firm registered and, if required, licensed to offer or perform tank services on regulated underground storage tanks.

(16) "Underground Storage Tank" or "UST" means an underground storage tank as defined in OAR Chapter 340, Division 150.

Stat. Auth.: ORS 466.706 - ORS 466.895 & ORS 466.995

Stats. Implemented: ORS 466.706 & ORS 466.750

Hist.: DEQ 27-1990, f. & cert. ef. 7-6-90

### **340-162-0020**

#### **General Provisions**

(1) After January 1, 1991, no firm shall offer underground storage tank soil matrix cleanup services without first having obtained a license from the Department.

(2) Proof of licensing must be available at all times a service provider is performing soil matrix cleanup services.

(3) After January 1, 1991, Underground Storage Tank Soil Matrix Cleanup Service Providers licensed to perform cleanup services are prohibited from offering or performing cleanup services on regulated underground storage tanks unless an underground storage tank has been issued a permit by the department.

(4) Any Underground Storage Tank Soil Matrix Cleanup Service Provider licensed or certified by the Department under the provisions of these rules shall:

(a) Comply with the appropriate provisions of OAR 340-162-0005 through 340-162-0150;

(b) Comply with the appropriate provisions of OAR 340-122-03205 through 340-122-0360;

(c) Maintain a current address on file with the Department; and

(d) Perform underground storage tank soil matrix cleanup services in a manner which conforms with all federal and state regulations applicable at the time the services are being performed.

(5) A firm licensed to perform underground storage tank soil matrix cleanup services must submit a checklist to the department following the completion of a soil matrix cleanup. the checklist form will be made available by the Department.

(6) After January 1, 1991, a licensed underground storage tank soil matrix cleanup services supervisor shall be present at a tank site when the following tasks are being performed:

(a) During all excavations made after a leak is suspected or has been confirmed;

(b) When any tanks or lines are removed or decommissioned as a result of a suspected or confirmed release;

(c) When all soil and/or water samples are collected, stored, and packed for shipping to the analytical testing laboratory;

(d) When any soil borings, back-hoe pits or other excavations are made for the purpose of investigating the extent of contamination;

(e) During removal from the open excavation or disposal of any free product or groundwater; and

(7) After January 1, 1991 Underground Storage Tank Soil Matrix Service Providers shall not backfill or close a soil matrix cleanup excavation site before a Department inspection unless authorized verbally or in writing by the Department. Verbal approvals will be confirmed in writing within 30 days by the Department.

**NOTE:** Additional Oregon licenses may be required when performing soil cleanup services at underground storage tanks and heating oil tanks. See Construction Contractor License requirements in OAR 812-0023-00100 through 812-002-004350 and Monitoring Well Constructor License requirements in OAR 690-240-00055 through 690-240-007180.

Stat. Auth.: ORS 465.200 - ORS 465.320 & ORS 466.706 - ORS 466.995

Stats. Implemented: ORS 466.706 & ORS 466.750

Hist.: DEQ 27-1990, f. & cert. ef. 7-6-90; DEQ 15-1991, f. & cert. ef. 8-14-91

**340-162-0040**

### **Examination Schedule**

~~(1) At least once prior to November 1, 1990, and twice every year thereafter, the Department shall offer a qualifying examination for any person who wishes to become licensed to supervise underground storage tank soil matrix cleanup services. To apply for a license from the department to supervise soil matrix cleanups, an individual must take and pass a qualifying examination approved by the department.~~

~~(2) Not less than 30 days prior to offering an examination the Department shall prepare and make available to interested persons, a study guide which may include sample examination questions.~~

~~(3) The Department shall develop and administer the qualifying examinations in a manner consistent with the objectives of this section.~~

Stat. Auth.: ORS 466.706 - ORS 466.895 & ORS 466.995

Stats. Implemented: ORS 466.750

Hist.: DEQ 27-1990, f. & cert. ef. 7-6-90

#### **340-162-0054**

#### **~~Reciprocity with Other Jurisdictions~~**

~~The Department may develop agreements with other jurisdictions for the purposes of establishing reciprocity in training, licensing, and certification if the Department finds that the training, licensing and certification standards of the other jurisdictions are at least as stringent as those required by these rules.~~

~~Stat. Auth.: ORS 465.200 - ORS 465.320 & ORS 466.706 - ORS 466.995~~

~~Stats. Implemented: ORS 466.750~~

~~Hist.: DEQ 15-1991, f. & cert. ef. 8-14-91~~

#### **340-162-0150**

#### **Fees**

(1) Fees shall be assessed to provide revenues to operate the underground storage tank soil matrix cleanup services licensing program. Fees are assessed for the following:

- (a) Underground Storage Tank Soil Matrix Cleanup Service Provider;
- (b) Underground Storage Tank Soil Matrix Cleanup Supervisors License;
- (c) Underground Storage Tank Soil Matrix Cleanup Examination Study Guides.

(2) Underground Storage Tank Soil Matrix Cleanup service providers shall pay a non-refundable license application fee of \$6300 for a ~~12~~ 24 month license.

(3) Individuals seeking to obtain an underground storage tank soil matrix cleanup supervisor's license shall pay a non-refundable license application fee of \$150 for a 24 month license.

(4) Examination study guides shall be made available to the public for the cost of production.

(5) Replacement licenses will be provided by the department for a fee of \$10.

Stat. Auth.: ORS 465.200 - 465.320 & 466.706 - 466.995

Stats. Implemented: ORS 466.750

Hist.: DEQ 27-1990, f. & cert. ef. 7-6-90; DEQ 15-1991, f. & cert. ef. 8-14-91; DEQ 8-2005, f. & cert. ef. 7-14-05



## Summary of Public Comment and Agency Response

### Align Tank Rules with Federal Regulations and Improve Existing Rules

**Prepared by:** Mitch Scheel

**Date:** December 27, 2007

**Comment period** The public comment period opened on November 1, 2007 and closed at 5:00 PM on November 23, 2007. DEQ held public hearings in Portland on November 16, 2007 at 2:00 PM, Bend on November 19, 2007 at 7:00 PM and Eugene on November 20, 2007 at 7:00 PM. One person attended the hearings. No oral comments were provided for the record. Six people submitted written comments during this 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 the commenters and their reference numbers follows the summary of comments and responses.

<i>Summary of Comments and Agency Responses</i>	
<b>Comment 1</b>	"We are opposed to expanding the operator training requirement. I have attended a session by a DEQ-approved trainer, and the information was worthless. Unless the quality of the training material and the presentation can somehow be improved, this will be a burden of time and money on public and private operators with no compensating benefit."
<b>Response</b>	The Department appreciates the commenter's observation. DEQ continually works to improve the quality of training provided by DEQ-listed training vendors and has noted continual improvement over time. Revisions to the current operator training rules are proposed to align current rule with federal law, thus protecting federal grant funding and allow the Department to submit an application to the Environmental Protection Agency for State Program Approval.

<b>Comment 2</b>	<p>Commenter #2 had several comments covering the following topics:</p> <ol style="list-style-type: none"> <li>1. The proposed rules do not contain processes for revoking permits or how to get a permit back once it is revoked.</li> <li>2. OAR 340-150-0008(8) appears to not require emergency USTs to meet the release detection requirements for interstitial monitoring (OAR 340-150-0465) and OAR 340-150-0300(5) seems to conflict with OAR 340-150-0008(8) as it says all new and replacement tanks and piping must be secondarily contained and have interstitial monitoring.</li> <li>3. We could not find the guidance document titled "Replacement of Underground Piping" which describes when partial replacement requires an entire piping run to be replaced referenced in OAR 340-150-0300(5).</li> <li>4. There is no definition of the term "under-dispenser containment" that is referenced in OAR 340-150-0160(1)(a)(B), which is necessary to make it clear that it is consistent with EPA's secondary containment guidelines.</li> <li>5. Recommend adding a reference to OAR 340-150-0300(5) requiring</li> </ol>
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	<p>secondary containment systems to be designed, constructed and installed to contain regulated substances released from the UST system, until they are detected and removed, and prevent the release of regulated substances to the environment, any time during the operating life of the UST system.</p> <ol style="list-style-type: none"> <li>6. Since facilities such as cardlocks and government agency sites are not attended, including “all those that dispense a regulated substance to a motor vehicle or container” into the Class C Operator category could be problematic since EPA Operator Training Guidelines requires states evaluate operator knowledge of the minimum training requirements and ensure all operators are trained. Removing “all those that dispense a regulated substance to a motor vehicle or container” from the table in OAR 340-150-0210 and making mandatory posting of signage for emergency response would avoid problems with ensuring operator knowledge is evaluated for that group.</li> <li>7. Federal regulation (18 USC § 1151) defines the term “Indian Country.” ODEQ may wish to substitute “Country” for “lands”.</li> <li>8. The current federal reference that governs pipeline facilities for the purposes of RCRA 9001(10)(D) is Chapter 601 of Title 49 (OAR 340-150-0008(3)(c)).</li> <li>9. To the extent that “escaping”, “leaching” and “disposing” are not incorporated into the terms that ODEQ uses in defining the term “release”, you may want to add these terms to the definition.</li> </ol>
<p><b>Response</b></p>	<ol style="list-style-type: none"> <li>1. Formal enforcement is required to revoke permits (OAR Chapter 340, Division 12). This process is required to allow for appeal rights/due process by permit holders. The process to get a permit back once it is revoked will be outlined in the formal enforcement process.</li> <li>2. The Department agrees that the requirement for new and replaced emergency generator USTs to be secondarily contained and perform release detection (i.e., interstitial monitoring) can be clearer and has revised OAR 340-150-0008(8) to be consistent with the requirements in OAR 340-150-0300(5).</li> <li>3. The referenced guidance document will be completed before the proposed rules are implemented.</li> <li>4. DEQ agrees the term “under-dispenser containment” needs to be defined to be consistent with EPA’s secondary containment guidelines and has included the definition from the guidelines in OAR 340-150-0010(83).</li> <li>5. The Department agrees and revised the proposed rules to include the recommendation.</li> <li>6. The Department agrees including “all those who dispense a regulated substance into a motor vehicle or container” into the Class C Operator class could be problematic in terms of ensuring all Class C Operators are trained at unmanned facilities and removed the term from the definition of “Class C Operator in OAR 340-150-0010(9) and the proposed table in OAR 340-150-0210 and made posting of signage for emergency response mandatory.</li> <li>7. The Department agrees and implemented the proposed recommendation in the proposed rules (OAR 340-150-0008(1)).</li> <li>8. The Department revised OAR 340-150-0008(3)(c) to reflect the current federal reference.</li> </ol>

	<p>9. The definition of “release” in Division 150 tracks the definition in ORS 466.706(18). As a practical matter, that term, both alone and in light of the term “confirmed release” and the cross-references in Division 150 to OAR Chapter 340, Division 122 adequately addresses “escaping,” “leaching” and “disposing”.</p>
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<p><b>Comment 3</b></p>	<p>Commenter #3 brought two issues to the Department’s attention including:</p> <ol style="list-style-type: none"> <li>1. DEQ’s “umbrella” enforcement violations (OAR 340-12-0053(1) and OAR 340-12-0053(2)) common to all programs were not included in the expedited enforcement process section of Division 150 (OAR 340-150-0250).</li> <li>2. Options to requiring a site assessment at UST facilities before granting an extension of a temporary closure certificate should be considered.</li> </ol>
<p><b>Response</b></p>	<ol style="list-style-type: none"> <li>1. The Department agrees that the umbrella enforcement violations should be included in OAR 340-150-0250 and has revised this section of the proposed rules by inserting OAR 340-12-0053(1) and OAR 340-12-0053(2) in OAR 340-150-0250(4)(a) and OAR 340-150-0250(4)(b), respectively.</li> <li>2. The Department agrees that options to requiring a site assessment at all UST facilities that request an extension of a temporary closure certificate should be considered and has revised the proposed temporary closure section of Division 150 (OAR 340-150-0167(c)(A) by allowing the Department to accept “other documentation that indicates no release has occurred” in lieu of requiring a site assessment.</li> </ol>

<p><b>Comment 4</b></p>	<p>Commenter #4 brought two issues to the Department’s attention including:</p> <ol style="list-style-type: none"> <li>1. “DEQ should consider a phase in of the tank fee increase over a couple of years. You could ease the burden by making it a 2 stage increase with a \$25 increase in 2008 and another \$25 increase in 2009. I realize that with the new requirement for inspections every three years DEQ needs the funds, but you have not shown reason why the increase could not be done over a couple of years.”</li> <li>2. Issues related to the proposed expedited enforcement process including inspections being as much a learning experience for the operator as an inspection for DEQ to make sure the operator is complying, taking harder enforcement actions against those that refuse to follow the rules and stating that the program “looks more to be a matter of revenue generation than a way to get operators to comply with the rules and help protect and secure the environment.”</li> </ol>
<p><b>Response</b></p>	<ol style="list-style-type: none"> <li>1. The tank compliance fee was increased by the 2007 Oregon Legislature when it passed SB 104. This law did not include a phased in approach for collecting fees. The Department cannot assess a fee that is different from Oregon Law. The Department is aligning its rules with Oregon law.</li> <li>2. The primary purpose of a compliance inspection is to ensure a facility is operated in a manner that is protective of the environment. A secondary outcome of the inspection process is to educate operators on rule requirements and best management practices. The Department does not</li> </ol>

	consider generating revenue a function of the inspection process.
<b>Comment 5</b>	<p>Commenter #5 had several comments covering the following topics:</p> <ol style="list-style-type: none"> <li>1. "The 2007 Oregon Legislature increased the annual tank fee from \$85/year to \$135/year (Senate Bill 104, 2007). OPA took a neutral position on the bill, acknowledging that the fee changes were needed to maintain the current level of assistance and oversight provided for the DEQ to administer the tank program. However, it should be noted that OPA members run businesses that operate on very low margins, are generally opposed to fee increases, and will be adversely affected by any fee increase."</li> <li>2. The proposal to require that at a distributor post a certificate at each site is a concern as they might not know for an extended period of time if a certificate is missing or taken down. Suggestions were made for DEQ to maintain a list of sites on its website that cannot receive fuel and to allow fuel distributors to keep certificates on file at their offices.</li> <li>3. "Renewing Operating Certificates Annually: This will help ensure that operating facilities have a financial responsibility mechanism that will provide the ability to pay for cleanup or third-party liability compensation as a result of a tank leak."</li> <li>4. "SB 104 Penalty Amounts: The increased penalties will allow the DEQ to issue a field ticket for more serious violations that would have gone through the DEQ's formal enforcement process. Some of our members feel this will help save the state money and time in issuing penalties. Other members believe these penalties are excessive."</li> <li>5. The proposed training requirements which will require three classes of operators to be trained beginning August 8, 2009 will help ensure that individuals have the information needed to operate tank systems properly.</li> <li>6. "Some of our members are concerned about the proposal requiring all UST installation services be performed under the supervision of a person licensed as a DEQ services supervisor. Our members feel that it isn't necessary to limit their maintenance crew so that they have to call someone each time something is amiss at one of their sites. Our members have trained personnel who can change fuel filters, change nozzles, change hose nozzles, etc. They need cost-saving business practices and can train and utilize their own personnel to perform these services. This requirement places an enormous burden on their ability to operate their businesses."</li> </ol>
<b>Response</b>	<ol style="list-style-type: none"> <li>1. The Department appreciates the recognition that the fee increase will be challenging for low margin businesses. As you noted, the fee increase is needed to maintain the current level of assistance and oversight needed for DEQ to administer the tank program. DEQ continually looks for program enhancements and efficiencies to provide tank owners/operators with an increased level of assistance in complying with Oregon UST rules and regulations.</li> <li>2. The proposed rules require owners and permittees, not the distributor, to display a valid operating certificate "for the UST posted in a conspicuous location at the facility clearly visible to distributors depositing regulated substances into the UST". DEQ currently maintains a list of facilities on its</li> </ol>

	<p>website that cannot receive fuel and will continue to contact individual distributors through e-mail when facilities are added and removed from the list.</p> <ol style="list-style-type: none"> <li>3. The Department agrees that ensuring facilities have a valid financial responsibility mechanism is important and has made verification a top priority of the tank program.</li> <li>4. Please refer to response #2 to comment #4 above.</li> <li>5. The proposed changes will align Oregon rule with federal law and improve the current training program.</li> <li>6. The proposed changes to 340-150-0160 do not alter existing rules. Trained personnel can continue to perform routine maintenance such as changing fuel filters or hose nozzles. The proposed change only clarifies that a licensed supervisor must work for a company licensed as a UST services service provider when activities covered by a particular license category, installation in this case, are performed.</li> </ol>
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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	Susan Daggett	Port of Umatilla	P.O. Box 879 Umatilla, OR 97882	11/09/07
2	Peter Contreras	U.S. EPA Region 10	1200 6 <sup>th</sup> Avenue Seattle, WA 98101	11/21/07
3	Robert Cutler	U.S. EPA Region 10 Washington Operations Office	300 Desmond Dr. SE Suite 102 Lacey, WA 98503	11/21/07
4	John Phimister	WSCO Petroleum Corp	2929 NW 29 <sup>th</sup> Ave Portland, OR 97210	11/23/07
5	Paul Romain and Danelle Romain	Oregon Petroleum Association	707 SW Washington St Suite 927 Portland, OR 97205	11/23/07

## Attachment C

### List of UST Workgroup Members

<u>Name</u>	<u>Affiliation</u>	<u>Address</u>
Ron Bergeson	Bergeson-Boese & Assoc.	32986 Roberts Court, Coburg
Brian Doherty	Miller Nash	111 SW 5 <sup>th</sup> , Portland
Steve Fletcher	Northwest Pump & Equipment	2800 NW 31 <sup>st</sup> , Portland
Ruth Ha	BP West Coast Products, LLC	P.O. Box 6038, Artesia, CA
Jim Hickey	Environmental Insurance Agency	P.O. Box 23605, Portland
Jim Jones	J.C. Jones Oil Co.	650 15 <sup>th</sup> Street S.E., Salem
Betty Martin	Sunshine Market & Deli	P.O. Box 1520, North Plains
Danelle Romain	Oregon Petroleum Association	805 SW Broadway, Portland
Jeff Simpson	Mobile One Stop	P.O. Box 1073, St. Helens

**Presiding Officer's Report**

Date: December 6, 2007

To: Environmental Quality Commission

From: Mitch Scheel, Land Quality Division, Tanks Program

Subject: Presiding Officer's Report for Rulemaking Hearing  
Title of Proposal: Align Tank Rules with Federal Regulations, Improve Existing Rules

**Overview of Public Hearing Locations, Times and Presiding Officer**

<u>11/16/07</u> Hearing Date	<u>2:00 PM</u> Time	<u>811 SW Sixth Ave., Portland</u> Location	<u>Mitch Scheel (DEQ employee)</u> Hearings Officer
<u>11/19/07</u> Hearing Date	<u>7:00 PM</u> Time	<u>300 SE Reed Market Rd., Bend</u> Location	<u>Mitch Scheel (DEQ employee)</u> Hearings Officer
<u>11/20/07</u> Hearing Date	<u>7:00 PM</u> Time	<u>1102 Lincoln St., Suite 210, Eugene</u> Location	<u>Mitch Scheel (DEQ employee)</u> Hearings Officer

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.

**Portland Hearing 11/16/07**

The rulemaking hearing was convened at 2:00 PM and ended at 3:00 PM. One person attended and did not provide written or oral testimony at the hearing.

**Bend Hearing 11/19/07**

The rulemaking hearing convened at 7:00 PM and ended at 7:30 PM. No one attended, no written or oral comments were received.

**Eugene Hearing 11/20/07**

The rulemaking hearing convened at 7:00 PM and ended at 7:30 PM. No one attended, no written or oral comments were received.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**Relationship to Federal Requirements**

**RULE CAPTION**

Align Tank Rules with Federal Regulations, Improve Existing Rules

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).

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

Yes. The federal regulations pertaining to underground storage tanks (USTs or tanks) were promulgated by the Environmental Protection Agency (EPA) in 1988 (40 CFR Part 280 Subparts A-H) and UST provisions were included in the Energy Policy Act of 2005.

**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

**4. Will the proposed requirement (rulemaking) 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. Existing federal regulations can be difficult to understand. The proposed rules clearly explain what actions a tank owner must take to comply with the regulations.

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

No.



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

Not applicable.

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

Yes. The proposed revisions clarify the UST requirements so all users can better understand the regulations. The annual operating certificate renewal process will ensure tank owners maintain a financial responsibility mechanism at all times. This ensures that some tank owners do not have a financial advantage over others by not paying premiums.

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

Possibly. The proposed rule revisions are anticipated to increase compliance rates and improve leak detection through an expanded operator training program and also ensure tank owners maintain coverage to pay for the cleanup of any leaks that do occur. Without these revisions, the public and nearby business could be affected by the pollution that results from a leak or spill or the state may be required to bear the expense of cleanup.

**9. Does the proposed requirement (rulemaking) 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 (rulemaking)?**

Yes.

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

Yes. The primary purpose of the UST compliance program is to prevent and quickly detect leaks from USTs that could cause pollution to soil and groundwater. The proposed rule revisions improve compliance with leak detection methods or prevent leaks by:

- Revising the current UST operator training requirements to include three classes of operators that require training. This proposal increases the number of people required to be trained to prevent and quickly detect leaks from USTs.
- Requiring secondary containment and monitoring for new or replaced tanks or piping. Monitoring secondary containment allows operators to detect a leak from a UST system before it reaches the environment.
- Ensuring tank owners have the required financial responsibility (i.e., environmental insurance) to clean up a release when it occurs. The proposed annual operating certificate will require demonstration of financial responsibility through the renewal process.

**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>Rule Caption</b>	Align Tank Rules with federal regulations and improve existing rules.
<b>Title of Proposed Rulemaking:</b>	Underground Storage Tank Rule Revisions
<b>Stat. Authority or other Legal Authority:</b>	ORS 465.200 through 465.455, and 466.706 through 466.995
<b>Stat. Implemented:</b>	ORS 465.200 through 465.455, and 466.706 through 466.835
<b>Need for the Rule(s)</b>	<p><b>A)</b> Subtitle B of the federal Energy Policy Act of 2005 contains underground storage tank (UST) provisions (entitled the Underground Storage Tank Compliance Act of 2005) that requires the Department to adopt rules to:</p> <ul style="list-style-type: none"> <li>• Revise the current UST operator training requirements to include three classes of operators that require training, and the training required for each class of operator;</li> <li>• Implement fuel delivery prohibition requirements for noncompliant tanks by defining when an UST is ineligible for delivery, deposit or acceptance of fuel and describe the mechanism(s) DEQ will use to identify ineligible USTs;</li> <li>• Require secondary containment and monitoring for new and replaced tanks and piping.</li> </ul> <p><b>B)</b> Amendments by the 2007 legislature (SB 104) to laws governing underground storage tanks require the Department to adopt rules to:</p> <ul style="list-style-type: none"> <li>• Increase the annual tank fee (from \$85/year to \$135/year); and</li> <li>• Make the existing expedited enforcement program (i.e., field citations) permanent and increase the penalty amounts (from a maximum of \$100 to \$500 per violation and an increased aggregate of \$1,500 from \$300).</li> </ul> <p><b>C)</b> This rulemaking proposal also improves existing UST regulations by:</p> <ul style="list-style-type: none"> <li>• Changing the operating registration certificate to a certificate that is renewed annually and define the conditions under which a certificate will not be renewed;</li> <li>• Increasing clarity and resolving existing technical issues;</li> <li>• Aligning the definition of an UST in Division 122 to that in Division 150;</li> <li>• Revising the UST service provider license renewal period in Division 160 from 12 to 24 months; and</li> <li>• Revising the UST service provider license renewal period in Division 162 from 12 to 24 months.</li> </ul>
<b>Documents Relied Upon for Rulemaking</b>	<ul style="list-style-type: none"> <li>• Oregon Administrative Rules, Chapter 340, Division 122 (Cleanup rules), Division 150 (UST regulations), Division 160 (Requirements for UST Service Providers) &amp; Division 162 (Requirements for Soil Matrix Service Providers and Supervisors)</li> <li>• Oregon UST statutes, ORS 465.200 through 465.455, and 466.706 through 466.995</li> <li>• Federal regulations for USTs, 40 CFR Part 280, Subparts A through H</li> <li>• Grant Guidelines To States for Implementing the Operator Training Provision, the Secondary Containment Provision and the Delivery Prohibition Provision of the Energy Policy Act of 2005</li> <li>• Energy Policy Act of 2005</li> </ul>

	<ul style="list-style-type: none"> <li>2007 Laws chapter 479 (SB 104)</li> </ul>	
<b>Requests for Other Options</b>	<p><i>ORS 183.335(2)(b)(G) requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.</i></p>	
<b>Fiscal and Economic Impact, Statement of Cost Compliance</b>		
<b>Overview</b>	<p>Federal UST legislation (UST Compliance Act of 2005) is anticipated to have the following economic impact on all tank owners:</p> <ul style="list-style-type: none"> <li>Economic impact from adding the Class A operator category. The training costs will range from \$75 to take a national exam to \$350 to obtain one-time training from private vendors. We do not expect an economic impact from adding Class B operators, because DEQ already require this level of training and previously trained individuals will be grandfathered into the new training category. Economic impact will occur from retraining requirements for one or both classes of operator should a facility be found noncompliant during inspection. There is no economic impact anticipated for the third Class of operator (i.e., Class C operator) as they will be trained to perform emergency response activities by either the Class A or B operator at the facility to perform emergency response activities; and</li> <li>There is no economic impact anticipated for the secondary containment requirement as most, if not all, new tank and piping systems installed in Oregon now are secondarily contained. However, the requirement to install under-dispenser containment for new and replaced fuel dispensers will have a relatively small overall economic impact in the total installation or replacement cost as this is not the standard practice.</li> </ul> <p>State UST legislation (SB 104) is anticipated to have the following economic impact on all tank owners:</p> <ul style="list-style-type: none"> <li>Economic impact from the increase in the annual tank fee from \$85 to \$135; and</li> <li>Even with the increase in the field citation penalties, economic benefit is still anticipated through the potential for reduced cost of enforcement penalties with expedited process vs. traditional enforcement penalties and process.</li> </ul>	
<b>General public</b>	<p>There is no direct economic impact on the general public as a result of the proposed rule revisions. The cost to have UST operators trained is not anticipated to result in increased costs of motor fuel or services provided by non-retail tank owners.</p>	
<b>Small Business</b> (50 or fewer employees – ORS183.310(10))	a) Estimated number and types of businesses impacted	Approximately 1,000 small businesses owning one or more regulated UST facilities with fewer than 50 employees will be impacted by the proposed rule changes.
	b) Additional reporting requirements	There are no additional reporting requirements anticipated with this rulemaking proposal. Additional recordkeeping requirements include tracking. Current rule requires tracking for only one class of operator.
	c) Additional equipment and administration requirements	There is anticipated economic impact for the requirement to install under-dispenser containment for new and replaced fuel dispensers. This will have a relatively small overall economic impact relative to the total installation or replacement costs.
	d) Describe how businesses were involved in development of this rulemaking	The program convened its stakeholder group which consisted of industry, stakeholder organizations and service provider representation. Although a strong effort was made to have individual small business owners participate in this rulemaking, the two individuals who agreed to participate did not attend the rule revision meeting.

	The mandatory operator training requirements and the increased expedited enforcement penalties will have some financial impact on all tank owners regardless of the size of the business. Very small business owners (e.g., individuals who own only one UST facility) will likely be affected the most. Although expedited enforcement penalties are increased (maximum penalty increased from \$100 to \$500 and total aggregate increased from \$300 to \$1,500), there is still an anticipated economic benefit to small business owners as penalties associated with violations under the expedited enforcement process are smaller than a tank owner would otherwise experience with traditional enforcement.
<b>Large Business</b>	Large business owners would experience the same potential financial effect as small business owners. Although the cost of training is multiplied by the number of UST system operators that a business owner employs, some large business owners may choose to conduct their own training sessions as some do now under current rules. This would likely result in savings in both dollars and the time spent by employees to attend trainings.
<b>Local Government</b>	Local governments owning regulated USTs will be affected by the operator training and enforcement requirements in the same way as either large or small business owners.
<b>State Agencies</b>	State agencies owning regulated USTs will be affected in the same way as either large or small business owners.
<b>DEQ</b>	<p>The proposed amendments will increase costs for the Department to implement the operator training program and process the annual operating certificate. The Department will use temporary staff resources to develop the expanded operator training program and expedited enforcement programs (approx. 0.5 FTE for three months) and use existing and new staff (approx. 0.5 FTE) to implement the programs.</p> <p>The expanded expedited enforcement process is anticipated to reduce the time required by inspectors for UST enforcement activities as more UST violations may now be cited using field citations.</p>
<b>Other agencies</b>	Federal and local government agencies owning regulated USTs will be affected in the same way as either large or small business owners.
<b>Assumptions</b>	<p>The cost to tank owners to obtain the required operator training is estimated to range from \$75 to \$300 depending upon the type of training option selected:</p> <p>\$ 70 - \$80 Standardized national proficiency test (does not include training).  \$200 - \$225 On-line, web-based training and testing program from private vendor  \$200 - \$350 Training course presented in several different states by a private vendor</p>
<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 UST Workgroup assisted the Department in the development of the proposed rule revisions. Workgroup members provided input on policy issues and recommended changes to rule language after discussion with Department staff.

<< as signed >>  
Prepared by

Mitch Scheel  
Printed name

10/11/2007  
Date

<< as signed >>  
Approved by DEQ Budget Office

Andree Pollock  
Printed name

10/11/2007  
Date

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
Land Use Evaluation Statement

Rulemaking Proposal  
For

Underground Storage Tank Rule Revisions

**Align Tank Rules with federal regulations and improve existing rules.**

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

**A)** The federal Energy Policy Act of 2005 contains underground storage tank (UST) provisions that require the Department to adopt rules to:

- Revise the current UST operator training requirements to include three classes of operators that require training;
- Implement fuel delivery prohibition requirements for noncompliant tanks that are ineligible for delivery, deposit or acceptance of fuel;
- Require secondary containment and monitoring for new or replaced tanks or piping.

**B)** Amendments by the 2007 legislature (SB 104) to laws governing underground storage tanks require the Department to adopt rules to implement:

- An increased annual tank fee (from \$85/year to \$135/year); and
- A permanent expedited enforcement program (i.e., field citations) and increase penalty amounts (from a maximum of \$100 to \$500 per violation and an increased aggregate of \$1,500 from \$300).

This rulemaking proposal also improves existing UST regulations by:

- Changing the operating registration certificate to a certificate that is renewed annually;
- Altering formats and wording to increase clarity and resolve existing technical issues;
- Aligning the definition of an UST in Division 122 to that in Division 150;
- Revising the UST service provider license renewal period from 12 to 24 months in Division 160; and
- Revising the UST service provider license renewal period from 12 to 24 months in Division 162.

**2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?**

Yes \_\_\_ No X

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

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

Yes \_\_\_ No \_\_\_ (if no, explain):

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

Staff should refer to Section III, subsection 2 of the SAC document in completing the evaluation form. Statewide Goal 6 - Air, Water and Land Resources is the primary goal that relates to DEQ authorities. However, other goals may apply such as Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources; Goal 11 - Public Facilities and Services; Goal 16 - Estuarine Resources; and Goal 19 - Ocean Resources. DEQ programs and rules that relate to statewide land use goals are considered land use programs if they are:

1. Specifically referenced in the statewide planning goals; or
2. Reasonably expected to have significant effects on
  - a. resources, objectives or areas identified in the statewide planning goals, or
  - b. present or future land uses identified in acknowledged comprehensive plans.

In applying criterion 2 above, two guidelines should be applied to assess land use significance:

- The land use responsibilities of a program/rule/action that involved more than one agency, are considered the responsibilities of the agency with primary authority.
- A determination of land use significance must consider the Department's mandate to protect public health and safety and the environment.

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

The permit requirements for installation, operation and decommissioning of underground storage tanks have not previously been identified as a program affecting land use. The proposed amendments to the underground storage tank 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

**Date:** February 21, 2008  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Acting Director  
**Subject:** Agenda Item E, Informational Item: Director's Dialogue  
February 21 – 22, 2008 EQC meeting

**Lakeside Reclamation Landfill and Compost Facilities**

Last Tuesday, February 12, the Department of Environmental Quality (Department, DEQ) held an informational meeting in Hillsboro to provide an update to local residents on a remedial investigation concerning groundwater contamination at Lakeside Reclamation Landfill. DEQ staff also answered questions from the public about water quality issues at the site. Approximately 18 people attended. The Department also held a public hearing on January 8 on the landfill closure permit for Lakeside, with approximately 100 people in attendance. DEQ Northwest Region staff has been in close contact with local residents on this issue.

Regarding specific permitting issues at Lakeside:

**1. Stormwater issues**

DEQ sent Lakeside a warning letter for illegal stormwater discharges without a permit. The warning letter required Lakeside to eliminate the discharges or apply for a National Pollutant Discharge Elimination System (NPDES) stormwater permit by 2/15/08. Mr. Grabhorn responded saying there were no violations and that all discharges had been eliminated. DEQ has determined that discharges are continuing and there are still compliance issues regarding stormwater.

**2. Groundwater contamination and clean up status**

Lakeside's consultants completed a study to evaluate if contaminated groundwater is impacting the aquatic life in the sediments of the Tualatin River adjacent to the landfill. DEQ has determined that the study is inconclusive. Several of the pollutants in the Tualatin river's Total Maximum Daily Load (TMDL) have been found in Lakeside's monitoring wells and are exceeding ambient water quality criteria. DEQ has determined that Lakeside will need to complete a feasibility study to identify the appropriate groundwater cleanup remedy to ensure that groundwater entering the Tualatin River can meet ambient water quality criteria and comply with the TMDL.

**3. Solid waste permit**

DEQ intends to move ahead with responding to comments and preparing to issue the solid waste permit by the end of February or first week in March, with the closure date of

July 2009. The final permit includes additional waste acceptance procedures and full responsibility for financial assurance.

#### **4. Compost operations and compost permit**

A recent inspection identified compliance issues with the compost operations. DEQ's improved compost rules are currently out for public comment. Once those rules are adopted, Lakeside, as well as other compost operations, may need to make changes to their operations and apply for a new solid waste compost permit.

#### **Bradwood Landing LNG proposal**

DEQ and the Department of Land Conservation and Development held a public meeting on the proposed Bradwood Landing Liquefied Natural Gas (LNG) facility in Astoria February 13, 2008. The purpose of the meeting was to provide the public with information about DEQ's regulatory responsibility and invite the public to comment on water quality and coastal zone issues. The Army Corps of Engineers and National Marine Fisheries Service were present to explain their permitting processes and answer questions. Approximately 150 people attended the meeting and approximately 60 people gave formal comments. The overwhelming majority of comments expressed opposition to the proposal. The next steps for DEQ in the water quality certification (401) process are to complete review of the applicant's application materials, consider the public comments, and request additional technical information from the applicant.

#### **Fish Consumption Workshops**

The next scheduled workshop is April 2, 2008, at the Umatilla Indian Reservation. The agenda includes a presentation on the work of the Human Health Focus Group, a presentation on how salmon could be factored into the fish consumption rate, and a presentation on various fish consumption rate options developed by the Department. At the workshop we will be asking the attendees to review and comment on the information provided.

#### **Designation of Portland Metro Region as First Air Toxics Reduction Area**

On Friday, February 1, DEQ identified the Portland region as the first location for development of an area-wide air toxics risk reduction plan. DEQ is looking forward to proceeding with a program so long in the making, beginning with the EQC's initiation of an air toxics reduction program in 2003, and adoption of air toxics benchmarks in 2006.

The Portland air toxics geographic area will include sections of Multnomah, Washington, Clackamas and Yamhill counties. DEQ is naming the project "Portland Air Toxics Solutions" or "PATS." DEQ plans to work with a broad group of partners and an advisory committee to develop and implement a ten-year air toxics emission reduction plan, which could include both mandatory and voluntary air toxics reduction measures. Since air toxics, particulate, ozone precursors and greenhouse gases are produced by



many of the same sources, PATS will link with ongoing and future regional air pollution reduction efforts.

We expect to form an air toxics advisory committee sometime in the coming year, most likely this summer. We also we plan to conduct extensive outreach, and facilitate public participation throughout the PATS project. The PATS study area could change as DEQ and stakeholders proceed with planning and update information on air toxics emissions and exposures.

After all the years of development, this is a leadership moment for DEQ. We are essentially piloting a whole new way of looking at air toxics risk that has a lot of promise. In Oregon, most of the emissions from air toxics come from area and mobile sources (like diesel engines, open burning, gasoline evaporation), but the federal air toxics program focuses mainly on major industrial sources. Of course, we will continue to implement the federal rules, but by looking at the cumulative risk in a geographic area we can focus our energy on the right problems and make more progress in protecting public health. The air toxics rules have a lot of flexibility to let us navigate through this in a way that will protect health without imposing unreasonable or unbalanced requirements. Our Northwest Region and Air Quality Division are partnering on this first plan to ensure that it goes well and lays the groundwork for future plans.

### **Expedited Enforcement**

DEQ's Office of Compliance and Enforcement (OCE) is making timely progress in developing rules that govern how expedited enforcement programs may be implemented by the Department's various programs in the future. Under the statutory authority that allows DEQ to settle or informally dispose of civil penalty assessments, OCE is proposing that the Department make expedited enforcement offers (EEOs) to address less serious violations that have been or can be corrected quickly and that have not resulted in significant environmental harm. This voluntary program would allow violators to accept the EEO, perform corrective actions within a timeframe that DEQ specifies and waive appeal rights in exchange for a reduced penalty. Violators who decline an EEO will be referred for formal enforcement and can appeal a civil penalty issued in a formal enforcement action.

OCE vetted this concept and proposed rules with an external advisory group on January 15, 2008. The group comprised representatives of small business, big business, industry groups, environmental advocacy groups, public wastewater treatment facilities, Lane Regional Air Protection Agency (LRAPA) and EPA. Members were supportive and gave OCE thoughtful and helpful feedback regarding possible implementation issues in a real world context and the interplay between expedited enforcement and DEQ's formal enforcement process. Next steps include: making revisions to the proposed rules based on advisory group input; gaining approval from DEQ's internal rulemaking team; and finalizing the rulemaking package to present to the Commission for adoption in October 2008. OCE is also working on an implementation plan to help guide programs in their efforts to develop internal management directives to implement expedited enforcement.

The hazardous waste program has already begun developing enforcement guidance to identify which violations will be eligible for EEOs and under what circumstances. The storm water program will also be developing such guidance in the near future.

### **Cleanup Program Annual Report**

We are providing EQC members with a copy of the 18th Annual Cleanup Report. The report, required by ORS 465.235, summarizes cleanup program activities and accomplishments. The cleanup program:

- Helps property owners and local communities restore properties to productive use through voluntary cleanup, brownfield redevelopment and prospective purchaser agreements; and
- Requires investigation and cleanup of sites contaminated by releases of hazardous substances that present significant risks to human health or the environment.

The report highlights two major areas of accomplishments for the state's cleanup program. First, on the environmental side, the program met or exceeded projections for cleanup activities such as the number of removal actions, remedial investigations, feasibility studies, and records-of-decisions completed in fiscal year 2007. Second, on the administrative side, over the past two years the program has successfully worked its way through a serious funding shortfall that required a reduction in staff working on cleanup project activities. Additional information about the cleanup program's accomplishments and developments is provided in the annual report.

### **Update on state-wide vapor recovery to reduce benzene emissions**

Benzene is a toxic air pollutant that causes cancer. Because benzene concentrations in many Oregon communities are at least 20 times the health benchmark adopted by the Commission in 2006, reducing benzene is a priority for DEQ. For residents living near freeways, benzene can range as high as 40 times the benchmark. The main sources of benzene are on-road and off-road gasoline engines, wood burning and open burning, and evaporation during fuel storage, transport and dispensing.

In response to pressure from Oregon Senator Ron Wyden, EPA established a uniform national limit or cap for benzene in gasoline in February 2007, eliminating proposed regional disparities that would have left gasoline in the northwest with higher benzene content. This action, together with other federal regulations setting tighter standards for autos, tanks and fuel containers, will help reduce benzene from passenger cars by 80 percent from 1999 levels by 2030. While the federal regulations will reduce benzene in the long run, DEQ is pursuing faster and more complete reductions through its air toxics program.

In collaboration with the Oregon Petroleum Association (OPA), the Oregon Toxics Alliance (OTA) and the Lane Regional Air Protection Agency (LRAPA), DEQ is working to reduce benzene release of gasoline vapors when gasoline station storage tanks are filled. DEQ estimates that 70 to 80 percent of commercial gasoline storage tanks are already equipped with vapor recovery equipment (known as stage I) installed during tank

upgrades in the late 1990s. Installation and use of stage I equipment is required to control ozone in Portland, Medford and Salem. Outside of these areas, vapor recovery equipment is employed by some but not all stations. Controlling gasoline vapors will reduce benzene exposures at and near service stations and also contribute to continuing compliance with stricter ozone standards.

In November 2007, DEQ, LRAPA and OTA sent a joint letter to about 1,600 gasoline tanker operators and service stations requesting use of stage I equipment and no topping off. DEQ's underground storage tank inspectors are currently collecting data on the presence of stage I equipment at gas stations statewide. The Department has also begun to evaluate regulatory options requiring use of stage I vapor recovery beyond Portland, Medford, and Salem, and plans to begin stakeholder outreach on this phase of the project. Other Oregon initiatives that will further decrease benzene are the Low Emissions Vehicle Program (a 30% reduction of all air toxics when fully effective) and renewable fuels standards.

### **Oregon Low Emission Vehicle Program**

In late 2005, the Commission adopted the Oregon Low Emission Vehicle (OR LEV) Program, which requires new cars and trucks to meet California's standards, including greenhouse gas emission standards. The Commission adopted the program as part of Oregon's strategy to address global warming.

Most legal challenges to California's motor vehicle greenhouse gas emission standards have been resolved in California's favor, including decisions that carbon dioxide is a pollutant; that states have the right to regulate motor vehicle greenhouse gases; and that doing so does not set unlawful fuel economy standards. Despite these advances, obstacles remain. Before changes to California's rules can be enforced, EPA must issue a waiver for California's greenhouse gas emission limits, recognizing that Clean Air Act requirements are being met. In December, EPA announced it would deny this waiver request. Oregon and 12 other states joined California's lawsuit against EPA to overturn this decision. Most observers expect EPA's decision will be overturned, but the greenhouse gas emission limits may be delayed beyond the 2009 model year.

Regardless of the outcome of the greenhouse gas standards, EPA has already approved the remainder of the California vehicle emission program, including tighter standards for toxic air pollutants and pollutants that contribute to smog, as well as requirements for zero emission vehicles and low-emitting hybrids. Therefore, 2009 model year new cars and trucks sold and registered in Oregon must be certified to California's standards as originally scheduled, and the Department is working with manufacturers and dealers to implement the program.

### **Greenhouse gas emission reporting**

On July 17, 2007, Governor Kulongoski asked the Commission to consider adopting rules for mandatory greenhouse gas (GHG) reporting as soon as possible. GHG reporting

is needed to provide accurate GHG emissions data; allow reporting organizations to better understand their own emissions and document reductions; and support a future cap and trade program to reduce GHG emissions. The Western Climate Initiative (WCI), of which Oregon is a founding member, is designing a regional GHG cap and trade program, which will become the basis for proposed legislation in Oregon in 2009.

DEQ's GHG Reporting Advisory Committee has completed its recommendations for the reporting rules (copy attached). In general, the Committee urged the Commission to require reporting for as many sectors as possible. DEQ expects to have proposed rules ready for public comment by April 2008. A hearing before the Commission will be scheduled in conjunction with the EQC's April 24-25 meeting.

During rule development, the Department of Justice informed DEQ that there are potential gaps in the Commission's authority to require GHG reporting including emissions from out-of-state electric generating units that supply power to Oregon, and fuel distributors whose products produce GHG emissions when burned by end users. Proposed amendments to the Commission's authority to reporting were added to LC 70, a legislative concept to address global warming proposed by the House Energy and Environment Committee for this year's legislative session; however, this bill is assumed to be dead for the session.

On January 24<sup>th</sup>, the governor announced the appointment of members to the Global Warming Commission (GWC). The GWC was created by the 2007 Legislature under HB 3543, and is charged with making recommendations to meet GHG emission reduction goals established by the bill. DEQ's director is an ex-officio member of the GWC.

#### **Update on recent federal hazardous air pollutant standards**

Court orders vacating three EPA rules for hazardous air pollutant sources have significantly affected the Department's workload. The US Court of Appeals vacated provisions in the National Emission Standard for Hazardous Air Pollutants (NESHAP) for Plywood and Composite Wood Products that established a blanket one-year extension and provided a low-risk exemption. Many affected Oregon sources requested case-by-case compliance extensions from DEQ. Because these requests were controversial with Oregon stakeholders, DEQ provided for extensive public input. Permits including final compliance deadlines have now been issued for all affected sources.

Last June, the US Court of Appeals also vacated EPA's Boiler NESHAP (covering industrial, commercial, and institutional boilers, as well as process heaters). In this case, the entire rule was vacated and remanded to EPA because it failed to properly distinguish between boilers subject to the NESHAP under Section 112 of the Clean Air Act (CAA) and boilers subject to solid waste combustion standards under Section 129 of the CAA because they burn waste materials. Because of the court decision, state and local permitting agencies will be required to issue case-by-case standards for boilers.

DEQ is participating in an effort by the National Association of Clean Air Agencies to collect data and develop a model regulation for boilers.

In addition to these two cases, the D.C. Circuit Court vacated EPA's Clean Air Mercury Rule (CAMR) on February 8th. EPA adopted CAMR under Section 111 of the CAA in lieu of adopting a NESHAP under Section 112 of the CAA. CAMR used a "cap and trade" approach to reduce mercury from coal fired power plants (such as the PGE Boardman plant) instead of the Maximum Achievable Control Technology (MACT) approach required under Section 112. In December 2006, the Commission adopted CAMR, but also phased-out emission trading and required the PGE Boardman plant and any future coal fired power plants to meet stringent emission standards. Oregon's rule will need to be revised to remove references to the CAMR program.

Apart from these legal actions, EPA is well along in efforts to issue NESHAPs for "area" sources (those with the potential to emit less than 10 tons/year of any particular hazardous air pollutant, and less than 25 tons/year in emissions for all hazardous air pollutants combined). EPA has already issued standards for about 20 categories of area sources, and plans to issue standards for 50 more categories. Many sources in Oregon fall under one of these categories, including stationary internal combustion engines, hospital sterilizers, gasoline distribution, autobody refinishers, and iron and steel foundries. DEQ estimates that as many as 5,000 Oregon businesses will be affected, many of which do not have existing air quality permits. DEQ's Small Business Compliance Advisory Panel has recommended that DEQ consider alternatives to permitting, such as the Eco-Biz program and other programs that provide incentives to go beyond compliance.

### **Gorge Policy Day**

DEQ and Washington's Southwest Clean Air Agency (SWCAA) will host a public meeting Wednesday, March 5, to receive comment on proposed strategies to improve visibility in the Columbia River Gorge Scenic Area. The agencies hope to come away with a solid understanding of what people think about the proposed approach. DEQ and SWCAA plan to present final recommendations to the Columbia River Gorge Commission at its April 8, 2008 meeting. See the news release in attachment D for more information.

### **E-Waste Update**

Oregon's Electronics Recycling Law enacted in 2007 (House Bill 2626) creates and finances a statewide collection and recycling system for computers, monitors, and televisions (covered electronic devices or CEDs). Under this system, manufacturers of CEDs sold in Oregon register with DEQ and pay an annual registration fee to cover DEQ's administrative costs. Manufacturers choose either to manage their own programs under an approved plan or to participate in the state contractor program DEQ is establishing. Manufacturers cover their own program costs or pay a recycling fee to participate in the state contractor program. Each year DEQ will determine the minimum amounts of CEDs each manufacturer is responsible for

collecting and recycling the following year (return shares). Recycling programs must be in operation by January 2009, and CEDs may not be land disposed after January 2010.

Statutory deadlines are driving an aggressive timeline for program development. To date, we have:

- Hired three staff to develop the e-waste recycling system..
- Developed a registration process, database, and materials for manufacturer registration.
- Registered manufacturers on time; 114 manufacturers have registered.
- Convened a stakeholder work group to help develop the system. The group has met 5 times, and a subcommittee has worked on environmentally sound management practices.
- Developed environmentally sound management practices for e-waste collection and recycling facilities.
- Resolved numerous issues, such as the role of reuse in the system.
- Released an RFP for a managed services contractor to establish and manage the state contractor program.

Actions planned for the first quarter of 2008:

- Conduct the RFP process with DAS.
- Determine return shares for manufacturers.
- Determine registration fees of manufacturers.
- Notify retailers of the January 1, 2009, sales restrictions, and notify landfill owners of the January 1, 2010, disposal ban.
- Develop technical assistance materials for manufacturer plans.

### **EQC's ability to regulate toxics in products**

Commissioners have been asking about their existing authority to control/manage toxics, specifically bisphenol A, phthalates, and polybrominated diphenyl ethers (or PBDEs). There does not appear to be any direct authority for EQC or DEQ to ban the sale or use of these items or other products that pose a risk to public health and the environment. The Health Division of the Department of Human Services (DHS) has broad authority to regulate toxics, including banning products. For example, DHS is the designated enforcement authority for the octa- and penta-PBDE bans passed by the 2005 legislature. For more information on the authority of EQC and DHS to regulate toxics, as well as legislation pending in other states, see attachment E.

As the toxics presentation at the last EQC meeting suggested, there are many obstacles to reducing or eliminating toxics. To address these obstacles, DEQ is exploring a legislative policy package designed to integrate DEQ's toxics reduction activities, which would involve: creating an integrated toxics strategy; coordinating our activities and partnering with external stakeholders, such as DHS; identifying the gaps in current regulatory approaches to toxics; and considering options for addressing problems as far "upstream" as possible.

**Attachments:**

- A. Letter from Senator Gordon Smith to Joseph Kelliher, Chairman of Federal Energy Regulatory Commission
- B. Letter from Governor Theodore Kulongoski to Joseph Kelliher, Chairman of Federal Energy Regulatory Commission
- C. Greenhouse Gas Reporting Rules Advisory Committee recommendations
- D. Gorge Policy Day news release
- E. EQC's authority to ban materials from consumer products

CP06-365, 000 et al  
CP07-444, 000 et al  
PF07-10-000



-FAX-

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# GORDON H. SMITH

## U.S. Senator for Oregon

TO: Chairman Kelliker

OFFICE: \_\_\_\_\_

FAX No.: (202) 208-2106

FROM: Sen. Smith

PHONE: (202) 224-3753

DATE: 2/8/08

PAGES (including cover sheet): 3

NOTE: \_\_\_\_\_  
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2008-00024



GORDON H. SMITH  
OREGON

COMMITTEES:  
FINANCE  
COMMERCE, SCIENCE, AND TRANSPORTATION  
ENERGY AND NATURAL RESOURCES  
INDIAN AFFAIRS  
RANKING MEMBER, SPECIAL COMMITTEE ON AGING

## United States Senate

WASHINGTON, DC 20510-3704

February 8, 2008

The Honorable Joseph T. Kelliher  
Chairman  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

Dear Chairman Kelliher:

I am writing today to urge the Federal Energy Regulatory Commission (FERC) to work more closely with state and local officials, and to provide additional meetings in Oregon to receive public comment, regarding the siting of proposed natural gas pipelines in the state. I understand that Commissioner Wellinghoff recently visited Oregon and heard numerous concerns regarding FERC's pipeline approval process. I have been hearing similar concerns.

My office has heard from numerous Oregonians about their concerns relating to the potential routes of the three proposed natural gas pipelines designed to bring natural gas from proposed liquified natural gas (LNG) terminals to existing natural gas pipelines. My constituents are not confident that their concerns will be addressed by FERC during the permitting process. I will continue to closely monitor this process to ensure that all matters regarding the pipelines are addressed and I request that my staff receive updates throughout the process.

I am particularly concerned about the possible use of eminent domain for these pipelines. Eminent domain has been authorized for interstate pipelines since the Natural Gas Act of 1938. However, I was assured that all efforts would be made to avoid the use of eminent domain, and that project coordinators would strive to limit disruptions to landowners. It is my understanding that this has not been the case, as I have heard many stories to the contrary.

The Fifth Amendment to the U.S. Constitution prohibits the government from taking private property for public use without providing just compensation. I strongly support the right to hold private property free from government intrusion. I would urge FERC to require the pipeline developers in Oregon to work with landowners in good faith, without the cloud of eminent domain hanging over the landowners' heads.

The Energy Policy Act, which became law on August 8, 2005 (P. L. 109-58), specified FERC's lead role in the siting, construction, expansion and operation of LNG import facilities located onshore and in state waters. During the energy bill debate in 2005, I voted with Senator Feinstein regarding her amendment that would have prohibited the siting of an LNG import terminal in a state without the approval of the Governor of the State in which the facility would be located. It was my belief in states' rights and the voices of Oregonians that guided my vote on

that amendment, which unfortunately did not pass. It is imperative, however, that FERC address issues being raised by state officials during this process.

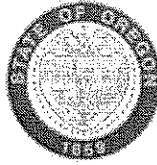
I recognize that all of these developers have the right to pursue the siting and permitting of their respective facilities. However, it is my understanding that, based on market conditions into the foreseeable future, only one – if any – of these LNG terminals and pipelines will be needed. This situation is creating significant costs and concerns for landowners who may ultimately not be affected. I would urge FERC to clarify the situation in Oregon as soon as possible, given existing regulations.

I would ask that the Commissioners conduct additional meetings in Oregon on the competing LNG terminal and pipeline proposals. I want to thank you for your attention to this matter and I look forward to your reply.

Sincerely,

A handwritten signature in black ink, appearing to read "G. H. Smith", written in a cursive style.

Gordon H. Smith  
United States Senate



THEODORE R. KUONGOSKI  
Governor

February 14, 2008

Mr. Joseph T. Kelliher, Chairman  
Federal Energy Regulatory Commission  
888 First Street NE  
Washington, DC 20426

Dear Chairman Kelliher:

I am writing to express my concerns regarding the failure of the Federal Energy Regulatory Commission's (FERC) process to address the licensing of natural gas facilities in a manner that provides for an informed consideration of the basic question of whether liquefied natural gas (LNG) is needed in the Pacific Northwest Region.

As you are aware, there have been competing proposals to site and build liquefied natural gas processing plants and gas pipelines in various parts of Oregon.

While I am not unalterably opposed to the LNG resource being part of the Oregon energy mix, the failure of the permitting process to address whether there is sufficient demand and need for LNG in this region is a serious shortcoming of the FERC permitting process.

The Oregon Department of Energy analysis concludes that the market in the western United States may support, at most, one LNG facility of the size of the three facilities proposed in Oregon. Yet, all three different sites remain under active consideration by FERC. The proposals are requiring local governments and state (and federal) agencies to devote scarce resources from other pressing problems to evaluate projects that in all likelihood may never be built. FERC's own website states that:

"The market ultimately determines whether an approved LNG terminal is ever built. Even if an LNG terminal project receives all of the federal and state approvals, it still must meet complicated global issues surrounding financing, gas supply and market conditions. Many industry analysts predict that only 12 of the 40 LNG terminals being considered will ever be built."

The approach of approving far more facilities than will ever be built is unacceptable to me. The people of Oregon deserve better. Facilities like LNG terminals, which have the potential for significant environmental impact should only proceed if it is determined that natural gas is

needed and after a comprehensive review that determines both environmental and market objectives are met.

My request for a comprehensive review of the actual need of natural gas is underscored by the recent proposals for two new major pipelines from the Rocky Mountain natural gas fields to Oregon and California, the proposed Bronco and Ruby pipelines. While presenting their own issues regarding environmental impacts and routing, these two pipelines raise serious questions about the need and economic viability of any of the three Oregon LNG projects currently pending before FERC.

In addition, while I believe that LNG may be an appropriate bridge to a cleaner energy future, more information is needed about the carbon footprint of the proposed facilities.

Based on my concerns about lack of information on the need for LNG in the Pacific Northwest, concerns about localized impact on air and water quality, and no analysis of greenhouse gasses that may be released by specific sites in Oregon, I am taking the following actions:

- 1) I insist that FERC stop its review of the three LNG facilities proposed in Oregon until FERC conducts a comprehensive review of all alternatives for supplying natural gas to the region. This review must include a comparison of the LNG projects among themselves, the comparison of the Bronco and Ruby pipeline alternatives, and an evaluation of the market supply and need for these projects. I have also directed the Oregon Department of Energy (ODOE) to conduct an evaluation of this question and I ask that FERC consider ODOE's information as it completes its own evaluation.
- 2) I ask that FERC's review of alternatives must also include a comparison of the full environmental review of the life cycle carbon costs and emissions of LNG, compared to coal and to non-LNG sources of natural gas. This should include a programmatic review of the impacts of liquefying, shipping across thousands of ocean miles, and regasifying liquefied natural gas compared to extracting additional continental domestic gas, especially with the proposed new Bronco and Ruby pipelines to serve the same markets as the three proposed LNG facilities for Oregon. Natural gas has less than half the carbon dioxide emissions of coal, less than a third the emissions of petroleum, and far fewer particulates and other pollutants than coal or oil, however, in order to move forward we must have analysis of the specific sites. No review of any of the three individual LNG projects should proceed further until this carbon study is completed by FERC. Again, I have also asked ODOE to conduct its own assessment of the life-cycle carbon emissions of liquefied natural gas and I expect FERC to consider ODOE's analysis as part of FERC's review.

- 3) I have asked the Oregon Attorney General to examine whether Oregon's state agencies have the legal authority to refuse to grant authorizations for these facilities under state and federal law until FERC conducts the comprehensive review that is required and described in this letter. These authorizations include state approvals by the Department of State Lands for leasing state lands, as well as permits for the removal or fill of material from state waters; federal authorizations issued by the Department of Environmental Quality for air and water discharges; and the consistency determination by the Department of Land Conservation and Development under the federal Coastal Zone Management Act, among others.
- 4) Finally, I am requesting that the members of Oregon's Congressional Delegation work with other state delegations to introduce and enact legislation repealing Section 311 of the Energy Policy Act of 2005. That provision granted FERC exclusive authority to site LNG facilities, and preempted Oregon's centralized energy facility siting process. In fact, it stopped the state process which was underway on the Bradwood facility by ODOE and the Energy Facility Siting Council. That is a process which enjoys the confidence of Oregonians and which has dealt fairly with many proposals for power plants, transmission lines, pipelines and natural gas storage facilities in the past.

I have a growing concern that the Federal Energy Regulatory Commission's approach to the licensing of plants and pipelines has created a crisis of confidence with Oregonians. It is essential that FERC conduct a process for a regional review of alternative means of meeting future demands for natural gas that is fair to the citizens of Oregon and our neighboring states. In addition, Congress must restore to Oregon its rightful authority to ensure that any energy facility projects proposed for Oregon meet state environmental standards. These fundamental decisions directly affect our people. Oregonians expect nothing less, and I will settle for nothing less.

Sincerely,



THEODORE R. KULONGOSKI  
Governor

## **GHGRAC RECOMMENDATIONS AS MODIFIED AT THE 12/17/07 MEETING (Including comments received through January 4)**

(NOTE: The chapter and page numbers are placeholders since these recommendations will be moved to the front of the final workgroup report, as an executive summary.)

The Greenhouse Gas Reporting Advisory Committee (GHGRAC) recommended "casting a wide net" of reporters to get a better understanding of which sources emit greenhouse gases in Oregon and to provide context for future policy considerations. The GHGRAC recommended the following for the mandatory greenhouse gas reporting system for Oregon:

### 1) Reporting from Electric, Gas and Other Energy Sector Sources:

- For the mandatory greenhouse gas reporting system: the GHGRAC recommended that entities generating or supplying electricity would report as described in the electric utilities subcommittee report (Chapter V, pages 38-44 of this workgroup report). Natural gas utilities, interstate oil and natural gas pipelines, and propane and fuel oil distributors would also report their product sales and natural gas transport volumes, including transmission and other system losses.
- For the mandatory reporting system rules that Oregon Department of Environmental Quality (ODEQ) is developing for the Environmental Quality Commission's (EQC) consideration in 2008, the GHGRAC recommended the reporting of emissions from sources that are located in Oregon. This would include:
  - Investor-owned utilities (PacifiCorp and PGE) that report to consumers through the Public Utility Commission and the Oregon Department of Energy (ODOE);
  - In-state emission sources that are currently permitted under Title V or Air Contaminant Discharge Permits; and
  - In-state emission sources that are not currently permitted under Title V or Air Contaminant Discharge Permits and emit greenhouse gases (such as SF6 emissions from the electrical transmission and distribution system).

ODEQ should request that out-of-state emission sources that have emissions associated with retail electricity load sales in Oregon, consumer-owned utilities, and Idaho Power, report greenhouse gas emissions voluntarily, until ODEQ authority to mandate reporting from these sources is clarified.

### 2) Reporting from Sources that are not Energy Sector Sources:

- For the mandatory greenhouse gas reporting system for Oregon as well as the mandatory reporting system rules that ODEQ is developing for EQC consideration in 2008:
  - All sources that are permitted by ODEQ or LRAPA (Lane Regional Air Protection Agency) under Title V or Air Contaminant Discharge Permits would report. The inventory method would follow The Climate Registry protocols or other industry-appropriate protocols, as determined by rule or

guidance. Emissions that are currently considered "categorically insignificant" under OAR 340-200-0020(18) (or as may be modified for this rule) would not be required to be reported. Emissions that are considered "de minimus" under The Climate Registry draft protocols would be reported in accordance with The Climate Registry protocols.

- All sources that are permitted under other ODEQ statutes (such as landfills and wastewater treatment plants) would report if they are permitted by ODEQ or LRAPA under Title V or Air Contaminant Discharge Permits, or if ODEQ or LRAPA estimate that the greenhouse gas emissions may be more than 2500 metric tons of CO<sub>2</sub>E (not including categorically insignificant emissions).
  - All sources would report mobile emissions only on a voluntary basis
- 3) Greenhouse Gases. The GHGRAC recommended that all sources report all greenhouse gases in terms of carbon dioxide-equivalent (CO<sub>2</sub>E), so that all greenhouse gases would be included in the emissions report, in accordance with The Climate Registry protocols.
- 4) Emissions Accounting. The emissions accounting methodology would follow industry-appropriate protocols for Scope 1, Scope 2 and Scope 3 and report all emissions from operations associated with servicing the Oregon retail load. However, emissions accounting would include on-site or off-site mobile emissions on a voluntary basis only. Since reporting from multiple sources would result in double-reporting of some emissions, ODOE, ODEQ and LRAPA will need to avoid double-counting when compiling an Oregon statewide emissions inventory. Recognizing that this recommendation within mandatory reporting rules is different from The Climate Registry draft voluntary reporting protocols, DEQ should recommend to The Climate Registry that its protocols accommodate state mandatory reporting requirements where appropriate.
- 5) Mobile Source Emissions. The GHGRAC recognized the importance of capturing motor vehicle fleet information, but recognized the complexities of implementing mandatory reporting at this time, particularly for sources that are not currently required to report emissions to ODEQ and LRAPA. The GHGRAC recommended that, in addition to collecting comprehensive data on fuel consumption for inventory and benchmarking purposes, and collecting comprehensive vehicle miles traveled (VMT) and statewide vehicle data for mobile source modeling purposes, ODEQ convene a mobile source reporting task force in September 2008 to make recommendations regarding reporting rules for fleets and other mobile emissions sources, including an emissions threshold, and to make recommendations to the Legislature as needed. The GHGRAC encourages existing sources, including fleets, to report mobile source greenhouse gas emissions voluntarily.
- 6) Verification. The GHGRAC recommended relying on existing verification methods (e.g. self-certification with periodic inspections by ODEQ and LRAPA inspectors) for the Oregon Greenhouse Gas Mandatory Reporting System. The GHGRAC did not recommend third party verification for the reporting rules that DEQ is developing for

EQC consideration in 2008; instead, this issue would be reviewed when more is known about the design of a regional market-based multi-sector mechanism being developed by the Western Climate Initiative partnership.

- 7) Agriculture and Forestry. The GHGRAC recommended that the scope for the mandatory greenhouse gas reporting system for Oregon address agriculture and forestry in the future. The Committee did not recommend that these sources be required to report under the mandatory reporting rules that ODEQ is developing for EQC consideration in 2008 unless these sources have a Title V or Air Contaminant Discharge Permit. ODEQ and ODOE will discuss agricultural reporting with the Oregon Department of Agriculture (ODA), and discuss forestry reporting with the Oregon Department of Forestry (ODF). The GHGRAC recommended that ODEQ and ODOE ask ODA and ODF for existing additional data that would improve the top-down statewide emissions inventory for these categories of sources.
- 8) Data Submittal. The GHGRAC recommended submitting data to ODEQ and LRAPA rather than The Climate Registry, with an understanding that the data would be submitted in a format that could simply be passed-through to The Climate Registry. Sources would have an option to submit data directly to The Climate Registry if it also registers with ODEQ or LRAPA and the data can be disaggregated for the purposes of meeting Oregon's mandatory reporting rules. Data that is reported voluntarily may be submitted directly to The Climate Registry if this data is also available to ODEQ and LRAPA.
- 9) Initial Reporting Year. The GHGRAC recommended 2009 as the initial reporting year with initial reports due in 2010, to avoid retroactive reporting of emissions. The GHGRAC also recommended developing incentives to encourage early reporting.
- 10) Implementation Mechanism. The GHGRAC recommended that the mandatory reporting requirements be implemented without opening up existing permits until the next major modification or renewal.
- 11) Purpose. The GHGRAC recommendations for designing a mandatory greenhouse gas reporting system for Oregon are to help Oregon improve its understanding of greenhouse gas emissions and assist in future policy development, and not primarily for implementing a market-based multi-sector mechanism such as a load-based cap-and-trade program. The fact that sources are required to report greenhouse gas emissions does not necessarily imply that they should serve as a point of regulation for the purpose of implementing a regional market-based multi-sector mechanism or other emission reduction strategy. ODEQ will review the reporting rules when more is known about the design of a regional or national market-based mechanism and other emission reduction strategies.
- 12) Budget. The GHGRAC recommended that ODEQ and other implementing agencies seek adequate resources and legislative authority to carry out GHGRAC recommendations for a mandatory greenhouse gas reporting system for Oregon.



Because greenhouse gases are produced by all sectors of Oregon's economy, the Advisory Committee recommended that the legislature should consider general funds to support the program.

# News Release

For release: February 5, 2008

**Contacts:**

David Collier, DEQ Air Quality Division, Portland, (503) 229-5177  
Robert Elliott, Southwest Clean Air Agency, Vancouver (360) 574-3068

William Knight, DEQ Communications & Outreach, Portland,  
(503) 229-5680

## **New Date and Location Set for "Gorge Policy Day"**

***March 5 public meeting in Hood River will review DEQ & SWCAA draft strategy to address Gorge visibility***

**What:** The Oregon Department of Environmental Quality (DEQ) and Washington State's Southwest Clean Air Agency (SWCAA) will host a public meeting to receive comment on proposed strategies to improve visibility in the Columbia River Gorge Scenic Area.

The Agencies hope to come away with a solid understanding of what people think about the proposed approach. DEQ and SWCAA plan to present final recommendations to the Columbia River Gorge Commission at the April 8, 2008 Commission meeting.

**When:** Wednesday, March 5  
Gorge Policy Day Public Meetings - Two Sessions:  
1:30 p.m. – 4:30 p.m. (Strategy Review and Public Comment)  
6:00 p.m. – 9:00 p.m. (Strategy Review and Public Comment)

**Where:** Best Western Hood River Inn, Columbia Room  
1108 East Marina Way  
Hood River, OR 97031

**Background:** In May 2000, the Gorge Commission approved an amendment regarding air quality to the National Scenic Area Management Plan. The amendment language states that:

*"Air quality shall be protected and enhanced, consistent with the purposes of the Scenic Area Act. The States of*



State of Oregon  
Department of  
Environmental  
Quality

Communications &  
Outreach  
811 SW 6th Avenue  
Portland, OR 97204  
Phone: (503) 229-5696  
(800) 452-4011  
Fax: (503) 229-6762

*Oregon and Washington shall: (1) continue to monitor air pollution and visibility levels in the Gorge; (2) conduct an analysis of monitoring and emissions data to identify all sources, both inside and outside the Scenic Area that significantly contribute to air pollution. Based on this analysis, the States shall develop and implement a regional air quality strategy to carry out the purposes of the Scenic Area Act, with the U.S. Forest Service, the Southwest Air Pollution Control Authority [now the Southwest Clean Air Agency] and in consultation with affected stakeholders... ”*

On September 25, 2007, the Air Agencies held a “Gorge Science Day” workshop to discuss the findings of the 5-year technical study of visibility in the Columbia River Gorge Scenic Area. The monitoring, modeling, and source assessment work that were part of the technical study provide a good indication of the sources influencing Gorge visibility and provides a picture of what conditions will be like in the future. The main findings reported at the science workshop were:

- Visibility is improving or not degrading despite increases in population.
- Winter haze is dominated by sources east of the Gorge.
- Summer haze is dominated by sources west of the Gorge.
- A large portion of the emission sources responsible for haze come from natural sources or from sources located outside the region.
- There is no single dominant source that is responsible for haze in the Gorge.
- A collection of actions over time will be needed to make progress toward haze reduction.

At “Gorge Policy Day,” the draft Gorge Strategy report will be presented for public review and comment. The draft report chronicles the development and history of the project, presents the proposed strategies, summarizes the science used to determine the strategies, describes existing state and federal emission reduction strategies that will improve air quality regionally and benefit the Gorge,

and highlights new initiatives that will further improve visibility in the Gorge. The draft report also serves as the record of scientific investigation and actions taken to protect and enhance Gorge visibility.

**For More**

**Information:** To access reports and the latest information about the Columbia River Gorge Visibility Project please visit: [www.gorgeair.org](http://www.gorgeair.org)

## **The Environmental Quality Commission's Authority to Ban Materials from Consumer Products**

There does not appear to be any direct authority for the EQC/DEQ to ban the sale or use of items containing materials such as bisphenol A (BPA), phthalates, and polybrominated diphenyl ethers (or PBDEs, also known as flame retardants). To do so would require legislation similar to 468B.120 regarding phosphate cleaning agents, 466.510 regarding sale of PCBs, or 459.432 regarding certain batteries containing mercury.

However, the EQC does have authority to regulate wastes or discharges containing these materials. Under existing authorities, the Commission can designate wastes containing BPA, phthalates, and PBDEs as hazardous wastes (see OAR 340-101-0033, 340-101-0044 and OAR 340-135-0040), or provide rules for special management as solid waste.

Additionally, the EQC may have authority to prohibit the ambient discharge/emission of these chemicals by regulated entities under the various environmental regulatory statutes, meaning that the EQC could adopt rules disallowing BPA, phthalates, or PBDEs in air emissions or water discharges. An example where DEQ has used existing statutory authority to address chemicals in products is the imposition of limits on volatile organic compound (VOC) content in paints sold in the Portland metro area as a way to get the airshed into "attainment." BPA, phthalates, and PBDEs aren't considered air toxics, but it may be a useful model to consider.

On the question of product bans in Oregon in general, as noted above the Oregon Legislature gave the EQC the authority to enforce the phosphate detergent and PCB product bans that were adopted several years ago (1991 and 1980, respectively). Recent legislation like SB 737 adopted by the 2007 Legislature requires DEQ to prioritize and set action levels for Persistent Bioaccumulative Toxics (PBTs), but provides no authority for the EQC to regulate or control chemical use or distribution.

The Legislature has given authority to administer more recent product or chemical-specific bans or limitations to other agencies. For example, the Consumer and Business Services Department was given the authority to enforce the ban on mercury-containing novelty products and commercial thermostats, and the Department of Human Services is the designated enforcement authority for the octa- and penta-PBDE bans passed by the 2005 legislature (which also directed DHS to study the Deca form before taking action on it).

In fact, the Health Division of DHS has broad authority to regulate toxics subject to specific findings, including banning products, under ORS 453.001 et seq. and has already done so for PBDEs. It might be useful for the EQC to hear from Health Division representatives as to the Division's authorities and to brainstorm as to how DEQ/EQC might coordinate with DHS using existing authority to address threats from chemicals in products.

Beyond Oregon, several other states have banned one or more PBDEs, but to the knowledge of DEQ staff only CA has banned phthalates (the ban applies to specific types of consumer products that are a particular threat to children) and no state has banned BPA. Legislation is pending in several states that would ban one or more of these chemicals. Some states are considering broader approaches, such as banning chemicals from products aimed at a segment of the population (e.g. consumer products or children's toys), or establishing a framework for banning certain chemicals on a priority list (Massachusetts is considering legislation that would take the framework approach). Both of these approaches would allow for the later addition of other products or chemicals. DEQ staff are following developments in other states as their legislative sessions progress this spring.

(Information provided by Larry Edelman, David Livengood, and Kevin Masterson;  
compiled by Wendy Simons, 2/20/08)

**Director's Dialogue**  
**EQC Meeting February 21, 2008**

**Accounting Gold Star Award**

For the 16th year, the Department's accounting section has received the State Controller's Gold Star Certificate. This is awarded to agencies that provide the Department of Administrative Services accurate, complete and timely financial information at year end, enabling the preparation of Oregon's Comprehensive Annual Financial Report. It reflects the diligence required throughout the year to maintain accurate and complete accounting records and demonstrates a consistently high standard of work.

Additionally, the Department has recently successfully concluded the Division of Audits financial audit for the year ending June 30, 2007. As in prior years, there were no significant findings or control deficiencies noted.

**Oregon Department of Environmental Quality  
Report to the Legislature**



State of Oregon  
Department of  
Environmental  
Quality

# 19<sup>th</sup> Annual Environmental Cleanup Report

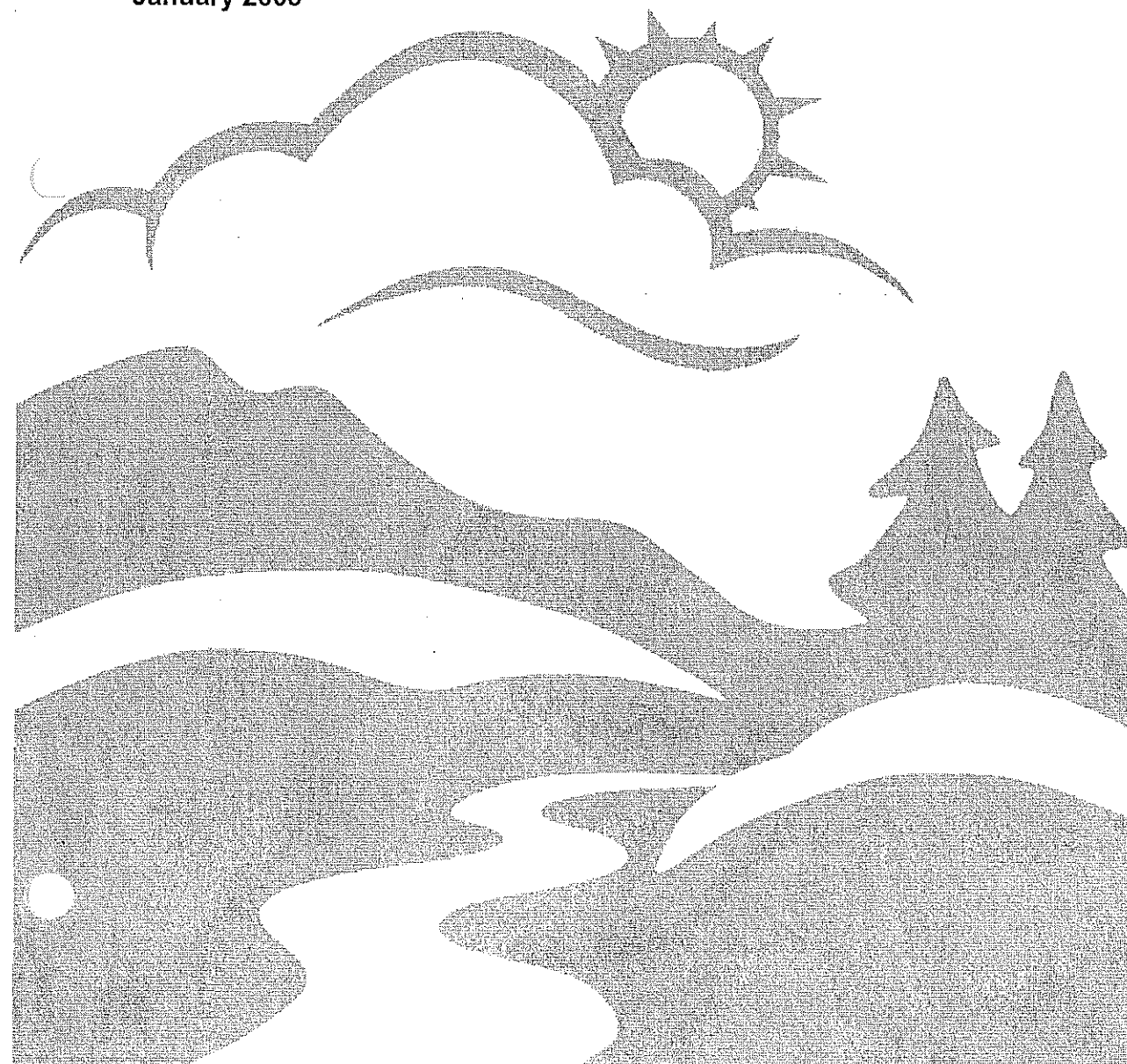
Submitted to:

Governor Ted Kulongoski  
Oregon Legislative Assembly  
Environmental Quality Commission

by

Dick Pedersen, Acting Director

January 2008





## Introduction

Oregon's environmental cleanup program:

- assists property owners and local communities in restoring properties to productive use through voluntary cleanup, brownfield redevelopment, and prospective purchaser agreements; and
- requires investigation and cleanup of sites that present significant risks to human health or to the environment.

The purpose of the Environmental Cleanup Report is to summarize major developments in the state's environmental cleanup program, identify accomplishments from fiscal year 2007, and forecast future activities. The Department of Environmental Quality (DEQ) is required by ORS 465.235 to prepare this report annually for the Legislature, the Governor, and the Environmental Quality Commission. Every fourth year, the report must also include an updated four-year plan.

The report includes:

- Statistics on environmental cleanup program activities in fiscal year 2007 and anticipated activities from fiscal year 2008 to fiscal year 2011;
- Descriptions of environmental cleanup program components; and
- A report on significant cleanup program budget shortfalls, and steps DEQ has taken to address the shortfalls.

## Highlights

In the past year, the state's cleanup program met or exceeded projections for the number of sites:

- Added to the database of suspected releases of contaminated sites (168 sites added);
- Preliminary assessments and equivalents completed (26);
- Removal actions completed (6);
- Remedial investigations completed (7);
- Feasibility studies completed (7);
- Records of decisions completed (11); and
- Remedial actions initiated (14).

As discussed in this report, we have also stabilized the cleanup program's funding shortfall.

## Preliminary Assessments

A Preliminary Assessment is an investigation of a site and its surrounding area. The history of a site is reviewed to determine whether any contamination is likely to be present. Certain characteristics of the surrounding area (land use and population, nearby streams, depth to groundwater, etc.) are also reviewed to determine the likelihood of any contamination migrating off-site. DEQ uses all of this information to determine the site's priority for further investigation and cleanup.

In FY 2007, DEQ or parties working with DEQ initiated Preliminary Assessments at 25 sites, and completed assessments at 26 sites. Because Preliminary Assessments generally take only a few months to complete, the majority of assessments started in FY 2007 were also completed in FY 2007.

## Remedial Investigations

A Remedial Investigation of a site involves extensive sampling to determine what contaminants are present, and their locations, concentrations, and migration patterns. The investigation also includes an assessment of risks the contamination poses to human health and the environment. DEQ reviews and approves the investigations. DEQ initiated four Remedial Investigations in FY 2007, and completed seven. Because Remedial Investigations often take more than a year to complete, investigations started and completed during a given fiscal year are generally not the same.

## Feasibility Studies

Feasibility Studies provide detailed comparisons of different methods to clean up a site. Because various approaches or technologies can be used, each is evaluated for effectiveness, protectiveness, and cost, among other criteria. A preferred option is then chosen and recommended as the final cleanup strategy. Six Feasibility Studies were initiated in FY 2007, and seven were completed. Because Feasibility Studies often take more than a year to complete, the studies started and completed during a given time period are generally not the same.

## Records of Decision

A Record of Decision is a final cleanup decision on a site issued by DEQ after taking public comment into consideration. The Record of Decision incorporates information from the Remedial Investigation and Feasibility Study to summarize the nature and extent of contamination at the site, risks posed by the contamination, and the

## Routes to Cleanup in Oregon

The Environmental Cleanup Program has many components to help owners and operators of contaminated property move through the investigation and cleanup process. A popular option is **Voluntary Cleanup**. Willing parties and their contractors essentially hire DEQ staff to oversee their projects, to ensure that their work meets all appropriate requirements. Parties can choose the standard Voluntary Cleanup approach or **Independent Cleanup**, depending on the complexity of the project and the amount of oversight they wish to receive.

DEQ also "discovers" contaminated properties through **Site Assessment**. DEQ learns about potential contamination from phoned-in complaints, unsolicited reports, and from other government agencies, in addition to conducting its own inquiries. Sites are evaluated and ranked according to their potential threats. Responsible parties are often encouraged to address their contamination through Voluntary Cleanup.

If a site is a high priority, however, it may not be prudent for DEQ to wait for responsible parties to take action. DEQ can require cleanups to be conducted through **Site Response**. Parties can also enter Site Response voluntarily if they want to conduct cleanup under a legally-enforceable order or judgment. If no responsible parties are able or willing to clean up a high-priority site, or if responsible parties are unknown, DEQ may designate the site as an **Orphan Site** and conduct the cleanup using funds from the Orphan Site Account. **Dry Cleaner** sites are also addressed through their own separate account.

Other types of cleanups are conducted under separate statutory authority. Hazardous material spills are cleaned up through **Emergency Response**. Releases of petroleum from regulated **Underground Storage Tanks (USTs)** are likewise addressed via the UST Program.

Environmental Cleanup Law. This cooperative process helps parties to move through the process efficiently, and to meet sometimes tight funding and redevelopment deadlines.

In 1999, DEQ added a second Voluntary Cleanup “pathway.” *Independent Cleanup* is a process by which parties complete their own investigations and cleanups with minimal DEQ oversight. If a party provides DEQ with 90 days’ notice, DEQ staff can arrange to review and approve a final cleanup report within 60 days after the report is submitted. This process allows parties to proceed at a pace that suits their needs. The Independent Cleanup option is available for low- to moderately-contaminated sites that exceed acceptable risk levels, but do not pose an imminent threat to human health or the environment.

There are approximately 413 active Voluntary Cleanup sites, with 316 sites following the traditional pathway, and about 97 in Independent Cleanup. Since 1991, Voluntary Cleanup has completed cleanups at 669 sites, far more than Site Response alone could have completed.

### **Cleanup Program Budget Shortfall and DEQ’s Response**

Two years ago, the environmental cleanup program dealt with a significant funding shortfall resulting from reduced revenue, increased expenditures and declining carryover funds from previous biennia. DEQ realized that, unless immediate steps were implemented to reduce spending in 2005 and 2006, the program would not have sufficient funds to pay for expenses beyond fiscal year 2006.

A significant contributing factor in the shortfall was the diversion of cleanup program funding to replace General Fund lost in the Emergency Response Program in 2003. The funds diverted from cleanup - waste disposal fees at the Arlington hazardous waste landfill and EPA grant funds are flat to declining. DEQ also believes the number of cost recovery projects and amount of cost recovery work is stable. Finally, EPA has indicated that grant funds are likely to decrease over time.

At the same time, personnel costs, including salaries and benefits, and other program costs have increased. Given declining program balances and program revenue, the program took steps necessary to reduce expenses, including reassigning staff to other DEQ programs and, in some cases, leaving positions vacant. Also during the 2007-09 biennium, we permanently reduced the number of staff by 6.67 FTE. This permanent reduction was in addition to reassigning, at least temporarily, approximately 10 FTE to other DEQ environmental program activities for a net program reduction of about 17 FTE or 25% of the total FTE formerly working on emergency response and environmental cleanup activities.

Fortunately, these steps appear to have stabilized our emergency response and environmental cleanup program budget. Of course, the transition necessarily implied a smaller program, resulting in some reductions in cleanup program services and activities, even as demand for brownfield project work, prospective purchaser agreements, federal Superfund project support, and Voluntary Cleanup program activity has remained strong.

Despite the FTE reductions outlined above, the DEQ intends to maintain a core program of services to support its highest priority activities: emergency response, site assessment, voluntary and independent cleanup, brownfield redevelopment, orphan site cleanup, and enforcement activities.

If you have questions or comments about this report, please contact Jeff Christensen, Cleanup and Emergency Response Program Manager at [christensen.jeff@deq.state.or.us](mailto:christensen.jeff@deq.state.or.us) or (503) 229-6391.

### **For More Information**

More information about specific cleanup projects and cleanup programs is available from the Environmental Cleanup section of DEQ’s web site, DEQ Online: <http://www.deq.state.or.us/lq/cu/index.htm>.

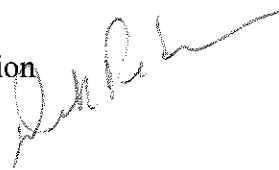
**4 Year Plan - Actions Projected to be Completed and Initiated:  
7/1/07 – 6/30/11**

Site actions	2007-2009 Biennium		2009-2011 Biennium	
	Initiated	Completed	Initiated	Completed
Suspected Releases Added to Database	NA	300	NA	275
Added to Confirmed Release List	NA	65	NA	50
Added to Inventory	NA	40	NA	35
Site Screenings	120	100	100	110
Preliminary Assessments & Equivalent	50	50	50	50
Removal Actions	15	12	15	12
Remedial Investigations	18	20	20	25
Feasibility Studies	12	12	13	12
Records of Decision	22	22	20	20
Remedial Actions	30	25	28	30
No Further Action Determinations	NA	160	NA	165

This four-year plan assumes stable funding over the next two biennia. Projections are based on: 1) the number of actions initiated and completed over the past four years; and 2) the effects of an approximately 25% FTE reduction in DEQ's Cleanup Program during 2005 and 2006. Voluntary Cleanup sites are both more numerous and (generally) simpler than Site Response sites, and so move through the investigation and cleanup process much faster. DEQ often makes No Further Action determinations during the site screening and preliminary assessment phase, and there are fewer removals, remedial investigations, etc. conducted at these sites.

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** February 4, 2008  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Acting Director   
**Subject:** Agenda Item F, Rule Adoption: Disclosure of the Relationship between Proposed Rules and Federal Requirements. February 21-22, 2008 EQC Meeting

**Why this is Important** The proposed amendments to rules within Division 11 will align them with statutory changes made by Senate Bill 107, Section 3 enacted by the 2007 legislature.

**Department Recommendation / EQC Motion** The Department of Environmental Quality (Department, DEQ) recommends that the Environmental Quality Commission (Commission, EQC) adopt the proposed amendments to OAR 340-011-0010 and -0029 (as presented in Attachment A).

**Background and Need for Rulemaking** This proposed rulemaking will only affect the Department's rulemaking procedure. Specifically, this rulemaking amends OAR 340-011-0029 to modify the Department's disclosure procedures and allows stakeholders subject to the Title V permit program an additional opportunity for a hearing before the EQC. OAR 340-011-0010 will be amended to include additional public noticing procedures required by OAR 340-011-0029(3).

The language in Section 3 of Senate Bill 107 affects three aspects of the Department's rulemaking process. SB 107: 1) modifies procedures for disclosing the relationship of proposed rules to federal requirements; 2) provides an opportunity for stakeholders to request a hearing before the EQC; and 3) requires minor changes related to notifying the public.

The changes required by SB 107 only apply to the Department's rulemaking related to the Title V air permit program (Title V of the federal Clean Air Act requires that each major industrial source of air pollution obtain and comply with an operating permit). However, given the program-wide nature of the existing disclosure and noticing procedures, the Department recommends that this portion of the new requirements be applied to all Department rulemaking. The proposed changes are intended to both streamline the format of the disclosure process and ensure the regulated community knows what alternatives were considered by the Department when proposing a rule that is "different from or in addition to" federal requirements.

SB 107 changes also afford individuals, associations and businesses the opportunity to request and participate in hearings before the EQC regarding

proposed changes within the Department's Title V permit program. These new hearings would be in addition to our current public comment practice. In this proposed rulemaking, the Department recommends the request for hearing apply only to rules related to the Title V permit program. Limiting this new procedure to rules related to Title V allows the Department to track the costs and benefits before deciding whether to propose expanding this procedure to other rulemaking.

It is important that these rule revisions are completed before the Department next revises Title V permit program rules (scheduled for mid-2008).

#### **Effect of Rule**

##### **Disclosure procedure:**

Every rulemaking effort by the Department requires disclosing the relationship between the proposed rule and any applicable federal requirements. The intent of this disclosure is to identify and justify when a proposed rule might be more "stringent" than federal regulations.

The Department has satisfied this disclosure requirement for all proposed rules by completing a lengthy form consisting of several questions. Collectively these questions explain why a proposed rule may result in requirements that differ from federal requirements.

The proposed amendments to OAR 340-011-0029(1)(a) (see Attachment A, page 2) remove Table 1 specifying the exact language to be included in the disclosure form and substitute a description of the type of information that the Department must disclose. This allows the Department to make changes to the disclosure form, when appropriate, without changing the rule itself. In addition to currently required information, the new disclosure will explain whether the proposed rule's intended action imposes requirements "different from, or in addition to" applicable federal requirements. The new rule language requires the Department to disclose:

- 1) If the intended action imposes requirements different from or in addition to federal requirements;
- 2) If yes, the reason(s) why the requirements are different from or in addition to federal requirements; and
- 3) Any alternatives considered and the reasons those alternatives were not pursued.

Most of the questions in the to-be-removed Table 1 are actually examples of reasons for differing from federal requirements and will be used where relevant to respond to question #2 above. The Department anticipates the new disclosure document and process will provide a better understanding of any proposed rule's relationship with applicable federal requirements without adding to the Department's workload.

**Opportunity for hearing before the EQC:**

The proposed revisions to OAR 340-011-0029(3) (see Attachment A, page 3) provide the criteria for granting a hearing before the EQC and only affect sources subject to the Title V permit program.

Such a hearing will be granted if the following criteria are met:

- a) the proposed rulemaking applies to a source subject to Title V permits;
- b) a request for a hearing is received by the Department within 14 days of public notice from 10 persons or an association with at least 10 members; and
- c) the request for a hearing describes how the persons are directly harmed by the proposed rulemaking.

These amendments will require the Department to schedule a hearing before the EQC if requested by stakeholders who feel they will be harmed by rules affecting sources subject to the Title V permit program. The Department or the EQC may schedule hearings before the EQC in other cases, but would not be required to do so by this rule. Once scheduled, a hearing would be open to all parties, whether they are directly harmed or not. This opportunity to request an additional hearing before the EQC is not available if the rulemaking already has a public hearing scheduled before the EQC.

**Noticing procedure during rulemaking:**

Revisions to OAR 340-011-0010 (see Attachment A, page 1) will modify the Department's procedure for notifying the public. These minor revisions are necessary to accommodate additional noticing requirements, when necessary, for those requested hearings granted before the EQC under OAR 340-011-0029.

**Commission Authority**

The Commission has authority to take this action under Oregon Revised Statutes 468.020 and 468A.025.

**Stakeholder Involvement**

The disclosure and public notice requirements of this rulemaking were developed during the legislative process for Senate Bill 107. Prior to the public comment period, the draft rules and a request for feedback were submitted to Associated Oregon Industries and the Northwest Environmental Defense Center. Neither office commented on the draft rules.

The Department did not solicit input from an Advisory Committee since this rulemaking is in response to legislative action and did not address any substantial policy issues.

**Public Comment**

A public comment period was open from September 14, 2007 through October 26, 2007. Evening public hearings were held in Bend, Eugene and Portland in mid-October. Two written comments were received from one person. Attachment B

Agenda Item F Rule Adoption: Disclosure of the Relationship between Proposed Rules and Federal Requirements.

February 21-22, 2007 EQC Meeting

Page 4 of 4

provides a summary of those comments and the Department's response.

**Key Issues**

OAR 340-011-0029(3)(c), based on SB 107, requires those requesting a hearing to describe how they are being "directly harmed" by the proposed rule. A commenter noted that it would be relatively easy for a facility permitted under the Title V program to describe how a rule will impact its operating costs, but it would be more difficult for the public to define that direct harm.

The Department notes that there are ample opportunities for all parties to comment on proposed rules, and that it is important to limit this new procedure to the conditions required by statute until any workload issues are better understood. Attachment B, page 2 provides a more detailed Department response to this issue.

**Next Steps**

If the EQC adopts the proposed rules, the Department will submit the rules to the Secretary of State to become effective by the end of February 2008.

Staff will be informed of the necessary changes in both rulemaking documents and procedures, including a review of upcoming Title V rulemaking efforts. The changes in rulemaking procedures will be reflected in the Department's rulemaking instructions. No additional resources will be needed to implement these changes.

**Attachments**

- A. 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 document
- E. Statement of Need and Fiscal and Economic Impact
- F. Land Use Evaluation Statement
- G. Section 3, Senate Bill 107

**Available Upon Request**

- 1. New Relationship to Federal Requirements (disclosure) form<sup>1</sup>
- 2. Proposed Rulemaking Announcement
- 3. Legal Notice of Hearing
- 4. Written Comment Received

Approved:

Section:

Division:



Report Prepared By: Larry McAllister  
Phone: 503 229-6412



## DIVISION 11

### RULES OF GENERAL APPLICABILITY AND ORGANIZATION

#### Rulemaking

**340-011-0010**

#### Notice of Rulemaking

(1) Notice of intention to adopt, amend, or repeal any rule(s) shall be in compliance with applicable state and federal laws and rules, including ORS Chapter 183, ORS 468A.327 and sections (2) and (3) of this rule.

(2) To the extent required by ORS Chapter 183 or ORS 468A.327, before adopting, amending or repealing any permanent rule, the Department will give notice of the rulemaking:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 14 days before ~~the a hearing regarding the rulemaking;~~

(b) By ~~mailing~~ providing a copy of the notice to persons on the Department's mailing lists established pursuant to ORS 183.335(78) ~~and~~, to the legislators specified in ORS 183.335(415), and to the persons or association that requested the hearing (if any):

(A) ~~a~~ At least 28-21 days before ~~the a hearing granted or otherwise scheduled pursuant to ORS 183.335(3) regarding the rulemaking; or~~

(B) At least 14 days before the hearing if a hearing before the Commission if is granted or otherwise scheduled under OAR 340-011-0029(3);

(c) In addition to the news media on the list referenced in (b), to other news media the Director may deem appropriate.

(3) In addition to meeting the requirements of ORS 183.335(1), the notice provided pursuant to section (1) of this rule shall contain the following:

(a) Where practicable and appropriate, a copy of the rule proposed to be adopted, amended or repealed with changes highlighted;

(b) Where the proposed rule is not set forth verbatim in the notice, a statement of the time, place, and manner in which a copy of the proposed rule may be obtained and a description of the subject and issues involved in sufficient detail to inform a person that ~~his interest~~ the person's interest may be affected;

(c) If a hearing has been granted or scheduled, whether the presiding officer will be the Commission, a member of the Commission, an employee of the Department, or an agent of the Commission;

(d) The manner in which persons not planning to attend the hearing may offer for the record written comments on the proposed rule.

Stat. Auth.: ORS 183 & ORS 468, 468A.327

Stats. Implemented: ORS 183.025 & ORS 183.335

Hist.: DEQ 69(Temp), f. & ef. 3-22-74; DEQ 72, f. 6-5-74, ef. 6-25-74; DEQ 122, f. & ef. 9-13-76 ; DEQ 1-2000(Temp), f. 2-15-00, cert. ef. 2-15-00 thru 7-31-00; DEQ 9-2000, f. & cert. ef. 7-21-00

### 340-011-0029

#### **Policy on Disclosure of the Relationship between Proposed Rules and Federal Requirements**

- (1) In order to clearly identify the relationship between the proposed adoption, amendment or repeal of rules and applicable federal requirements, and to facilitate consideration and rulemaking adoption by the Environmental Quality Commission, the Department, with assistance of advisory committees where appropriate, shall, to the extent practicable, must:
  - (a) Consider and develop a response to the questions set forth below in Table 1 during the rule development process. Prepare a statement of whether the intended action imposes requirements different from, or in addition to, any applicable federal requirements and, if so, a written explanation of:
    - (A) The public health, environmental, scientific, economic, technological, administrative or other reasons, as appropriate, for differing from or adding to applicable federal requirements; and
    - (B) Alternatives considered, if any, and the reasons that the alternatives were not pursued.
  - (b) Include the questions and responses statement in the notice of intended action pursuant to ORS 183.335(1) and any additional notice given information package distributed to the public prior to the a rulemaking hearing under pursuant to OAR 340-011-0010(2).
  - (c) Include the questions and responses statement in the final staff report presented to the EQC commission when rule adoption, amendment or repeal is recommended.
- (2) The statement prepared under section (1)(a) of this rule must be based upon information available to the Department at the time the statement is prepared.
- (3) An opportunity for an oral hearing before the eCommission regarding the statement prepared under section (1)(a) of this rule must be granted, and notice given in accordance with OAR 340-011-0010(2)(b)(B), if:

- (a) The rulemaking proposal applies to a source subject to the Oregon Title V Operating Permit Program Fees requirements under OAR 340 Division 21820;
- (b) The request for a hearing is received within 14 days after the notice of rulemaking intended action is issued under OAR 340-011-0010 ORS 183.335 8(1), from 10 persons or from an association having no fewer than 10 members;
- (c) The request describes how the persons or association that made the request will be directly harmed by the rulemaking proposal; and
- (d) The notice of rulemaking intended action under OAR 340-011-0010(3) ORS 183.335(1) does not indicate that an oral hearing will be held before the specify that the Ceommission will be presiding officer for at least one oral hearing.

(24) Nothing in this rule shall applyies to temporary rules adopted pursuant to OAR 340-011-0042.

(5) The Commission delegates to the Department the authority to prepare and issue any statement required under ORS 468A.327.

#### Table 1

### **QUESTIONS TO BE ANSWERED TO REVEAL POTENTIAL JUSTIFICATION FOR DIFFERING FROM FEDERAL REQUIREMENTS**

The following questions should be asked and clearly asked to the extent that they apply to the proposed rule, so that a decision regarding the stringency of a proposed rulemaking action can be supported and defended:

1. ~~Are there federal requirements that are applicable to this situation? If so, exactly what are they?~~
2. ~~Are the applicable federal requirements performance based, technology based, or both with the most stringent controlling?~~
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?~~
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?~~
5. ~~Is there a timing issue which might justify changing the time frame for implementation of federal requirements?~~
6. ~~Will the proposed requirement assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth?~~

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

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

~~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?~~

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

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

~~{NOTE: If a federal rule is relaxed, the same questions should be asked in arriving at a determination of whether to continue the existing more stringent state rule.}~~

Stat. Auth.: ORS 468.020, ORS 468A.327

Stats. Implemented: ORS 183.025 & ORS 183.335

Hist.: DEQ 28-1994, f. & cert. ef. 11-17-94

**Summary of Public Comments and Agency Responses**  
**Disclosure of the Relationship between Proposed Rules and Federal Requirements**

Prepared by: Larry McAllister

Date: October 29, 2007

**Comment period**

The public comment period opened September 14, 2007 and closed at 5 p.m. on October 26, 2007. DEQ held public hearings on:

- **October 16, 2007** at 7 p.m. at the state's Health and Human Services Building in **Bend, Oregon**. There were no participants at this hearing and no verbal or written comments were received.
- **October 17, 2007** at 7:30 p.m. at the Training Center Room of the Eugene Water and Electric Board in **Eugene, Oregon**. There were no participants at this hearing and no verbal or written comments were received.
- **October 22, 2007** at 7:30 p.m. in the EQC-A conference room of the DEQ Headquarters Building in **Portland, Oregon**. One person attended that hearing, but no verbal or written comments were received.

In addition to comment provided at the hearings, , DEQ did receive (by email) two written comments on this rulemaking.

**Organization of comments and responses**

Summaries of individual comments and the Department's responses are provided below. 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>	Public health concerns and the environmental impact of proposed rulemakings are sufficiently important and should be identified in OAR 340-011-0029(1)(a)(A) as additional considerations why a proposed rule might impose requirements different from or in addition to applicable federal requirements.
<b>DEQ Response</b>	<p>When the Environmental Quality Commission adopts a rule that differs from federal requirements, public health and environmental protection is often the reason.</p> <p>These factors fall within the meaning of the proposed rule, which merely provides examples of possible reasons for differing from federal requirements and is not an exclusive list.</p> <p>However, the Department agrees with the commenter that health and environmental protection should be called out specifically in the rule. Therefore, the Department has changed the proposed rule to include "public health" and "environment" in the list of reasons for differing from federal requirements.</p>

	<p>It is also important to note that the statutory requirement to disclose the reasons from differing from federal law does not in any way restrict the Commission's authority to be more stringent or otherwise differ from federal law.</p>
<p><b>Comment 2</b></p>	<p>As proposed, OAR 340-01-0029(3) provides an opportunity for oral hearings before the Environmental Quality Commission for certain persons or organizations who are able to describe how they will be directly harmed by the proposed rulemaking. This is a great opportunity for Oregonians.</p> <p>It would be relatively easy for a facility regulated by a DEQ Title V permit to show direct harm if a rule increased the facility's operating costs. It would be much more difficult for the public to show direct harm, even though health costs are often many times higher than the cost of facility controls. The proposed rule process creates a barrier to public involvement. DEQ should revise its proposed rule so that it conforms to established legal principles.</p>
<p><b>DEQ Response</b></p>	<p>As the commenter notes, SB 107 requires a hearing before the Commission upon request of parties who believe they are directly harmed by a proposed requirement for Title V sources that differs from a federal requirement. This is only one way in which the public can provide input to the Commission on a proposed rule, and in no way imposes a barrier on the public to demonstrate harm before commenting on a proposal.</p> <p>Normally, DEQ staff hold public hearings, and the hearings officer summarizes all comments in a report to the Commission. In addition, DEQ provides the Commission with all written comments received on a proposed rule. Still, in some cases, stakeholders desire to present directly to the Commission to underscore the importance of their written comments.</p> <p>One option is to comment during the public forum at each Commission meeting, but this can not be done once the public comment period has closed. Another option is for the Department to schedule a hearing on the proposal during a Commission meeting. Because this is a new process with unknown workload impacts, the proposed rule only <i>requires</i> a hearing before the Commission when the conditions of the statute are met. However, the Air Quality Division plans to schedule hearings before the Commission on a proposal whenever feasible and appropriate if significant public interest is anticipated or upon request of any stakeholders - whether representing the regulated community or the public.</p> <p>Once a hearing is scheduled, anyone may provide comments regardless of who requested that the hearing be held. The Department will reevaluate this process after the rule has been in effect - and its potential impacts are better understood - to determine if the minimum conditions for holding a hearing before the Commission should be expanded.</p>

**List of Commenters and Reference Numbers**

<b>Reference Number</b>	<b>Name</b>	<b>Organization</b>	<b>Address</b>	<b>Date on comments</b>
Comments# 1, #2	Donna Hippert, on behalf of:	Concerned Citizens for Clean Air, Northwest Environmental Defense Center, and the Oregon Toxics Alliance	10015 S.W. Terwilliger Blvd. Portland, Oregon 97219	October 26, 2007

**Presiding Officer's Report**

Date: October 29, 2007

To: Environmental Quality Commission  
From: Larry McAllister, DEQ  
Subject: Presiding Officer's Report for Rulemaking Hearing  
Title of Proposal: Disclosure of the Relationship between Proposed Rules and Federal Requirements

**Hearing #1**

Hearing Date and Time: **October 16, 2007, 7:00p.m.**  
Hearing Location: Health and Human Services Building, **Bend, Oregon**

The Department convened the rulemaking hearing on the proposal referenced above at 7:10 p.m. and closed it at 7:40 p.m. With the exception of the Presiding Officer, no other persons attended the hearing; no one testified; and no written comments were submitted at this hearing.

**Hearing #2**

Hearing Date and Time: **October 17, 2007, 7:30p.m.**  
Hearing Location: Eugene Water and Electric Board, **Eugene, Oregon**

The Department convened the rulemaking hearing on the proposal referenced above at 7:45 p.m. and closed it at 8:15 p.m. With the exception of the Presiding Officer, no other persons attended the hearing; no one testified; and no written comments were submitted at this hearing.

**Hearing #3**

Hearing Date and Time: **October 22, 2007, 7:30p.m.**  
Hearing Location: DEQ Headquarters, **Portland, Oregon**

The Department convened the rulemaking hearing on the proposal referenced above at 7:29 p.m. and closed it at 8:22 p.m. With the exception of the Presiding Officer, no other persons attended the hearing; no one testified; and no written comments were submitted at this hearing.



State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**Relationship to Federal Requirements**

RULE CAPTION

**Disclosure of the Relationship between Proposed Rules and 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).**

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

There are two major aspects to this proposed rulemaking. The first aspect will revise OAR 340-011-0029(1) and (2) to refine the process the Department of Environmental Quality (DEQ) uses and the information the agency discloses regarding the relationship between proposed rules and existing federal requirements for all future rulemakings. There are no specific federal requirements associated with this particular revision, but DEQ's disclosure process itself identifies such relationships between rules and any federal regulations when they exist.

The second aspect of this rulemaking is related specifically to DEQ's Title V Operating Permit Program, which is required by the federal Clean Air Act. Revisions to OAR 340-011-0029(3) will provide an opportunity for persons impacted by future rulemakings related to facilities with Title V operating permits to discuss those impacts in front of the Environmental Quality Commission.

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

The Title V Operating Permits program is primarily 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 federal requirements address issues of local concern. Compliance with Oregon's Title V permits is crucial to maintaining the state's air quality standards. It is expected that information that reasonably reflects local concerns be considered when establishing this federal permit program.

**4. Will the proposed requirement (rulemaking) 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?**

With respect to the Title V Operating Permits program, the regulated community consists of those businesses that are the major industrial sources for air pollution. The proposed rule revisions will, under certain circumstances, allow those impacted by rules related to Title V facilities to discuss those impacts before Oregon's Environmental Quality Commission. This additional access to the Commission and pursuant discussions will help clarify confusing or potentially conflicting requirements of the Title V program.

The revisions to DEQ's process of disclosure of each rule's relationship to federal requirements will provide a broader, more informative description and understanding of the need for state rulemaking as it relates to existing federal requirements.

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

No. The pertinent federal requirements have been in effect for several years.

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

Not Applicable

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

Yes, both aspects of the proposed rule revisions are intended to encourage transparency regarding how Oregon's rules relate to federal requirements and how Title V operating permits are developed and implemented across a range of industrial facilities.

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

Not Applicable. The proposed rule revisions are not associated with any issue of more or less stringency.

**9. Does the proposed requirement (rulemaking) 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. The revisions to OAR 340-011-0029 do not alter existing procedures, reporting or monitoring requirements within Oregon's Title V permit program.

If adopted, the proposed changes in both OAR 340-011-0010 and -0029 **will** alter DEQ's rulemaking procedures in response to the Oregon Legislature wanting to ensure additional opportunities for the Environmental Quality Commission to hear from Title V stakeholders. Those impacted by future rules related to the Title V program may have an additional opportunity to discuss such impacts before the Environmental Quality Commission.

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

Not Applicable

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

Indirectly. The proposed revisions to OAR 340-011-0029 are likely to encourage additional discussions between DEQ, the Environmental Quality Commission and persons associated with Title V facilities. The additional discussions may identify more cost-effective solutions to air pollution problems.

**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>Rule Caption</b>	<b>Disclosure of the Relationship between Proposed Rules and Federal Requirements</b>
<b>Title of Proposed Rulemaking:</b>	<b>Revisions to Division 11 Administrative rules in response to Senate Bill 107, Section 3</b>
<b>Stat. Authority or other Legal Authority:</b>	468.020, 468A.025
<b>Stat. Implemented:</b>	468A.315
<b>Need for the Rule(s)</b>	<p>The Oregon Department of Environmental Quality (DEQ) is revising two Oregon Administrative Rules (OARs) that direct DEQ's rulemaking procedures. These changes are necessary to comply with Section 3 of Senate Bill 107 that the 2007 legislature enacted.</p> <p>Revising OAR 340-011-0010 to accommodate new statutory requirements when notifying the public of actions to adopt, amend or repeal DEQ administrative rules.</p> <p>Revising OAR 340-011-0029(1) and (2) to reflect the new statutory requirements regarding DEQ's disclosure of the relationship between proposed administrative rules and applicable federal requirements.</p> <p>Revising OAR 340-011-0029(3) to ensure that those impacted by DEQ rules related to facilities regulated by Title V permits have an opportunity (as now required by law) to discuss those impacts before the Environmental Quality Commission (EQC).</p>
<b>Documents Relied Upon for Rulemaking</b>	<ul style="list-style-type: none"> <li>• Senate Bill 107 Section 3, enrolled</li> <li>• Oregon Revised Statutes (ORS) 468A.315</li> <li>• OAR Chapter 340, Div 11</li> </ul> <p>These documents are all available and can be reviewed at the DEQ Headquarters office by contacting Larry McAllister at 1-(800) 452-4011 ext. 6412.</p>
<b>Requests for Other Options</b>	<b>ORS 183.335(2)(b)(G) requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.</b>
<b>Fiscal and Economic Impact, Statement of Cost Compliance</b>	
<b>Overview</b>	<p>Adapting Division 11 rules to reflect the requirements of Senate Bill 107 Section 3 will primarily result in procedural changes for DEQ. If adopted, OAR 340-011-0010 will require additional procedures when "noticing" the public of rulemakings.</p> <p>OAR 340-011-0029 contains both minor procedural changes and the probability of increased workload in support of additional EQC hearings that would be available through Senate Bill 107, Section 3. By preparing for and participating in hearings before the EQC, persons or</p>

	<p>associations involved in these hearings (those impacted by rules affecting facilities permitted through DEQ's Title V permit program) will incur additional expenses. Neither DEQ, nor other participants at these EQC hearings are expected to incur significant expenses.</p>	
<b>General public</b>	<p>If adopted, neither OAR 340-011-0010 or OAR 340-011-0029(1) and (2) are expected to fiscally impact the general public. The specific revisions to these rules only affect DEQ procedures.</p> <p>OAR 340-011-0029(3), if adopted, will provide an opportunity for the general public to request or attend public hearings before the EQC based on related impacts due to rulemakings associated with DEQ's Title V air quality permit program. Participation at these meetings and any financial impact due to preparing for and attending these hearings is optional.</p>	
<b>Small Business</b> (50 or fewer employees – ORS183.310(10))	a) Estimated number and types of businesses impacted	<p>There are 122 Title V permit holders. Of those, DEQ estimates that 18 are small businesses with 50 or fewer employees. These include such sectors as plastic, pulp and paper, wood products and metal manufacturing.</p>
	b) Additional reporting requirements	<p>These proposed rules require no additional reporting requirements.</p>
	c) Additional equipment and administration requirements	<p>Small businesses have the opportunity to request a hearing before the EQC. Preparing and presenting to the EQC would require additional financial and labor resources. It is difficult to estimate such a cost for a small business, but it is likely to be insignificant, and it is optional.</p>
	d) Describe how businesses were involved in development of this rulemaking	<p>Associated Oregon Industries worked closely with DEQ during the development of Senate Bill 107, Section 3.</p>
<b>Large Business</b>	<p>Oregon's large businesses are the most likely group to be impacted by this rulemaking. Section 3 of Senate Bill 107 requires DEQ to establish specific procedures to its rules affecting Title V operating permits. Title V of the federal Clean Air Act requires that each major industrial source of air pollution obtain and comply with an operating permit. OAR 340-011-0029 revisions will ensure that those businesses impacted by DEQ rules related to facilities regulated by Title V permits, have an opportunity to discuss those impacts before the EQC.</p> <p>A business' efforts to identify their impact resulting from a Title V rulemaking, the request for a hearing before the EQC, labor and other expenses preparing for the hearing, and the resources required to attend and participate in such a hearing are possible adverse fiscal impacts to businesses from this rule revision. Yet, as a result of a hearing, a business may avoid costs that would have occurred otherwise. Finally the opportunity for business' to participate at these hearings is discretionary. It is impossible to estimate the adverse or beneficial fiscal impacts that may result from businesses having access to additional EQC hearings.</p>	

<b>Local Government</b>	These proposed rule revisions will unlikely impact local governments. If a local government is a Title V permittee, the opportunity may exist for that local government to request a hearing before the EQC. It is not possible to estimate either the adverse or beneficial financial impact of a local government participating at such a hearing.
<b>State Agencies</b>	These rule revisions are unlikely to have any fiscal impact on other state agencies.
<b>DEQ</b>	<p>OAR 340-011-0010 changes will require additional tasks and procedures within DEQ's rulemaking process. For some rulemakings, these additional procedures will involve notifying additional parties by mail or email. These tasks will not fiscally impact DEQ operations.</p> <p>The proposed changes in OAR 340-011-0029(1) and (2) related to disclosure of each rule's relationship to federal requirements are likely to be fiscally neutral. Although substantially changed by this rulemaking, the rulemaking disclosure form is expected to take the same amount of staff time to complete.</p> <p>The proposed changes to OAR 340-011-0029(3) will have some fiscal impact upon DEQ. These revisions, if adopted will allow those impacted by rules related to facilities permitted through DEQ's Title V program to request hearings before the EQC. Preparing for and participating in these hearings will require DEQ staff time. The level of fiscal impact will depend on how frequent the requests for such hearings are and the complexity of the issue. DEQ anticipates routinely scheduling hearings before the EQC for controversial Title V - related rules to prevent the need to re-schedule additional hearings for such rulemakings. Although these additional hearings will impact DEQ, it is likely the fiscal impact will be insignificant.</p>
<b>Other agencies</b>	The statute revisions and resulting changes in administrative rules will likely impact DEQ only.
<b>Assumptions</b>	The proposed amendments to Division 11 are procedural, and will have limited fiscal impact other than the effects listed above for businesses and DEQ.
<b>Housing Costs</b>	DEQ 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>	DEQ did not use an Advisory Committee. Since this rulemaking is in response to legislative action and did not address any policy issues, there were no issues needing solutions that justified establishing an Advisory Committee.

Prepared by \_\_\_\_\_

Printed name \_\_\_\_\_

Date \_\_\_\_\_

Approved by DEQ Budget Office \_\_\_\_\_

Printed name \_\_\_\_\_

Date \_\_\_\_\_

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

## Land Use Evaluation Statement

Rulemaking Proposal  
for

### **Disclosure of the Relationship between Proposed Rules and Federal Requirements**

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

The Department of Environmental Quality (DEQ) is revising two administrative rules to reflect new statutory requirements due to the passage of Senate Bill 107, Section 3 during the 2007 legislature. The law now requires DEQ to establish specific procedures related to its rules affecting Title V operating permits; Title V of the federal Clean Air Act requires that each major industrial source of air pollution obtain and comply with an operating permit. DEQ is revising OAR 340-011-0029 to ensure that those impacted by DEQ rules related to facilities regulated by Title V permits have an opportunity to discuss those impacts before the Environmental Quality Commission.

DEQ is also revising OAR 340-011-0029 to reflect the new requirements regarding DEQ disclosure of the relationship between any proposed administrative rules and applicable federal requirements. Through this rulemaking, DEQ is replacing the form it uses to describe the relationship between its rules and federal requirements. The form, currently in rule, will be updated to reflect the language in Senate Bill 107, Section 3 and will be removed from rule. The resulting disclosure will provide a broader, more informative description of a rule's relationship to federal requirements.

Although intended to address only those rules associated with DEQ's Title V permit program, DEQ will apply these new disclosure requirements to all future DEQ rulemakings.

Finally, DEQ is revising OAR 340-011-0010 to accommodate new requirements whenever DEQ notices the public of intent to adopt, amend or repeal its administrative rules.

**2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?**

Yes X No

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

The proposed rules indirectly affect the Title V Operating Permit program.

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

Yes X No (if no, explain):

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

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



### **Senate Bill 107, SECTION 3**

- (1) Prior to the adoption, amendment or repeal of any rule pursuant to ORS chapter 183 that applies to any facility required to pay fees under ORS 468A.315, the Environmental Quality Commission shall include with the notice of intended action required under ORS 183.335 (1) a statement of whether the intended action imposes requirements in addition to the applicable federal requirements and, if so, shall include a written explanation of:
  - (a) The commission's scientific, economic, technological, administrative or other reasons for exceeding applicable federal requirements; and
  - (b) Any alternatives the commission considered and the reasons that the alternatives were not pursued.
- (2) The statement provided by the commission under subsection (1) of this section shall be based upon information available to the commission at the time the commission prepares the written explanation.
- (3) Notwithstanding ORS 183.335 (3), an opportunity for an oral hearing before the commission regarding the statement specified in subsections (1) and (2) of this section shall be granted only if:
  - (a) The request for a hearing is received, within 14 days after the commission issues the notice of intended action required under ORS 183.335 (1), from 10 persons or from an association having no fewer than 10 members; and
  - (b) The request describes how the persons or association that made the request will be directly harmed by the adoption, amendment or repeal of a rule under subsection (1) of this section.
- (4) If an oral hearing is granted under subsection (3) of this section, the commission shall give notice of the hearing at least 14 days before the hearing to the persons or association requesting the hearing, to any persons who have requested notice pursuant to ORS 183.335 (8) and to the persons specified in ORS 183.335 (15).
- (5) Subsection (3) of this section does not apply if the commission includes with the notice of intended action required under ORS 183.335 (1) a notice that an oral hearing will be held before the commission.
- (6) The provisions of this section do not apply to temporary rules adopted by the commission under ORS 183.335 (5).

# Current Version

Included for EQC information only. Not intended for adoption by EQC

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

## Relationship to Federal Requirements

### RULE CAPTION

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~~Not more than 15 words that reasonably identify the subject matter of the agency's intended action.~~

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).

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

\*\*\*

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

\*\*\*

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?

\*\*\*

4. Will the proposed requirement (rulemaking) 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?

\*\*\*

## Current Version

Included for EQC information only. Not intended for adoption by EQC

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

\*\*\*

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

\*\*\*

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

\*\*\*

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

\*\*\*

**9. Does the proposed requirement (rulemaking) 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?**

\*\*\*

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

\*\*\*

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

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# Proposed Version

Included for EQC information only. Not intended for adoption by the EQC

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

## Relationship to Federal Requirements

### RULE CAPTION

*Not more than 15 words that reasonably identify the subject matter of the agency's intended action. Please delete these instructions and highlighting when finished.*

*Answers to the following questions identify how the proposed rulemaking relates to federal requirements and potential justification for differing from, or adding to, federal requirements. This statement is required by OAR 340-011-0029(1).*

**1. Is the proposed rulemaking different from, or in addition to, applicable federal requirements? If so, what are the differences or additions?**

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**2. If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).**

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**3. If the proposal differs from, or is in addition to, applicable federal requirements, did the Department consider alternatives to the difference or addition? If so, describe the alternatives and the reason(s) they were not pursued.**

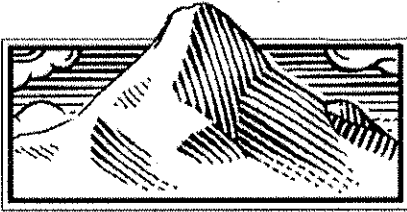
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# Please Sign In

Environmental Quality Commission Meeting  
Portland, Oregon February 21 & 22, 2008

Name	Organization	Phone
Scott Stockton	Clackamas County WES	503 557-2818
Karyn Jones	GASeta / <sup>weapons</sup> & Chen working group	541-567-6579
Larry Henry	PacWest	503 685-9700
Larry McAlister	DEQ	229 6412
Marilyn Fonseca	DEQ	229 6809
David Monk	OIA	541-520-9572
Andree Pollock	DEU	503 229 5769
Mitch Scheel	DEQ	503.229.6704
Dona Hippert	Self	(503)244.3415
Kim Cox	City of Portland	503 9235313
Regina Crichizola	Klamath Riverkeeper	541 951 0126
Brett VandentHeurel	Columbia Riverkeeper	503 224 3240
Lauren Goldberg	NEEDC	847-609-1232
Kathryn Van Matk	NWPPA	503-844-9540
Andrew O'Brien	DEQ	
Steve Alderolf	DEQ	503-229-6345
Gregg Dohmen	DEQ	503-229-5108
Liz Adatto	OBA	(503) 641-0990

Handout from Lauren Goldberg,  
Public Forum 2/21/08



The Environmental Legal Clinic  
of Lewis & Clark Law School

Pacific  
Environmental  
Advocacy  
Center

10015 S.W. Terwilliger Boulevard  
Portland, Oregon 97219  
phone: 503-768-6929  
fax: 503-768-6642

abaldwin@lclark.edu  
www.peaclaw.org

February 21, 2008

Lynn Hampton, Chair  
Environmental Quality Commission  
811 SW Sixth Avenue  
Portland, OR 97204

RE: Comments on DEQ's Regional Haze Rule/BART Process

Dear Chair Hampton and members of the commission,

On behalf of the Northwest Environmental Defense Center ("NEDC"), Sierra Club, Friends of the Columbia Gorge, Columbia Riverkeeper, and Hells Canyon Preservation Council (collectively, "Commenters"), the Pacific Environmental Advocacy Center ("PEAC") is writing to provide feedback and information to the Environmental Quality Commission ("EQC") about the Department of Environmental Quality's ("DEQ") ongoing efforts to develop a regional haze rule and evaluate the best available retrofit technology ("BART") for major sources of visibility impairing pollution in Oregon. The regional haze process is very important for Oregon's air quality because it is the first opportunity DEQ has taken to address nitrogen oxides (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>) and particulate matter (PM) pollution from large industrial sources that have never undergone new source review pursuant to the Clean Air Act.

While DEQ has not yet proposed a regional haze rule, nor established the required controls and emission limits for the sources subject to BART in Oregon, we are writing to provide feedback on issues that have already been decided and encourage the EQC to take an early interest in this process. The decisions DEQ has already made on several key issues will impact DEQ's ability to demonstrate reasonable progress toward the national visibility goals and the validity of all BART determinations. Moreover, these key policy choices fundamentally shape subsequent decisions DEQ must make in developing the ultimate regional haze rule. Thus, the EQC should be aware of those decisions going forward. We hope that these comments represent the beginning of a conversation between the EQC, DEQ and the public to help DEQ design a rule that will protect and improve visibility in Oregon's most well-loved and majestic wild places. As explained in detail below, the DEQ rulemaking process has been ongoing for several years, and a draft rule is not anticipated for many months. Therefore, we think it is important for the EQC to ensure that the public has ample opportunity to receive answers to questions and provide feedback and information to the agency while the public's views can still be incorporated into any eventual draft rule.

## I. Background

### A. Regional Haze and Federal Requirements

The particulate matter that impairs a viewer's ability to see long distances and obscures colors and geological features is called "regional haze." Regional haze is a product of particles in the atmosphere that are emitted from natural processes (sea salt, for example), and manmade sources. The major types of manmade pollution generating regional haze include particulate matter, nitrogen oxides ("NO<sub>x</sub>"), sulfur oxides ("SO<sub>x</sub>"), volatile organic compounds ("VOCs"), and ammonia ("NH<sub>3</sub>"). Data from national parks and wilderness areas show that visibility impairment caused by air pollution occurs virtually all the time. 64 Fed. Reg. 35,714, 35,715 (July 1, 1999). In fact, in the Western United States, manmade haze has reduced visibility from a natural 140 miles down to 35-90 miles. [http://oregondeq.com/aq/factsheets/06-AQ-009\\_regionalhaze.pdf](http://oregondeq.com/aq/factsheets/06-AQ-009_regionalhaze.pdf). This reduced visibility equates to a deciview<sup>1</sup> reduction of approximately 13.6-9.6 in the West.<sup>2</sup> Congress was so concerned about visibility reduction in our Nation's special places that it used the Clean Air Act to impose a program to ameliorate and prevent visibility impairing pollution. Pub. L. No. 95-95, 91 Stat. 685, 742-45 (1977) (codified as 42 U.S.C. § 7491). In so doing, Congress specifically recognized that visibility impairment is caused by fine particle pollution from "inadequately controlled sources." H.R. Rep. No. 95-294 at 204 (1977). The goal of the visibility protection program is to prevent future, and remedy existing, visibility impairment in 156 federally protected parks and wilderness areas from manmade air pollution. 42 U.S.C. § 7491(a)(1).

Like many other programs under the Clean Air Act, the visibility protection program is a "cooperative federalism scheme," meaning that EPA sets a national floor for regulation and allows states to develop and administer programs that are at least as stringent as the national floor. Thus, the visibility protection program requires each state that contains listed federally protected parks and wilderness areas, or which produces pollution that may reasonably be anticipated to cause visibility impairment in those areas, to develop and submit revisions to their State Implementation Plan ("SIP"). These SIP revisions must contain emission limits, compliance schedules, and a long-term strategy for making reasonable progress toward meeting the national goal of preventing and remedying impairment of visibility in federally protected parks and wilderness areas. 42 U.S.C. § 7491(b)(2). EPA's rules likewise require states to establish long-term strategies that provide for a rate of improvement in visibility conditions to

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<sup>1</sup> The deciview is an atmospheric haze index that expresses changes in visibility. This visibility metric expresses uniform changes in haziness in terms of common increments across the entire range of visibility conditions, from pristine to extremely hazy conditions. Because each unit change in deciview represents a common change in perception, the deciview scale is like the decibel scale for sound. Higher deciview values indicate greater levels of visibility impairment. 64 Fed. Reg. at 35,725.

<sup>2</sup> In addition to impairing visibility, sulfates, nitrates, and particulate matter can also cause serious health effects and mortality in humans. Evidence also shows that these pollutants contribute to environmental harms such as acid deposition and eutrophication. 64 Fed. Reg. at 35,715.

attain natural visibility conditions<sup>3</sup> by 2064. 40 C.F.R. § 51.308(d)(1)(i)(B). States must also develop strategies to improve visibility on the haziest days (the worst 20%), and maintain visibility on the clearest days (the best 20%).<sup>4</sup> 40 C.F.R. § 308(d)(1).

The SIP revision must also incorporate best available retrofit technology (“BART”) emission limits for controlling emissions from major stationary sources put into operation between August 1962 and August 1977 that “may reasonably be anticipated to cause or contribute to any impairment of visibility in any [federally protected park or wilderness area].” 42 U.S.C. § 7491(b)(2)(A) (emphasis added). Though there are many sources of visibility impairing pollution, Congress specified 26 source categories of these sources that it intended to regulate through the Clean Air Act’s visibility protection program. Examples of the 26 are fossil-fuel fired steam electric plants (such as coal-fired electric generating units) and kraft pulp mills. 42 U.S.C. § 7491(g)(7). In the regional haze context, a “major stationary source” is one of these 26 source types with the potential to emit 250 tons or more of any pollutant. 42 U.S.C. § 7491(g)(7). BART emission limitations take into consideration the following factors: the technology available, the costs of compliance, the energy and non-air environmental impacts of compliance, any pollution control equipment in use at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated from the use of such technology. 42 U.S.C. 7491(g)(2); 40 C.F.R. § 51.308(e)(1)(ii)(A). EPA has developed guidelines for states in determining BART emission limits. 40 C.F.R. Part 51, App. Y.

## **B. The Regional Haze Rulemaking and BART Determinations in Oregon**

Under federal regulations, states were required to submit their regional haze SIP revisions by December 17, 2007. 40 C.F.R. § 51.308(b). In December 2006, DEQ released a draft regional haze plan. The draft plan contained strategies and elements intended to meet the requirements of the federal regional haze rule. According to the draft plan, DEQ planned to release its final regional haze program, including BART determinations for sources subject to BART, in December 2007. DEQ has not yet proposed a final plan, and now anticipates that it will release a rule for public comment in late summer 2008.

In May 2006, DEQ determined what sources would be “BART-eligible” in Oregon, and identified twenty-six facilities. The list was reduced to ten for a variety of reasons. In September 2006, DEQ began performing its “exemption” modeling to determine which of the remaining ten facilities made a “significant contribution” to the haze in federally protected parks and wilderness areas. In October 2006, Oregon, along with Washington and Idaho, finalized a common protocol for completing this “exemption” modeling. In early 2007, DEQ completed the preliminary modeling, and engaged in an iterative process with the ten sources to update and

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<sup>3</sup> The Regional Haze Rule defines natural visibility to be the absence of visibility impairment due to human-caused emissions. 64 Fed. Reg. at 35,730.

<sup>4</sup> The Regional Haze Rule defines the baseline visibility condition as the average degree of visibility impairment for the most and least impaired days for each calendar year from 2000 to 2004. 40 C.F.R. 51.308(d)(2)(i).



refine the modeling. DEQ applied a “significance” test to determine whether sources were “subject to BART.” Under the test, if the facility had modeled impacts of over 0.5 deciviews on the 8<sup>th</sup> highest day of contribution in a year or the 22<sup>nd</sup> highest day of contribution in a three-year period, it was “subject to BART.” For some sources, including PGE Boardman, the fact that the facility caused visibility impairment in federally protected parks and wilderness areas was made quite clear by the modeling. Boardman contributed over ten times the “significant” contribution level, or over 5 deciviews. For other sources, modeled impacts were lower. DEQ provided a list of sources potentially subject to BART and their deciview contributions to the public at a June 2007 “BART Workshop” attended by members of the public, including Commenters, and industry representatives. In addition to PGE Boardman, these sources are the Fort James Wauna mill (1.54 deciview impact), PGE Beaver (0.84 deciview impact), Boise Paper mill (0.51 deciview impact), Pope and Talbot mill (0.80 deciview impact), Weyerhaeuser (1.46 deciview impact), and Amalgamated Sugar (0.59 deciview impact).

DEQ apparently held a “training session” for BART sources in April 2007. Members of the public were expressly excluded from attending that meeting, and were not allowed to participate, even as observers. At some point, DEQ decided to offer sources other than Boardman the option of “permitting out” of BART. That is, DEQ is allowing sources to “opt” to take a permit limit to lower their emissions below the point at which modeling runs demonstrate a contribution to visibility impairment less than the 0.5 deciview “significance” threshold. Thus, the only source undergoing a BART control determination thus far in Oregon is PGE Boardman. DEQ’s decision to allow sources the option of “permitting out” of BART has not been the subject of public comment thus far.

In a letter to DEQ in July 2007, Mark Riskedahl, Executive Director of NEDC, asked a series of questions and made some recommendations to DEQ related to the BART process in Oregon. *See* July 3, 2007 letter from Mark Riskedahl to Andy Ginsburg (attached). In that letter, NEDC requested that DEQ perform additional data gathering, including for smaller sources that might have a cumulatively “significant” impact on visibility, and modeling runs at different “significance thresholds.” DEQ responded to some of NEDC’s comments and requests, but not others. *See* August 9, 2007 letter from David Collier to Mark Riskedahl (attached).

On November 5, 2007, PGE hand delivered its BART-determination analysis to Oregon DEQ. DEQ hired an outside consultant to help the agency evaluate PGE’s submission, and Commenters have also retained a nationally recognized expert in combustion engineering to review that submission. PGE, DEQ, and Commenters have been exchanging information and questions about PGE’s BART-determination through meetings and correspondence. We appreciate DEQ’s inclusive approach in evaluating PGE’s BART analysis thus far, and we are hopeful that the open process currently being pursued will result in an appropriate and legally defensible BART determination for that single facility.<sup>5</sup>

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<sup>5</sup> Commenters are deeply concerned about the technical validity and scope of the BART-determination analysis for the Boardman plant submitted by Black & Veatch on behalf of PGE. Critical evaluation of the analysis is ongoing by both DEQ and Commenters.

Commenters understand that DEQ plans to continue to work on its draft rule, including permits for those facilities that plan to “permit out” of BART, throughout the spring and summer. DEQ plans to hold several consultant summits to further review and discuss PGE’s BART proposal with PGE, EQC members and key stakeholders. DEQ also plans to convene several Fiscal Advisory Committee Meetings, undertake consultations with Oregon and federal agencies and the tribes, and hold at least one public meeting. The rule will then be presented to EQC for hearing and decision.

## **II. Concerns About DEQ’s Initial Decision Making Process**

As outlined above, DEQ has already made significant decisions that necessarily determine the contours of any final rule. Those decisions have not been the subject of public comment and review, and DEQ has not responded to NEDC’s requests for more information about some of these issues. Again, we feel that DEQ’s efforts with regard to the PGE Boardman plant are appropriate and will reap real benefits for the environment and ensure a smooth eventual rulemaking process. We would like to see DEQ incorporate the same type of collaborative process with regard to the decisions that have already been made in determining which sources in Oregon are subject to BART, and any future permitting decisions. As of today, NEDC has not received the information requested from DEQ to allow it to make any meaningful comments or provide input on these issues. Therefore, Commenters are simply flagging the following issues for further development and conversations with the agency. While we recognize that the public may be able to comment on these issues when the rule is eventually released for public comment, we would like to provide input before the final rule is developed and submitted, so that our comments may be considered at a time when the agency is still making important decisions. Based on Commenters’ past experience, once important foundational decisions are made and draft rules are developed, our input often fails to result in meaningful change.

### **A. DEQ Should Subject All BART Eligible Sources in Oregon to a BART Analysis.**

Oregon has sufficient authority under the Clean Air Act and EPA’s implementing regulations to conclude that each source in the state that otherwise qualifies as BART eligible<sup>6</sup>, “emits any pollutants which may reasonably be anticipated to cause or contribute to any visibility impairment” in a federally protected park or wilderness area. *See* 42 U.S.C. § 7491; 70 Fed. Reg. 39104, 39107 (July 6, 2005) (stating “States certainly have the discretion to consider that all BART-eligible sources within the state are “reasonably anticipated to cause or contribute” to some degree of visibility impairment in a Class I area”). That is, DEQ has ample authority to conclude as a legal matter that all BART eligible sources are “subject to” BART.

Considering each BART-eligible source as “subject-to” BART is both protective of the federally designated parks and wilderness areas in the Pacific Northwest, and also avoids any

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<sup>6</sup> As discussed above, a BART eligible source is one of the 26 source types that has the potential to emit 250 tons per year of a visibility impairing pollutant and entered service between 1962 and 1977.

perceived inequity toward BART-eligible sources whose contribution to visibility impairment may be lower than some other sources. The BART determination would allow a case-by-case inquiry into and consideration of an individual source's contribution to visibility impairment when deciding which controls, if any, should be implemented by the source. *See* 70 Fed. Reg. at 39107.

Instead of taking this protective approach, DEQ chose to consider the individualized contribution of each BART-eligible source in Oregon before concluding that the source was "subject to BART." This approach is very resource intensive, requiring extensive modeling of all sources, before consideration of appropriate controls even begins. In addition, this approach puts the burden on the regulatory agency and the public, rather than on the regulated community, to demonstrate that each source could reasonably be anticipated to cause or contribute to visibility impairment. This policy choice has far reaching implications for the entire Regional Haze/BART rulemaking. Thus, the decision should be reviewed by the EQC and subject to public notice and comment before the agency expends considerable resources implementing this basic policy.

#### **B. Choice of Metric Value for Visibility Degradation**

DEQ is not subjecting every BART-eligible source in Oregon to the BART requirements, despite the fact that it has the regulatory authority to do so. Instead, the agency has established an arbitrary "significance level" above which a BART-eligible source must contribute to a federally protected park or wilderness area before it can be considered "subject to BART." As discussed above, Congress intended the visibility program to address "any" impact, and DEQ certainly has the authority to regulate sources that make "any" contribution. Instead of regulating any source with any contribution to visibility impairment, Oregon has employed two thresholds for determining whether a BART-eligible source causes or contributes to visibility impairment in federally protected parks and wilderness areas.

Under DEQ's formulation, a source with a contribution of 1.0 deciviews impairment is considered to "cause" visibility impairment, while a source with a contribution between 0.5 and 1.0 deciviews is considered to "contribute" to visibility impairment. As EPA noted when promulgating its BART guidelines, "the appropriate threshold for determining whether a source 'contributes to any visibility impairment' for the purposes of BART may reasonably differ across States," but all sources over 0.5 deciview impact must be considered to contribute. 70 Fed. Reg. at 39118.

The choice of 0.5 deciviews as the metric of minimum impact to be considered a "contributor" to visibility impairment presents a number of problems. First, Congress intended the regional haze program to prevent any future and remedy any existing visibility impairment in federally protected parks and wilderness areas. 42 U.S.C. § 7491(a)(1). Congress' chosen mechanism to achieve this national goal was to require technology-based controls for sources "grandfathered" out of the new source review programs of the late 1970s. Congress set the bar for contribution very low, as a source need only "reasonably be anticipated to cause or contribute to any impairment of visibility" to be subject to technology-based controls. 42 U.S.C. § 7491(b)(2)(A). Also, a source may "contribute" to visibility impairment at levels lower than 0.5

deciviews, even if a 0.5 deciview impairment is a “just noticeable” change. If several sources contribute less than 0.5 deciviews, the total impact on the federally protected park or wilderness area is certainly perceptible to visitors, and is just the type of impairment that Congress’ broad “cause or contribute” language regulates. This is particularly true with visibility impairment, which is nonlinear. That is, as an area becomes more polluted, an individual source’s contribution to changes in impairment becomes geometrically less. *See* 70 Fed. Reg. at 39124. In addition, DEQ has not engaged in an analysis of factors specific to Oregon that may support a finding that a lower significance threshold is appropriate.

DEQ has adopted its “significance threshold” as a policy matter. There is no indication in any information provided to Commenters thus far that the “significance threshold” chosen by DEQ is based on sound science and consideration of relevant factors. DEQ should solicit public comment on this issue before developing a rule that only subjects a very select few “significant” sources of visibility impairing pollution to BART.

### **C. Choice of Impact Level for Determining Which Sources are “Subject to” BART**

Similarly, DEQ adopted the EPA guidance about percentile of impact to employ to determine whether a BART-eligible source is “subject to” BART without independent analysis of available data and scientific information. To decide whether identified BART-eligible sources are “subject to” BART, Oregon compares the 98<sup>th</sup> percentile maximum impact 24-hour period to the “cause or contribute” metric value of 0.5 deciviews. The 98<sup>th</sup> percentile is the 8<sup>th</sup> highest day in one year, or the 22<sup>nd</sup> highest day in a three-year period. The use of the 98<sup>th</sup> percentile, rather than the maximum 24-hour impact as originally proposed by EPA, ignores roughly 7 days of impaired visibility in federally protected parks and wilderness areas per year, or 21 days in a three year period. DEQ has made a policy choice that 7 days of impaired visibility in a year is an acceptable contribution from a BART-eligible source, while 8 days is too many. DEQ has not provided any basis for this policy choice, nor provided information upon which the public can consider this policy choice. If DEQ had considered the 99<sup>th</sup> percentiles, that is, the 4<sup>th</sup> highest day in a year, it is possible that other sources would be considered “subject to” BART or that the BART-determination modeling for those sources “subject to” BART would lead to different conclusions regarding cost effectiveness and visibility improvement associated with chosen controls. Because the decision about impact level has repercussions reaching to virtually every other part of the regional haze rule, early consideration of this policy matter, including soliciting public comment, is important.

### **D. Use of Actual Emissions in Modeling Scenarios**

As explained above, dispersion modeling is an important part of the regional haze rulemaking. The validity of choices made by the agency about the modeling protocol is essential to the validity of any eventual rule. Therefore, similar to the choices of significance level and impact level, early consideration of this policy choice is necessary.

EPA originally proposed that sources would run the air dispersion model twice, first using the pollution level the source is currently allowed to emit, and then using the proposed

BART limits. The source would then compare the two modeling runs to determine the improvement in visibility associated with each control option. 70 Fed. Reg. at 39128. After pressure from industry representatives, EPA decided to allow states to consider the highest 24-hour average actual emission rate for the most recent three or five year period. 70 Fed. Reg. at 39129.

The modeling completed in the BART process, both the “exemption modeling” to determine which sources should be “subject to” BART and the modeling to establish the visibility improvements attributable to various control technologies in the PGE Boardman BART analysis, used maximum 24-hour past actual emissions. The Oregon program of regulating air pollution depends heavily on Plant Site Emissions Limits (PSELs) and measures increases and decreases of emissions in terms of these emissions limits. Thus, DEQ’s decision to use actual emissions in this case is particularly problematic. A source is allowed to emit up to its PSEL each year. Even if its actual emissions are much lower than its PSEL, DEQ takes the position that any further review of the source under the Clean Air Act is unnecessary so long as emissions remain below this PSEL level. Therefore, in the absence of more stringent short-term mass emission limits (in pounds per hour) or restrictions on operation or production, using historic actual emissions data understates the potential impacts of these sources on federally protected parks and wilderness areas.

Moreover, the emissions levels used in the “exemption modeling” do not include excess emissions from shutdown, start up, or malfunction of the equipment. Emissions for combustion equipment and other process equipment are often considerably higher during start up, shutdown, or malfunction. This is a problem particularly in the context of PGE Boardman, which records many days of startup, shutdown and malfunction excess emissions each year.

Because the use of actual emissions from a three year period could significantly understate the potential impacts from some sources, DEQ should provide justification for its policy choice and provide the public an opportunity to comment on the choice.

#### **E. “Permitting Out” of BART**

DEQ plans to allow sources otherwise “subject to” BART to “permit out” of the technology based control requirements by revising their operating permits to include Plant Site Emissions Limits under a threshold determined by modeling. The modeling will demonstrate the emissions level under which the facility could operate without making a “significant contribution” to visibility impairment. DEQ finds authority for this approach under the definition of “potential to emit” in the BART guidance, which is borrowed from 40 C.F.R. § 51.301. Under this formulation, the potential to emit of a source is calculated based on its capacity to emit a pollutant taking into account its physical and operational design. 70 Fed. Reg. at 39112. This definition allows the state to take into consideration “federally enforceable” emission limits in calculating potential to emit. *Id.* This is a concept borrowed from “synthetic minor” permitting, which allows otherwise major sources to avoid applicable requirements through permit limits. DEQ has historically relied on PSELs to demonstrate that sources remain under these major source thresholds. However, DEQ’s practice does not comply with the

requirements of the Clean Air Act, and should not be extended in its current form to the regional haze rule.

PSELs are annual plantwide caps on pollution in total tons per year, and they are not federally enforceable. A limit is federally enforceable if it is contained in a permit that is federally enforceable and if it is enforceable as a practical matter. *See U.S. v. Louisiana-Pacific Corp.*, 682 F. Supp. 1122 (D.C. Colo. 1988). PSELs must thus be practically enforceable. Practical enforceability means a source must be able to show continuous compliance with each limitation or requirement.<sup>7</sup> EPA has repeatedly concluded that "in accordance with the 1989 potential to emit policy, when an emission limit is taken to restrict potential to emit, some type of continuous monitoring of compliance with that emission limit is required."<sup>8</sup> In addition, EPA has concluded that "[i]n order for emission limitations to be Federally enforceable from the practical stand point, they must be short term and specific so as to enable the Agency to determine compliance at any time."<sup>9</sup> The EPA has also explained that to appropriately limit potential to emit, permits "must contain a production or operational limitation in addition to the emission limitation in cases where the emission limitation does not reflect the maximum emissions of the source operating at full design capacity without pollution control equipment."<sup>10</sup>

PSELs are not practically enforceable because they are not short term limits on production or operation, and compliance with PSELs can only be determined on an annual basis. In addition, permits issued by DEQ often fail to specify sufficient testing, monitoring, recordkeeping and reporting to enable DEQ to verify compliance with the annual caps. In many cases, DEQ does not require any testing to demonstrate compliance with PSELs in "synthetic minor" permits. Any permits issued to "permit out" BART sources must meet certain minimum requirements to effectively limit the source's potential emissions. These include: (1) emissions limits and operational and production standards that assure compliance with all applicable requirements; (2) sufficient testing, monitoring, reporting and record keeping requirements to assure compliance with the terms and conditions of the permit; and (3) federal enforceability by the U.S. EPA and citizens under the Clean Air Act. DEQ's past permitting actions in the "synthetic minor" context do not demonstrate DEQ's ability or willingness to impose sufficient conditions to satisfy these three criteria in future permits. Thus, the EQC should carefully consider this approach to the BART requirement before moving forward.

In addition, DEQ's strategy of allowing most BART sources in Oregon to "permit out" of BART without undergoing a BART-determination analysis may significantly interfere with

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<sup>7</sup> Memorandum from Terrell F. Hunt, Associate Enforcement Counsel, OECA, and John Seitz, Director, OAQPS, to EPA Regional Offices, Re: Guidance on Limiting Potential to Emit in New Source Permitting, June 13, 1989.

<sup>8</sup> Memorandum John B. Rasnic, Director Stationary Source Compliance Division, to David Kee, Director Air and Radiation Division, Re: Policy Determination on Limiting Potential to Emit for Koch Refining Company's Clean Fuels Project, March 13, 1992.

<sup>9</sup> Memorandum from John S. Seitz to Air Management Division directors, Re: Clarification of New Source Review Policy on Averaging Times for Production Limitations, April 8, 1987.

<sup>10</sup> See Footnote 6.

DEQ's ability to demonstrate reasonable further progress toward the national goal to prevent future and remedy existing visibility impairment. It is possible, and quite likely, that very cost effective controls on pulp and paper mills could result in emissions significantly lower than the bare minimum reductions necessary for sources to model a contribution below the 0.5 deciview significance threshold. Because DEQ is taking the "permit out" route, however, an analysis of the capabilities and costs of controls for these sources will likely not be undertaken. Without this information, the public, and possibly EPA, will be unable to determine whether DEQ made a sound and reasonable policy choice. Especially considering that the majority of BART sources in Oregon are of the same source type, DEQ should perform an analysis to determine BART level controls and emissions limits for these sources.

#### **F. Choice of Presumptive BART Emissions Limitations**

EPA developed "presumptive BART" limits for SO<sub>2</sub> and NO<sub>x</sub> from coal fired power plants by analyzing the capabilities of all BART-eligible electric generating units at power plants over 750 MW in capacity. 70 Fed. Reg. at 39131. EPA's analysis considered the following factors: 1) technical analyses and industry research to determine which controls are both applicable and appropriate; 2) economic analyses to determine the cost-effectiveness for each potentially BART-eligible unit; 3) an evaluation of emissions and projected emissions reduction for each unit. 70 Fed. Reg. 39104, 39131-34; Technical Support Document for the Best Available Retrofit Technology (BART) Notice of Final Rulemaking – Setting BART SO<sub>2</sub> Limits for Electric Generating Units: Control Technology and Cost-Effectiveness 1 (Apr. 2005); EPA Technical Support Document – Methodology for Developing BART NO<sub>x</sub> Presumptive Limits 1-2 (June 15, 2005). The SO<sub>2</sub> presumptive limit is 95% control, or 0.15 lbs/MMBtu. 70 Fed. Reg. 39132. The NO<sub>x</sub> presumptive limit for dry bottom wall fired units burning sub-bituminous coal is 0.23 lbs/MMBtu. 70 Fed. Reg. at 39135. EPA concluded that for a typical dry bottom wall fired unit burning sub-bituminous coal, combustion controls rather than add-on controls should be used, and that a reduction to 0.23 lbs/MMBtu would represent a significant decrease at a relatively small cost. *Id.* At the same time, EPA acknowledged that combustion controls are not always more cost effective than post-combustion controls such as Selective Catalytic Reduction ("SCR"). 70 Fed. Reg. at 39134, 39136. EPA did not analyze Selective Noncatalytic Reduction ("SNCR"), as EPA believes "SNCRs are generally not cost-effective." *Id.*

The "presumptive BART" limits are only mandatory for units larger than 200 MW at a power plant larger than 750 MW. 70 Fed. Reg. 39131. No source in Oregon qualifies as a source for which the presumptive BART limits are mandatory. EPA made clear in its BART guidance preamble that states are "free to reach a different conclusion if the State believes that an alternative determination is justified based on a consideration of the five statutory factors." 70 Fed. Reg. at 39131, 39132. While EPA's BART guidelines are "useful advice" in implementing BART as to other types of sources, the guidelines are not mandatory. 70 Fed. Reg. at 39,108. Therefore, Oregon has broad authority to implement the BART process in a manner different from, albeit at least as stringent as, the EPA guidelines. *See Id.* (stating "[the BART guidelines do not] hamper State discretion in making BART determinations").

Commenters believe that emissions control levels more stringent than the presumptive BART limits for large power plants are appropriate for sources in Oregon. Specifically, PGE has

proposed the presumptive BART limits as the appropriate level of control at the Boardman plant. DEQ should not limit its analysis to concluding that BART emissions limits at Boardman, or any other facility undergoing a BART-determination, are "good enough" simply because they are consistent with the EPA's presumptive BART limits for large power plants. We urge the DEQ to solicit public comments on this issue early in the rulemaking process.

### **III. Conclusion**

For the reasons stated above, Commenters request that the EQC work to ensure ample opportunities for public input early in the Regional Haze/ BART rulemaking process. In addition, Commenters request that DEQ provide responses to the issues and questions raised in this letter, and identified in NEDC's July 2007 letter that have not yet been addressed. Finally, we would like to stress that we appreciate DEQ's choice to allow the public significant and meaningful opportunities to participate in the PGE Boardman BART-determination process, and we feel that process is proceeding well and will result in a better BART-determination. We look forward to working with DEQ and the EQC on a meaningful level on other regional haze and BART issues. Thank you in advance for responding to Commenters' concerns.

Sincerely,

/s/Aubrey Baldwin  
Aubrey Baldwin  
Pacific Environmental Advocacy Center

/s/Allison LaPlante  
Allison LaPlante

On behalf of the Northwest Environmental Defense Center, Sierra Club, Friends of Columbia Gorge, Columbia Riverkeeper, and Hells Canyon Preservation Council.





**NORTHWEST ENVIRONMENTAL DEFENSE CENTER**

**10015 S.W. Terwilliger Blvd., Portland, Oregon 97219**

Phone: (503) 768-6673 Fax: (503) 768-6671

[www.nedc.org](http://www.nedc.org)

July 3, 2007

Andy Ginsburg  
Air Quality Division Administrator  
Oregon Department of Environmental Quality  
811 SW 6<sup>th</sup>  
Portland, OR 97204

Re: Oregon's Best Available Retrofit Technology (BART) Process

Dear Andy:

I wanted to thank the Department of Environmental Quality (DEQ) for the informative public workshop it hosted last week at DEQ headquarters. Based upon communication I have received from numerous attendees, it was widely considered to be a helpful introduction to the BART process. It became almost immediately clear, however, that even though this was the first outreach effort the agency has made to the public with respect to BART, significant decision-making on critical BART metrics had been made some time ago. Despite the fact that Oregon DEQ has discretion in rule and statute to take aggressive measures to control emissions from BART-eligible sources, it appears as though the agency is headed down a very under-protective path in an apparent rush to submit a revised regional haze SIP by January, 2008.

The requests that follow are responsive to a solicitation by DEQ staff at the June 29<sup>th</sup> public BART workshop concerning how the agency could best implement the BART process during the months ahead. The requests should not be unduly burdensome or time-consuming, given the very competent staff you have assigned to this process. The lists below are broken down into two categories: 1) Measures that NEDC requests be implemented within the next two weeks, or as expeditiously as practicable; and 2) Larger policy-level recommendations that NEDC requests be considered as part of the BART process in Oregon:

**I. Time-sensitive requests**

- Provide a spreadsheet of citations that support the preliminary data included in the PGE Boardman BART summary handed out at the public workshop. The expected emissions rates, emissions reductions, and dollar figures are well outside the range of estimates in our possession. We will square the estimates the agency has received with ours, conduct further research, and respond with values that more accurately reflect currently available technology and market conditions.

- Provide the list of the Oregon sources that commenced operation prior to August 7, 1962 that would otherwise be BART-eligible
- Provide the full list of 26 Oregon sources the agency initially determined might be BART-eligible and a brief explanation for why each of the 16 non BART-eligible sources was excluded
- Provide a summary of why the agency is not requiring a particulate matter-specific analysis concerning PGE Boardman's aging ESP
- Provide the data set representing DEQ's interpretation of "actual emissions" for all Oregon BART-eligible sources
- Provide data representing the single highest 24-hour average actual emission rate for each of the BART eligible sources from 2003-2005 and 2001-2002

## II. Further recommendations

- Include SCR plus upgraded LNB and MOFA as a NO<sub>x</sub> control alternative for PGE Boardman
- Do not exempt PGE Boardman's emissions during start-up and shut down given the frequency of this phenomena at this specific source
- Perform exemption modeling with visibility thresholds of .4 deciviews, .3 deciviews and .2 deciviews to assess whether additional BART-eligible sources contribute to visibility impairment in any Class I area under these less stringent "contribute" thresholds
- Perform exemption modeling with permitted emissions, rather than actual emissions
- Draw from a more representative "actual emissions" data set (5 years, as recommended in the BART guidelines) in order to more accurately assess whether a source is contributing to visibility impairment
- Provide the 99<sup>th</sup> percentile exemption modeling results for each BART-eligible source
- As no source other than PGE Boardman has apparently initiated determination modeling, require all "subject to BART" sources to first analyze the most stringent emissions reduction technology, making that technology "presumptive BART", unless proven otherwise.
- Require installation of BART technology by January 1, 2013 unless Oregon's regional haze SIP submission is deemed deficient by EPA, rather than leaving the 5-year timeline open awaiting EPA SIP approval
- Perform exemption modeling for the cluster of lower Columbia River sources referenced at the public workshop, to assess whether they cumulatively contribute to visibility impairment at any Class I area
- Provide concerned members of the public with another opportunity to review the latest iteration of the BART exemption and determination modeling results at the next DEQ air quality roundtable, well in advance of the final proposed package
- As the Clean Air Act and EPA's BART regulations both clearly provide the state of Oregon with the authority necessary to regulate "any air pollutant" which may be reasonably anticipated to "contribute to any impairment" of visibility in any Class I area, please respond to the following questions:
  - Might global warming exacerbate visibility impairment directly or indirectly (such as, for example, snowpack reduction resulting in greater wildfire risk, etc.)?
  - Is CO<sub>2</sub> a greenhouse gas?

- Is CO2 a pollutant that may contribute to visibility impairment in any Class I area?
- Request that PGE provide an analysis of pollution control technology that would reduce or eliminate PGE Boardman's CO2 emissions

Thank you for the decision to hold the public workshop last week, and for the agency's continued efforts to involve the public in this important process.

Sincerely,

A handwritten signature in black ink that reads "Mark Riskedahl". The signature is written in a cursive style with a large, stylized initial "M".

Mark Riskedahl  
Executive Director

August 9, 2007

Mark Riskedahl  
Executive Director  
Northwest Environmental Defense Center  
10015 S.W. Terwilliger Blvd  
Portland, OR 97219

Re: Response to NEDC letter of July 3, 2007.

Dear Mark:

Sorry that it's taken so long to respond to your letter of July 3, 2007. It's taking staff some time to consider your points and assemble information so I appreciate your patience. Below are our responses to your inquiries labeled "time sensitive". I'll be following-up with a response to your other questions and recommendations.

**NEDC Questions:**

**Regarding the spreadsheet of citations supporting preliminary data for PGE Boardman facility**

The information you requested is not available until PGE submits their BART evaluation. The information presented at the workshop was based on their consultants work to date and has not been fully documented. That is why the information was classified as "preliminary". We expect to receive PGE's BART evaluation in late August and can make it available to you at that time. The Department also intends to conduct an independent evaluation of PGE's work.

**Regarding your inquiry about the sources that commenced operation prior to August 7, 1962.**

DEQ's database of permitted sources tracks information about a facility's operation and emissions but does not include the date the source commenced operation. To develop the comprehensive list you request would require staff to review the permit files of each permitted source in Oregon. I'm sorry to say that we don't have the resources for such a search, and so I can not readily provide you the list you request. It may be possible for you to develop a list of pre-1962 sources as discussed below, and we would certainly assist you to the extent we are able.

You should note that as part of our upcoming Regional Haze SIP, we will include a strategy for evaluating non-BART industrial sources, both pre-1962 and post-1977, for consideration of possible controls. As you know, the next steps for Regional Haze planning after BART, is to evaluate a broader universe of emission sources (area, mobile,

etc.) including non-BART industrial sources so we can keep pace with the 2064 reasonable progress glide path. States will be working to address Non-BART sources in the next chapter of the Regional Haze SIP, due in 2012. Our non-BART strategy for industrial sources will focus more on factors such as emissions strength and proximity to Class I areas rather than age of the facility, but a facility's status as a pre-PSD source can be considered as well. This strategy will not exclude sources that have gone through PSD; rather, it will look at how long ago these sources installed controls, if any new controls are planned, and evaluate opportunities and benefits of installing new controls.

If you want to compile a list of pre-62 sources, the option below might be a good first step.

#### WRAP BART-Eligible Source Study

The identification of Oregon BART-eligible sources was initiated by a comprehensive study conducted by the Western Regional Air Partnership (WRAP) in 2005. This study, called "*Identification of BART-Eligible Sources in the WRAP Region*", identified 101 Oregon sources with actual emissions over 100 tpy of any visibility-impairing pollutant, which could be potential BART sources. This study can be found on the WRAP website at <http://www.wrapair.org/forums/ssjf/bartsources.html>.

In this study a consultant hired by the WRAP worked with DEQ staff familiar with Oregon's sources. Sources were reviewed for the three BART-eligibility criteria: (1) in existence on August 7, 1977 and began operation after August 7, 1962; (2) have potential to emit (PTE) of 250 tons or greater per year, and (3) fall into one of the 26 source categories listed by EPA. Most sources could be determined to be either BART-eligible or not BART-eligible. The remaining sources were identified as either "likely" or "potentially" eligible, or "do not know." All of these sources were reviewed by our permitting staff to confirm BART-eligibility. Out of this review we determined that twenty-six would require a more in-depth review by our agency. (Note: this relates to your request for a full list of the 26 Oregon sources, as described below).

In terms of the pre-1962 sources, they were grouped with post-1977 sources in the WRAP report as being "outside of the BART time period". Additionally, some pre-1962 sources became not BART-eligible by virtue of not meeting the other two BART criteria. At this point there is no simple way to extract pre-1962 sources out of the WRAP report without an extensive and time consuming analysis. We do encourage you to review the WRAP report at the link provided and contact the WRAP contractor who assembled the data. We would be happy to discuss the analytical process used in the report and review the findings with you.

#### **Regarding your inquiry about the 26 Oregon sources that were evaluated by DEQ and the 16 found not to be BART-eligible.**

As mentioned above, a total of twenty-six potential BART sources were addressed in the second phase of the evaluation that began with the comprehensive WRAP study. Below

is a description with a brief explanation of the 16 sources not listed as BART-eligible following the evaluation.

1. Collins Products, Klamath Falls. Source was originally identified because it had three emission units (fossil-fuel boilers) that might be BART-eligible. Upon further inquiry we discovered these boilers had been dismantled and scrapped.
2. Northwest Aluminum, The Dalles. Our initial analysis found the applicable emission units in the primary aluminum production plant went into operation prior to August 7, 1962. There was a reconstruction of these units, but this came after 1977, and went through PSD review. The primary aluminum production plant has been permanently shutdown.
3. ESCO, Portland. The facility manufactures "steel castings". This source does not fall under any of the 26 source categories list by EPA for BART. Additionally, the PTE of their pollutant was below 250 tpy.
4. Chevron, Portland. Source was initially identified as meeting two of the 26 source categories. One category applies to fossil-fuel boilers over 250 million BTUs/hr. The other applies to petroleum storage facilities over 300,000 barrels. Upon further inquiry we found both boilers and storage facilities were far below the applicable capacity. Additionally, PTE was well below 250 tpy.
5. Kinder Morgan, Portland. This source was similar to Chevron Portland. It also had boilers and storage facilities far below the applicable capacity, and PTE well under 250 tpy.
6. Shore Terminals LLC (Mobil Oil), Portland. This source has petroleum storage facilities exceeding 300,000 barrels. Upon further inquiry we found the storage units began operation before 1962, and PTE well below 250 tpy.
7. Oregon Steel Mills, Portland. This source was initially identified as meeting one of the 26 source categories (iron and steel mills). The largest emission unit was in existence prior to 1977, but was reconstructed after this date. Under EPA guidance on BART-eligibility, a "reconstructed source" after 1977 is not subject to BART if "the fixed capital cost of the new component exceeds 50% of the fixed capital cost of a comparable new source". Our review determined that the reconstruction of this emission unit exceeded the 50% criteria. Other emission units at the source were well under the 250 tpy PTE.
8. Wah Chang, Albany. This facility is mostly engaged in "primary metal production". This does not fall under any of the 26 source categories for BART. There is some small amount of "secondary metal production" which is a BART source category. However, all of the potential emissions were found to be below 250 tpy PTE.

9. Weyerhaeuser, Albany Paper Mill. Most of the emission units at this facility started up after 1977. Two emission units that started between 1962-1977 were determined to have emissions below 250 tpy PTE.
10. Roseburg Forest Products, Roseburg. Source was originally identified because it had three emission units (fossil-fuel boilers) that might be BART-eligible. Two of these boilers were "derated" to address other regulatory requirements, which reduced boiler capacity to under 250 million BTUs/hr, through a federally enforceable permit limit. The company formally requested a similar permit modification for the third boiler, as it relates to BART-eligibility. This permit condition was established on August 8, 2006. For this reason the source is no longer BART-eligible.
11. Bear Mountain Forest Products, Cascade Locks. This facility produces wood fuel pellets. This does not fall under any of the 26 source categories for BART. Additionally, potential emissions are below 250 tpy PTE.
12. City of Eugene Water Pollution Control Facility. The boiler at this facility is under 250 million BTUs/hr, and PTE is under 250 tpy.
13. University of Oregon Central Power Station, Eugene. The boiler at this facility is under 250 million BTUs/hr, and PTE is under 250 tpy.
14. International Paper, Gardiner. This facility is shutdown and the permit is no longer active.
15. Reynolds Metals, The Dalles. This facility is shutdown and the permit is no longer active.
16. SFPP Eugene Gasoline Bulk Terminal. This facility met the source category for petroleum storage facilities and had a PTE over 250 tpy for one pollutant - VOC. Other pollutants were well under the 250 tpy PTE. EPA's guidance allows states the option of excluding VOC sources from BART due to the difficulty to model visibility impacts from VOCs. However, DEQ did conduct a screening analysis that conservatively assumed that 50% of the emissions were VOCs with greater than six carbon atoms and equivalent to organic carbon (OC) for visibility modeling purposes. Results showed the visibility impact under this assumption would be very low, approximately 0.1-0.2 dv, well under the 0.5 dv threshold. Thus the SFPP facility was removed from the BART-eligible list.

#### **Regarding your inquiry about Particulate Mater at PGE**

A complete BART determination is not required for particulate matter at the Boardman facility because: 1) the modeling shows that the contribution of particulate matter to visibility impairment is less than 1 percent of the total impairment caused by all pollutants; and, 2) particulate matter controls will necessarily be upgraded as part of the sulfur dioxide controls. The ESP will remain in place, but additional particulate matter

controls will be added as part of the SO2 controls. Under the two most likely options for SO2 BART control, either a fabric filter will be installed as part of a semi-dry flue gas desulphurization control; or, a wet scrubber will be installed as part of the wet flue gas desulphurization controls. In either case, particulate reductions will occur.

**Regarding your request for the data set of actual emissions used in modeling, and data representing the highest 24-hour average actual emission rates for each source.**

Attached is an excel spreadsheet that includes actual emissions used in DEQ's initial BART eligibility modeling analysis. Most of the BART eligible sources are evaluating changes to their operations that would result in emission reductions and visibility impacts below the 0.5dv BART significance threshold. PGE Boardman as you know is evaluating control technology options to reduce emissions. Once the sources have completed their analysis they will submit a proposal to DEQ for review. The emissions used in the sources analysis must reflect the highest emitting day for each facility within the modeling period (2003 – 2005). Consistent with EPA guidance and our three-state modeling protocol, the emissions used will reflect the facility's steady-state operating conditions during periods of high capacity utilization, which do not include start-up, shutdown, or malfunction emissions. We can make those emission estimates available to you when we receive them.

I hope these initial responses are helpful. I will continue to draft our response to your other recommendations and hope to meet with you soon to discuss all these issues.

Sincerely,

David Collier, Manager  
Air Quality Planning Section  
Oregon Department of Environmental Quality



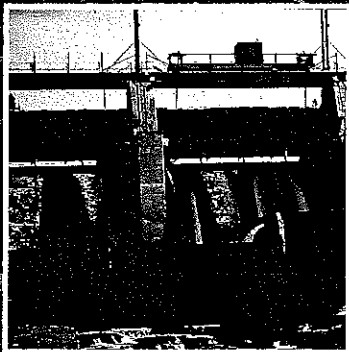
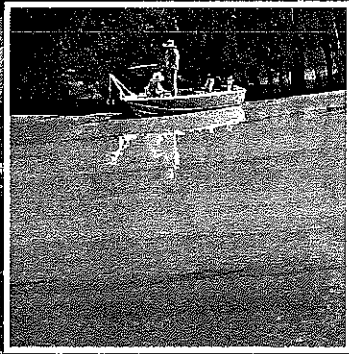
# KLAMATH RIVER NEWS

a publication of **KLAMATH RIVERKEEPER.**

Winter 2007

## Dam's Toxic Algae Spreads Downriver

as Warren Buffett and PacifiCorp back  
away from corporate responsibility



**INSIDE**

**Un-dam the Klamath!**

**Putting Pressure on Oregon DEQ**

**Scott River Groundwater**

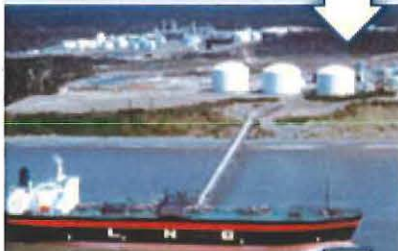
Handout from Columbia Riverkeeper,  
Public Forum 2/21/08



**LNG VALUE CHAIN**



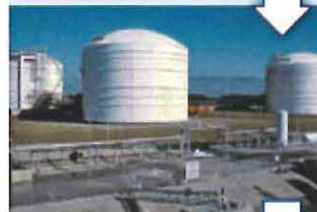
**Gas production**



**Liquefaction plant**



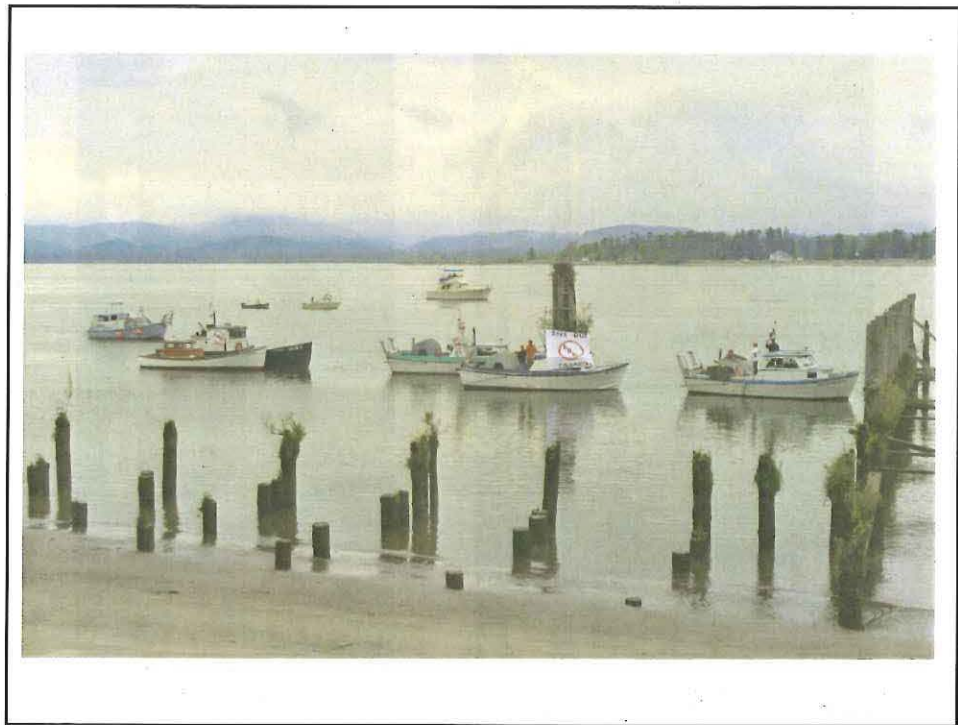
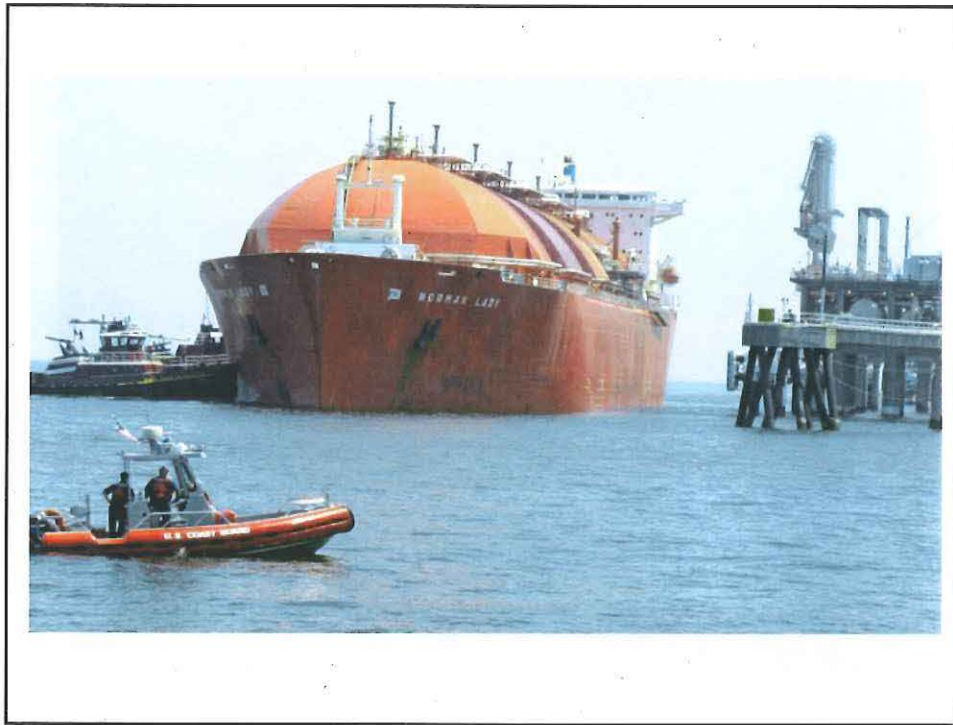
**Shipping**



**Regasification terminal**



**Pipeline delivery**

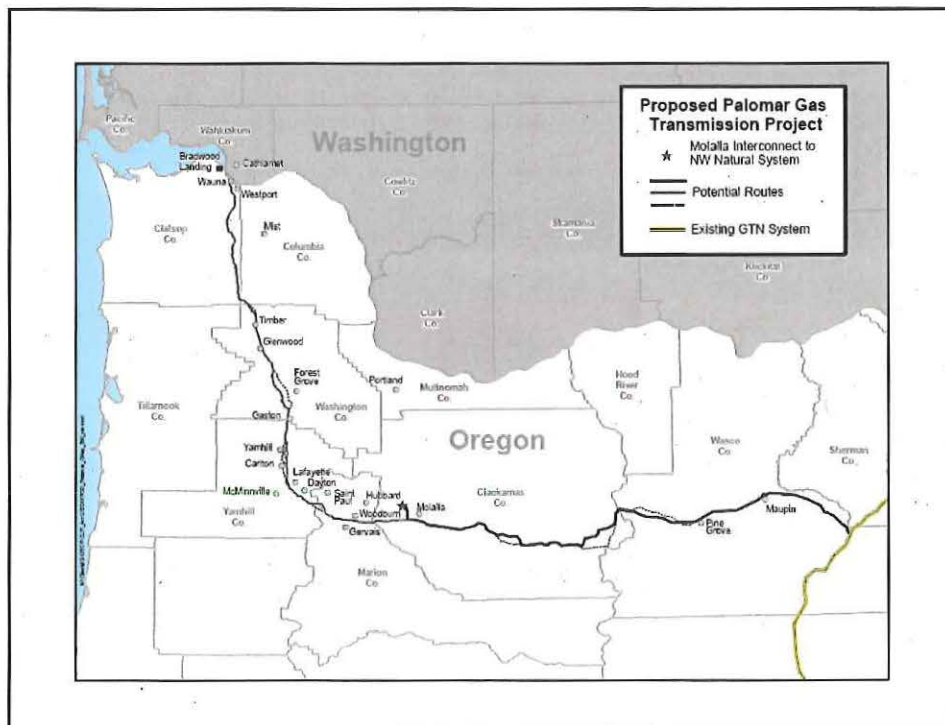
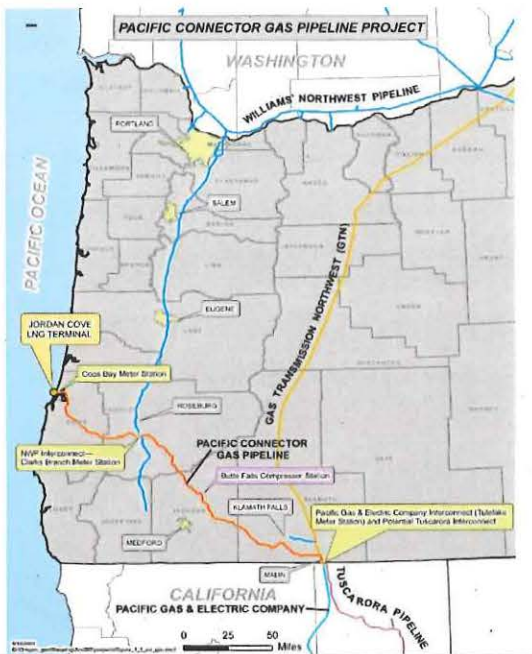


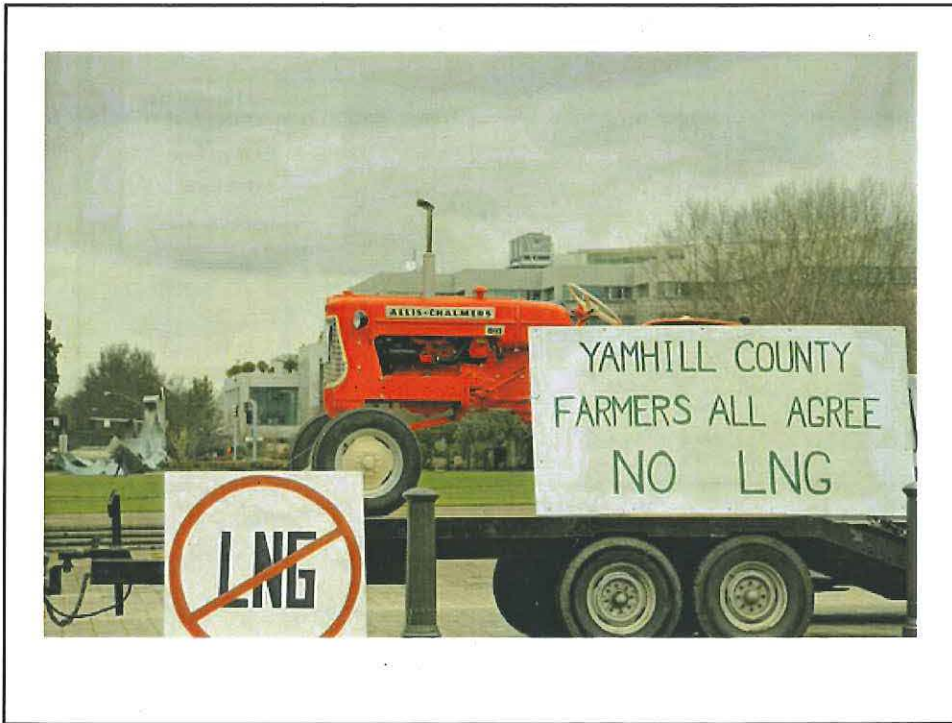


Gary Coppedge, NorthernStar: "This gas is only for the Pacific NW. Not California"

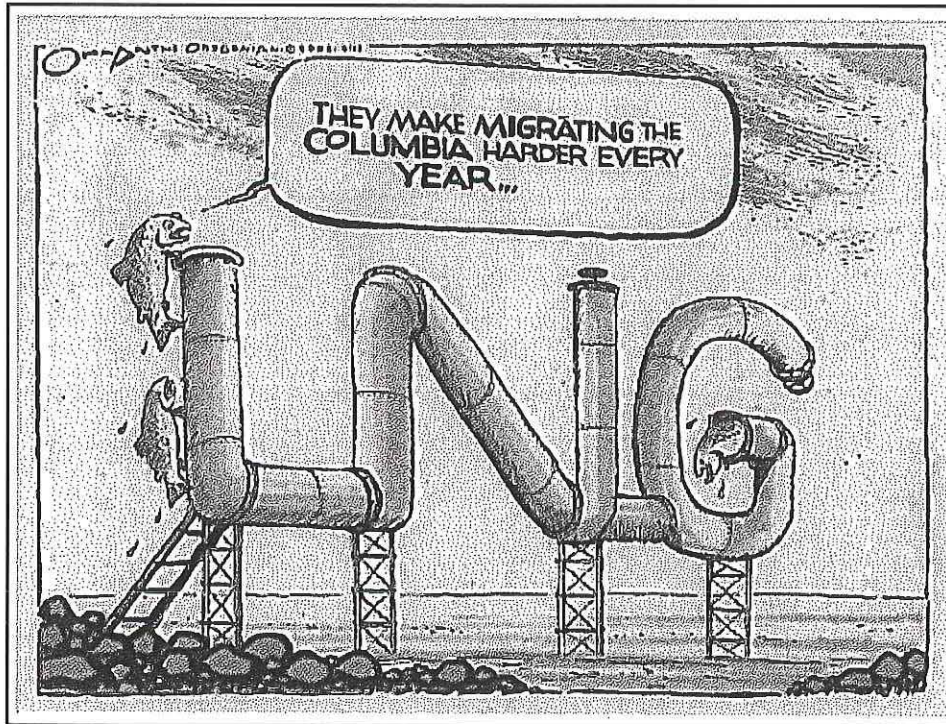
NorthernStar 12/15/06 Registration filing with SEC, page 54

"We have recently submitted a request for service to TransCanada and NW Natural for a pipeline that would connect the Bradwood terminal to Williams' Northwest pipeline at Molalla and TransCanada's GTN Pipeline near Madras. This will provide Bradwood with gas transportation service from the LNG terminal to the pipeline systems of both the Northwest Pipeline Company and TransCanada's GTN Pipeline, which can deliver approximately 2.0 Bcf/d into Northern California at the Malin, Oregon interconnect point." NorthernStar 12/15/06 Registration filing with SEC, page 54









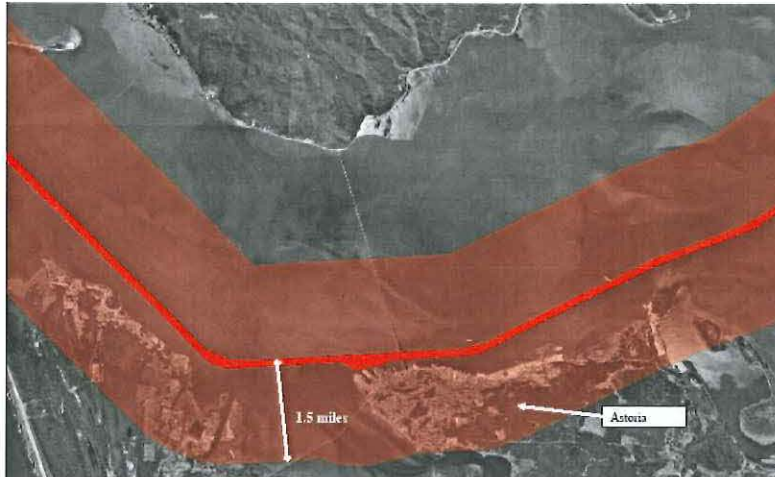
## Carnegie Mellon

### Natural Gas Imported To US For Electricity Generation May Be Environmentally Worse Than Coal

August 23, 2007

*Science Daily* —In the upcoming Sept. 1 edition of the journal *Environmental Science and Technology*, Carnegie Mellon researchers show that liquefied natural gas (LNG) imported from foreign countries and used for electricity generation could have **35 percent higher lifecycle greenhouse gas emissions than coal** used in advanced power plant technologies.

**LNG Tanker Fire Hazard Zone**  
1.5 mile (2,500 meter) Projected Fire Hazard Range from U.S. Sandia National Laboratories LNG risk report<sup>1</sup>



From Sandia National Labs Report: "a vapor cloud from an LNG spill could extend to 2,500 m [1.55 miles], if an ignition source is not [immediately] available. The potential thermal hazards within a vapor cloud could be high."

<sup>1</sup> Sandia National Laboratories, Mike Highower et al., "Guidance on Risk Analysis and Safety Implications of a Large Liquefied Natural Gas (LNG) Spill Over Water" Dec. 2004, at 40. ("Sandia Report") [http://www.fossil.energy.gov/programs/oilgas/storage/lng/sandia\\_lng\\_1204.pdf](http://www.fossil.energy.gov/programs/oilgas/storage/lng/sandia_lng_1204.pdf)



## DEQ'S AUTHORITY OVER LNG

- 401 certification
  - DEQ must determine whether the project protects designated uses and complies with water quality standards
- Water discharge permit
- Air discharge permit




**Brett VandenHeuvel**  
**Staff Attorney**  
**503 224-3240**  
[bv@columbiariverkeeper.org](mailto:bv@columbiariverkeeper.org)

**917 SW Oak Street, Suite 414**  
**Portland, OR 97205**



State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** February 4, 2008  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Acting Director   
**Subject:** Agenda Item H, Rule Adoption: Division 54, Clarifying and Updating References in State Revolving Fund Rules, February 21-22, 2008 EQC Meeting

**Why this is Important** The proposed amendments to Division 54 are needed to ensure that the Department of Environmental Quality (Department, DEQ) has continuing authority to administer Oregon's Clean Water State Revolving Fund (CWSRF) program consistent with federal requirements and the ability to obtain annual U.S. Environmental Protection Agency (EPA) grants to capitalize the loan program.

**Department Recommendation / EQC Motion** DEQ recommends that the Environmental Quality Commission (Commission, EQC) adopt the proposed amendments to OAR 340-054-0035 and OAR 340-054-0060 (as presented in Attachment A), to incorporate by reference the February 2008 CWSRF Procedures Manual and the new State Environmental Review Process (SERP) in that manual.

**Background and Need for Rulemaking** The CWSRF program is a federal Clean Water Act program that has been administered by DEQ since the program's inception in 1987. This loan program provides low-interest funding to public entities to resolve water pollution problems. Loans are made to communities and then the loan repayments are loaned out again to other communities, hence a revolving fund.

Oregon statute limits eligibility for loans to public entities such as cities, counties and various special districts (sanitary districts, soil and water conservation districts, etc.). Individuals and companies are not eligible borrowers in Oregon.

Twenty years ago when the federal program started, EPA provided capitalization grants as seed money to help states establish loan funds. EPA has continued to provide "cap grants" to states annually to continue to address water quality needs.

Nationally, the revolving loan program is broadly recognized as a very effective means of addressing public water quality needs as states have made more than \$50 billion in loans. Since its inception, Oregon's CWSRF program has provided more than \$500 million in loans to communities and projects across the state resulting in significant water quality protection and improvement.

EPA's annual evaluation of Oregon's program in 2006 identified concerns with the

process used by DEQ for environmental reviews of community project applications for CWSRF funding. EPA stated that DEQ would need to revise these procedures before EPA would approve any additional capitalization grants to Oregon. Oregon's 2007 "cap grant" in the amount of \$12 million is being held by EPA until the required changes in the environmental review process are completed and consistently implemented.

DEQ revised the procedures it uses to evaluate the potential environmental impacts of proposed projects. The new State Environmental Review Process (or SERP) was recently approved by EPA and addresses their concerns regarding consistency with federal requirements. DEQ's CWSRF Procedures Manual was revised February 1, 2008, to incorporate the new, EPA-approved SERP. The Procedures Manual and the procedures it contains are incorporated by reference into CWSRF program's rules (Division 54).

This proposed rulemaking updates the references in Division 54 to refer to the current February 2008 Procedures Manual (and as a consequence, the new SERP) rather than the earlier May 2003 Procedures Manual (and outdated environmental review procedures), which are currently referenced in Division 54.

**Effect of Rule**

The proposed rule amendments will provide DEQ with the authority to implement an updated state environmental review process and remain eligible for the annual federal EPA capitalization grant.

Continuing eligibility to receive EPA's capitalization grants has financial benefits to Oregon. On average, the amount of this annual grant is \$10 million, which represents a quarter of the loan funds available to Oregon's program. The impact of losing this grant is a \$10 million reduction in water pollution improvements or protections in Oregon each year. Because the program is a revolving fund, the loss of a \$10 million grant in any year will have a ripple affect on the amount of funds available in future years.

Implementation of the updated SERP will require CWSRF loan applicants to perform a more comprehensive and more expensive environmental review to secure CWSRF funding. The cost to develop an environmental review document has averaged about \$80,000. The more comprehensive environmental review required by this proposed rule will cost local governments an additional \$8,000 to \$10,000 (a 10% - 12% increase).

The environmental review process is being updated to conform to long-standing federal requirements, and is required for continued federal funding. Oregon's

Agenda Item H, Rule Adoption: Division 54, Clarifying and Updating References in the State  
Revolving Fund Rule

February 21-22, 2008 EQC Meeting

Page 3 of 5

program remains sensitive to a community's resources and ability to comply with complex procedures and continues to provide as much flexibility and technical support as possible.

**Commission  
Authority**

The Commission has authority to take this action under Oregon Revised Statutes 468.020 and 468.423 - 468.440. Statutes implemented: ORS 197.180 and 468.423 - 468.440.

**Stakeholder  
Involvement**

This rulemaking did not include the development of public policy, but focused on clarifying and ensuring DEQ's authority to administer the CWSRF program in conformance with long-standing federal requirements.

Revisions to DEQ's environmental review process as necessary to ensure consistency with existing federal requirements was the product of discussions between DEQ and EPA and did not raise issues that justified establishing an Advisory Committee.

**Public Comment**

A public comment period was open from September 14, 2007 through October 26, 2007. Evening public hearings were held in Eugene, Bend and Portland. No comments were received on this rulemaking. Attachment C provides a summary of the public hearings.

**Key Issue**

The proposed rule amendments are intended to incorporate the new SERP. EPA's program review also raised a second issue related to DEQ's implementation of the earlier environmental review procedures. During its review of CWSRF program procedures, EPA questioned whether DEQ was properly addressing or applying "cross-cutting federal authorities."

The cross-cutting federal authorities are the requirements of other federal laws that apply to all assistance programs using federal funds. With the CWSRF program these authorities include the Endangered Species Act, the National Historic Preservation Act, Civil Rights Laws and a number of other laws and Executive Orders. Applying these federal authorities means a CWSRF project has to address these various federal requirements in addition to the requirements of the Clean Water Act (which governs the CWSRF program).

Because the CWSRF program receives federal grants, the program is obligated to ensure that the requirements of those cross-cutting authorities are addressed and met for projects in an amount equal to the capitalization grant. For example, if DEQ accepted a \$10 million capitalization grant in 2008, DEQ would be required to ensure that the requirements of those cross-cutting authorities were addressed for an equivalent \$10 million in CWSRF projects.

Agenda Item H, Rule Adoption: Division 54, Clarifying and Updating References in the State Revolving Fund Rule

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DEQ's previous environmental review process did not address these federal authorities consistently and likely failed to address the cross-cutting federal authorities on applicable projects. For that reason, EPA is requiring Oregon to address the "backlog" of missed cross-cutting requirements (i.e. apply federal environmental and economic cross-cutting authorities to projects in amounts *above* the annual capitalization grant until such cross-cutting authorities have been applied to projects in amount equal to the total amount to which cross-cutters *should* have been applied ).

EPA is requiring that this issue be resolved before they release Oregon's 2007 capitalization grant. At the time this document was written, DEQ and EPA were still working to determine the extent of the backlog.

Until the backlog has been satisfied, DEQ will have less flexibility to determine which borrowers or projects will be required to address the economic and environmental cross-cutting authorities.

**Next Steps**

If these proposed rules are adopted, DEQ intends to make the changes in Division 54 effective by the end of February 2008. Once adopted, DEQ will notify both potential borrowers and the consultants used by those borrowers about the changes in DEQ's environmental review procedures.

In addition to developing the new state environmental review process for the CWSRF program, DEQ staff has worked closely with EPA to develop steps to implement the new process. DEQ regional staff who are directly responsible for implementing the new environmental process are aware of the changes and understand how that process must work.

DEQ does not anticipate the need for additional resources to implement this new environmental review process, but will re-evaluate that need within six months of implementing the new process. The rule's Implementation Plan is available upon request.

**Attachments**

- A. Proposed Rule Revisions (redline, strike-out)
- 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. 2008 CWSRF Procedures Manual

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**Available Upon Request**      1.    Legal Notice of Hearing  
   2.    Implementation Plan

Approved:

Section:

*Mindy Johnson*

Division:

*Scott Mullane*

Report Prepared By: Larry McAllister

Phone: 503 229-6412

# DEPARTMENT OF ENVIRONMENTAL QUALITY

## DIVISION 54

### CLEAN WATER STATE REVOLVING FUND PROGRAM

340-054-0035

#### Final Stage of Application Process for Design Loans or Construction Loans

The Department will administer loans for design and construction of both point source and nonpoint source projects.

(1) In addition to the loan application and items specified in OAR 340-054-0024(1), applicants applying for a CWSRF loan for a design or construction project must submit the following documents to be considered for loan approval:

(a) A planning document that the Department determines adequately documents the efficacy and appropriateness of the proposed project to remediate the identified water pollution control problem. For sewage collection systems or sewage treatment facilities, the planning document must meet the requirements of the Department's CWSRF Procedures Manual (February 1, 2008) and other planning guidance in effect at the time of submittal

(b) In accordance with OAR 340-018-0050, a Land Use Compatibility Statement (LUCS) from the appropriate planning jurisdiction demonstrating compliance with the Department of Land Conservation and Development's (DLCD) acknowledged comprehensive land use plan and statewide land use planning goals.

(c) An environmental review prepared in accordance with the requirements of the EPA approved ~~alternative~~ State Environmental Review Process (SERP) described in the CWSRF Procedures Manual, ~~May 1, 2003~~(February 1, 2008). ~~At its discretion, the Department may execute a loan agreement prior to receipt of an environmental review; however no loan disbursements may be processed without an approved environmental review.~~

(d) Any other information requested by the Department.

(2) In addition to the requirements of section (1) of this rule, applicants for a CWSRF loan for the design or construction of sewage collection systems or sewage treatment projects must submit the following documents to be considered for loan approval:

(a) A Department approved sewer use ordinance adopted by all municipalities and service districts serviced by this project that meets the provisions of this section. The sewer use ordinances must prohibit any new connections from inflow sources into the sewage collection system; and require that no wastewater introduced into the sewage collection system contain toxics or other pollutants in amounts or concentrations that have the potential of endangering public safety or adversely affecting the project or precluding the selection of the most cost-effective alternative for the project.

(b) A demonstration that the Applicant has adopted a user charge system that meets the requirements of the User Charge System section of the CWSRF Procedures Manual, ~~May 1, 2003~~ (February 1, 2008).

(c) For projects serving two or more municipalities, the Applicant must submit the executed inter-municipal agreements, contracts or other legally binding instruments necessary for the financing, building and operation of the proposed sewage collection system or sewage treatment facility.

(d) In accordance with OAR Chapter 340, division 052, Applicants for construction-only loans must submit Department approved plans and specifications for the project as applicable.

(e) For projects with estimated costs in excess of \$10 million, the Applicant must submit a value engineering study prepared in accordance with the requirements of the CWSRF Procedures Manual (February 1, 2008).

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.433 & ORS 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; Administrative correction 10-29-98; DEQ 10-2003, f. & cert. ef. 5-27-03

### **340-054-0060**

#### **Loan Agreement and Conditions**

Each loan agreement will include conditions applicable to the type of project being financed, which include, but are not limited to, the following:

(1) Accounting. The Borrower must maintain all CWSRF project accounts as separate accounts and must use accounting, audit and fiscal procedures that conform to Generally Accepted Governmental Accounting Standards and the requirements of the Governmental Accounting Standards Board.

(2) Records. The Borrower must retain project files and records for at least three years after performance certification or project completion as determined by the Department. Financial files and records must be retained until the loan is repaid in full.

(3) Wage Rates. The Applicant must ensure compliance with applicable federal or state wage rates, if any, for construction projects.

(4) Operation and Maintenance Manual. For the construction of a sewage collection system or a sewage treatment facility subject to OAR chapter 340, division 052, the Borrower must submit a draft and final facility operation and maintenance manual at the time and in a format specified by the Department.

(5) Plans and Specifications. For the construction of a sewage collection system or a sewage treatment facility subject to OAR chapter 340, division 052, the Borrower must obtain the Department's approval of project plans and specifications before commencement of construction.

(6) Inspections and Progress Reports.

(a) During the construction phase of a sewage collection system or a sewage treatment facility subject to OAR chapter 340, division 052, the Borrower must provide on-going inspections to ensure the project complies with approved plans and specifications. These inspections must be conducted by qualified inspectors under the direction of a registered civil, mechanical or electrical engineer, whichever is appropriate. The Department or its representative may enter property owned or controlled by the Borrower to conduct interim inspections and

require progress reports sufficient to determine compliance with approved plans and specifications and with other provisions of the loan agreement.

(b) For projects not subject to Department review under OAR chapter 340, division 052, the Department may seek the review and analysis of construction plans from relevant agencies or offices to ensure those plans support the successful implementation and completion of the project. During implementation of the project, the Borrower must allow inspections by appropriately qualified persons to ensure that the project as constructed conforms to project plans and other provisions of the loan agreement.

(7) Loan Amendments. Changes in project work that are consistent with the objectives of the project and within the scope and funding level of the loan do not require the execution of a formal loan amendment. A loan amendment will be required in the following situations:

(a) The Borrower receives an increase in the original approved loan amount at any time during the project. The Department may approve loan increases if funds are available, and the Borrower demonstrates both the legal authority to borrow and the financial capability to repay the increased loan amount.

(b) The Borrower requests a decrease in the original loan amount at any time during the project or completes the project and does not request disbursement of all loan proceeds.

(8) Change Orders. The Borrower must submit Change Orders to the Department for engineering and financial review. The Department will approve or reject the Change Orders based on the loan eligibility of the project modifications and on its engineering value in accordance with OAR 340-052-0015.

(9) Project Performance Certification for a sewage collection system or sewage treatment facility. The Borrower must submit to the Department a Project Performance Certification that meets the requirements of the CWSRF Procedures Manual (February 1, 2008) within the time frame specified by the Department.

(10) Eligible Construction Costs. Loan disbursements for construction costs will be limited to work that complies with plans, specifications, change orders and addenda approved by the Department.

(11) Adjustments. The Department may, at any time, review and audit requests for payment and make adjustments for eligibility, math errors, items not built or bought, unacceptable construction and other discrepancies.

(12) Contract and Bid Documents. The Borrower must submit a copy of the awarded contract and bid documents to the Department, including a tabulation of all bids received.

(13) Audit. Borrowers may satisfy audit requirements in one of the following two ways:

(a) An External Audit. Within one year after Performance Certification, the Borrower must submit an audit of the project expenditures consistent with Generally Accepted Accounting Principles conducted by a certified auditor. The Borrower will pay for this audit.

(b) Internal documentation. The Borrower must submit to the Department:

(A) A complete accounting of project costs incurred by the Borrower including documentation to support each cost element; and

(B) One copy of the Borrower's annual audited financial report each year until the loan is repaid. Audit compliance with OMB A-133 is required if federal funds are disbursed as loan proceeds.



(14) Operation and Maintenance. The Borrower must provide the necessary resources for adequate operation, maintenance and replacement of a sewage facility, nonpoint source control or estuary management project and retain sufficient operating personnel to operate the facility.

(15) Default Remedies. Upon default by a Borrower, the Department may:

(a) Pursue any remedy available at law or in equity.

(b) Appoint a receiver at the expense of the Borrower to operate the facility that produces the pledged revenues.

(c) Set and collect utility rates and charges.

(d) Withhold any amounts otherwise due to the Borrower from the State of Oregon and direct that such funds be applied to the debt service and fees due on the CWSRF loan. If the Department finds that the loan to the Borrower is otherwise adequately secured, the Department may waive this right to withhold state revenue due to the Borrower.

(16) Release. The Borrower shall release and discharge the Department, its officers, agents and employees from all liabilities, obligations and claims arising out of the project work or under the loan, subject only to exceptions previously agreed upon in a written contract between the Department and the Borrower.

(17) Effect of Approval or Certification of Documents. Review and approval of facilities plans, design drawings and specifications, or any other documents by or for the Department does not relieve the Borrower of responsibility to properly plan, design, build and effectively operate and maintain a sewage facility, nonpoint source control or estuary management project as required by law, regulations, permits and good management practices. The Department is not responsible for any project costs or any losses or damages resulting from defects in the plans, design drawings and specifications, or other sub-agreement documents. The Department is not responsible for verifying cost-effectiveness, cost comparisons or adherence to state procurement regulations.

(18) Reservation of Rights:

(a) Nothing in this rule prohibits a Borrower from requiring more assurances, guarantees, indemnity or other contractual requirements from any party performing project work; and

(b) Nothing in the rule affects the Department's right to take remedial action, including, but not limited to, administrative enforcement action and actions for breach of contract against a Borrower that fails to carry out its obligations under OAR Chapter 340.

(19) Other Provisions. CWSRF loan agreements will contain such other provisions as the Department may reasonably require to meet the goals of the Clean Water Act and ORS 468.423 to 468.440.

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.433 & ORS 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 31-1989(Temp), f. & cert. ef. 12-14-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; Administrative Correction; DEQ 10-2003, f. & cert. ef. 5-27-03

## Summary of Public Comments and Agency Responses

### Clarifying and Updating References in State Revolving Fund Rules

Prepared by: Larry McAllister

Date: November 1, 2007

**Comment period** The public comment period opened September 14, 2007 and closed at 5:00pm, October 26, 2007.

DEQ held the following public hearings:

**1<sup>st</sup> Public Hearing** -October 16, 2007 at 5:30p at the Health and Human Services Building in Bend, Oregon. There were no participants at this hearing and no comments (either written or verbal) were received.

**2nd Public Hearing** -October 17, 2007 at 6:30p at Eugene Water and Electric Board in Eugene, Oregon. There were no participants at this hearing and no comments (either written or verbal) were received.

**3rd Public Hearing** -October 22, 2007 at 6:03p at DEQ Headquarters in Portland, Oregon. There were no participants at this hearing and no comments (either written or verbal) were received.

**No comments were received outside the context of these hearings.**

**Organization of comments and responses** N/A

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**Presiding Officer's Report**

Date: October 25, 2007

To: Environmental Quality Commission

From: Larry McAllister, DEQ

Subject: Presiding Officer's Report for Rulemaking Hearing  
Title of Proposal: **Clarifying and Updating References in State Revolving  
Fund Rules**

**Hearing #1**

Hearing Date and Time: **October 16, 2007, 5:30p**  
Hearing Location: Health and Human Services Building, **Bend, Oregon**

The Department convened the rulemaking hearing on the proposal referenced above at 5:30p and closed it at 6:21p

With the exception of the Presiding Officer, no other persons attended the hearing; no one testified; and no written comments were submitted at this hearing.

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**Hearing #2**

Hearing Date and Time: **October 17, 2007, 6:30p**  
Hearing Location: Eugene Water and Electric Board, **Eugene, Oregon**

The Department convened the rulemaking hearing on the proposal referenced above at 6:30p and closed it at 7:17p

With the exception of the Presiding Officer, no other persons attended the hearing; no one testified; and no written comments were submitted at this hearing.

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**Hearing #3**

Hearing Date and Time: **October 22, 2007, 6:00p**  
Hearing Location: DEQ Headquarters, **Portland, Oregon**

The Department convened the rulemaking hearing on the proposal referenced above at 6:03p and closed it at 6:59p

With the exception of the Presiding Officer, no other persons attended the hearing; no one testified; and no written comments were submitted at this hearing.

Attachment C

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**Relationship to Federal Requirements**

RULE CAPTION:

**Clarifying and Updating References in State Revolving Fund Rules (OAR 340-054)**

**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).**

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

Yes. The Department of Environmental Quality's (DEQ's) Clean Water State Revolving Fund (CWSRF) loan program is administered in accordance with the Clean Water Act and applicable federal regulations. The proposed amendments to OAR 340-054-0035 and -0060 are necessary to ensure that DEQ maintains authority to require and implement certain elements of the state program consistent with the existing requirements of the Clean Water Act and applicable federal regulations.

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

The applicable requirements are generally performance-based in that they relate to the environmental review required of projects proposed for CWSRF funding.

**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 development of the Clean Water Act was a broad and comprehensive effort to address the known issues and concerns of all 50 states. Clean Water Act Title VI (State Water Pollution Control Revolving Funds) and EPA regulations promulgated hereunder apply equally to all states. It is expected that Oregon's issues were and continue to be similar to most coastal states and those issues are addressed in the Clean Water Act.

**4. Will the proposed requirement (rulemaking) 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?**

With respect to the CWSRF program, the "regulated community" consists of public agencies who seek funding from the program. The proposed amendments incorporate revisions to the state environmental review process, and more firmly establish DEQ's authority to require borrowers to meet federal requirements related to the environmental review of projects proposed for program funding. As a consequence, the proposed amendments will clarify such requirements and facilitate continued federal grants used to fund projects proposed by the regulated community for CWSRF funding.

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

No. The pertinent federal requirements have been in effect for many years.

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

No, this topic is not addressed by these proposed amendments.

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

This rulemaking will help ensure that DEQ continues to implement its environmental review process equitably by better clarifying the pertinent requirements.

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

Not applicable. The proposed amendments ensure that DEQ maintains authority to implement a state environmental review process that satisfies existing federal requirements in conjunction with its loan program. They do not raise an issue of more or less stringency so much as an issue of consistency with underlying federal requirements on which continued federal funding relies.

**9. Does the proposed requirement (rulemaking) 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, The proposed amendments are required to maintain DEQ's authority to implement procedures to meet existing federal requirements.

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

This rulemaking will ensure that DEQ has the authority to require CWSRF borrowers to comply with the environmental review procedures that satisfy federal requirements. Demonstrated technology is available to comply with the required environmental review procedures.

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

Indirectly. The proposed rulemaking facilitates changes in the environmental review process that will support future projects designed to prevent water quality pollution and the continued funding thereof.

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>Rule Caption</b>	Clarifying and Updating References in State Revolving Fund Rules (OAR 340-054)
<b>Title of Proposed Rulemaking:</b>	Minor Revisions to the Clean Water State Revolving Fund Program
<b>Stat. Authority or other Legal Authority:</b>	ORS 468.020; ORS 468.423-ORS 468.440
<b>Stat. Implemented:</b>	ORS 468.423-ORS 468.440; ORS 197.180
<b>Need for the Rule(s)</b>	<p>The proposed amendments ensure DEQ's continued authority to administer the Clean Water State Revolving Fund (CWSRF) program consistent with federal requirements, and as a consequence, DEQ's continuing ability to obtain EPA grants to capitalize the loan program.</p> <p>DEQ's CWSRF loan program is updating its environmental review process for projects seeking CWSRF funding, as required by EPA to ensure consistency with federal requirements and continued federal funding. The environmental review process is found in the Department's CWSRF Procedures Manual (Manual). DEQ's current rules (OAR 340-054-0035 and -0060) cross-reference DEQ's 2003 Manual. DEQ proposes to amend OAR 340-054-0035 and 340-054-0060 to delete the outdated references to the 2003 Manual and to add references to the updated Manual. This will confirm DEQ's authority to administer the CWSRF program consistent with the Manual and the updated environmental review process therein.</p>
<b>Documents Relied Upon for Rulemaking</b>	<ul style="list-style-type: none"> <li>• EPA's annual capitalization grants (FY 2000-2006) to DEQ's CWSRF program</li> <li>• Draft State Environmental Review Process (SERP)</li> <li>• CWSRF Procedures Manual (May, 2003)</li> <li>• EPA Program Evaluation Report Transmittal Letter, (July, 2006)</li> </ul> <p>These documents are all available and can be reviewed at the DEQ Headquarters office by contacting Rick Watters at 1 (800) 452-4011 ext. 6814.</p>
<b>Requests for Other Options</b>	<i>ORS 183.335(2)(b)(G) requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.</i>
<b>Fiscal and Economic Impact, Statement of Cost Compliance</b>	
<b>Overview</b>	<p>The proposed amendments to OAR 340-054-0035 expressly allow the CWSRF program to implement its updated environmental review process instead of the earlier environmental review process, which EPA has determined to be inconsistent with applicable federal requirements.</p> <p>The primary impact of the proposed rule amendments, and the implementation of the updated environmental review process, is positive that DEQ will remain eligible for the federal grant provided annually by EPA in support of the loan program. On average, the amount of this grant is \$10 million and provides a quarter of the loan funds available to Oregon's program. The impact of losing this grant is \$10 million less invested in water pollution improvements or protection each year in Oregon.</p> <p>Implementation of the updated environmental review process may require CWSRF loan applicants to perform a more comprehensive environmental review to secure CWSRF funding. The environmental review process has, however, merely been updated to conform better to long-standing federal requirements for such state review process to ensure continued federal</p>

	funding. Further, potential borrowers can avoid potential adverse impacts associated with the revised process, if any, by securing funding from other sources.	
<b>General public</b>	<p>The adoption of the proposed rules will not have a direct impact on the general public. Indirectly, municipalities may incur additional project costs if they choose to pursue DEQ's CWSRF loan with its more comprehensive environmental review process. The potential incremental cost, if any, to the general public's subsequent sewer rates will be insignificant.</p> <p>Because the public benefits from the water quality improvements made possible by CWSRF community loans, any loss in funding for this DEQ program resulting from failure to amend these rules could adversely impact the natural environment or increase the public's cost of financing future environmental projects. The information needed to accurately quantify the indirect, negative fiscal impact on the public of not adopting the proposed rules is outside the scope of this analysis.</p>	
<b>Small Business</b> (50 or fewer employees – ORS183.310(10))	a) Estimated number and types of businesses impacted	Because small businesses are not eligible for CWSRF loans, DEQ does not anticipate any direct impacts
	b) Additional reporting requirements	None.
	c) Additional equipment and administration requirements	None.
	d) Describe how businesses were involved in development of this rulemaking	Businesses were not involved in developing this rule.
	Indirect Impact: as determined for the general public, the entity providing sewer services to a small business may incur additional project costs if that entity chooses to pursue DEQ's CWSRF loan with its more comprehensive environmental review process. The potential incremental cost, if any, to a small business' subsequent sewer rates will be insignificant.	
<b>Large Business</b>	<p>Because businesses are not eligible for CWSRF loans, there is no anticipated direct impact foreseen on large businesses.</p> <p>Indirectly, as determined for small businesses, the entity providing sewer services to a large business may incur additional project costs if that entity chooses to pursue DEQ's CWSRF loan with its more comprehensive environmental review process. The potential incremental cost, if any, to a large business' subsequent sewer rates will be insignificant.</p>	
<b>Local Government</b>	<p>The proposed amendments redirect rule references from the current, 2003 Procedures Manual (which includes the environmental review process deemed inadequate by EPA) to a revised, Procedures Manual (which includes a new environmental review process updated and consistent with federal requirements).</p> <p>Local governments (cities) are the primary borrowers of CWSRF loans. Implementation of the updated environmental review process will likely require CWSRF loan applicants to perform a more comprehensive environmental review to secure CWSRF funding.</p> <p>The average cost of developing an environmental review document has been about \$80,000. The additional cost for a local government to produce a more comprehensive environmental review is estimated to range from \$8,000 to \$10,000 (a 10% -12% increase in cost). The environmental review process has, however, merely been updated to conform to long-standing federal requirements on which continued federal funding relies. Further, potential borrowers can avoid potential adverse impacts associated with the revised process, if any, by securing</p>	



	<p>funding from other sources.</p> <p>Rejection of the proposed amendments would likely adversely impact local governments seeking future public funding for water quality improvement projects. Without these proposed rule changes, it is likely that federal funding of Oregon's CWSRF program will be curtailed. Without the federal contribution to the CWSRF program, fewer low-cost loans will be available to local governments. This may result in more expensive financing options for local governments seeking public financing for local water quality improvement projects.</p>
<b>State Agencies</b>	<p>The adoption of the proposed rule amendments will not have a direct impact on any other state agencies.</p> <p>DEQ's CWSRF program works closely with similar funding programs within the Oregon Economic and Community Development Department (OECD). Indirectly, OECD's programs could expect more public demand for their funds if the CWSRF program's federal funding was curtailed by EPA based on its determination that DEQ's environmental review process was not consistent with federal requirements. The resulting loss of funding for the CWSRF program could also impact the demand for services at the Oregon Watershed Enhancement Board (OWEB). The actual, indirect impact on funding programs at OECD or OWEB is outside the scope of this analysis.</p>
<b>DEQ</b>	<p>Adoption of the proposed rule amendments will not have a direct adverse impact on DEQ's CWSRF program or the Department.</p> <p>If the proposed amendments are not adopted, there will be indirect negative impacts within the CWSRF program. The EPA's annual grants to the revolving fund would very likely be curtailed resulting in approximately \$10 million less in annual CWSRF funds for the program and Oregon's communities. The loss of the annual EPA grant would mean a 25% reduction (from approximately \$40 million down to \$30 million) in the amount of loans available annually to Oregon's public entities. This would likely result in increased demand on other sources of public funding and possible higher financing costs for local governments. More importantly, DEQ's CWSRF program would not be able to fund all the community projects seeking assistance to improve water quality.</p> <p>Neither staff FTE levels nor administrative revenues would be impacted because they are not funded through the federal grant (the grant only funds additional loans).</p>
<b>Other agencies</b>	<p>Adoption of the proposed rule amendments will not impact any other local or federal agencies directly.</p> <p>Because the CWSRF program's annual federal grant will be jeopardized if these rule amendments are not adopted; there may be less CWSRF program funding available to Oregon's public entities. This would likely increase demand on other funding offices such as USDA's Rural Utility Service (RUS) and the Rural Community Assistance Corporation (RCAC). Similar to the impact on state agencies, the actual, indirect impact on funding programs at RUS and RCAC is outside the scope of this analysis.</p>
<b>Assumptions</b>	<p>There will be no direct, adverse fiscal impact if the proposed rules are adopted.</p> <p>If the proposed amendments are not adopted, DEQ may lose its authority to implement important elements of the CWSRF program. This will result in reduced CWSRF funding for water quality improvement projects and likely increase the demand on other funding agencies in Oregon.</p>
<b>Housing Costs</b>	<p>The Department has determined that these proposed amendments will have no direct 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</p>
<b>Administrative Rule Advisory Committee</b>	<p>No Advisory Committee was utilized. This rulemaking did not include the development of public policy, but focused entirely on clarifying and confirming DEQ's authority to administer the CWSRF program in conformance with long-standing federal requirements, as required by EPA to prevent curtailment of federal grants to the program. Revision of DEQ's environmental</p>

review process to ensure consistency with existing federal requirements for such processes did not raise issues that justified establishing an Advisory Committee.

Larry McAllister  
Prepared by

Larry McAllister  
Printed name

9/13/07  
Date

9/14  
A. Lee, R. Lee  
Approved by DEQ Budget Office

Andrew Rollock  
Printed name

9/14/07  
Date

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
Land Use Evaluation Statement

Rulemaking Proposal

**Clarifying and Updating References in State Revolving Fund Rules  
(OAR 340-054)**

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

The Department of Environmental Quality's (DEQ's) Clean Water State Revolving Fund (CWSRF) loan program is updating its environmental review process for projects seeking CWSRF funding, as required by EPA to continue annual federal grants in support of the CWSRF loan program.

The state environmental review process is found in DEQ's CWSRF Procedures Manual. Two current administrative rules (OAR 340-054-0035 and -0060) cross-reference requirements in the DEQ's CWSRF Procedures Manual. The proposed amendments to these two rules are necessary to delete outdated references to the earlier 2003 CWSRF Procedures Manual and to add references to the updated CWSRF Manual. This rulemaking will also delete one sentence of text in OAR 340-054-0035(1)(c) that was inconsistent with the revised SERP. No other changes to the CWSRF administrative rules will be addressed in this rulemaking.

**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:**

DEQ's approval of State Revolving Fund Loan applications is identified in the SAC as a program affecting land use. The proposed rule amendments pertain to the content of such loan applications and loan agreements;

**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

**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.

# **Clean Water State Revolving Fund**

## **Procedures Manual**

**State of Oregon**

**Department of Environmental Quality**

Prepared by:

Clean Water State Revolving Fund program  
Water Quality Division  
Oregon Department of Environmental Quality  
811 S.W. Sixth Avenue  
Portland, Oregon 97204-1390

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## ***About This Manual***

This document is the “CWSRF Procedures Manual” of the Oregon Clean Water State Revolving Fund Loan Program. It is an official document of the program, and is used primarily for internal purposes and to document program procedures for the U.S. Environmental Protection Agency. Other CWSRF documents provide this information in a more useful form to borrowers, engineers and the public.

While the title “Procedures Manual” implies a wider scope of procedures, only those topics listed under “Contents” are addressed in this manual.

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## ***Engineering Planning Documents***

Applicants for Clean Water State Revolving Fund (CWSRF) loans for design or construction of water pollution control facilities must submit engineering planning documentation to the DEQ project officer for DEQ review and approval. Submission of engineering plans and subsequent DEQ review and approval must be completed prior to signing a design and/or construction loan. This documentation may take the form of either ***a facility plan*** or ***a project design report*** depending on the complexity of the proposed project.

A “Facility Plan” as defined in 40 CFR § 35.917 (b) “consists of those necessary plans and studies which directly relate to the construction of treatment works necessary to comply with sections 301 and 302 of the [Clean Water] Act.” A “Facility Plan” as defined in Oregon Administrative Rule is a systematic evaluation of environmental factors, engineering alternatives and financial considerations affecting a proposed project area.

The engineering documentation required by the CWSRF program is essentially the same as the requirements for all wastewater treatment construction projects within the state regardless of funding source. The document, “Guidelines for the Preparation of Facilities Plans and Environmental Reviews for Community Wastewater Projects” has been prepared in conjunction with Oregon Economic and Community Development Department (OECDD), USDA’s Rural Utilities Service and the Rural Development, and Rural Community Assistance Corporation. This document outlines the basic requirements of a facility plan. A copy of this document can be found on the DEQ CWSRF website at <http://www.deq.state.or.us>

***Before a design or construction of a wastewater project will receive CWSRF funding***, the following additional items may need to be addressed within the facility planning report or as stand alone document.

- 1) An environmental analysis which discusses the projected direct and indirect impacts of the “no-action” alternative and other feasible alternatives. This analysis also identifies and outlines mitigation measures to resolve or lessen the identified impacts. The environmental analysis must specifically address:
  - Historic Resources
  - Wetlands
  - Floodplain Management
  - Farmland Protection
  - Coastal Zone Management
  - Wild and Scenic Rivers
  - Endangered Species Act
  - Essential Fish Habitat
  - Clean Air Act
  - Safe Drinking Water Act
  
- 2) A summary of public participation activities included in the facilities planning process.

3) **Phased Projects:** When projections of growth, flows or costs over the 20-year planning cycle are questioned; at the request of the borrower and with the approval of the Department, projects can be designed to be constructed in functional incremental phases during the 20-year project life. The following conditions apply to phased projects:

- All phases, in combination, over the 20-year planning cycle will be considered to be a single project for facilities planning purposes.
- The subject facilities plan must be reviewed and approved by the Department before the start of construction for each phase.
- If conditions change during the 20-year life of a phased project such that the phase being considered for construction exceeds the parameters of the project described in the current facilities plan, the facilities planning and environmental review process shall restart.
- Each phase must achieve the current water quality permit requirements in state rule at the time of Initiation of Operation.
- Each phase may be considered an independent project for CWSRF financing purposes.

## ***User Charge System and Rates***

***If the CWSRF loan is to be secured with sewer system revenues***, the borrower must submit a copy of its user charge system to the Department for review and approval prior to loan approval. The rate structure must be designed to produce adequate revenues to provide for operation and maintenance (including appropriate replacement reserves), and any debt service. If the current rate structure is not sufficient to pay the annual debt service on the Clean Water State Revolving Fund loan plus any additional surplus amount required by the loan agreement, a new rate structure must be enacted by the borrower that will meet the requirements of the loan. Any such new rate structure that must be enacted to satisfy the requirements of the loan agreement must be approved by the borrower's governing body and implemented by the time of the project's Initiation of Operations.

***All borrowers*** are encouraged to review the user charge system and sewer rate projections annually to be sure that the new or rehabilitated system will be adequately operated and maintained over the life of the system.

***Borrowers who are constructing systems that will serve two or more municipalities (Regional Facilities)*** must submit the executed inter-municipal agreements, contracts or other legally binding instruments necessary for the financing, building and operation of the proposed treatment works to the Department for review and approval before loan approval. If, in the opinion of the Department, the legally binding instrument is not adequate for the financing, building and operation of the proposed treatment works, the parties involved must change said instrument to the satisfaction of the Department before loan approval.

***All borrowers*** must demonstrate continuing compliance with state and federal budget and audit requirements during the life of the loan and submit audited financial reports annually. Additional financial reporting requirements may be listed in the loan agreement, such as providing documentation that coverage and reserve requirements are being met each year.



## *Environmental Review*

Federal regulations for the Clean Water State Revolving Fund (CWSRF) provide that “[t]he State must agree to conduct reviews of the potential environmental impacts of all section 212 construction projects receiving assistance from the SRF, including nonpoint source pollution control (section 319) and estuary protection (section 320) projects that are also section 212 projects.” (40 C.F.R. 35.3140(a).)

The Oregon Department of Environmental Quality (DEQ) will conduct environmental review of all Clean Water Act section 212 projects (i.e., municipal wastewater collection and treatment systems) financed through Oregon’s CWSRF program as described below.

There are three tracks to Oregon’s CWSRF State Environmental Review Process (SERP): the Categorical Exclusion track, the Environmental Assessment track and the Environmental Impact Statement track. DEQ will identify the appropriate track for, and extent of environmental analysis required by a given project based upon the significance of the potential environmental impacts associated with that project. Some of the factors that may be used to determine the significance of these effects include the existence of sensitive resources, the potential for irreversible impacts, the duration and frequency of effects, the potential for secondary and cumulative impacts and the uniqueness of potentially affected resources.

The Categorical Exclusion (CE) track. DEQ will:

- Evaluate the application and other initial project information;
- Determine whether the project qualifies for a CE from further environmental analysis;
- Document the decision and the bases for that decision; and
- Provide Public Notice that the project qualifies for a CE.

The Environmental Assessment (EA) track. If DEQ determines the project does not qualify for a CE, DEQ will:

- Require the applicant to submit further analysis, including an EA.
- Based on the DEQ’s review of the EA, it will determine whether an EIS is needed to resolve any environmental questions.
- If the DEQ concludes that an EIS is not necessary, DEQ will publish a proposed Finding of No Significant Impact (FONSI) for public review.
- After the completion of the public review period, DEQ will issue the final FONSI as described in section 4, below.

The Environmental Impact Statement (EIS) track. If an EIS is required, then the applicant will be required to:

- Publish Notice of Intent prior to initiating an EIS;
- Prepare and submit a Draft EIS;
- Provide for Public Participation;
- Prepare a Final EIS; and
- Submit to DEQ with a request for proposed action.

Upon receipt of a satisfactory final EIS, DEQ will issue a Record of Decision (ROD).

Each of the three tracks is discussed in more detail below.

## 1) *Categorical Exclusion*

Some categories of projects are not expected to have significant impacts on the quality of the natural and human environment. A detailed EA is not required for these projects. Federal cross-cutting authorities may, however, still apply. See 40 C.F.R. 35.3145 and section 7, below.

A project is eligible for a CE from further environmental review requirements *if* the project is limited solely to the minor rehabilitation of existing facilities, the replacement of equipment, or the construction of related facilities that do not significantly affect the degree of treatment or the capacity of the facility. The final determination as to whether a project qualifies for a CE rests with the DEQ. DEQ will verify that none of the “extraordinary circumstances” identified at 40 C.F.R. §6.204(b) apply to the project.

Examples of projects that are generally eligible for a CE include:

- Correction of infiltration and inflow
- Replacement or rehabilitation of existing equipment and structures
- Construction of small structures on existing sites
- Modification or expansion of solids processing, storage, or disposal facilities that do not expand liquid treatment capacity
- Process substitution or enhancement that does not expand liquid treatment capacity, such as adding chemical dechlorination, replacing chlorination with ultraviolet disinfection, or adding effluent irrigation facilities
- Installation of groundwater monitoring wells
- Construction of new collection lines to serve existing development with failing on-site systems
- Minor expansion or upgrade of existing water pollution control facilities of a system serving fewer than 10,000 people.

A project will generally not be eligible for a CE if it includes any of the following activities:

- Construction of new collection lines to serve undeveloped areas
- Construction of a new discharge point or relocation of an existing discharge point
- A substantial increase in the volume or loading of pollutants
- Expansion of treatment capacity sufficient to serve a population that exceeds the existing population by 30 percent or more
- Known or expected impacts to cultural resources, historical and archaeological resources, threatened or endangered species, or environmentally sensitive areas
- Construction of facilities that are known or expected to be highly controversial.

**DEQ's determination that a project qualifies for a CE reflects that DEQ has determined that the project does not have the potential to significantly affect the quality of the environment, individually, cumulatively or over time, or in conjunction with other actions; and will not change the upstream or downstream function of the wastewater treatment facilities or the receiving waters.**

A statement of CE and documentation regarding the information, processes and premises that influenced DEQ's determination that a project qualifies for a CE will be made a part of the CWSRF project file. The documentation will include DEQ's determination that none of the "extraordinary circumstances" identified at 40 C.F.R. §6.204(b) apply to the project. The project file will also include documentation demonstrating compliance with any applicable Federal cross-cutting authorities. Such documentation will be made part of the CWSRF project file if DEQ reaffirms or modifies a decision contained in a previously issued CE following mandatory 5-year reevaluation of a proposed project.

DEQ will provide for public participation as described in section 4, below.

If the project does not qualify for a CE, an EA must be prepared as described in section 2, below.

## ***2) Environmental Assessment***

Projects that do not qualify for a CE require a detailed environmental review, including an analysis of a no action alternative, in addition to other reasonable alternatives considered. This review is documented in an EA.

Section 212 projects are typically developed through a wastewater facilities plan. Therefore, the facilities plan may contain an EA chapter. Ideally, environmental impacts will be taken into consideration when evaluating potential alternatives and in selecting the final alternative.

In some cases the facilities plan does not include an EA because the plan was developed before the applicant knew that CWSRF funding would be used for the project. In such a situation, it will be necessary for the applicant to prepare a freestanding EA, or amend the facilities plan to include an EA.

In either case, once a decision to develop an EA has been made, it should be prepared in accordance with section 6 and Appendix C of the document Guidelines for the Preparation of Facilities Plans and Environmental Reviews for Community Wastewater Projects and Rural Utilities Service (RUS) Bulletin 1794A-602, both of which can be found on DEQ's website.

For the purpose of this SERP, applicants referring to the RUS Bulletin 1794A-602 should contact DEQ instead of RUS as the document indicates.

DEQ responsibilities include technical oversight and review of the EA, as well as review for compliance with any applicable Federal cross-cutting authorities. Documentation of the information, processes and premises that influenced DEQ's decision to accept the EA and issue a FONSI will be made a part of the CWSRF project file. Such documentation will also be made part of the CWSRF project file if DEQ reaffirms or modifies a decision contained in

a previously issued EA/FONSI following mandatory 5-year reevaluation of a proposed project.

DEQ's acceptance of an EA and issuance of a FONSI may be conditioned on implementation of mitigation measures that will be required of the applicant and upon which the loan agreement will be conditioned to ensure that the project will be environmentally sound and performed consistent with DEQ's findings. These mitigation measures and the steps being taken to ensure their effective implementation would be identified in the FONSI.

DEQ will provide for public participation as described in section 4, below.

### ***3) Environmental Impact Statement***

DEQ will base any decision to require the development of an EIS on the EA or other information which demonstrates that significant impacts will occur that will not be reduced or eliminated by changes to or mitigation of the proposed action. As suggested above, the DEQ might also determine that an EIS is needed based upon its consideration of information prepared by the applicant or based upon issues raised by the public or agencies with expertise during the scoping process for an EA.

The applicant will be required to publish a notice of intent to prepare an EIS in newspapers of state-wide and local publication before initiating an EIS. The applicant will also be required to contact affected local, state, and federal agencies, tribes and other interested parties for comments regarding the appropriate scope of the required EIS. The DEQ will participate in the scoping process and will work with the applicant to address the Federal cross-cutting authorities during the development of the EIS.

The applicant will prepare a Draft EIS that conforms to the requirements articulated at 40 C.F.R. §1502 and §6.207(d) (2)-(7). The completed Draft EIS will be submitted to the DEQ for its review and approval. The Draft EIS shall address the alternatives and issues identified during the scoping process. Once it is approved by DEQ, the applicant will submit the approved draft EIS to agencies with jurisdiction and expertise for their review and comment.

The public is then provided notice and an opportunity to provide comments on the draft EIS as further described in section 4 below. Based on the comments on the Draft EIS, the applicant will prepare a Final EIS under the DEQ's technical direction and submit it to DEQ with a request for proposed action. The final EIS must include or summarize all substantive comments received on the draft EIS, respond to any substantive comments on the draft EIS, and explain any changes to the draft EIS and the reason for the changes.

Upon receipt of satisfactory final EIS, the DEQ will publish it and make copies available to all who commented on the draft EIS as well as to the general public. After a 30-day "wait period" the DEQ will issue a ROD. During the "wait period" no action shall be taken on the project that will have adverse environmental impacts or limit the choice of alternatives. The ROD is DEQ's final action prior to implementation. The content of the ROD will conform generally to the requirements at 40 C.F.R. §6.208. The ROD will document the bases for DEQ's decisions on the project, describe how the project avoids minimizes and mitigates adverse environmental impacts and discuss the actions that the DEQ is taking and will take to

ensure proper implementation of all mitigation measures required of the applicant and upon which the loan agreement will be conditioned.

DEQ will document the information, processes and premises that influenced its decision to proceed or not proceed with a project contained in a ROD after preparation of an EIS or a decision to reaffirm or modify a decision contained in a previous EIS or ROD following a mandatory 5-year reevaluation of a project. This documentation, including all notices and public comments, will be maintained in project files.

#### **4) Public Participation**

All CE determinations require a public notice. All EAs, including those adopted from other agency's, require notice of availability and 30-day public comment period before the EA process is considered complete and the EA can be accepted. DEQ will not execute a design and/or construction loan agreement or otherwise take action on the project until the EA process is complete.

For each CE and EA, DEQ will publish the notice in a statewide publication and local newspaper in one of two ways:

- As part of the public notice for updates of the Intended Use Plan (IUP). This is ordinarily done three times per year in February, June and October. The IUP is open for public comment for 30 days. The IUP is a document that describes how Oregon plans to use CWSRF monies during the current funding year.
- As a freestanding notice of the CE or EA for the proposed project when waiting for the next regular IUP notice would be detrimental to the timely initiation of the project.

The notice of availability will include the environmental determinations for the project or projects slated to be funded, provide contact information (including information on how to obtain the environmental documents upon which DEQ's decisions will be based) and offer a 30-day comment period. Documentation of the public notice and any comments received will be kept in the DEQ project files.

A public hearing or meeting will generally not be held for projects having little or no environmental effect, including such projects determined to qualify for a CE or an EA/FONSI. Any public hearings will follow the current DEQ Communications Office guidelines for public involvement. After completion of the public review period, DEQ will issue the final FONSI.

If an EIS is required, the applicant must publish a notice of intent to prepare an EIS in a state-wide publication and a local newspaper and allow a 30-day public comment period before initiating the EIS. Upon DEQ approval of the draft EIS, the applicant must publish notice of availability of the draft EIS in a state-wide publication and a local newspaper, allow a 45-day public comment period, and conduct a public hearing on the draft EIS. Notice of the EIS will include contact information, how to obtain the EIS and any environmental documents incorporated into the EIS.

Upon issuance of the Final EIS, DEQ will allow a 30-day public comment period on the Final EIS. After the completion of the public comment period, a ROD will be issued. Notice of the ROD will include the contact information and how to obtain the environmental documents upon which DEQ's decision was based.

Judicial review of a CE determination, acceptance of an EA and issuance of a FONSI, or issuance of a ROD is as provided in ORS 183.484.

### ***5) Land Use Compatibility Statement***

An affirmative Land Use Compatibility Statement (or "LUCS") must be submitted with applications for all design and construction projects proposed for CWSRF funding. An affirmative LUCS ensures that the project is in compliance with state land use laws, the local comprehensive land use plan, as acknowledged by the Department of Land Conservation and Development, and local land use regulations. The required content and format for a LUCS can be found on DEQ's website.

The LUCS process also responds to other environmental objectives of the State by considering projects within the broader scope of long term, area-wide land use goals and objectives that have been reviewed and approved at both the local and state levels.

### ***6) Environmental Reviews from Other Agencies***

Municipal wastewater treatment system improvement projects receiving CWSRF funding assistance may also receive assistance directly from a Federal agency (EPA, United States Department of Agriculture or USDA) or indirectly from a Federal agency (Housing and Urban Development or HUD) through the Oregon Economic and Community Development Department (OECD). The process for award of funding by these agencies includes completion of a National Environmental Policy Act (NEPA) environmental review pursuant to the NEPA procedures of each agency.

In accordance with the April 3, 1997 EPA-HUD-USDA agreement, and in view of the formally coordinated procedures used by DEQ, OECD, and USDA/RUS in Oregon, it will be DEQ's practice to accept the environmental review documents prepared for, and accepted by, and the environmental determinations made by, Federal and other State agencies pursuant to their respective NEPA procedures. Two conditions must be met before DEQ accepts such reviews: (1) the scope of project must remain largely unchanged from that accepted by the other agency; and (2) the other agency's determination must have been made within the previous five years. The DEQ project file will contain a copy of the environmental review documents and a copy of the other agency's determination. DEQ will provide public notice of its intent to accept another agency's review.

### ***7) Alternative Environmental Review Process***

Federal environmental and economic cross cutting authority requirements may apply to projects on any track. Projects funded by an amount over and above the amount of Oregon's

capitalization grant are not, however, required to apply these cross-cutting authorities. The determination as to which project(s) are deemed to be funded by an amount over and above the amount of Oregon's capitalization grant will be made by the DEQ SRF Program Section Manager. Under no circumstances will this determination be used to intentionally avoid environmental scrutiny related to the federal cross cutting authorities. Documentation that a project is funded above the capitalization grant amount and thereby relieved from complying with Federal environmental and economic cross cutting authority requirements, must be included with the project file together with the basis for that determination and be listed in the IUP. The SRF Annual Report will note which projects applied Federal cross cutting authority requirements and which did not.

## *Value Engineering*

A value engineering study satisfactory to the Department is encouraged for design and construction projects prior to commencement of construction if the total project cost will exceed \$10 million. "Value Engineering" is a specialized cost control technique that uses a systematic approach to identify cost savings that may be made without sacrificing the reliability or efficiency of the project.



## ***Project Completion Activities***

The requirements for a CWSRF-funded wastewater construction project, including the Operation and Maintenance Manual, Erosion Control Plan, MBE/WBE Utilization report and Change Orders are described in detail in the CWSRF Manual for Construction Projects. The items listed below are some of the requirements for the final completion of the project. More specific detail on these requirements is also contained in the Manual for Construction Projects.

***Performance Evaluation Standards:*** The Performance Evaluation Standards is a detailed plan for evaluating the completed project to demonstrate whether or not it performs as intended. All CWSRF projects must be designed and constructed to achieve permit requirements, meet all DEQ regulations, and achieve the pollution abatement identified in the loan application. Design and construction shall assume a project life of at least twenty years, given reasonable assumptions of community and environmental change, and regular maintenance.

***Initiation of Operation:*** The borrower shall notify the Department within 30 days of the actual date of Initiation of Operation. If the project is completed, or is completed except for minor items, and the facility is operable but the borrower has not sent its notice of Initiation of Operation, the Department may assign an Initiation of Operation date.

***Construction Certification:*** After Initiation of Operation, the borrower's engineer submits the CWSRF Loan Construction Certification Form to certify that construction, materials and testing are in compliance with the approved plans and specifications and that all of the testing was adequately documented.

***Performance Evaluation Report:*** The Performance Evaluation Report is submitted by the borrower's engineer approximately eleven months after the operation begins. It evaluates the project's performance based on the results of the testing and monitoring performed according to the approved performance evaluation standards.

***Performance Certification:*** One year after Initiation of Operation, the borrower shall certify whether or not the facility meets the performance and operational requirements applicable to the project, and the specifications which the project was planned, designed and built to achieve (which were previously approved in writing by the DEQ).

***Corrective Action:*** If the project does not meet permit and other DEQ requirements but the Borrower has made an effort to do so and has operated and maintained the project appropriately, a reasonable loan increase is generally available to make needed corrections or modifications within the original scope of the loan project, depending upon funds available at the time. The borrower will need to meet all of the financial requirements of the CWSRF program. The increase may be made in the form of a new loan at the current loan terms.

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**DIVISION 54**

**CLEAN WATER STATE REVOLVING FUND PROGRAM**

**340-054-0035**

**Final Stage of Application Process for Design Loans or Construction Loans**

The Department will administer loans for design and construction of both point source and nonpoint source projects.

(1) In addition to the loan application and items specified in OAR 340-054-0024(1), applicants applying for a CWSRF loan for a design or construction project must submit the following documents to be considered for loan approval:

(a) A planning document that the Department determines adequately documents the efficacy and appropriateness of the proposed project to remediate the identified water pollution control problem. For sewage collection systems or sewage treatment facilities, the planning document must meet the requirements of the Department's CWSRF Procedures Manual (February 1, 2008) and other planning guidance in effect at the time of submittal

(b) In accordance with OAR 340-018-0050, a Land Use Compatibility Statement (LUCS) from the appropriate planning jurisdiction demonstrating compliance with the Department of Land Conservation and Development's (DLCDD) acknowledged comprehensive land use plan and statewide land use planning goals.

(c) An environmental review prepared in accordance with the requirements of the EPA approved ~~alternative~~ State Environmental Review Process (SERP) described in the CWSRF Procedures Manual, ~~May 1, 2003~~(February 1, 2008). ~~At its discretion, the Department may execute a loan agreement prior to receipt of an environmental review; however no loan disbursements may be processed without an approved environmental review.~~

(d) Any other information requested by the Department.

(2) In addition to the requirements of section (1) of this rule, applicants for a CWSRF loan for the design or construction of sewage collection systems or sewage treatment projects must submit the following documents to be considered for loan approval:

(a) A Department approved sewer use ordinance adopted by all municipalities and service districts serviced by this project that meets the provisions of this section. The sewer use ordinances must prohibit any new connections from inflow sources into the sewage collection system; and require that no wastewater introduced into the sewage collection system contain toxics or other pollutants in amounts or concentrations that have the potential of endangering public safety or adversely affecting the project or precluding the selection of the most cost-effective alternative for the project.

(b) A demonstration that the Applicant has adopted a user charge system that meets the requirements of the User Charge System section of the CWSRF Procedures Manual, ~~May 1, 2003~~ (February 1, 2008).

(c) For projects serving two or more municipalities, the Applicant must submit the executed inter-municipal agreements, contracts or other legally binding instruments necessary for the financing, building and operation of the proposed sewage collection system or sewage treatment facility.

(d) In accordance with OAR Chapter 340, division 052, Applicants for construction-only loans must submit Department approved plans and specifications for the project as applicable.

(e) For projects with estimated costs in excess of \$10 million, the Applicant must submit a value engineering study prepared in accordance with the requirements of the CWSRF Procedures Manual (February 1, 2008).

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.433 & ORS 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; Administrative correction 10-29-98; DEQ 10-2003, f. & cert. ef. 5-27-03

### **340-054-0060**

#### **Loan Agreement and Conditions**

Each loan agreement will include conditions applicable to the type of project being financed, which include, but are not limited to, the following:

(1) Accounting. The Borrower must maintain all CWSRF project accounts as separate accounts and must use accounting, audit and fiscal procedures that conform to Generally Accepted Governmental Accounting Standards and the requirements of the Governmental Accounting Standards Board.

(2) Records. The Borrower must retain project files and records for at least three years after performance certification or project completion as determined by the Department. Financial files and records must be retained until the loan is repaid in full.

(3) Wage Rates. The Applicant must ensure compliance with applicable federal or state wage rates, if any, for construction projects.

(4) Operation and Maintenance Manual. For the construction of a sewage collection system or a sewage treatment facility subject to OAR chapter 340, division 052, the Borrower must submit a draft and final facility operation and maintenance manual at the time and in a format specified by the Department.

(5) Plans and Specifications. For the construction of a sewage collection system or a sewage treatment facility subject to OAR chapter 340, division 052, the Borrower must obtain the Department's approval of project plans and specifications before commencement of construction.

(6) Inspections and Progress Reports.

(a) During the construction phase of a sewage collection system or a sewage treatment facility subject to OAR chapter 340, division 052, the Borrower must provide on-going inspections to ensure the project complies with approved plans and specifications. These inspections must be conducted by qualified inspectors under the direction of a registered civil, mechanical or electrical engineer, whichever is appropriate. The Department or its

representative may enter property owned or controlled by the Borrower to conduct interim inspections and require progress reports sufficient to determine compliance with approved plans and specifications and with other provisions of the loan agreement.

(6) For projects not subject to Department review under OAR chapter 340, division 052, the Department may seek the review and analysis of construction plans from relevant agencies or offices to ensure those plans support the successful implementation and completion of the project. During implementation of the project, the Borrower must allow inspections by appropriately qualified persons to ensure that the project as constructed conforms to project plans and other provisions of the loan agreement.

(7) Loan Amendments. Changes in project work that are consistent with the objectives of the project and within the scope and funding level of the loan do not require the execution of a formal loan amendment. A loan amendment will be required in the following situations:

(a) The Borrower receives an increase in the original approved loan amount at any time during the project. The Department may approve loan increases if funds are available, and the Borrower demonstrates both the legal authority to borrow and the financial capability to repay the increased loan amount.

(b) The Borrower requests a decrease in the original loan amount at any time during the project or completes the project and does not request disbursement of all loan proceeds.

(8) Change Orders. The Borrower must submit Change Orders to the Department for engineering and financial review. The Department will approve or reject the Change Orders based on the loan eligibility of the project modifications and on its engineering value in accordance with OAR 340-052-0015.

(9) Project Performance Certification for a sewage collection system or sewage treatment facility. The Borrower must submit to the Department a Project Performance Certification that meets the requirements of the CWSRF Procedures Manual (February 1, 2008) within the time frame specified by the Department.

(10) Eligible Construction Costs. Loan disbursements for construction costs will be limited to work that complies with plans, specifications, change orders and addenda approved by the Department.

(11) Adjustments. The Department may, at any time, review and audit requests for payment and make adjustments for eligibility, math errors, items not built or bought, unacceptable construction and other discrepancies.

(12) Contract and Bid Documents. The Borrower must submit a copy of the awarded contract and bid documents to the Department, including a tabulation of all bids received.

(13) Audit. Borrowers may satisfy audit requirements in one of the following two ways:

(a) An External Audit. Within one year after Performance Certification, the Borrower must submit an audit of the project expenditures consistent with Generally Accepted Accounting Principles conducted by a certified auditor. The Borrower will pay for this audit.

(b) Internal documentation. The Borrower must submit to the Department:

(A) A complete accounting of project costs incurred by the Borrower including documentation to support each cost element; and

(B) One copy of the Borrower's annual audited financial report each year until the loan is repaid. Audit compliance with OMB A-133 is required if federal funds are disbursed as loan proceeds.

(14) Operation and Maintenance. The Borrower must provide the necessary resources for adequate operation, maintenance and replacement of a sewage facility, nonpoint source control or estuary management project and retain sufficient operating personnel to operate the facility.

(15) Default Remedies. Upon default by a Borrower, the Department may:

(a) Pursue any remedy available at law or in equity.

(b) Appoint a receiver at the expense of the Borrower to operate the facility that produces the pledged revenues.

(c) Set and collect utility rates and charges.

(d) Withhold any amounts otherwise due to the Borrower from the State of Oregon and direct that such funds be applied to the debt service and fees due on the CWSRF loan. If the Department finds that the loan to the Borrower is otherwise adequately secured, the Department may waive this right to withhold state revenue due to the Borrower.

(16) Release. The Borrower shall release and discharge the Department, its officers, agents and employees from all liabilities, obligations and claims arising out of the project work or under the loan, subject only to exceptions previously agreed upon in a written contract between the Department and the Borrower.

(17) Effect of Approval or Certification of Documents. Review and approval of facilities plans, design drawings and specifications, or any other documents by or for the Department does not relieve the Borrower of responsibility to properly plan, design, build and effectively operate and maintain a sewage facility, nonpoint source control or estuary management project as required by law, regulations, permits and good management practices. The Department is not responsible for any project costs or any losses or damages resulting from defects in the plans, design drawings and specifications, or other sub-agreement documents. The Department is not responsible for verifying cost-effectiveness, cost comparisons or adherence to state procurement regulations.

(18) Reservation of Rights:

(a) Nothing in this rule prohibits a Borrower from requiring more assurances, guarantees, indemnity or other contractual requirements from any party performing project work; and

(b) Nothing in the rule affects the Department's right to take remedial action, including, but not limited to, administrative enforcement action and actions for breach of contract against a Borrower that fails to carry out its obligations under OAR Chapter 340.

(19) Other Provisions. CWSRF loan agreements will contain such other provisions as the Department may reasonably require to meet the goals of the Clean Water Act and ORS 468.423 to 468.440.

Stat. Auth.: ORS 468.423 - ORS 468.440

Stats. Implemented: ORS 468.433 & ORS 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 31-1989(Temp), f. & cert. ef. 12-14-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; Administrative Correction; DEQ 10-2003, f. & cert. ef. 5-27-03



## Recycled Water Use Proposed Rules

### Environmental Quality Commission Meeting

February 21, 2008

Portland, Oregon

Judy Johndohl and Neil Mullane (DEQ)

Ken Kauffman (Dept. of Human Services, Water Reuse Task Force)

Mark Yeager (City of Albany, Water Reuse Task Force Chair)



## Presentation Overview

- Overview of recycled water use
- Rulemaking process
- Issues identified during the rulemaking process
- Recycled water use projects in Oregon
  - Current projects
  - Projects in the planning stage
- What's next



## Recycled Water Use Rules and Policies

### Highlights

- DEQ Guidelines developed in January 1986
- EQC adopted rules in August 1990
- SB 820 adopted by the 2003 Legislature
  - Urban Water Reuse Task Force (May – Nov. 2004)
- Governor's Executive Order signed in March 2005
- Interagency MOU effective December 2006
- DEQ's Strategic Directions for 2006-2011



## Why the Interest in Recycled Water?

- Wastewater treatment facilities facing more stringent discharge limits
- Demand for water with population growth and economic development
- Increased costs for producing and distributing drinking water
- Most of Oregon's rivers and streams are fully appropriated



## Rulemaking Process

### Timeline

- March 2006 – May 2007: Internal Rulemaking Team meetings
- May 2006 – May 2007: Water Reuse Task Force meetings
- July 2007 – August 2007: Public hearings and public comment period
- September 2007 – February 2008: Review public comments and revise proposed rules as necessary
- February 2008: Present informational item on proposed recycled water use rules to EQC
- April 2008: Present proposed rules to EQC for adoption



## Rulemaking Process

### Scope

- Update rules to allow for innovative and improved treatment technologies
- Remove potential regulatory barriers
- Remove language that unduly stigmatizes recycled water
- Clarify the regulatory process for approving recycled water use projects
- Identify additional beneficial purposes (end uses) and clarify certain end uses
- Ensure public health and environmental protection are maintained





## Water Reuse Task Force

### Members and representation

- **Mark Yeager (Chair)** - Oregon Association of Clean Water Agencies (ACWA), City of Albany
- **Stephanie Eisner** - ACWA, City of Salem
- **Dan Hanthorn** - ACWA, City of Corvallis
- **Jadene Stensland** - ACWA, City of Wilsonville
- **Ken Vanderford** - ACWA, City of Eugene
- **Dave Wilkinson** - Oregon Department of Agriculture (ODA)
- **Terry Swisher** - Oregon Department of Consumer and Business Services (DCBS)
- **Ken Kauffman** - Oregon Department of Human Services (DHS)
- **Kim Grigsby** - Oregon Water Resources Department (WRD)
- **Renee Stoops** - SPROut Coordinator at The Oregon Garden
- **Kim Anderson** - Sunrise Water Authority



## Issues Identified

- Defining how and when criteria should be met
- Barriers with other administrative rules
  - Aquifer storage and recovery
  - Wetlands
  - Stream augmentation
- Public perception, including sign posting
- Setback distances



## Task Force Accomplishments

- Improved the overall readability of the rules
- Allowed for current and alternative treatment technology
- Identified and streamlined when other state agencies need to be consulted and for what purposes
- Clarified responsibility for compliance with the rules
- Identified what is required in a recycled water use plan
- Clarified site management requirements and alternatives
- Allowed more beneficial purposes (end uses) and clarified certain end uses



## Recycled Water Use Projects

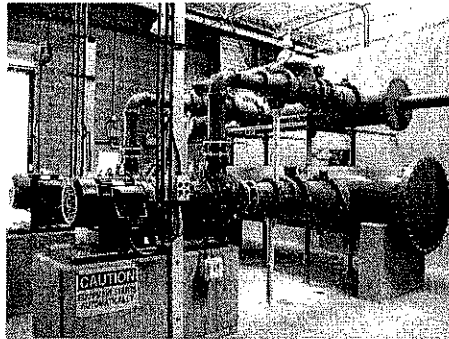
What's going on in Oregon?

- Irrigation
  - 13 facilities irrigating on golf courses
  - 11 facilities irrigating on non-residential landscapes
  - 62 facilities irrigating on pasture land
  - 21 facilities irrigating trees or forested areas
- Wetlands
  - 3 projects
- Impoundments
- Commercial use
- Industrial



## Recycled Water Use Project

City of Bend

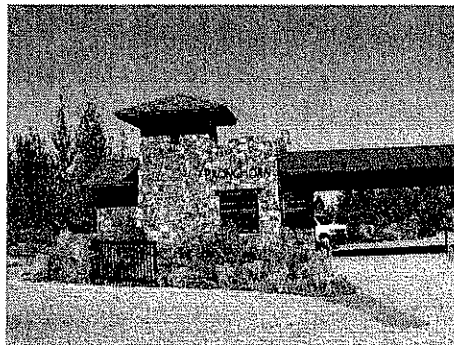


- Producing Level IV quality recycled water
- “Purple pipe” system for distribution of recycled water



## Recycled Water Use Project

City of Bend – Pronghorn Resort

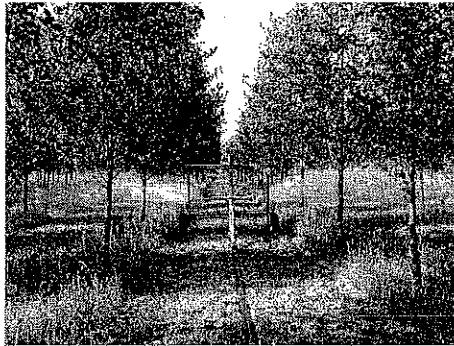


- Surrounded by BLM land
- No irrigation rights
- Water needs: water features, landscape and golf course irrigation



## Recycled Water Use Project

Metropolitan Wastewater Management Commission (MWMC)

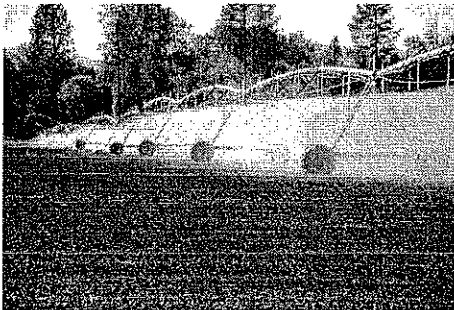


- Biocycle Farm poplar tree plantation
- Producing Level II recycled water
- Reduced discharge to the Willamette River



## Recycled Water Use Project – planning stage

City of Corvallis

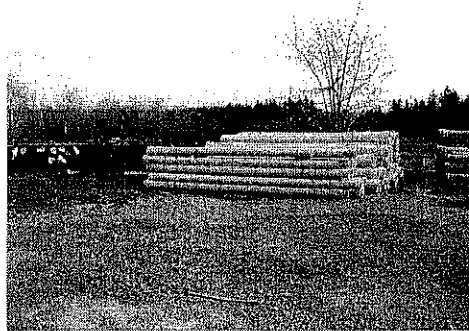


- Cooperative project with Greenberry Irrigation District
- City's challenge – stringent NPDES permit limits
- District's challenge – future water supply



## Recycled Water Use Project – planning stage

Sunrise Water Authority



- Goal is development of an urban scale dual distribution system
- 8,000 feet of purple pipe installed
- Residential and commercial landscape irrigation (initial phase)



## What's Next?

- EQC adoption of rules in April 2008
- Develop an Internal Management Directive
- Continue to collaborate with state agencies under the Governor's Executive Order and the MOU
- Increase external outreach, communication, and education on the benefits of recycled water use



## What's Next?

(continued)

- Coordinate internal education on treatment technologies, and public health and environmental protection requirements
- Continue tracking research on definitive data on human health effects (work with DHS)
- Further investigate the issues with domestic gray water reuse and coordinate with the onsite wastewater treatment system program



## We need to remember...

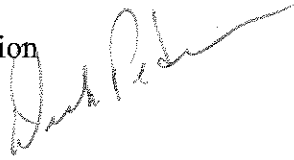
**“It’s not wastewater, it’s wasted water.”**

From NPR morning edition news story (Jan. 25, 2008) on Orange County Sanitation District's Groundwater Replenishment System project



State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** February 4, 2008  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Acting Director   
**Subject:** Agenda Item I, Informational Item: Recycled Water Use Proposed Rules  
February 21- 22, 2008 EQC Meeting

**Purpose of Item** The purpose of this item is to inform the Environmental Quality Commission (Commission, EQC) on proposed amendments to the state's recycled water use rules (OAR chapter 340, division 55).

**Background** The term "recycled water," also referred to as reclaimed water, means the water discharged from a municipal wastewater treatment facility that is used for a specific beneficial purpose, depending on the quality of treatment. Recycled water may not be used for drinking water. The treatment and use of recycled water is regulated under the Department of Environmental Quality's (Department, DEQ) water quality program. Using recycled water requires a water quality permit.

Recycled water use in Oregon is regulated under rules adopted in August 1990 by the EQC. There are no federal regulations for the use of recycled water.

In the 2003 Legislative Session, Senate Bill (SB) 820 required DEQ to work with interested parties to develop a report on opportunities and barriers associated with wastewater reuse in urban areas. DEQ established the Urban Water Reuse Task Force that recommended this rulemaking in its December 2004 final report.

A 2005 Governor's Executive Order established as public policy that water reuse is an integral component of economic development, water conservation, and environmental sustainability. The order directed state agencies to review agency policies and rules, and to make appropriate revisions to remove potential regulatory barriers and to encourage water reuse in Oregon.

DEQ convened the Water Reuse Task Force in May 2006 to develop recommendations to encourage the use of recycled water by clarifying program requirements and updating policies. Various stakeholders were

represented on the task force, including municipalities and state agencies.

**Key Issues**

Key issues of the proposed rule changes include:

- Expanding the allowed uses for recycled water;
- Clarifying the treatment requirements for the classes of recycled water;
- Clarifying responsibility for compliance with the rules;
- Defining setback distances for irrigation;
- Clarifying site management requirements including sign posting;
- Describing what must be included in a recycled water use plan; and
- Clarifying when the Oregon Department of Human Services and the Oregon Water Resources Department must be consulted on recycled water use projects.

**Next Steps**

The Water Reuse Task Force has completed its work on advising the Department and rulemaking. The final public comment period ended August 31, 2007. Water quality program staff is in the process of responding to public comments and preparing the final rulemaking package of draft rules.

**EQC Involvement**

No action from the EQC is needed at this time. DEQ plans to recommend that the EQC adopt the rule changes at its April 24-25, 2008 meeting.

**Attachments**

- A. Inventory of Recycled Water Use Projects in Oregon.
- B. Fact Sheet – Recycled Water in Oregon: Proposed Rule Revisions.

Approved:

Section:

Judy Johndohl

Division:

Neil Mullane

Report Prepared By: Judy Johndohl

Phone: 503-229-6896



Attachment A



State of Oregon  
Department of  
Environmental  
Quality

## Recycled Water Use Projects in Oregon

### *Irrigation - Golf Courses and Playing Fields*

#### Northwest Region

Clean Water Services - Durham

(Summerfield golf course, King City golf course and Tualatin  
Country Club golf course)

Clean Water Services - Durham

(Tigard high school and Durham elementary school playing fields)

#### Western Region

City of Bandon (Bandon Dunes golf course)

City of Cave Junction (Illinois Valley golf course)

City of Cottage Grove (Middlefield golf course)

City of Myrtle Creek (Myrtle Creek golf course)

City of Newberg (Chehalem Glenn golf course) – planning stage

City of Salem (Willow Lake Golf Center and Driving Range)

City of Sutherlin (Oak Knoll golf course)

North Valley High School, Grants Pass (playing field)

#### Eastern Region

City of Heppner (Willow Creek Country Club)

City of Madras (Desert Peaks golf course - city owned)

City of Prineville (Meadow Lakes golf course - city owned)

Sunriver Utilities (Sunriver golf course)

### *Irrigation - Landscape (non-residential)*

#### Northwest Region

City of Molalla

#### Western Region

City of Lakeside

Delphian School, Sheridan

#### Eastern Region

Brasada Ranch Resort, Redmond (planning stage)

City of Hermiston

City of Redmond

City of Union

ConAgra Foods (formerly Lamb Weston), Hermiston (subsurface drip)

Green Acres RV Park, Irrigon (subsurface drip)

Remington Ranch Destination Resort, Prineville (planning stage)

Thornburgh Resort, Redmond (planning stage)

## Recycled Water Use Projects in Oregon

### *Irrigation - Pasture*

#### Northwest Region

Camp Rilea, Warrenton  
City of Molalla\*  
Casselman's Cove Marina, Portland  
Nehalem Bay Wastewater Agency

#### Western Region

Bullards Beach State Park, Bandon (Oregon Parks and Recreation Department)  
City of Adair Village  
City of Creswell  
City of Drain  
City of Dundee  
City of Harrisburg  
City of Junction City  
City of Medford  
City of Monmouth  
City of Oakland  
City of Shady Cove  
City of Sheridan  
Emerald Valley Resort, Creswell  
Emigrant Lake Recreation Area  
Fleming Middle School, Merlin  
Hidden Valley High School, Grants Pass (part of school curriculum)  
Hyatt Lake Recreation Site (US BLM)  
Oakland Depot RV Park, Oakland  
Pacific High School, Port Orford  
Rogue River State Park  
L.L. 'Stub' Stewart Memorial State Park, Buxton

#### Eastern Region

City of Athena (planning stage – expect completion in 2009)  
City of Boardman  
City of Bonanza  
City of Burns  
City of Condon  
City of Cove  
City of Culver  
City of Dayville (permitted, not currently using)  
City of Dufur  
City of Elgin  
City of Fossil  
City of Haines  
City of Halfway  
City of Heppner\*  
City of Hermiston\*  
City of Hines

## Recycled Water Use Projects in Oregon

City of Jordan Valley  
City of Joseph  
City of Lakeview  
City of Long Creek (permitted, not currently using)  
City of Madras\*  
City of Malin  
City of Merrill  
City of Metolius  
City of Milton-Freewater  
City of Monument  
City of Moro  
City of North Powder  
City of Nyssa (project to be completed in 2008)  
City of Ontario  
City of Prineville\*  
City of Redmond\*  
City of Spray (planning stage)  
City of Ukiah  
City of Vale  
City of Wasco  
City of Weston (project to be completed in 2009)  
Eagle Crest Master Association, Redmond  
La Pine Sanitary District  
Oregon Water Wonderland Unit II, Bend  
River Meadows, La Pine

### *Irrigation – Trees/other*

#### Northwest Region

Arch Cape Sanitary District  
Clean Water Services - Rock Creek (Davis Tool property)  
PGE Promontory Park, Estacada (controlled access)  
Silver Fox RV Park, Estacada (controlled access)

#### Western Region

City of Butte Falls  
City of Oakridge  
City of Woodburn  
Metropolitan Wastewater Management Commission (MWMC), Eugene/Springfield  
Sunset Bay State Park, Coos Bay (Oregon Parks and Recreation Department)

#### Eastern Region

City of Echo  
City of Enterprise (permitted, not yet developed)  
City of Irrigon  
City of Prairie City  
City of Sisters (also approved for pasture in the future)  
City of Stanfield

## Recycled Water Use Projects in Oregon

City of Sumpter  
Dale Work Center, Dale (USFS - Umatilla National Forest)  
ODOT - Deadman's Pass Rest Area  
Oregon Trail Interpretive Center, Baker City (US BLM)  
Oregon Youth Challenge Program, Bend  
Stanfield Hutterian Brethren, Stanfield (permitted, not currently using)

### *Wetlands*

#### Northwest Region

Clean Water Services - Durham (Cook Park wetland maintenance)\*  
Clean Water Services - Rock Creek (Jackson Bottom wildlife ponds)\*

#### Eastern Region

City of La Grande

### *Impoundments*

#### Northwest Region

City of Vernonia (planning stage)

#### Eastern Region

City of Bend – Pronghorn Resort

### *Commercial*

#### Northwest Region

City of Sandy (container nursery irrigation)  
Clean Water Services - Rock Creek (CWS plant nursery)\*  
Oregon Health Sciences University South Waterfront building, Portland (non-potable use for toilet flushing)

### *Industrial*

#### Eastern Region

City of Klamath Falls (cooling water at the electrical co-generating facility)

Note: \* Facilities using recycled water for more than one beneficial purpose.

# Recycled Water in Oregon: Proposed Rule Revisions



State of Oregon  
Department of  
Environmental  
Quality

## Water Quality Division Recycled Water Use Program

811 SW 6<sup>th</sup> Avenue  
Portland, OR 97204  
Phone: (503) 229-6896  
(800) 452-4011  
Fax: (503) 229-6037  
Contact: Judy Johndohl  
[www.deq.state.or.us](http://www.deq.state.or.us) or  
Johndohl.Judy@deq.state.or.us

### Background

The Oregon Department of Environmental Quality (DEQ) is amending its rules on recycled water in Oregon to encourage its use for a variety of beneficial purposes. DEQ sought public comment on this rulemaking from July 16 through Aug. 31, 2007.

Recycled water, also referred to as “reclaimed water,” is treated water released from a municipal wastewater treatment facility and used for a specific beneficial purpose, depending on its level of treatment. Beneficial purposes may include irrigation of golf courses, pasture land and crops; water for industrial cooling; commercial car washing; non-residential toilet and urinal flushing; and providing water supply for landscape impoundments.

Recycled water may only be used for non-drinking purposes. It is regulated under DEQ’s water quality program because it is from wastewater treatment facilities, and can only be provided for use under a DEQ water quality permit.

Encouraging the use of recycled water for beneficial purposes has multiple objectives:

- To improve water quality by reducing discharge of treated effluent to surface waters
- To reduce the demand on drinking water sources for uses not requiring potable water
- To help conserve stream flows by reducing the demand for withdrawing water for out-of-stream uses

This rulemaking also clarifies requirements for the treatment and use of recycled water and the regulatory process for recycled water projects.

### Why these revisions are needed

One of DEQ’s strategic directions is to promote sustainable practices in Oregon by encouraging reuse of wastewater.

Water reuse is also encouraged through a Governor’s Executive Order signed in March 2005 that lists water reuse as an integral component of economic development, water

conservation and environmental sustainability in Oregon.

The rules need to be revised to reflect strategic state policy, to clarify program requirements and policies, and to address new uses for recycled water and new wastewater treatment and application technologies.

Encouraging the use of recycled water is important for a number of reasons:

- As water quality permits are renewed, wastewater treatment facilities are facing more stringent permit limits on their discharges to waterways
- As population and economic development in Oregon continues to grow, water demand increases
- There is increased interest and demand for water conservation from a variety of natural resources groups

### Proposed key changes

This rulemaking sets out to assign different beneficial uses with different levels of recycled water that can be applied to each use. Recycled water for non-drinking purposes is categorized into different classes, A to D, with “A” being the highest level of treatment.

Other key changes include clarifying:

- Responsibility for compliance with the rules
- What is required in a recycled water use plan
- When other state agencies must be involved with recycled water use projects

### Developing this rulemaking

Staff members from DEQ’s Recycled Water Use Program have been working on this rulemaking, taking into consideration DEQ water quality protection strategy and continuing DEQ’s efforts to clarify policies. DEQ has examined recycled water policies in California, Washington, Idaho and elsewhere.

Since May 2006, a Water Reuse Task Force convened on a regular basis with DEQ staff to review proposed revisions and provide stakeholder input. In addition, an internal team

07-WQ-006

Last Updated: 1/2008  
By: Judy Johndohl

of DEQ staff met periodically since early 2006 to discuss proposed rule improvements, address issues brought up by the task force and strategize about communicating changes to the rules.

These proposed rule revisions are based on recommendations from the Water Reuse Task Force and DEQ's internal rule team, as well as the Governor's Executive Order on Water Reuse.

### **Who will be affected by these revisions?**

This rulemaking will affect domestic wastewater treatment facilities that generate recycled water, as well as users of recycled water from those facilities for such use as irrigation.

State agencies involved with recycled water use projects also will be affected, as well as the general public and employees who may be in locations where recycled water is used.

These rules do NOT apply to industrial facilities operating under a water quality permit.

### **Opportunity to review and comment**

The proposed rulemaking revisions may be accessed on DEQ's Web site at:  
<http://www.deq.state.or.us/wq/reuse/reuse.htm>.

DEQ accepted written comments through 5 p.m., Friday, Aug. 31, 2007. Comments could be submitted via mail, fax or e-mail prior to the deadline. Written and oral comments could be submitted during public hearings on the rulemaking proposal in August.

Written comments were mailed to Judy Johndohl, Oregon DEQ, Water Quality Division, 811 SW Sixth Ave., Portland, OR 97204. Comments could also be faxed to Judy Johndohl at (503) 229-6037 or e-mailed to [recycled.waterrule@deq.state.or.us](mailto:recycled.waterrule@deq.state.or.us).

### **Public hearings**

DEQ held four public hearings on this rulemaking throughout the state in mid-August. The hearings began at 6 p.m. with a brief overview of the proposed rule changes, followed by an opportunity for the public to give oral and written comments. DEQ recorded and reviewed all comments.

Hearings were held at the following locations:

- **Medford, Wednesday, Aug. 15, 6 p.m.**, Community Justice Center, Main Floor Conference Room, 1101 W. Main St., Suite 101

- **Bend, Thursday, Aug. 16, 6 p.m.**, Health & Human Services Building, Lewis & Clark Room, 1300 NW Wall St., Ste 101
- **Portland, Monday, Aug. 20, 6 p.m.**, DEQ Headquarters, EQC Conference Room A, 10<sup>th</sup> floor, 811 SW 6<sup>th</sup> Ave.,
- **Pendleton, Tuesday, Aug. 21, 6 p.m.**, City Hall, Community Room, 501 SW Emigrant Ave.

### **Next steps**

DEQ is reviewing and responding to all comments received and may make further revisions based on comments. DEQ plans to make formal recommendations on the rule revisions to the Oregon Environmental Quality Commission at the commission's April 2008 meeting. (DEQ will notify all parties submitting comments about the time and place of the commission meeting.) If the commission adopts the rules, they would go into effect soon afterward.

### **Alternative formats**

Alternative formats (such as large type or Braille) of this document can be made available. Contact DEQ's Office of Communications & Outreach, Portland, at (503) 229-5696 or call toll-free in Oregon at 1-800-452-4011, ext. 5696, for more information.

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** February 4, 2008  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Acting Director  
**Subject:** Agenda Item J, Action Item: Issuance of DEQ Pollution Control Bonds  
February 21-22, 2008 EQC Meeting



**Reason for EQC Action** Under ORS 286.033, state agency issuance of bonds requires a resolution of the agency's governing body. The Environmental Quality Commission's (Commission, EQC) resolution will give the Department of Environmental Quality (Department, DEQ) the authority to authorize both the issuance of bonds and the use of bond proceeds under ORS 468.195 to 468.260.

**Background** DEQ has used bonding for several decades to finance solid waste disposal facilities, municipal sewage treatment facilities, water pollution control facilities, and cleanup of contaminated orphan sites. DEQ works with financial advisors, bond counsel, and the State Treasurer in issuing and selling bonds. For a more detailed explanation of the uses and history of Pollution Control Bonds, see Attachment B.

**EQC Action Alternatives** Approval of this bond sale will provide DEQ with \$4.5 million for the Orphan-Site Cleanup program in the 2007-2009 biennium and \$4.8 million in matching funds for up to \$24 million of federal Clean Water State Revolving Fund (CWSRF) grants in the same period.

If the EQC does not adopt the resolution, DEQ will have insufficient funds for Orphan-Site Cleanup for 2007-2009, and will not be able to accept additional CWSRF grants.

**Department Recommendation** The Department recommends that the Commission adopt the attached resolution authorizing DEQ and the State Treasurer to sell \$4.5 million in bonds for Orphan-Site Cleanup and \$4.8 million in bonds for CWSRF matching funds during the 2007-2009 biennium.

**Attachments** A. Resolution Authorizing and Requesting Issuance of Bonds  
B. Pollution Control Fund and State Pollution Control Bonds

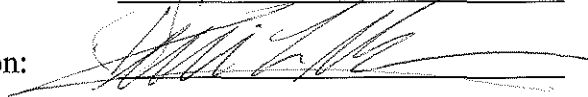
Agenda Item J, Action Item: Issuance of DEQ Pollution Control Bonds  
February 21-22, 2008 EQC Meeting  
Page 2 of 2

Approved:

Section:

A handwritten signature in cursive script, appearing to read "J. Roys", is written over a horizontal line.

Division:

A handwritten signature in cursive script, appearing to read "J. Harris", is written over a horizontal line.

Prepared By: Jim Roys and Jim Harris

Phone: (503) 229-6817



## CERTIFICATE REGARDING APPROVAL OF RESOLUTION

On behalf of the State of Oregon Department of Environmental Quality (the "Department"), I hereby certify as follows with respect to the "Resolution Authorizing and Requesting Issuance of Bonds" that was presented as "Agenda Item J Action Item: Issuance of DEQ Pollution Control Bonds" at the February 21-22, 2008 Environmental Quality Commission Meeting (the "Resolution"):

1. I am the Acting Director of the Department and authorized by Section 3 of the Resolution to take all action that is desirable to provide funding for the purposes described in this Resolution.
2. At its regular meeting on February 21-22, 2008, the Environmental Quality Commission of the Department approved the Resolution.
3. \_\_\_\_ members of the Environmental Quality Commission were present at that meeting; they constituted a quorum and unanimously approved the Resolution.

Dated as of this \_\_\_\_ day of February, 2008.

**State of Oregon Department of Environmental Quality**

---

Dick Pedersen, Acting Director

**RESOLUTION AUTHORIZING  
AND REQUESTING ISSUANCE OF BONDS**

**Section 1. Findings.** The Environmental Quality Commission of the State of Oregon finds:

A. The Department of Environmental Quality (the "Department") may be empowered, by resolution of the Environmental Quality Commission, to authorize and request the issuance of general obligation pollution control bonds for Orphan Site Cleanup (\$4.5M) and Clean Water State Revolving Fund match (\$4.8M);

B. It is now desirable to authorize and request the issuance of general obligation pollution control bonds for these purposes.

C. Oregon Revised Statutes, Section 286.031, provides that all bonds of the State of Oregon shall be issued by the State Treasurer.

**Section 2. Resolutions.** The Environmental Quality Commission of the State of Oregon hereby resolves:

A. The State Treasurer of the State of Oregon is hereby authorized and requested to issue State of Oregon general obligation pollution control bonds ("Pollution Control Bonds") in amounts that the State Treasurer determines, after consultation with the Director of the Department or the Director's designee, will be sufficient to provide funding for the purposes described in Section 1.A of this resolution, and to pay costs associated with issuing the Pollution Control Bonds. The Pollution Control Bonds may be issued in one or more series at any time during the 2007-09 biennium, mature, bear interest, be subject to redemption, and otherwise be issued and sold upon the terms established by the State Treasurer after consultation with the Director of the Department or the Director's designee.

B. The Department shall comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code") that are required for interest on tax-exempt Pollution Control Bonds to be excludable from gross income under the Code, and shall pay any rebates or penalties that may be due to the United States under Section 148 of the Code in connection with the Pollution Control Bonds. The Director of the Department or the Director's designee may, on behalf of the Department, enter into covenants for the benefit of the owners of Pollution Control Bonds to maintain the tax-exempt status of the Pollution Control Bonds.

**Section 3. Other Action.** The Director of the Department or the Director's designee may, on behalf of the Department, execute any agreements or certificates, and take any other action the Director or the Director's designee determines is desirable to issue and sell the Pollution Control Bonds and to provide funding for the purposes described in this resolution.

## **Attachment B: Pollution Control Fund and State Pollution Control Bonds**

The **Pollution Control Fund** is authorized in statute (ORS 468.215) to separately account for the receipt and expenditure of **State Pollution Control Bonds**.

**State Pollution Control Bonds** are authorized under Article XI-H of the Oregon Constitution, which empowers the state “to lend credit for financing pollution control facilities or related activities.” Indebtedness can be incurred to provide funds “for the purpose of planning, acquisition, construction, alteration or improvement of facilities for or activities related to, the collection, treatment, dilution and disposal of all forms of waste in or upon the air, water and lands of this state.” It allows funds to be advanced “by contract, grant, loan, or otherwise” to state agencies and local units of government. It also permits the state to purchase financial instruments issued by units of local government, to enable them to take advantage of the state’s credit rating in financing pollution control facilities. Article XI-H was adopted in 1970 and amended in 1990.

**Authorized Uses of the Pollution Control Fund:** The Department of Environmental Quality is responsible for the administration of the Pollution Control Fund. ORS 468.220 authorizes its use for several purposes, including:

- Financing municipal sewage treatment facilities or sewerage systems (as defined in ORS 468B.005), and related planning
- Financing local government solid waste disposal facilities and related planning
- Funding the Orphan Site Account for the cleanup of contaminated sites where the responsible party is either unknown, unwilling, or unable to pay for necessary cleanup
- Funding the Sewer Assessment Deferral Loan Program Revolving Fund, which funds local government financial assistance programs associated with water pollution control projects, typically to homeowners who can’t afford increased assessments
- Providing matching funds for federal grants made available to capitalize the Water Pollution Control Revolving Fund, commonly called the Clean Water State Revolving Loan Fund or CWSRF.

**Historical and Current Uses of the Pollution Control Fund:** The Fund was used in the 1970s and 1980s to finance solid waste disposal facilities and municipal sewage treatment facilities. Those debts have been retired. In the early 1990s, State Pollution Control Bonds were issued to provide funds to purchase debt issued by the Cities of Portland and Gresham to finance water pollution control facilities, and to establish a Sewer Assessment Deferral Loan Program. As of 2004 all these Bonds had been fully paid out.

Bonds have been issued since the early 1990s primarily to provide funding for the Clean Water State Revolving Loan Fund, and the Orphan Site Account. The attached “Pollution Control Bonds History and Status” chart shows the amounts issued and outstanding for each of these programs.

**Repayment of Bonds Issued.** The Oregon Constitution (Article XI-H) allows for repayment of Pollution Control Bonds through an ad valorem tax to be levied on all taxable property in the State. The tax has never been levied, and bond debt has been serviced with diverse funding: repayments of loans from the Water Pollution Control Fund, Assessment Deferral Loan Revolving Fund, and the Clean Water State Revolving Fund; General Fund and Lottery appropriations; fees levied specifically to repay Orphan Site debt; payments of interest and principal from municipalities whose bonds were purchased by the state; and user fees on borrowers. Funds used for debt service, except General Fund and Lottery, are deposited to and expended from the **Pollution Control Sinking Fund**, as directed by ORS 468.230.

**Accounting for Bonds and Debt Service:** Proceeds from the sale of Pollution Control Bonds are deposited to the Pollution Control Fund. Each bond issue is tracked separately. Similarly, funds received for repayment of bond issues (except General Fund and Lottery) are deposited to the Pollution Control Sinking Fund, and tracked by bond issue. Maintaining separate funds for bond proceeds and debt payments (sinking fund) is standard government accounting practice. Some additional accounting practices are mandated by statute for the Orphan Site Account, at least in part to ensure that no cost recoveries from responsible parties are used for debt service. This additional control was established to ensure that bond administration meets IRS tests for tax free bonds.

Agenda Item J, Action Item: Issuance of DEQ Pollution Control Bonds  
 February 21-22, 2008 EQC Meeting

**Attachment B: Pollution Control Fund and State Pollution Control Bonds**

<b>Category</b>	<b>Purpose</b>	<b>Amount Issued</b>	<b>Outstanding* as of 12/31/07</b>
Original "Pollution Control Bonds"	Grants and loans for solid waste disposal & municipal sewage treatment facilities	187,500,000	0
Special Assessment Improvement Bonds	To purchase debt issued by the Cities of Portland and Gresham to finance water pollution control facilities	95,640,000	0
Sewer Assessment Deferral Loan Program	Local government financial assistance programs associated with water pollution control projects	5,500,000	0
Orphan Site Cleanup	Cleanup of contaminated sites where the responsible party is either unknown, or unwilling or unable, to pay for necessary cleanup	58,235,000	23,470,000
Clean Water State Revolving Loan Program (CWSRF)	Matching funds for federal grants made available to capitalize the CWSRF	38,980,000	11,075,000
<b>Total, excluding Original "Pollution Control Bonds"</b>		<b>\$198,355,000</b>	<b>\$34,545,000</b>

\* Includes principal repayments and excludes scheduled interest amounts

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** February 13, 2008  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Acting Director *Dick Pedersen*  
**Subject:** Agenda Item K, Informational Item: Update on Environmental Quality Commission Performance Measures  
February 21-22, 2008 EQC Meeting

**Why This is Important** The first annual report on the Environmental Quality Commission's (Commission, EQC) evaluation of its own performance is due to the legislature in September, 2008. This agenda item is intended to update the Commission on its progress in meeting its performance measures for fiscal year 2007, which began July 1, 2007.

**Background** The 2005 legislature directed the Department of Administrative Services (DAS) and the Legislative Fiscal Office (LFO) to develop a measure for boards and commissions having governance oversight to use in evaluating their own performance. Because the EQC is included in the Department of Environmental Quality's (Department, DEQ) budget and because it hires DEQ's executive director, DAS and LFO deemed the Commission to have governance oversight and identified it as one of the boards and commissions that should have a performance measure.

On December 14, 2006, the EQC adopted the "percent of total best practices met by the commission" as the performance standard. The measure is an annual self-assessment against 15 best practices for boards and commissions, as laid out by DAS and customized to the EQC.

**Next Steps** At its August 2008 meeting, Commission members will individually complete self-evaluations of the EQC's performance for fiscal year 2007, to be followed by a group discussion about how the Commission is doing, factors affecting its performance, and what it needs to do to improve future performance. Attachment A provides information on recent and future scheduled EQC meeting agenda items addressing specific performance measures.

**Attachments** A. Progress on Performance Measures for Fiscal Year 2007  
B. Best Practices Self-Assessment Guidance

Agenda Item K, Informational Item: Update on Environmental Quality Commission  
Performance Measures

February 21-22, 2008 EQC Meeting

Page 2 of 2

Approved:

Division:

  
\_\_\_\_\_

Report Prepared By: Wendy Simons  
Phone: 503-229-5301

Agenda Item K, Informational Item: Update on Environmental Quality Commission  
Performance Measures

February 21-22, 2008 EQC Meeting

Attachment A, Page 1 of 3

**Progress on Performance Measures for Fiscal Year 2007**

<b>Best Practices Criteria</b>	<b>System for Achieving Success</b>	<b>Progress on meeting criteria for Fiscal Year 2007</b>
1. Executive director's performance expectations are current.	Director's current performance evaluation and the agency's performance measures.	Performance evaluation of new DEQ director will take place after the new director has been on the job for a year.  December, 2007 EQC meeting: Commission received semi-annual report on DEQ performance measures.
2. Executive director's performance has been evaluated in the last year.	Full-blown formal evaluation biennially. In off years, the EQC will informally give feedback to the director when it receives one of the regular semi-annual reports on performance measures results.	Performance evaluation of new DEQ director will take place after the new director has been on the job for a year.  (Note: Last formal evaluation of DEQ executive director's performance was December 15, 2006.)
3. The agency's mission and high-level goals are current and applicable.	EQC actively participates in development of the 5-year strategic plan and the biennial review of the plan.	October 2007 EQC meeting: Strategic Planning Discussion
4. The Commission reviews the <i>Annual Performance Progress Report</i> as submitted to the legislature.	The EQC reviews the annual report and also an annual report of other agency measures not included in the legislative report.	April 2008 EQC meeting
5. The Commission is appropriately involved in review of agency's key communications.	EQC is involved in DEQ's public process and key media communications. The director coordinates regularly with the Governor and reports to the	Every EQC meeting: Update on director's communications in director's dialogue.



Agenda Item K, Informational Item: Update on Environmental Quality Commission  
 Performance Measures  
 February 21-22, 2008 EQC Meeting  
 Attachment A, Page 2 of 3

<b>Best Practices Criteria</b>	<b>System for Achieving Success</b>	<b>Progress on meeting criteria for Fiscal Year 2007</b>
	EQC on key communications with the Governor's Office in the director's dialogue during regular EQC meetings.	
6. The Commission is appropriately involved in policy-making activities.	EQC reviews the agency's annual rulemaking agenda and participates in key rulemaking hearings. Commissioners are also involved in the rulemaking process for contentious or critical policies.	December 2007 EQC meeting
7. The agency's policy option packages are aligned with their mission and goals (biennially).	The EQC guides and collaborates with DEQ in budget and legislative agenda development.	December 2007 and February, April, and June 2008 EQC meetings
8. The board reviews all proposed budgets.	The agency budget is reviewed periodically during development, and the budget request is certified by the EQC Chairperson.	February, April, and June 2008 EQC meetings. EQC chairperson will certify DEQ's budget request in August, 2008.
9. The board periodically reviews key financial information and audit findings.	DEQ will provide an Annual Financial Report to the EQC reviewing audit reports and financial performance.	August 2008 EQC meeting
10. The board is appropriately accounting for resources.	Include in the Annual Financial Report to the EQC.	August 2008 EQC meeting
11. The agency adheres to accounting rules and other relevant financial controls.	Include in the Annual Financial Report to the EQC.  In addition, the	February and August 2008 EQC meetings

Agenda Item K, Informational Item: Update on Environmental Quality Commission  
 Performance Measures  
 February 21-22, 2008 EQC Meeting  
 Attachment A, Page 3 of 3

<b>Best Practices Criteria</b>	<b>System for Achieving Success</b>	<b>Progress on meeting criteria for Fiscal Year 2007</b>
	Commission reviews the director's expenditures annually.	
12. Commission members act in accordance with their roles as public representatives.	Use the Board and Commission Training Manual.	
13. The Commission coordinates with others where responsibilities and interests overlap.	Example: joint meetings with other agencies; maintaining a designee on the Oregon Watershed Enhancement Board (OWEB).	April 2008 EQC meeting: Commission will hold joint evening meeting with Oregon Environmental Council. Commissioner Ken Williamson is the EQC's designee on OWEB.
14. The Commission members identify and attend appropriate training sessions.	Examples: New board member training and agency orientation for new Commission members. Periodic informational presentations and workshops to inform Commissioners about upcoming EQC decisions.	No new Commission members since July 1, 2007. Examples of informational presentations: October 2007 update on fish consumption rate project; February 2008 informational item on upcoming recycled water rule.
15. The Commission reviews its management practices to ensure best practices are utilized.	Annual review of these 15 best practices; annual review of the EQC Involvement Process.	August 2008 EQC meeting

**Appendix A**  
**Best Practices Self-Assessment Guidance**

Annually, board members are to self-evaluate their adherence to a set of best practices and report the percent of total best practices met by the board (percent of yes responses in the table below) in the *Annual Performance Progress Report* as specified in the agency Budget Instructions.

Recommended Assessment Process

1. Select a neutral party to facilitate the self-evaluation (recommended, not required).
2. Individual board members complete the score card shown below.
3. Tabulate the results for all board members (can be done by neutral party in advance).
4. Discuss the results—particularly the results for those areas where there are disparate responses or where the group agrees that they are not adhering to a best practice.
5. Record the group's joint response to each best practice on a new score card. If consensus is not achieved, the board or commission should record the response as "no."

Best Practices Assessment Score Card

Best Practices Criteria	Yes	No
1. Executive Director's performance expectations are current.		
2. Executive Director's receives annual performance feedback.		
3. The agency's mission and high-level goals are current and applicable.		
4. The board reviews the <i>Annual Performance Progress Report</i> .		
5. The board is appropriately involved in review of agency's key communications.		
6. The board is appropriately involved in policy-making activities.		
7. The agency's policy option packages are aligned with their mission and goals.		
8. The board reviews all proposed budgets.		
9. The board periodically reviews key financial information and audit findings.		
10. The board is appropriately accounting for resources.		
11. The agency adheres to accounting rules and other relevant financial controls.		
12. Board members act in accordance with their roles as public representatives.		
13. The board coordinates with others where responsibilities and interests overlap.		
14. The board members identify and attend appropriate training sessions.		
15. The board reviews its management practices to ensure best practices are utilized.		
16. Others <i>[The board may add additional best practices; however, they are not to be counted when calculating the percentage adherence to best practices.]</i>		
<b>Total Number</b>		
<b>Percentage of Total</b>		

Analyzing Assessment Results and Defining Next Steps

Once the above table has been completed, the board will want to prepare responses to the following questions. Responses should be integrated into the *Annual Performance Progress Report*, which is due from agencies on September 30<sup>th</sup> of each year.

- How are we doing?
- How do we compare to others and/or to our target? (Once this data is available.)
- What factors are affecting our results?
- What needs to be done to improve future performance?

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** February 12, 2008  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Acting Director  
**Subject:** Agenda Item L, Informational Item: Field Burning Update  
February 21-22 EQC Meeting

**Purpose of Item** The purpose of this item is to provide the Environmental Quality Commission (Commission, EQC) with an update on field burning.

**Background** In June, 2007, Lane County requested that the EQC temporarily ban field burning in the Willamette Valley or reduce the acres that may be burned. To temporarily ban field burning, the EQC would have had to make a finding that field burning contributes an extreme danger to public health or safety in the Willamette Valley. To reduce the acres that may be burned, the EQC would have had to make a finding that other reasonable and economically feasible, environmentally acceptable alternatives have been developed.

The Commissioners believed at that time that they did not have an adequate basis to make the required findings, and hence voted at their August, 2007 meeting not to impose an immediate ban, nor to reduce the acres burned. In order to have the necessary information for Commissioners to determine if these findings are warranted in the future, the EQC directed the Department of Environmental Quality (Department, DEQ) to seek funding from the 2008 legislature to evaluate the health effects of field burning smoke and the status of alternatives to field burning. At the EQC's December 2007 meeting, DEQ reported that the Governor was unable to include a request for this funding in his priorities for the 2008 legislative session. DEQ also reported that Lane County, the Oregon Seed Council, and the Oregon Department of Agriculture (ODA) were pursuing a research proposal into alternatives to field burning, including using grass straw to produce ethanol.

The EQC requested an update from DEQ and ODA at the February 2008 meeting. The update will include descriptions of two upcoming studies that will provide information to guide the EQC's future decision-making on field-burning:

- DEQ will describe a study to be undertaken from February, 2008

to October, 2008 regarding the health effects of exposure to fine particulate (see Attachment A). While the purpose of this study is to support EQC's consideration of the fine particulate standard, it will also shed light on the health effects of periodic short term exposure to high concentrations of fine particulate similar to those associated with field burning.

- ODA and Lane County will provide an update on the status of new research into field burning alternatives, referencing a feasibility study on the use of ryegrass straw. Lane County is conducting the study from March 1 to December 1, 2008 (see Attachment B).

**Next Steps**

In addition to the studies described in Attachments A and B, ODA, DEQ, the Oregon Department of Forestry and the Oregon Department of Energy will continue to discuss options to increase biomass utilization as an alternative to burning.

**EQC Involvement**

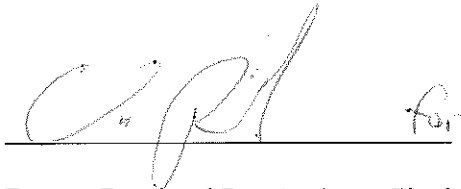
During an informational item in fall 2008, the EQC will discuss health information and policy options for the fine particulate standard, including options for short term exposure to high concentrations of fine particulates. In addition, DEQ and ODA will continue to provide Commissioners with periodic updates.

**Attachments**

- A. Memo: "Literature Review of Public Health Impacts Associated with Exposure to Fine Particulates"
- B. "Lane County Ryegrass Straw Conversion to Renewable Energy and Biofuel Production Project/ Feasibility Study"
- C. Letter from Dick Pedersen, Acting Director of DEQ, to Faye Stewart, Chair of the Lane County Board of Commissioners

Approved:

Division:



Report Prepared By: Andrew Ginsburg

Phone: (503) 229-5397

State of Oregon  
Department of Environmental Quality

Memorandum

**To:** Jeffrey Stocum **Date:** 23 Jan 2008  
**From:** Bruce Hope  
**Subject:** Literature Review of Public Health Impacts Associated with Exposure to Fine Particulates  
**cc:** David Collier, Rachel Sakata

It is anticipated that the Environmental Quality Commission (EQC) will authorize development of a rule to adopt U.S. EPA's current 24-hour fine particulate (PM<sub>2.5</sub>) standard of 35 µg m<sup>-3</sup>. As the EQC considers this issue, it is further anticipated that certain key questions may arise, namely:

1. Is the current federal standard of 35 µg m<sup>-3</sup> acceptable for Oregon or should a lower value be considered?
2. Is the current federal 24-hour averaging time acceptable for Oregon, or should a different time be considered?
3. Are there adverse public health impacts associated with infrequent (periodic), short-term (transient) exposures to high (>35 µg m<sup>-3</sup>) concentrations of fine particulates?
4. Does the source of fine particulates influence their potential to produce adverse public health impacts?

The purpose of this project is to provide DEQ/AQ, and ultimately the EQC, with scientifically credible answers to these questions, based on a desk-top, critical review and analysis of currently available scientific (peer-reviewed) and technical (gray-literature) information on public health impacts associated with short- to long-term exposure to fine particulates (PM<sub>2.5</sub>). This will be a literature review only; no field or laboratory investigations to collect new or additional data are contemplated. This review will encompass general medical, toxicological, epidemiological, and risk assessment studies regarding the health effects of exposure to fine particulates from a variety of sources, how these effects vary with the concentration, frequency, and duration of exposure and with the type of population (e.g., general or sensitive [e.g., asthmatics, elderly, children, COPD, etc.]) being exposed.

The attached project schedule envisions beginning the work immediately after the project plan is presented to (and presumably accepted by) the EQC in February 2008. After assessing the nature and extent of the available literature on this topic, key publications and technical reports will be obtained. These will then be critically reviewed and their results analyzed in the context of addressing the four key questions given above.

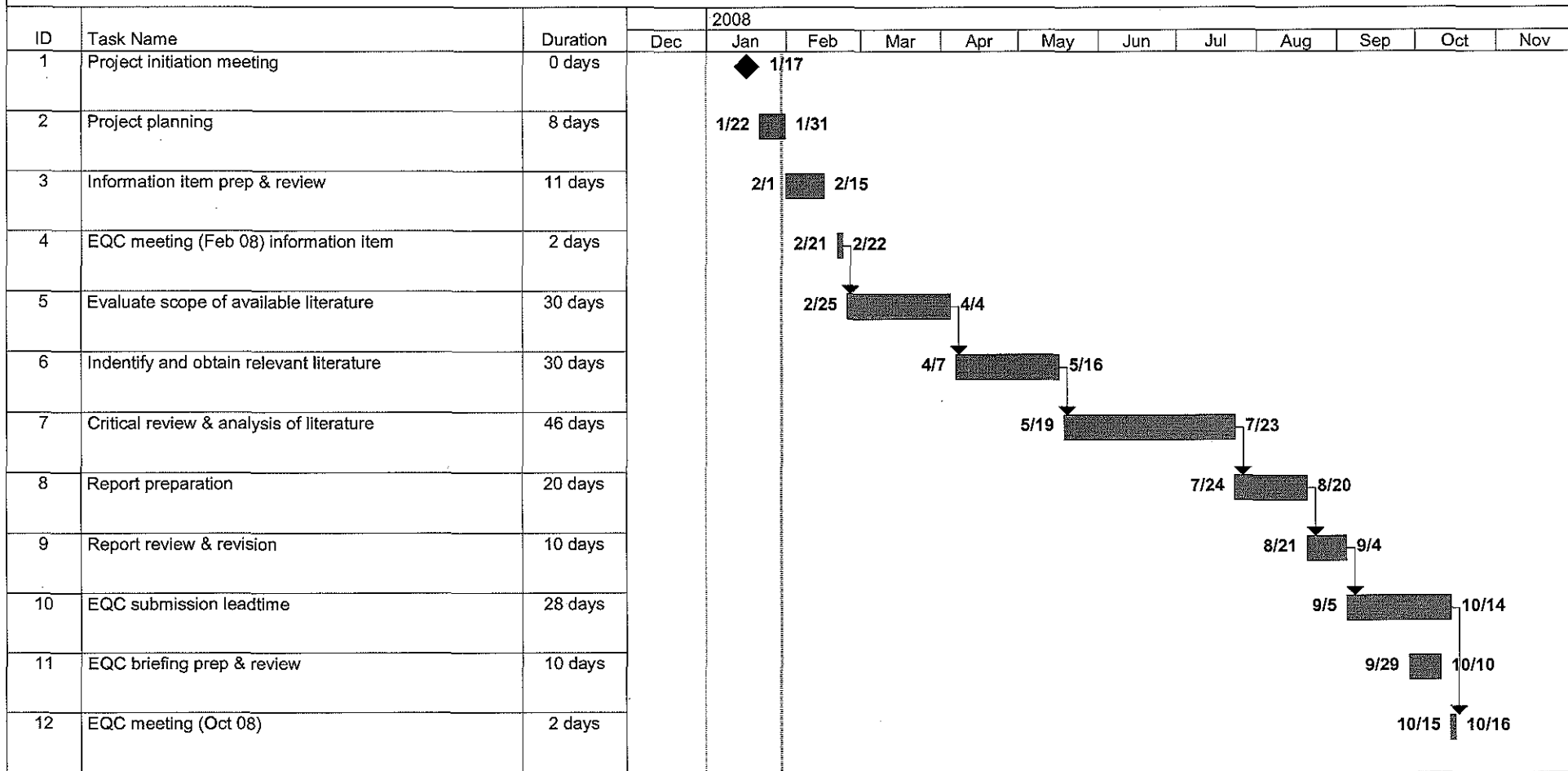
This project will produce a short (25-40 page) report summarizing the results of the review and analysis and offering answers (along with a discussion of attendant uncertainties) to the four key questions. A short presentation (briefing), essentially summarizing the report, will also be prepared. The final report and presentation will be ready by the October 2008 EQC meeting (specific dates not yet available). Expected workload is 0.25 FTE until 31 Mar 2008, then 0.75 FTE through October 2008.

DRAFT



Fine Particulate Health Impacts Review Project  
PROJECT SCHEDULE

Wed 1/22/08 5:23 PM



DRAFT

**Submitted to the Agricultural Research Foundation to the Oregon Seed Council and Oregon Department of Agriculture Alternatives to Field Burning Research Financial Assistance Program.**

**“Lane County Ryegrass Straw Conversion to Renewable Energy and Biofuel Production Project/Feasibility Study”**

**Fiscal Year 2007-2008**

**Project Type: Short-term Research**

Lane County  
Lane County Community & Economic Development  
Mike McKenzie-Bahr, Coordinator  
125 E. 8<sup>th</sup> Avenue  
(541) 682-4118  
[michael.mckenziebahr@co.lane.or.us](mailto:michael.mckenziebahr@co.lane.or.us)

**Funding History: None**

**Funds Requested: \$250,000**



## **Abstract**

Lane County is requesting \$250,000 from the Field Burning Research Fund for a short-term research project to identify near-term viable options for adding economic value to Ryegrass straw through renewable energy and fuel production. Specifically, our research will answer: Is it possible to convert Ryegrass straw into energy as an economic alternative for seed growers to field burning?

We have identified nine research elements as follows:

- Research Element 1: Harvesting, Bailing and Transportation Costs and Issues
- Research Element 2: Anaerobic Digester Energy Conversion Process
- Research Element 3: Pyrolysis Energy Conversion Process
- Research Element 4: Cellulosic Ethanol Energy Conversion Process
- Research Element 5: Pellets for Boilers Energy Conversion Process
- Research Element 6: Pilot Project Research on Elements 2-5
- Research Element 7: Facility Siting Elements Costs and Issues
- Research Element 8: Financial Model Comparison and Return on Investment (ROI)
- Research Element 9: Recommendations from Finding

Agricultural biomass energy conversion projects are successfully launching throughout the world. New and refined technologies are being applied in successful projects in California, Kansas, Missouri, Iowa, Tennessee, and Georgia to name a few<sup>1</sup>. While these projects provide examples and base knowledge for the conversion of agricultural biomass, including straws, into energy, each geographic region has different inputs and capacities for biomass. In order to understand the potential for the use of Ryegrass straw as an energy feedstock, it is imperative to conduct a specific research study in Oregon.

Our project will build on existing research and the collection of new data through a multi-partner collaboration with the University of Oregon, Oregon State University, and other public and private partners leading to a determination of financially feasible options for the conversion of Ryegrass straw to energy.

One of the key elements of our research, the financial model, will include site specific location options; the capacity needed by a bioenergy facility to process grass straw; and will take into account tax and energy credits and a life cycle sustainability audit to include the value of Ryegrass straw as an energy feedstock compared to burning it.

## **Objective(s)**

We will determine the feasibility of the conversion of Ryegrass straw to energy as an alternative to straw burning. Our research will focus on the following energy conversion processes that have already been identified as processes that can convert other sources of agriculture waste to energy:

- Anaerobic Digestion
- Pyrolysis
- Conversion to Cellulosic Ethanol
- Conversion to pellets for Boiler System Technology

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<sup>1</sup> Biomass Magazine Online. BBI International Media, Grand Forks, North Dakota, 2007.

The Feasibility research will include:

- What tonnage of Ryegrass Straw can growers supply as a feedstock seasonally and annually?
- How, where, and when will the straw be collected, stored, pretreated, and transported?
- What energy conversion processes offer the best potential for Ryegrass straw?
- What construction, operations, and maintenance costs will be associated with new or improved facilities to accommodate these processes?
- Is there enough feedstock production to equal the quantity that will be needed to make energy production cost effective?
- Where might plants be located and what are the advantages of those sites?
- What is the potential Return on Investment (ROI) for the energy conversion options?
- Is it possible to incorporate the technology into a sustainable harvesting, baling, and transportation system for Ryegrass straw?

### **Justification**

In 2006 an estimated 131,800 acres of Annual Ryegrass were harvested in Oregon. Approximately 66% of up to 50,000 acres of grass straw burned each year in Oregon is from Ryegrass. The straw from other types of grasses is used in a variety of value added products. These products have created economic reasons that have greatly reduced the burning of these straws. The seed industry has looked at other uses for Ryegrass straw, but none have proved to have enough economic value to make financial sense for the growers to do anything but plow it under for several years and burn it every third year or so to add nutrients to the ground. A viable economic option for the use Ryegrass straw may now exist. Numerous recent studies and reports have identified the opportunities for biomass, like waste straws, to be converted to energy and liquid fuel. To determine the current energy opportunities for Ryegrass straw, we are proposing to conduct a feasibility study of looking at four technologies that could turn Ryegrass straw to energy while providing an economic alternative to field burning.

In the white paper “Conversion of Oregon Biomass to Liquid Transportation Fuels” by the Biomass Conversion Technologies Working Group (BCTWG) from Oregon State University last revised on November 9, 2007, the BCTWG identifies a strong potential for the conversion of lignocellulosic biomass to liquid fuel but also determines the need for continued study:

*“This White Paper does not provide a detailed description of the types, amounts, and distribution of lignocellulosic biomass found within Oregon. Furthermore, a technical and economic discussion of the collection and transportation issues associated with Oregon biomass is beyond the scope of this White Paper... We have described in this White Paper that the state of Oregon has abundant and unique forms of cellulosic biomass such as grass straw, wheat straw, and softwood forestry residues that can be converted to liquid transportation fuels such ethanol and Fischer-Tropsch diesel... However, since these biomass feedstocks are unique to Oregon, development and deployment of process technology tailored to these feedstocks is of regional interest and so must be initially supported at the state level by the state of Oregon...”*

According to the study, “Feasibility of a Producer Owned Ground-Straw Feedstock Supply System for Bioethanol and Other Products” by Idaho National Laboratories completed in September of 2006:

*“Biomass feedstock collection, preprocessing, and transportation are integral components of biomass utilization. Feedstock cost constitutes about 35-50% of the total production cost of ethanol or power. The actual percentage depends upon geographical factors such as*

*biomass species, yield, location, climate, local economy, and the type of systems used for harvesting, collection, processing, and transportation... ”*

Such a study has not been done specific to Ryegrass straw in the Willamette Valley, which is why an element of our research is potential methods and costs for the collection, preprocessing, and transportation of Ryegrass straw. This will help determine the geographic distance from which it is feasible to transport Ryegrass straw to an energy processing facility while still providing a revenue-neutral or even revenue-positive option for the growers of Ryegrass.

The University of Davis, Biogas Energy Project, has identified rice straw as a potential co-digestion agent for anaerobic digestion of food waste. Wheat Straw has also been found to work well in a manure-based digester. No one has done a similar study for Ryegrass straw. Lane County has applied for funding to study the financial feasibility of constructing and operating a Lane County owned anaerobic digestion facility to process local food waste into energy. In this study we would research if Ryegrass straw improves digestibility of food waste while creating enough energy to make the collection of ryegrass straw feasible.

The Canadian Resource Efficient Agricultural Production (REAP) project has been working on research and development for liquid and solid biofuel applications for over fourteen years. Though their research focuses on Switchgrass, their research shows that the conversion of Switchgrass to fuel pellets has a higher net energy gain and landuse efficiency than firing with coal, conversion to cellulosic ethanol, and grain/corn ethanol, and that cellulosic ethanol is more efficient than corn/grain ethanol<sup>2</sup>. The results of REAP's research show that the "direct combustion of densified fuels represents the best biofuel cycle in terms of energy, land use, and economics." It also claims that perennial grasses hold the potential to become a major source of renewable energy and greatly benefit rural areas<sup>3</sup>. While this information shows a potentially high value for the conversion of Ryegrass to boiler pellets and/or cellulosic ethanol, it is necessary to conduct specific research to determine if Ryegrass has similar energy yields.

The existing research shows that establishing the value of bioconversion processes must include linking feedstock harvest/collection/transport/storage (ie feedstock assembly) and preprocessing processes with conversion processes in order to evaluate technology options and trade-offs. The lack of specific local information for many of these elements, justifies the need to research all the elements that determine the specific cost of Ryegrass straw energy development as an alternative to field burning.

### **Materials and Methods**

In this section, we present the nine research elements of our feasibility study and the questions we intend to answer. This is followed by the data that will be collected and analyzed; the specific activities we will undertake to accomplish the study; and the deliverables that we will bring together into the final report.

The grants funds we are requesting will be used by the County to accomplish the needed research by contracting out the research elements. We have identified the specific expertise needed to accomplish this project. Some of that expertise we have already brought together for this project (see Additional Partners). Others will be chosen through an RFP process.

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<sup>2</sup> Samson, Roger., "The Potential for Biomass Energy Crop Production in Canada", Resource Efficient Agricultural Production. [www.reap-canada.com](http://www.reap-canada.com)

<sup>3</sup> Samson, Roger, Ibid.

We anticipate starting the study upon signing of a funding contract, approximately March 1, 2008. By June 16, 2008, we will present an interim report. The final report will be presented in two sections: the first section on September 1, 2008 and the second section, which will include recommendations and next steps, on December 1, 2008. (See Proposed Project Schedule).

#### **Research Element 1: Harvesting, Baling and Transportation Costs and Issues**

Financial Model - What will it cost for Harvesting, Baling, Transportation and Storage of Ryegrass straw? What will it cost for Nutrient replenishment/Pest control for fields where the grass straw is removed?

*Data that will be collected/analyzed and the specific activities we will undertake:*

We will perform a literature search and conduct interviews with industry members to determine the costs of harvesting, nutrient replenishment/pest control, baling, hauling, and storage.

*Deliverables* – A chart detailing the costs of harvesting, nutrient replenishment/pest control, baling, hauling, and storage.

#### **Research Element 2: Anaerobic Digester Energy Conversion Process**

Pretreatment – What are the pretreatment options and costs to maximize the use of Ryegrass straw in an Anaerobic Digester?

Treatment – What is the best Anaerobic Digester process for Ryegrass straw? Will Ryegrass straw mixed with food waste enhance AD performance for both feedstocks? What type of pilot project can we conduct to test Ryegrass and AD performance?

Energy Facility Outputs – What are the potential energy outputs, how much of each output will be generated and what are their uses? What are other outputs and their potential beneficial uses?

Financial Model – What are all the expenses and revenues associated with constructing and operating an Anaerobic Digester for Ryegrass straw?

#### **Research Element 3: Pyrolysis Energy Conversion Process**

Pretreatment – What are the pretreatment options and costs to maximize the use of Ryegrass straw for Pyrolysis? What type of pilot project can we conduct to test Ryegrass as a feedstock for Pyrolysis?

Treatment – What is the best Pyrolysis process for Ryegrass straw?

Facility Outputs – What are the potential energy outputs? How much of each output will be generated and what are their uses? What are other outputs and their potential beneficial uses?

Financial Model – What are all the expenses and revenues associated with constructing and operating a Pyrolysis facility for Ryegrass straw?

#### **Research Element 4: Cellulosic Ethanol Energy Conversion Process**

Pretreatment – What are the pretreatment options and costs to maximize the use of Ryegrass straw to produce Cellulosic Ethanol? What type of pilot project can we conduct to test Ryegrass as a feedstock for Cellulosic Ethanol production performance?

Treatment – What is the best Cellulosic Ethanol Conversion process for Ryegrass straw?

Facility Outputs – What are the potential energy outputs? How much of each output will be generated and what are their uses? What are other outputs and their potential beneficial uses?

Financial Model – What are all the expenses and revenues associated with constructing and operating a cellulosic ethanol facility for Ryegrass straw?

### **Research Element 5: Pellets for Boilers Energy Conversion Process**

Pretreatment – What are the pretreatment options and costs to convert Ryegrass straw into pellets for use in boilers. Will Ryegrass straw pellets enhance boiler performance? What type of pilot project can we conduct to test Ryegrass pellets as a feedstock for boilers?

Treatment – Which is the best Cellulosic Ethanol Conversion process for Ryegrass straw?

Facility Outputs – What are the potential energy outputs? How much of each output will be generated and what are their uses? What are other outputs and their potential beneficial uses?

Financial Model – What are all the expenses and revenues associated with constructing and operating a pellet making system for Ryegrass straw?

*Data that will be Collected and Analyzed & Specific Activities we will undertake common to Research Elements 2-5:*

Pretreatment –We will evaluate methods for receiving Ryegrass at the site and pretreatment requirements specific to each conversion technology.

Treatment –We will perform a literature search and conduct interviews to assess the specifications, and performance of Ryegrass in energy & biofuels plants in North America and Europe. We will determine the type of equipment to be used, efficiencies and costs for each conversion technology.

Facility Outputs – For each conversion technology, the type of energy outputs, the estimated quantity of each output that will be generated using industry standard calculations based on the amount of feedstock. We will develop technical scenarios for utilizing each of the energy outputs from each process. Other outputs, including nitrogen and biosolids, will be determined and their potential beneficial uses will be analyzed.

Financial Model –We will develop a financial model for the development of a Ryegrass straw to energy project for each conversion/processing technology. Capital expenditure, operations and maintenance, revenue, expenses, avoided costs, environmental credits, state and federal tax credits, funding sources, and costs of capital will be incorporated to assess the return on investment of the projects. Additional data will be collected from relevant projects and interviews with technology process and energy experts.

*Deliverable* – The deliverable for Research Elements 2-5 is to provide a report analyzing the various distributed energy technologies that may be applicable to the goals of this project. This report will evaluate the opportunity for energy production from the energy conversion technologies, as well as the financial, regulatory and technical element to using the technologies in the conversion of grass straw to energy.

### **Research Element 6: Pilot Project Research on Elements 2-5**

Using the information gathered in Study Elements 2-5, we will work with researchers in each of the energy conversion methods identified to determine specific pilot research projects to conduct that will identify the best short-term, mid-term and long-term project opportunities. We have already identified researchers for pilot research projects for Anaerobic Digestion, Pyrolysis and Cellulosic Ethanol and will work with OSU to identify additional pilot project opportunities.

Our potential pilot project list currently includes:

- Anaerobic Digestion Projects
  - 1) MWMC digester – with food waste
  - 2) On-Farm – with food waste

- 3) At slaughter house – with animal carcasses
- Pyrolysis
  - 1) Tech Fuels - National Energy Technology Laboratory in Albany Oregon. bench test of Ryegrass straw
- Ethanol
  - 1) Trillium Fiber Fuels - bench test of biochemical conversion of Rye grass straw to ethanol
  - 2) Will Klausmeier Ph.D. working with team at OSU - Test of thermochemical conversion of Ryegrass straw to ethanol.
- Pellets
  - 1) UO Resource Innovations is working with several pellet makers. We are currently contacting them to identify one or more to test turning Ryegrass straw to pellets.

*Deliverables –*

This deliverable will include summary steps from each pilot project and data that includes the costs to convert grass straw to energy and the energy generated for each technology tested.

**Research Element 7: Energy Facility Siting Elements**

We will review the potential sites for a Ryegrass Straw to Energy Conversion processing plant in Lane County. We will take into account the potential for its inclusion in the envisioned “Integrated BioEnergy Business Park.” We will also determine issues of smell, noise, and other potentially undesirable aspects of production. We will review planning and zoning restrictions and local, state, and federal regulations for energy production facilities. With all these factors in mind we will determine the best potential site for a facility. The siting of the facility will also include a study of the farthest distance from which it is still profitable to transport Ryegrass straw in Oregon.

**Research Element 8: Financial Model Comparison and Return on Investment**

ROI – What Tax and Energy Credits (including Carbon Credits) are available for each step of the process? What is the life cycle sustainability value of Ryegrass straw as a product compared to burning it? What type of private and public funding is available for these type of projects?

*Data that will be collected/analyzed and the specific activities we will undertake:*

We will develop a matrix to compare the relative projected costs and benefits of the alternative energy conversion models. We will identify which alternatives have the greatest potential revenue for the growers and processors of Ryegrass straw. We will also identify potential project funding sources.

*Deliverables* – The deliverable of this Research Element will include projected costs of each of the researched energy conversion technologies. It will include a revenue and expense report for each alternative that can be used to determine long-term project feasibility. And a summary of funding sources that are being used successfully to finance renewable energy projects.

**Research Element 9: Recommendations from Research Findings**

The element will include the answers to the all research questions asked in this feasibility study. It will answer: What have we learned? and What are the next steps?

*Deliverables* – This section will include an analysis of our finding regarding construction costs and annual operations; conclusions regarding SWOTs; conclusions regarding risks and benefits of a Ryegrass straw to energy project and identification of next steps to be taken. This project deliverable

incorporates project recommendations into the development of a strategy that includes next steps to take.

**Additional Funding Sources**

Lane County has recently applied for a grant of \$50,000 from the Renewable Energy Feasibility Fund, to be matched by \$25,000 in County funds, to study the financial feasibility of constructing and operating a Lane County owned anaerobic digestion facility to process local food waste into energy. A portion of these funds will be used to determine the potential use of bulking agents in the process of Anaerobic Digestion. In addition some of those funds will be used to develop site specific characteristics for the siting of an anaerobic digester. Though the REFF funds are limited to studying food waste and anaerobic digester issues, those funds do make the Smoke Funds study stretch farther.

This grant will give Lane County and its partners the specific information needed to apply for future grants and loans from sources that include the Oregon Energy Loan Program, Biorefinery grants, Biomass Research and Development grants, Renewable Energy grants and loans, and Value-Added Producer Grants. As the project develops, the processing facility will potentially become eligible for energy and biofuel production tax credits and exemptions and the Ryegrass growers will become eligible for Feedstock commodity tax credits and subsidies.

**The Larger Research Project**

Lane County is currently engaged in several projects that build on a local vision of an Integrated Bioenergy Business Park where renewable energy facilities are co-located in order to maximize the uses of infrastructure and facility outputs. As part of that process, Lane County formed the Willamette Valley Biomass Study Group, a multi-discipline team working to identify opportunities for biofuels from local biomass materials. Members include Lane County Community and Economic Development; Resource Innovations - UO Institute for a Sustainable Environment; Lane MicroBusiness; Northwest Cooperative Development Center; Lane Council of Governments; Oregon Environmental Council; Trillium FiberFuels, Inc.; Mater Engineering, Ltd.; Ater Wynne; Novus Group; Good Company; Sylvatex and Essential Consulting Oregon.

The Study Group is currently working with a \$95,000 USFS Working Partnership grant, awarded to Lane County, to study bio-energy and biofuels opportunities from woody biomass. As mentioned above, the County has also recently applied for a \$50,000 grant from the Renewable Energy Feasibility Fund. We are currently also preparing grant applications for several other funding sources and have been meeting with private venture and equity funding organizations.

**Proposed Project Schedule and Report Due Dates**

<b>Research Elements</b>	<b>Start Date</b>	<b>Interim Report</b>	<b>Final Report</b>
1: Harvesting, and Transportation	March 1, 2008	June 16, 2008	Sept.1, 2008
2: Anaerobic Digester Conversion	March 1, 2008	June 16, 2008	Sept.1, 2008
3: Pyrolysis Conversion	March 1, 2008	June 16, 2008	Sept.1, 2008
4: Cellulosic Ethanol Conversion	March 1, 2008	June 16, 2008	Sept.1, 2008
5: Pellets for Boilers Conversion	March 1, 2008	June 16, 2008	Sept.1, 2008
6: Pilot Project Research	March 1, 2008	June 16, 2008	Dec. 1, 2008

7: Facility Siting Elements	March 1, 2008	June 16, 2008	Dec. 1, 2008
8: Financial Model Comparison and ROI	March 1, 2008	June 16, 2008	Dec. 1, 2008
9: Recommendations from Finding	N/A	N/A	Dec. 1, 2008

### **Funding Availability**

Lane County Community and Economic Development manages numerous grant projects. Our standard grant draw down procedure is once a contract is in place with a grant funder, the County fronts the funds for the work to be done and then applies for reimbursement from the grant funder on a schedule worked out in cooperation with the funder. The County anticipates doing that same thing in this project, drawing down funds as project milestones – like interim and final reports – are met.

### **Project Partners**

**Lane County - Mike McKenzie-Bahr – Lane County Community & Economic Development Coordinator** – 20 years of Business and Community Development, grant management and feasibility study experience. – He will be the project manager, administer contracts for project team, assign tasks, assist with each project elements and gather finished study materials into a Final Report. He will serve on the Project Management Team.

**Marcus Kauffman, Program Manager, Resource Innovations, Institute for a Sustainable Environment, University of Oregon** – He holds a Master’s of Community and Regional Planning with an emphasis on rural community development from UO – He will lead the interview team for “Harvesting, Bailing and Transportation Costs.” He will also assist preparing study results into the Final Report. He will serve on the Project Management Team.

**Martin Desmond – Lane MicroBusiness-** Business consultant and small business classes & workshops instructor. Serves on state Forest Biomass Working Group, chairs Economy & Market Development Subgroup. - He will assist preparing of “Financial Model Comparison and Return on Investment.”

**Eric Bowman, Northwest Cooperative Development Center** – Business Consultant. Co-author: “Mapping the Route to a Cooperatively-Owned Future for Emerging BioEnergy Industries.” – He will be preparing element on cooperative business models and bioenergy opportunities as part of “Financial Model Comparison”

**Milo Mecham, Principal Planner, Lane Council of Governments.** He leads the local and regional planning issues and programs at LCOG – He will lead “Energy Facility Siting Elements” data gathering team and assist with infrastructure finance-related analyses.

**Larry Brice, President, Novus Group** – 30 years of business management experience including large project development and raising capital- Former member of Governor Kitzhaber Committee for Economic Development. He will prepare “Financial Model Comparison and Return on Investment” and assist on “Facility Outputs,” elements. He will serve on the Project Management Team.



**William H. Klausmeier, Ph.D, President, Sylvatex** – He has served as the research monitor for the World Bank’s Brazilian ethanol program and done ethanol and biofuels projects for the World Bank, the U.S. Agency for International Development, the Rockefeller Brothers Fund and private clients. He will provide research on the suitability and adaptability of current conversion processes to grass straw.

**Joshua Skov, MA, LEED AP, Principal, Good Company** – Holds an M.A. in Economics from the University of California, Berkeley, he is an adjunct instructor in the Department of Planning, Public Policy and Management at UO and has expertise in infrastructure project due diligence and feasibility assessment for community, business and environmental issues and opportunities – He will be main preparer of “Recommendations from Feasibility Study Finding” and assist on “Facility Outputs” elements. He will serve on the Project Management Team.

**Dean Foor, PE, Essential Consulting Oregon (ECOregon)** – Holds a B.S. in Civil Engineering, B.S. in Geomatic Engineering, and Certificate in Fermentation Science. Mr. Foor has more than 17 years of project management and engineering experience – He will lead the team that prepares “Anaerobic Digester Facility Options” elements and assist on “Facility Outputs” elements.

**Kevin Caldwell, TecFuels LLC** – TecFuels is a renewable energy development company based in Salem Oregon. Current Research and Development efforts are with a combination of public agencies and private sector partners at the National Energy Technology Laboratory in Albany Oregon. He will lead the team that prepares “Pyrolysis” elements and assist on “Facility Outputs” elements.

**Chris Beatty, President, Trillium Fiber Fuels** – Holds a Master of Science Degree, Materials Science, Stanford University and is a courtesy faculty appointment at OSU Chemistry Department. Trillium FiberFuels currently has a lab scale cellulosic ethanol process running based on ryegrass straw. He will lead the team that prepares “Cellulosic Ethanol Conversion” elements and assist on “Facility Outputs” elements.

**Dave Nelson - Oregon Seed Council** - Currently the Executive Secretary of the Oregon Seed Council. Mr. Nelson has served on the council for over 15 years in different positions including treasurer and executive director. Nelson also serves on the Oregon Department of Agriculture Fine Fescue Commission. Nelson will serve as a source of information and coordination with the Ryegrass straw growers for interviews and industry specific information. He will serve on Project Management Team.

Additional resources who will provide expertise, data and guidance

**Stephanie Page, Oregon Department of Agriculture, Renewable Energy Specialist** – She will act as liaison between the Department of Agriculture and the project team, providing guidance and access to expertise among state organizations.

**Greg Rorrer PhD,** – Holds a PhD in Chemical Engineering from Michigan State University and is a professor of chemical engineering at OSU School of Chemical, Biological, and Environmental Engineering. He has an established research program in biochemical engineering and biomass conversion. He is co-leader of the Biomass Conversion Technologies Working Group (BCTWG) at Oregon State University. He will serve as a source of information for the technical aspects of energy conversion for Ryegrass Straw.

**Ken Williamson, PhD, Oregon State University** – The Department Head for Chemical Engineering in the School of Chemical, Biological, and Environmental Engineering at OSU. He will provide information and research on the development of technology and efficiency for the processing of biomass to energy. He is interested in the both the Bioeconomy and Sustainable Technologies Research Center side and the Environmental Quality Commission which is interested in alternatives to field burning.

**Michael Russo, PhD, University of Oregon** – Head of the Department of Management for the Lundquist College of Business at the University of Oregon. His research interests include the management of environmental issues and he has worked as an energy planner specializing in commercialization of wind and solar energy. Russo will supervise an MBA Candidate team that will assist in the development of the financial models for the energy processing facilities.

**Peter Ruffier – Eugene Wastewater Director -Metropolitan Wastewater Management Commission** – Will provide data and review on wastewater and siting issues on MWMC lands.

**Robert Sprick – Operations Supervisor, Wastewater Division – City of Eugene, Metropolitan Wastewater Management Commission** – Will provide anaerobic digestion facility operation expertise.

**Eugene Water and Electric Board** – Will provide data and expertise for energy production opportunities and potential energy source revenues.

**Proposed Budget**

We have attached two budget documents: 1) Budget By Category, which shows the proposed expenditures by Research element and contractor and 2) Scope of Work and Budget by Project Participant. This second budget outlines the scope of work that each project participant will undertake.

**Budget By Category – Attached as separate sheet.**

**Scope of Work and Budget by Project Participant**

**Lane County**

<b>Research Element 7: Facility Siting Elements Costs and Issues</b>	
Public Works Research	\$5,000
Administration and Management	
CAO	\$15,000
Travel	\$15,000
Supplies and Materials	\$5,000
Contingent	\$5,000
<b>Total Budget</b>	<b>\$45,000</b>

**Resource Innovations, Institute for a Sustainable Environment, University of Oregon**

Research Element 1:Harvesting, Bailing & Transportation Costs & Issues	
Research and Author	\$5,000
Research Element 9: Recommendations from Finding	
Author	\$10,000
Project Management	\$10,000
<b>Total Budget</b>	<b>\$25,000</b>

**Lane MicroBiz**

Research Element 8: Financial Model Comparison and ROI	
Financial Modeling	\$5,000
<b>Total Budget</b>	<b>\$5,000</b>

**Lane Council of Governments**

Research Element 7: Facility Siting Elements Costs and Issues	
Research and Author	\$10,000
<b>Total Budget</b>	<b>\$10,000</b>

**Northwest Cooperative Development Center**

Research Element 9: Recommendations from Finding	
Author Final Section- Business Models	\$5,000
<b>Total Budget</b>	<b>\$5,000</b>

**Novus Group**

Research Element 2: Anaerobic Digester Energy Conversion Process	
Energy Output Section	\$2,000
Research Element 3: Pyrolysis Energy Conversion Process	
Energy Output Section	\$2,000
Research Element 4: Cellulosic Ethanol Energy Conversion Process	
Energy Output Section	\$2,000
Research Element 5: Pellets for Boilers Energy Conversion Process	
Energy Output Section	\$2,000
Research Element 6: Pilot Project Research on Elements 2-5	
Energy Output Section	\$2,000
Research Element 8: Financial Model Comparison and ROI	
Author	\$15,000
Research Element 9: Recommendations from Finding	
Author Final Section	\$5,000
Project Management	\$5,000
<b>Total Budget</b>	<b>\$35,000</b>

**Sylvatex**

Research Element 3: Pyrolysis Energy Conversion Process	
Preliminary Screening of Technology	\$2,000
Research Element 4: Cellulosic Ethanol Energy Conversion Process	
Preliminary Screening of Technology	\$2,000
Research Element 5: Pellets for Boilers Energy Conversion Process	
Preliminary Screening of Technology	\$2,000
Research Element 6: Pilot Project Research on Elements 3,4,5	
Preliminary Screening of Technology	\$2,000
Research Element 9: Recommendations from Finding	
Author Technology Section	\$2,000
<b>Total Budget</b>	<b>\$10,000</b>

**Good Company**

Research Element 3: Pyrolysis Energy Conversion Process	
Section Author	\$3,000
Research Element 4: Cellulosic Ethanol Energy Conversion Process	
Section Author	\$3,000
Research Element 5: Pellets for Boilers Energy Conversion Process	
Section Author	\$3,000
Research Element 6: Pilot Project Research on Elements 3,4,5	
Section Author	\$3,000
Research Element 9: Recommendations and Findings	
Section Author	\$8,000
<b>Total Budget</b>	<b>\$20,000</b>

**Essential Consulting Oregon (ECOregon)**

Research Element 2: Anaerobic Digester Energy Conversion Process	
Energy Output, Preliminary Screening, Section Author	\$10,000
Research Element 6: Pilot Project Research on Elements 2-5	
Pilot Assistance	\$5,000
<b>Total Budget</b>	<b>\$15,000</b>

**TecFuels LLC**

Research Element 3: Pyrolysis Energy Conversion Process	
Research and Findings	\$5,000
Research Element 6: Pilot Project Research on Element 3	
Pilot Lead	\$10,000
<b>Total Budget</b>	<b>\$15,000</b>

**Trillium Fiber Fuels**

Research Element 4: Cellulosic Ethanol Energy Conversion Process	
Section Author	\$5,000
Research Element 6: Pilot Project Research on Elements 2-5	
Pilot Lead	\$15,000
<b>Total Budget</b>	<b>\$20,000</b>

**Oregon Seed Council**

Research Element 1: Harvesting, Bailing & Transportation Costs & Issues Expertise	\$5,000
Research Element 9: Recommendations and Findings Expertise	\$5,000
<b>Total Budget</b>	<b>\$10,000</b>

**Oregon State University**

Research Element 6: Pilot Project Research on Elements 2-5 Pilot Lead	\$10,000
<b>Total Budget</b>	<b>\$10,000</b>

**Metropolitan Waste Management Commission**

Research Element 6: Pilot Project Research on Element 2 Pilot Lead	\$10,000
<b>Total Budget</b>	<b>\$10,000</b>

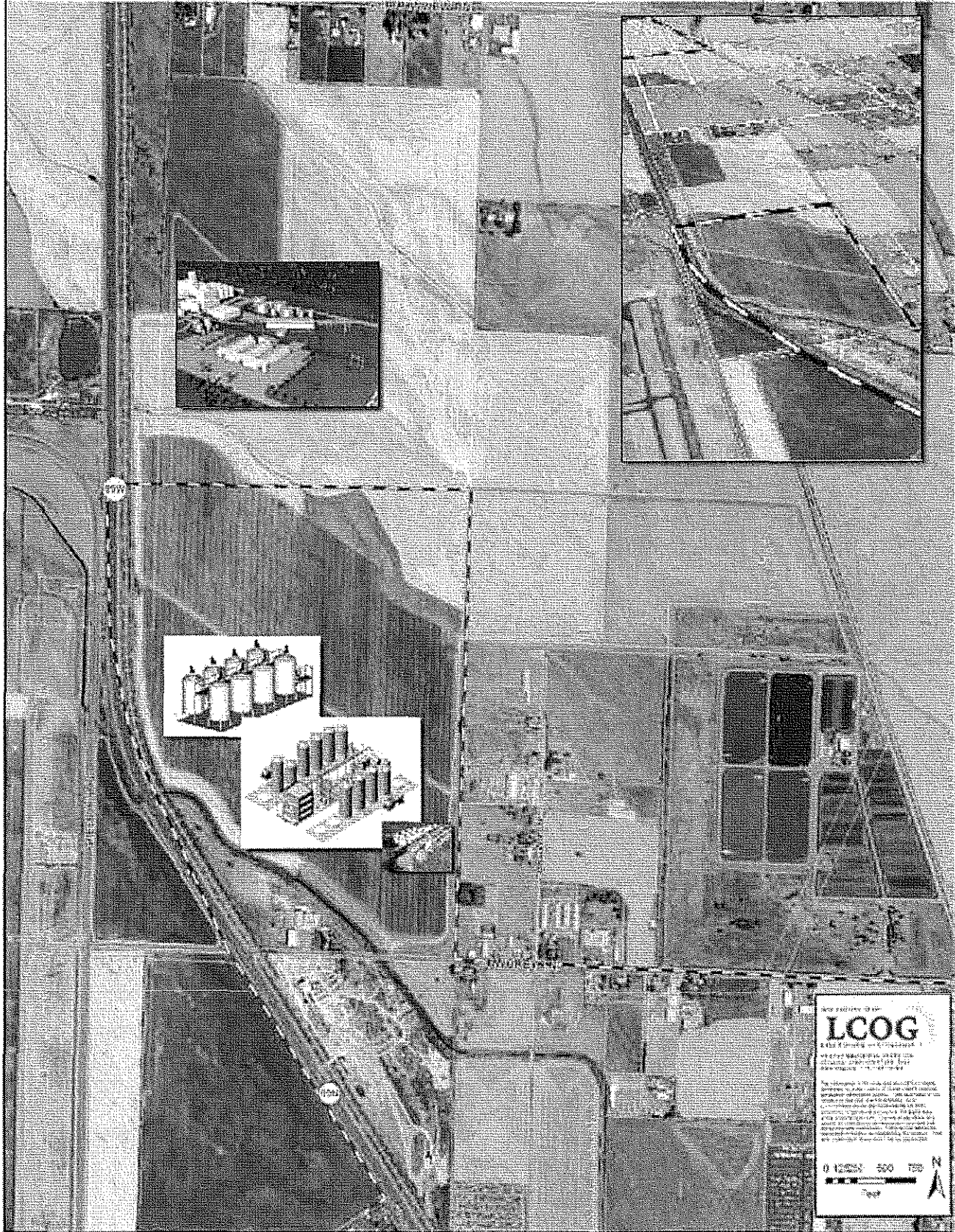
**Unknown**

Research Element 5: Pellets for Boilers Energy Conversion Process Research and Findings	\$5,000
Research Element 6: Pilot Project Research on Element 5 Pilot Lead	\$10,000
<b>Total Budget</b>	<b>\$15,000</b>

**"Lane County Ryegrass Straw Conversion to Renewable Energy and Biofuel Production Project/Feasibility Study" Budget**

Partner	RE 1: Harvesting, Baling, & Transportation	RE 2: Anaerobic Digester Conversion	RE 3: Pyrolysis Conversion	RE 4: Cellulosic Ethanol Conversion	RE 5: Pellets for Boiler System Technology	RE 6: Pilot Project Research	RE 7: Energy Facility Siting	RE 8: Financial Model Comparison and ROI	RE 9: Recommendations from Findings	Administration	Project Management	Travel	Supplies Materials	Contingent	TOTAL
Lane County							\$ 5,000			\$ 15,000		\$ 15,000	\$ 5,000	\$ 5,000	\$ 45,000
Resource Innovations	\$ 5,000								\$ 10,000		\$ 10,000				\$ 25,000
Lane MicroBiz								\$ 5,000							\$ 5,000
Lane Council of Governments							\$ 10,000								\$ 10,000
NCDC									\$ 5,000						\$ 5,000
Novus Group		\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000		\$ 15,000	\$ 5,000		\$ 5,000				\$ 35,000
Sylvatex			\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000			\$ 2,000						\$ 10,000
Good Company			\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000			\$ 8,000						\$ 20,000
Essential Consulting Oregon (ECOregon)		\$ 10,000					\$ 5,000								\$ 15,000
TecFuels, LLC			\$ 5,000				\$ 10,000								\$ 15,000
Trillium Fiber Fuels				\$ 5,000			\$ 15,000								\$ 20,000
Oregon Seed Council	\$ 5,000								\$ 5,000						\$ 10,000
OSU							\$ 10,000								\$ 10,000
MWMC							\$ 10,000								\$ 10,000
Unknown					\$ 5,000	\$ 10,000									\$ 15,000
<b>TOTAL</b>	<b>\$ 10,000</b>	<b>\$ 12,000</b>	<b>\$ 12,000</b>	<b>\$ 12,000</b>	<b>\$ 12,000</b>	<b>\$ 67,000</b>	<b>\$ 15,000</b>	<b>\$ 20,000</b>	<b>\$ 35,000</b>	<b>\$ 15,000</b>		<b>\$ 15,000</b>	<b>\$ 5,000</b>		<b>\$ 250,000</b>

# Integrated Bioenergy Business Park Conceptual Rendering



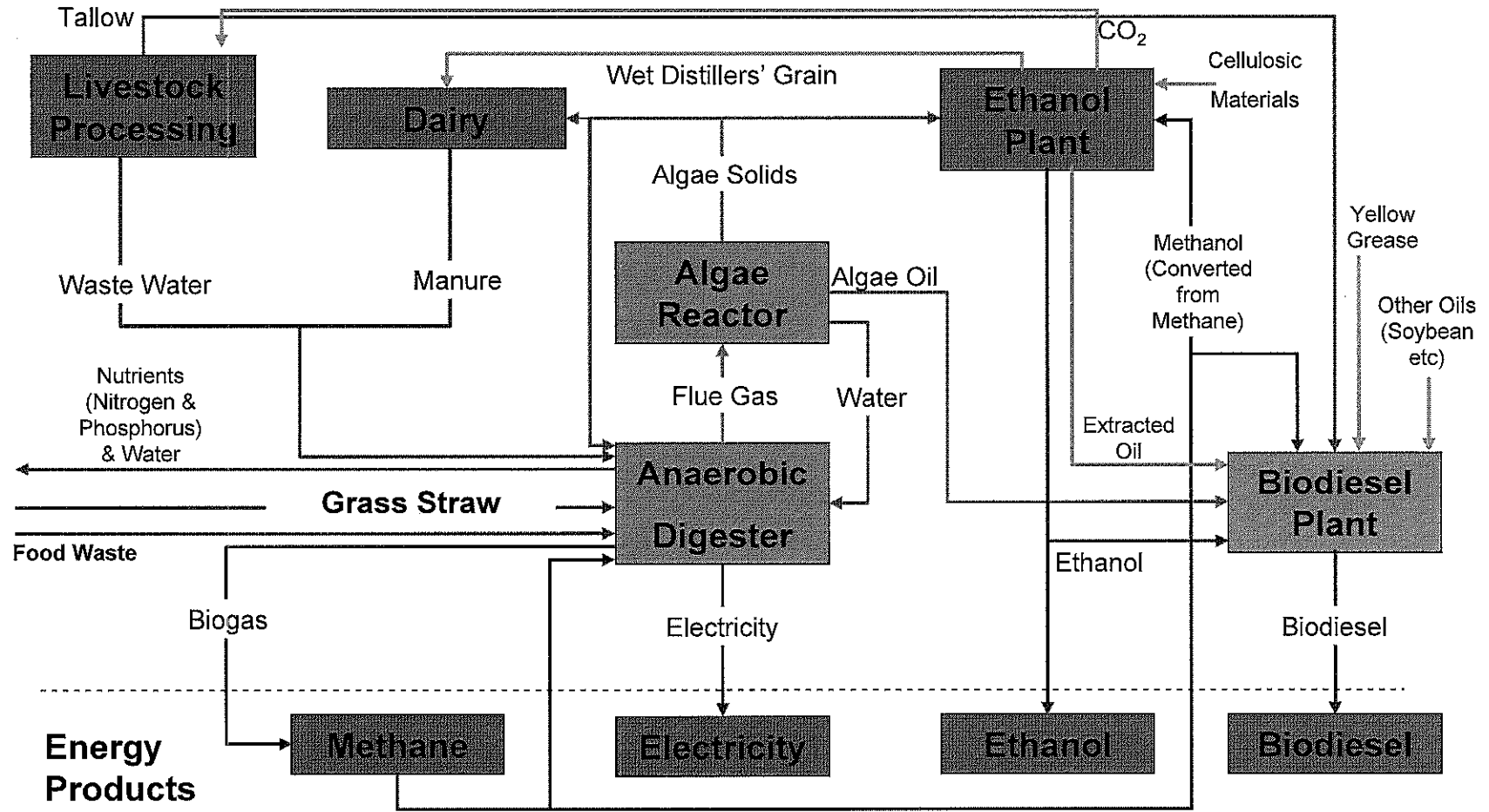
Area partially in the  
**LCOG**  
State of Colorado - 01/1/2008

Integrated Bioenergy Business Park  
100 West 100th Street, Suite 100  
Littleton, Colorado 80120-1000  
Phone: 303.440.1000  
Fax: 303.440.1001  
www.lcog.com

0 10000 500 100  
Feet

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# Integrated Bioenergy Business Park Conceptual Process



Reduced Waste Streams = CO<sub>2</sub>, NO<sub>x</sub>, SO<sub>x</sub>, Nutrient Load (Nitrogen & Phosphorus), Heat, & Waste Water  
 Adapted from chart prepared by Kansas Bioscience Authority, NISTAC, and Sunflower Electric Power Corporation for Sunflower Integrated Bioenergy Project. Patent Pending





# Oregon

Theodore R. Kulongoski, Governor

Department of Environmental Quality

811 SW Sixth Avenue  
Portland, OR 97204-1390

503-229-5696

TTY: 503-229-6993

February 7, 2008

Faye Stewart, Chair  
Lane County Board of Commissioners  
Lane County Board of Health  
Public Service Building  
125 East 8<sup>th</sup> Ave.  
Eugene, OR 97401

Dear Commissioner Stewart:

This letter is an update on the Environmental Quality Commission's (EQC) activities related to field burning and a request for an update on activities being conducted by Lane County.

In a letter to you dated August 22, 2007, DEQ's former Director, Stephanie Hallock, responded to your request that the EQC temporarily ban field burning or reduce the acres that may be burned. To temporarily ban field burning, the EQC would have to make a finding that field burning contributes to an extreme danger to public health or safety in the Willamette Valley. To reduce the acres that may be burned, the EQC would have to make a finding that other reasonable and economically feasible, environmentally acceptable alternatives have been developed.

Former Director Hallock noted that DEQ currently lacks funds to conduct the studies needed for the EQC to determine if such findings are warranted. However, she noted that EQC directed DEQ to seek resources from the 2008 legislature to conduct these studies.

Unfortunately, DEQ was unable to request this funding from the 2008 legislature. There was no formal opportunity for agencies to make budget requests in the short 2008 special session, and it appears that the legislature will only be able to fund a handful of key priorities..

Given no new resources for the studies, it is unlikely that EQC will be able to make findings under ORS 468A.610(8)(b) or 468A.610(9) before the 2009 field burning season. However, DEQ is undertaking other activities that may prove useful in responding to your concerns.

First, DEQ plans to review the literature on the health effects of exposure to fine particulate emissions. While this study is being undertaken to support EQC's later consideration of the fine particulate ambient air quality standard, it will also shed light on the health effects of periodic short term exposure to high concentrations of fine particulate such as may be associated with field burning impacts.

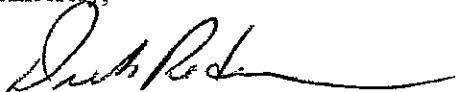
Second, DEQ and the Oregon Departments of Agriculture (ODA), Forestry (ODF) and Energy (DOE) will consider possible legislative or budget options to increase biomass utilization as an alternative to burning. Should this lead to any actual legislative concepts for 2009, DEQ will invite your participation in developing and supporting the proposals.

Faye Stewart, Chair  
Lane County Board of Commissioners  
February 7, 2008  
Page 2

I understand from ODA that you are working with the Seed Council to study the feasibility of converting ryegrass straw into renewable energy and biofuels. As you know, if a renewable energy or biofuels project can be built in the Willamette Valley, it may provide an alternative to field burning so that fewer acres can be burned. I invite you or your staff to attend the EQC's meeting on Friday, February 22<sup>nd</sup> to discuss this important project. The field burning agenda item is tentatively scheduled for 9:30 a.m. The meeting will be at DEQ Headquarters, 811 SW 6<sup>th</sup> Avenue in Portland, in room EQC A on the 10<sup>th</sup> floor.

If you need any information about the EQC meeting, please contact Wendy Simons at (503) 229-5301. If you need additional information about DEQ's activities related to field burning, please contact Andy Ginsburg, my Air Quality Administrator, at (503) 229-5397.

Sincerely,



Dick Pedersen  
Acting Director

X8 ✓ Cc: Mike Carrier, Governor's Natural Resource Office  
Environmental Quality Commission  
✓ Katy Coba, Director, Oregon Department of Agriculture  
✓ Andy Ginsburg, DEQ Air Quality Administrator



## LANE COUNTY

PUBLIC SERVICE BUILDING, 125 EAST 8TH AVENUE, EUGENE, OR 97401/(541)682-4118/FAX (541)682-4616

February 21, 2008

Department of Environmental Quality  
811 SW Sixth Ave.  
Portland, OR 97204-1390

Dear Mr. Pederson,

Thank you for your letter dated February 07, 2008. Lane County appreciates the efforts that the Department of Environmental Quality and the Environmental Quality Commission has made, and continues to make, on Lane County's behalf regarding field burning.

We empathize that due to insufficient funds, DEQ has been unable to conduct the studies necessary to impose the regulatory policies requested by Lane County in August, 2007. The County has not discounted the possibility that these regulations will be put into place in the future, but in the meantime, as you are aware, we are pursuing an economic approach to reducing field burning.

Thank you for the invitation to attend the EQC meeting to give an update of activities being conducted by Lane County. Lane County Economic Development Coordinator Mike McKenzie-Bahr, who is our lead on the feasibility study of grass straw to energy project will attend the meeting to discuss the project. I also want to take this opportunity to explain how we arrived at this point.

As you are aware, the Lane County Commissioners have been discussing the issue of grass straw burning for some time. In October 2007, commissioners Pete Sorenson and Bill Fleenor met with several grass seed growers to tour their ranches. Commissioner Sorenson then met with representatives of the Oregon Seed Council, the Department of Agriculture to discuss non-regulatory options. Also included in that meeting was our Economic Development Coordinator.

Mr. McKenzie-Bahr had previously convened a biomass working group, composed of a cross section of local governments, non-profits and businesses to identify economic uses for local waste stream biomass as a value added product for renewable energy production. Our efforts build upon the Governor's identification of renewable energy as an economic driver for the future of Oregon's economy. By linking the State's renewable energy initiative with the need for an alternative to field burning we believe we identified a win-win solution to benefit the health and economy of citizens throughout the Willamette Valley.

In December, the Lane County Board of Commissioners and the Oregon Seed Council passed joint resolutions that recognized the economic importance of the grass seed industry to Lane County and Oregon and the controversy regarding field burning. The resolution concluded with a direction for the County to request \$250,0000 from the Field Burning Research Fund in order to help 1) identify short-term, mid-term and long-term options for adding value to grass straw through renewable energy and fuel production, with the goal that implementation of the options

**LANE COUNTY**

**PUBLIC SERVICE BUILDING, 125 EAST 8TH AVENUE, EUGENE, OR 97401/(541)682-4118/FAX (541)682-4616**

would build economic alternatives for grass straw that would supplant current practice and 2) initiate a pilot project in Lane County using grass straw as a bio-energy source. The goal of the project is to identify economic alternatives for grass straw to supplant field burning.

As part of developing the grant, a series of meetings were held to involve more stakeholders in the proposed project. This was followed by the project application being vetted by the Oregon Department of Agriculture and a representative of the Oregon Department of Energy, and then a presentation to, and buy-in from, the members of the Oregon Seed Council.

As you state in your letter, this is an important project. We look forward to DEQ's support as we move forward with this study. If you would like more information about the project's specifics please feel free to contact Michael McKenzie-Bahr at 541-682-4118.

Sincerely,

Faye Stewart  
Chair, Lane County Board of Commissioners

cc: Environmental Quality Commission

Submitted to the Agricultural Research Foundation to the Oregon Seed Council and Oregon Department of Agriculture Alternatives to Field Burning Research Financial Assistance Program

## Lane County Ryegrass Straw Conversion to Renewable Energy and Biofuel Production Project/Feasibility Study



Presented by

Mike McKenzie-Bahr

Community & Economic Development Coordinator



2

## Lane County Commissioners Resolution of 12/12/2007

- Oregon's Grass Seed industry produces more than \$450 million in annual sales and is known across America for its quality grass and seed
- Industry multiplier effect that creates jobs in other industries
- Some of the grass straw from annual Ryegrass is burned each year and controversy exists about the effect of the smoke
- Representatives of Lane County working with Oregon Department of Agriculture and the Oregon Seed Council to find a win-win solution to add value to the Ryegrass straw



## Ryegrass Straw to Energy Project Goals

3

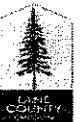
- ➔ Determine economic value of Ryegrass straw as an energy feedstock product
- ➔ Address economic viability of grass straw for conversion to bio-energy
- ➔ Identification of energy processes for Ryegrass straw: ROI & applications
- ➔ Address value of straw as energy compared to straw as nutrients from burning
- ➔ Identify best potential locations for processing facilities



4

## Ryegrass Straw to Energy Project Can Lead to

- ◆ A decrease in burning of Ryegrass straw
- ◆ Positive economic value to growers for Ryegrass straw
- ◆ Creation of Local Energy
- ◆ Comprehensive valley-wide solutions



## Why Now?

- ◆ Better technology has increased efficiency
- ◆ National and State strategy for energy independence - tax credits and incentives
- ◆ Successful agriculture residual energy pilots around nation
- ◆ Proactive Opportunity – markets vs. regulation
- ◆ Regional Partnership Opportunities



## Project Team

- ◆ Lane County Community & Economic Development
- ◆ Resource Innovations, Institute for a Sustainable Environment, UO (interviews/data)
- ◆ Oregon Seed Council
- ◆ Novus Group – (Project Financing)
- ◆ Sylvatex – (Science Research)
- ◆ Good Company – (Final Report)
- ◆ Essential Consulting Oregon (Pilot Project)
- ◆ Trillium Fiber Fuels - (Pilot Project)
- ◆ Lane MicroBusiness – (Financial Models)
- ◆ Northwest Cooperative Development Center – (Business Models)
- ◆ Lane Council of Governments. – (Facility siting elements)

### Additional resources

- ◆ Oregon Department of Agriculture,
- ◆ Oregon State University - School of Chem, Bio, and Env. Engineering
- ◆ University of Oregon –Lundquist College of Business
- ◆ Metropolitan Wastewater Management Commission
- ◆ Eugene Water and Electric Board

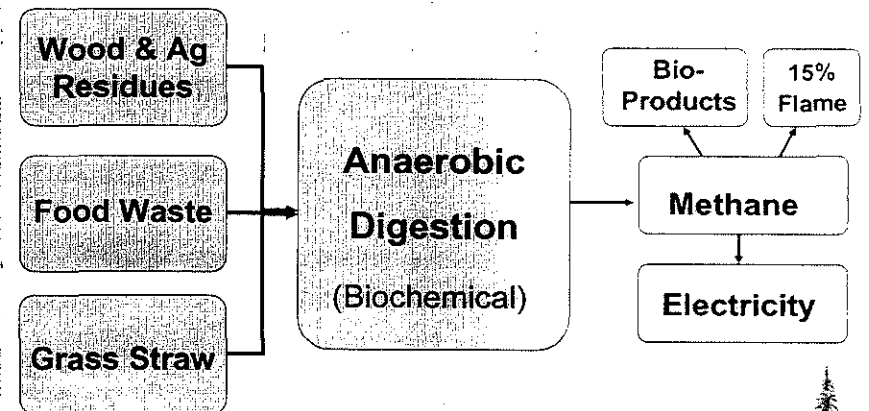


## Nine Study Elements

- ◆ Collection and Pre-processing
- ◆ Anaerobic Digestion Conversion
- ◆ Pyrolysis Conversion
- ◆ Cellulosic Ethanol Conversion
- ◆ Pellets for Boiler System Technology
- ◆ Pilot Projects
- ◆ Financial Models for Each Alternative
- ◆ Siting Elements of a Facility
- ◆ Findings and Recommendations



## Biomass Conversion Options: Anaerobic Digestion





## Expected Deliverables

- Summary of Growers Input
- Financial Models
- Economic value of Ryegrass straw as an energy feedstock vs burning it
- Research result on pilot bench tests
- Energy facility financials
- Identification of best potential areas to site facilities
- Identification of next steps to implement Ryegrass Straw to bio-energy facilities.





State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** February 4, 2008  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Acting Director *Dick Pedersen*  
**Subject:** Agenda Item M, Temporary Rule Adoption: Amend Plant Site Emission Limit Applicability Rule  
February 21-22, 2008 EQC Meeting

**Why this is Important** The proposed rule is important to avoid a significant amount of unintended work by the Department of Environmental Quality (Department, DEQ) permitting staff and unnecessary burdens on regulated sources because of an error that was recently discovered within the Air Quality permitting programs rules.

**Department Recommendation** The Department recommends that the Environmental Quality Commission (Commission, EQC) amend the rules as proposed in Attachment A.

**Background and Need for Rulemaking** DEQ is proposing to amend the applicability rule for Plant Site Emission Limits (PSELs).

The PSEL Rule sets limits on emissions of specified regulated air pollutants. The primary purpose of establishing a PSEL is to assure compliance with ambient air standards, which focuses on a group of pollutants known as criteria pollutants (particulate matter, ground-level ozone, carbon monoxide, sulfur oxides, nitrogen oxides, and lead).

However, DEQ recently discovered an error in the PSEL Rule, which would require PSELs for substances regulated by the Accidental Release Prevention Rule and substances listed as Early Reduction High Risk Pollutants.

The Accidental Release Prevention rule in OAR 340 Division 244 was established to require businesses storing large quantities of hazardous materials to have a Risk Management Plan (RMP) to prevent the accidental releases of those regulated substances. The Early Reduction High Risk Pollutants rules (OAR 340 Division 244) are used to allow a source to make early voluntary emissions reductions of listed chemicals in order to be allowed greater flexibility later when complying with new federal regulations. These programs are not implemented through the PSEL rule and do not depend on that rule for implementation.

Because of the recently discovered error in the PSEL rule, DEQ must issue a

PSEL for hundreds of substances listed under these two programs until the PSEL rule is revised. This would require investigation of permitted facilities to determine if they use these listed substances and could require DEQ to amend several hundred permits. Moreover, amending these permits is difficult because there are no criteria to set a PSEL for these additional chemicals. There are no emission factors available for most of these substances and the sources may not have suitable records to estimate their emissions. This creates a significant work load for DEQ and the permittee, but does not provide any real environmental benefit because a PSEL would not limit the amount of these substances that can be released and it would not affect implementation of the Accidental Release Prevention or Early Reduction High Risk Pollutant programs.

These proposed rule revisions will clarify the PSEL rule to exempt substances regulated by the Accidental Release Prevention Rule and Early Reduction High Risk Pollutant rules. The temporary rule change would be consistent with DEQ's historical interpretation and implementation of the PSEL program, and would allow DEQ to suspend unnecessary permit actions based on the error in the rules until a permanent rule change can be made.

- |                                |   |
|--------------------------------|---|
| <b>Effect of Rule</b>          | The rule amendment would properly exempt pollutants regulated by the Accidental Release Prevention rules and the Early Reduction High Risk Pollutants rules from regulation under the PSEL rules.   |
| <b>Commission Authority</b>    | The Commission has authority to take this action under ORS 468.020 and ORS 468A.025, 468A.035 and 468A.040.   |
| <b>Stakeholder Involvement</b> | DEQ has notified a small number of affected permittees who have pending permit actions, as well as the Associated Oregon Industries and interested environmental stakeholders.  |
| <b>Public Comment</b>          | Since this is a temporary rulemaking on an expedited adoption schedule there was not adequate time for an official public comment period. However, public comments will be requested during the permanent rulemaking.   |
| <b>Key Issues</b>              | <ol style="list-style-type: none"><li>1. If the rule is not corrected, several hundred permits potentially will need to be modified unnecessarily, creating significant workload issues. DEQ does not have permitting resources available to handle this additional workload.</li><li>2. Many of the affected sources are small businesses who may not have adequate resources to conduct additional monitoring or purchase new equipment in order to comply with the existing rule.</li><li>3. The existing rule must be applied to current permit renewals and to new permits until this temporary amendment corrects the rule. Hence, as long as the</li></ol> |

current rules remain in place DEQ will potentially need to reopen and reissue several hundred permits, including General Permits which require a resource-intensive rulemaking process.

**Next Steps**

The amendment will be effective upon the date of filing. Since the amended rules will align the rules with the current practices of the Department, no implementation plan, training or outreach will be needed. No unnecessary burden will be placed on Department resources if this rule is adopted. Following adoption of the temporary rule, a permanent rulemaking will commence.

**Attachments**

- A. Proposed Rule Revisions - Division 222
- B. OAR 340-244-0120, Table 2
- C. OAR 340-244-0230, Table 3

**Available Upon Request**

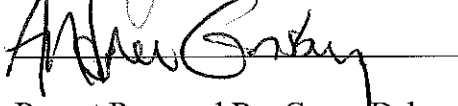
Public Notice of Proposed Temporary Rulemaking - Department Website  
<http://www.oregon.gov/DEQ/> under Hot Topics

Approved:

Section:



Division:



Report Prepared By: Gregg Dahmen

Phone: (503) 229-5108

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATEMENT OF NEED AND JUSTIFICATION**

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

**Department of Environmental Quality**

Agency and Division

**OAR Chapter 340, Division 222**

Administrative Rules Chapter Number

**In the Matter of:** Amend Plant Site Emission Limit Applicability Rule, OAR Chapter 340, Division 222

**Statutory Authority:** ORS 468.020, ORS 468A.025, ORS 468A.035, and ORS 468A.040

**Other Authority:** N/A

**Statutes Implemented:** ORS 468.020, ORS 468A.025, ORS 468A.035, and ORS 468A.040

**Need for the Temporary Rule(s):**

DEQ is proposing to amend the applicability rule for Plant Site Emission Limits (PSELs).

The PSEL Rule sets limits on emissions of specified regulated air pollutants. The primary purpose of establishing a PSEL is to assure compliance with ambient air standards, which focuses on a group of pollutants known as criteria pollutants (particulate matter, ground-level ozone, carbon monoxide, sulfur oxides, nitrogen oxides, and lead).

However, DEQ recently discovered an error in the Plant Site Emission Limit Rule, which would require Plant Site Emission limits for substances regulated by the Accidental Release Prevention Rule and substances listed as Early Reduction High Risk Pollutants.

The Accidental Release Prevention rule in OAR 340 Division 244 was established to require businesses storing large quantities of hazardous materials to have a Risk Management Plan (RMP) to prevent the accidental releases of those regulated substances. The Early Reduction High Risk Pollutants rules (OAR 340 Division 244) are used to allow a source to make early voluntary emissions reductions of listed chemicals in order to be allowed greater flexibility later when complying with new federal regulations. These programs are not implemented through the Plant Site Emission Limit rule and do not depend on that rule for implementation.

Because of the recently discovered error in the PSEL rule, DEQ must issue a PSEL for hundreds of substances listed under these two programs until the PSEL rule is revised. This would require investigation of permitted facilities to determine if they use these listed substances and could require DEQ to amend several hundred permits. Moreover, it is difficult to amend these permits because there are no criteria to set a PSEL for these chemicals. Also there are no emission factors available for most of these substances and the sources may not have suitable records to estimate their emissions. This creates a significant work load for DEQ and the permittees, but does not provide any real environmental benefit because a PSEL would not limit the amount of these substances that can be released and it would not affect implementation of the Accidental Release Prevention or Early Reduction High Risk Pollutant programs.

These proposed rule revisions will clarify the PSEL rule to exempt substances regulated by the Accidental Release Prevention Rule and Early Reduction High Risk Pollutant rules. The temporary rule change would be consistent with DEQ's historical interpretation and implementation of the PSEL program, and would allow DEQ to suspend unnecessary permit actions based on the error in the rules until a permanent rule change can be made.

**Documents Relied Upon:**

OAR Chapter 340, Division 222 is available at: [http://arcweb.sos.state.or.us/rules/OARs\\_300/OAR\\_340/340\\_222.html](http://arcweb.sos.state.or.us/rules/OARs_300/OAR_340/340_222.html)

OAR Chapter 340, Division 244 is available at: [http://arcweb.sos.state.or.us/rules/OARs\\_300/OAR\\_340/340\\_244.html](http://arcweb.sos.state.or.us/rules/OARs_300/OAR_340/340_244.html)

OAR 340-244-0120 Table 2 and OAR 340-224-0230 Table 3 are attached to this rulemaking package as Appendixes B and C and are available at: <http://www.deq.state.or.us/aq/rules/div244/table.htm>

**Justification of Temporary Rule(s):**

The Commission finds that failure to adopt the temporary rule will result in serious prejudice to the interest of the parties concerned (in this case, DEQ and permit holders) because it will have the following consequences:

- If the rule is not corrected, approximately 1,200 permitted sources would need to be investigated to determine if they emit any of the hundreds of chemicals listed by the Accidental Release Prevention and Early Reduction High Risk Pollutant rules.
- Several hundred permits will potentially need to be unnecessarily modified creating significant workload issues. Moreover, it is difficult to amend these permits because there are no criteria to set a PSEL for these chemicals. Also there are no emission factors available for most of these substances and the sources may not have suitable records to estimate their emissions. General permits would need to be modified through rule revisions and sources would need to be reassigned to those permits.
- DEQ permitting resources are not available to handle this additional workload and it would place an inordinate strain on the program.
- In order to comply with the existing rule, sources would have to expend funds for additional emissions testing and reporting and may need new monitoring equipment. The majority of these sources are small businesses, which may not have adequate resources to do additional reporting and monitoring or purchase new equipment. Such costs could exceed \$20,000 per source

**Housing Cost Impacts:**

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.

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*Dick Pedersen, Acting Director  
(On Behalf of the Commission)*

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*Date Signed*

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**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**OAR CHAPTER 340**

**DIVISION 222**

**STATIONARY SOURCE PLANT SITE EMISSION LIMITS**

**340-222-0010**

**Policy**

The Commission recognizes the need to establish a more definitive method for regulating increases and decreases in air emissions of permit holders. However, except as needed to protect ambient air quality standards, prevention of significant deterioration increments and visibility, the Commission does not intend to: limit the use of existing production capacity of any air quality permittee; cause any undue hardship or expense to any permittee who wishes to use existing unused productive capacity; or create inequity within any class of permittees subject to specific industrial standards that are based on emissions related to production.

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

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0300; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1000; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

**340-222-0020**

**Applicability**

(1) Plant Site Emission Limits (PSELs) will be included in all Air Contaminant Discharge Permits (ACDP) and Oregon Title V Operating Permits, except as provided in section (3), as a means of managing airshed capacity by regulating increases and decreases in air emissions. Except as provided in OAR 340-222-0060 or 340-222-0070, all ACDP and Title V sources are subject to PSELs for all regulated pollutants. The

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Department will incorporate PSELs into permits when issuing a new permit or renewing or modifying an existing permit.

(2) The emissions limits established by PSELs provide the basis for:

(a) Assuring reasonable further progress toward attaining compliance with ambient air standards;

(b) Assuring compliance with ambient air standards and Prevention of Significant Deterioration increments;

(c) Administering offset and banking programs; and

(d) Establishing the baseline for tracking the consumption of Prevention of Significant Deterioration Increments.

(3) PSELs are not required for:

(a) Pollutants that will be emitted at less than the de minimis emission level listed in OAR 340-200-0020 from the entire source,

(b) Short Term Activity and Basic ACDPs; or

(c) Hazardous air pollutants as listed in OAR 340-244-0040 Table 1; Early Reduction High Risk Pollutants listed in OAR 340-244-0120 Table 2; or Accidental Release Substances listed in OAR 340-244-0230 Table 3.

(4) Generic PSELs may be used for any category of ACDP or Title V permit.

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

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

Stat. Auth.: ORS 468.020 & ORS 468A.040

Stats. Implemented: ORS 468.020, ORS 468.065 & ORS 468A.025

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0301; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1010; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

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### **340-222-0030**

#### **Definitions**

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

[**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 468.020  
Stats. Implemented: ORS 468A.025  
Hist.: DEQ 14-1999, f. & cert. ef. 10-14-99

#### **Criteria for Establishing Plant Site Emission Limits**

### **340-222-0040**

#### **Generic Annual PSEL**

(1) Sources with capacity less than the Significant Emission Rate (SER) will receive a Generic PSEL unless they have a netting basis and request a source specific PSEL under 340-222-0041.

(2) A Generic PSEL may be used for any pollutant that will be emitted at less than the SER. The netting basis for a source with a generic PSEL is zero.

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

Stat. Auth.: ORS 468.020  
Stats. Implemented: ORS 468A  
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0310; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1020; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

### **340-222-0041**

#### **Source Specific Annual PSEL**



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- (1) For sources with potential to emit less than the SER, that request a source specific PSEL, an initial source specific PSEL will be set equal to the Generic PSEL.
- (2) For sources with potential to emit greater than or equal to the SER, an initial source specific PSEL will be set equal to the source's potential to emit or netting basis, whichever is less.
- (3) If an applicant wants an annual PSEL at a rate greater than the netting basis, the applicant must:
  - (a) Demonstrate that the requested increase over the netting basis is less than the SER; or
  - (b) For increases equal to or greater than the SER over the netting basis, but not subject to New Source Review (OAR 340 division 224):
    - (A) If located within, or creating a significant air quality impact as defined in OAR 340-200-0020 upon, an area designated as nonattainment in OAR 340-204-0030, the applicant must obtain offsets and demonstrate a net air quality benefit in accordance with OAR 340-225-0090.
    - (B) If located within, or creating a significant air quality impact as defined in OAR 340-200-0020 upon, an area designated as maintenance in OAR 340-204-0040, the applicant must
      - (i) Obtain offsets and demonstrate a net air quality benefit in accordance with OAR 340-225-0090;
      - (ii) Obtain an allocation from an available growth allowance in accordance with the applicable maintenance plan; or
      - (iii) Demonstrate compliance with the air quality impact levels in OAR 340-224-0060(2)(c) or (2)(d), whichever applies to the maintenance area, by conducting an air quality analysis in accordance with OAR 340-225-0045.
    - (C) If located within an attainment, maintenance, or unclassifiable area, the applicant must demonstrate compliance with the NAAQS and PSD increments by conducting an air quality analysis in accordance with OAR 340-225-0050(1) and (2) and 340-225-0060.
    - (D) For federal major sources, the applicant must demonstrate compliance with AQRV protection in accordance with OAR 340-225-0050(3) and 340-225-0070.

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(c) For increases equal to or greater than the SER over the netting basis and subject to New Source Review, the applicant must demonstrate that the applicable New Source Review requirements have been satisfied.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02

### 340-222-0042

#### Short Term PSEL

(1) For sources located in areas with established short term SER (OAR 340-200-0020 Table 3), PSELs are required on a short term basis for those pollutants that have a short term SER. The short term averaging period is daily, unless emissions cannot be monitored on a daily basis. The averaging period for short term PSELs can never be greater than monthly.

(a) For existing sources, the initial short term PSEL will be set as:

(A) the lesser of the short term capacity or the current permit's short term PSEL, if each is greater than or equal to the short term SER; or

(B) the generic PSEL, if either the short term capacity or the current short term PSEL is less than the short term SER.

(b) For new sources, the initial short term PSEL will be zero.

(2) If an applicant wants a short term PSEL at a rate greater than the initial short term PSEL, the applicant must:

(a) Demonstrate that the requested increase over the initial short term PSEL is less than the significant emission rate (Note: In this case new sources would get a generic PSEL); or

(b) For increases equal to or greater than the SER over the initial short term PSEL:

(A) Obtain offsets and demonstrate a net air quality benefit in accordance with OAR 340-225-0090;

(B) Obtain an allocation from an available growth allowance in accordance with the applicable maintenance plan; or

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(C) For carbon monoxide, demonstrate that the source or modification will not cause or contribute to an air quality impact equal to or greater than  $0.5 \text{ mg/m}^3$  (8 hour average) and  $2 \text{ mg/m}^3$  (1 hour average).

(D) For federal major sources, demonstrate compliance with air quality related values (AQRV) protection in accordance with OAR 340-225-0070.

(3) Once the short term PSEL is increased pursuant to section (2) of this rule, the increased level becomes the initial short term PSEL for future evaluations.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

### 340-222-0043

#### General Requirements for All PSEL

(1) No PSEL may allow emissions in excess of those allowed by any applicable federal or state regulation or by any specific permit conditions unless the source meets the specific provisions of OAR 340-226-0400 (Alternative Emission Controls).

(2) Source specific PSELs may be changed pursuant to the Department's rules for permit modifications when:

(a) Errors are found or better data is available for calculating PSELs

(b) More stringent control is required by a rule adopted by the Commission; or

(c) The Department modifies a permit pursuant to OAR 340-216-0084, Modification of a Permit, or OAR 340-218-0200, Reopenings.

(3) Annual PSELs are established on a rolling 12 consecutive month basis and will limit the source's potential to emit.

(4) In order to maintain the netting basis, permittees must maintain either a Standard ACDP or an Oregon Title V Operating Permit. A request by a permittee to be assigned any other type of an ACDP sets the netting basis at zero upon issuance of the other type of permit.

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

Stat. Auth.: ORS 468 & ORS 468A  
Stats. Implemented: ORS 468 & ORS 468A  
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

### **340-222-0045**

#### **Unassigned Emissions**

- (1) Purpose. The purpose of unassigned emissions is to track and manage the difference in the quantity of emissions between the netting basis and what the source could emit based on the facility's current physical and operational design.
- (2) Establishing unassigned emissions.
  - (a) Unassigned emissions equal the netting basis minus the source's current PTE, minus any banked emission reduction credits. Unassigned emissions are zero if this result is negative.
  - (b) Unused capacity created after the effective date of this rule due to reduced potential to emit that is not banked or expired emission reduction credits (OAR 340-268-0030), increase unassigned emissions on a ton for ton basis.
- (3) Maximum unassigned emissions.
  - (a) Except as provided in paragraph (c) of this section, unassigned emissions will be reduced to not more than the SER (OAR 340-200-0020 Table 2) on July 1, 2007 and at each permit renewal following this date.
  - (b) The netting basis is reduced by the amount that unassigned emissions are reduced.
  - (c) In an AQMA where the EPA requires an attainment demonstration based on dispersion modeling, unassigned emissions are not subject to reduction under this rule.
- (4) Using unassigned emissions.
  - (a) Unassigned emissions may be used for internal netting to allow an emission increase at the existing source in accordance with the permit.
  - (b) Unassigned emissions may not be banked or transferred to another source.

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Applicability Rule

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(c) Emissions that are removed from the netting basis are unavailable for netting in any future permit actions.

(5) Upon renewal, modification or other reopening of a permit after July 1, 2002 the unassigned emissions will be established with an expiration date of July 1, 2007 for all unassigned emissions in excess of the SER. Each time the permit is renewed after July 1, 2007 the unassigned emissions will be established again and reduced upon the following permit renewal to no more than the SER for each pollutant in OAR 340-200-0020 Table 2.

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

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

Stat. Auth.: ORS 468.020 & ORS 468A.310

Stats. Implemented: ORS 468 & ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

### **340-222-0060**

#### **Plant Site Emission Limits for Sources of Hazardous Air Pollutants**

(1) The Department may establish PSELs for hazardous air pollutants (HAPs) if an owner or operator:

(a) Elects to establish a PSEL for combined HAPs emitted for purposes of determining emission fees as prescribed in OAR 340 division 220; or

(b) Asks the Department to create an enforceable PTE limit.

(2) PSELs will be set only for individual or combined HAPs and will not list HAPs by name. The PSEL will be set on a rolling 12 month basis and will be either:

(a) The generic PSEL if the permittee proposes a limit less than that level; or

(b) The level the permittee establishes necessary for the source if greater than the generic PSEL.

(3) The Alternative Emissions Controls (Bubble) provisions of OAR 340-226-0400 do not apply to emissions of HAPs.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1050; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

### **340-222-0070**

#### **Plant Site Emission Limits for Insignificant Activities**

- (1) For purposes of establishing PSELS, emissions from categorically insignificant activities listed in OAR 340-200-0020 are not considered under OAR 340-222-0020, except as provided in section (3) of this rule.
- (2) For purposes of establishing PSELS, emissions from aggregate insignificant emissions listed in OAR 340-200-0020 are considered under OAR 340-222-0020.
- (3) For purposes of determining New Source Review or Prevention of Significant Deterioration applicability under OAR 340 division 224, emissions from insignificant activities are considered.

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

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020, ORS 468A.025, ORS 468A.040, & ORS 468A.045.

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 2-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1060; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

### **340-222-0080**

#### **Plant Site Emission Limit Compliance**

- (1) The permittee must monitor pollutant emissions or other parameters that are sufficient to produce the records necessary for demonstrating compliance with the PSEL.
- (2) The frequency of the monitoring and associated averaging periods must be as short as possible and consistent with that used in the compliance method.

## Attachment A

Agenda Item M, Temporary Rule Adoption: Amend Plant Site Emission Limit  
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- (3)(a) For annual PSELS, the permittee must monitor appropriate parameters and maintain all records necessary for demonstrating compliance with the annual PSEL at least monthly and be able to determine emissions on a rolling 12 consecutive month basis.
- (b) For short term PSELS, the permittee must monitor appropriate parameters and maintain all records necessary for demonstrating compliance with any short term PSEL at least as frequently as the short term PSEL averaging period.
- (4) The applicant must specify in the permit application the method(s) for determining compliance with the PSEL. The Department will review the method(s) and approve or modify, as necessary, to assure compliance with the PSEL. The Department will include PSEL compliance monitoring methods in all permits that contain PSELS.
- (5) Depending on source operations, one or more of the following methods may be acceptable:
- (a) Continuous emissions monitors;
  - (b) Material balance calculations;
  - (c) Emissions calculations using approved emission factors and process information;
  - (d) Alternative production or process limits; and
  - (e) Other methods approved by the Department.
- (6) When annual reports are required, the permittee must include the emissions total for each consecutive 12 month period during the calendar year, unless otherwise specified by a permit condition.

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

Stat. Auth.: ORS 468 & ORS 468A  
Stats. Implemented: ORS 468 & ORS 468A  
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

**340-222-0090**

### **Combining and Splitting Sources**

- (1) When two or more sources combine into one source:

## Attachment A

Agenda Item M, Temporary Rule Adoption: Amend Plant Site Emission Limit  
Applicability Rule  
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(a) The sum of the netting basis for all the sources is the combined source netting basis.

(b) The combined source is regulated as one source, except:

(A) the simple act of combining sources, without an increase over the combined PSEL, does not subject the combined source to New Source Review.

(B) if the combined source PSEL, without a requested increase over the existing combined PSEL, exceeds the combined netting basis plus the SER, the source may continue operating at the existing combined source PSEL without becoming subject to New Source Review until an increase in the PSEL is requested or the source is modified. If an increase in the PSEL is requested or the source is modified, the Department will evaluate whether New Source Review applies.

(2) When one source is split into two or more separate sources:

(a) The netting basis and the SER for the original source is split amongst the new sources as requested by the original permittee.

(b) The split of netting basis and SER must either:

(A) be sufficient to avoid New Source Review for each of the newly created sources or

(B) the newly created source(s) that become subject to New Source Review must comply with the requirements of OAR 340 division 224 before beginning operation under the new arrangement.

(3) The owner of the device or emissions unit must maintain records of physical changes and changes in operation occurring since the baseline period.

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

Stat. Auth.: ORS 468 & ORS 468A  
Stats. Implemented: ORS 468 & ORS 468A  
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

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The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division, 800 Summer St. NE, Salem, Oregon 97310. Any discrepancies with the published version are satisfied in favor of the Administrative Order. The Oregon Administrative Rules and the Oregon Bulletin are copyrighted by the Oregon Secretary of State.

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**Attachment B**

Agenda Item M, Temporary Rule Adoption: Amend Plant Site Emission Limit Applicability Rule  
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Page 1 of 3

<b>TABLE 2 (OAR 340-244-0120) LIST OF EARLY REDUCTIONS HIGH-RISK POLLUTANTS</b>		
<b>CAS Number</b>	<b>Chemical Name</b>	<b>Weighing Factor</b>
53-96-3	2-Acetylaminofluorene	100
107-02-8	Acrolein	100
79-06-1	Acrylamide	10
107-13-1	Acrylonitrile	10
1332-21-4	Asbestos	100
71-43-2	Benzene	10
92-87-5	Benzidine	1000
542-88-1	Bis(chloromethyl)ether	1000
106-99-0	1,3-Butadiene	10
57-74-9	Chlordane	100
532-27-4	2-Chloroacetophenone	100
107-30-2	Chloromethyl methyl ether	10
334-88-3	Diazomethane	10
132-64-9	Dibenzofurans	10
96-12-8	1,2-Dibromo-3-chloropropane	10
111-44-4	Dichloroethyl ether (Bis(2-chloroethyl)ether)	10
79-44-7	Dimethylcarbamoyl chloride	100
122-66-7	1,2-Diphenylhydrazine	10
106-93-4	Ethylene dibromide	10

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151-56-4	Ethylenimine (Aziridine)	100
75-21-8	Ethylene oxide	10
76-44-8	Heptachlor	100
118-74-1	Hexachlorobenzene	100
77-47-4	Hexachlorocyclopentadiene	10
302-01-2	Hydrazine	100
60-34-4	Methyl hydrazine	10
624-83-9	Methyl isocyanate	10
62-75-9	N-Nitrosodimethylamine	100
684-93-5	N-Nitroso-N-methylurea	1000
56-38-2	Parathion	10
75-44-5	Phosgene	10
7803-51-2	Phosphine	10
7723-14-0	Phosphorus	10
75-55-8	1,2-Propylenimine	100
1746-01-6	2,3,7,8-Tetrachlorodibenzo-p-dioxin	100,000
8001-35-2	Toxaphene (chlorinated camphene)	100
75-01-4	Vinyl chloride	10
0	Arsenic Compounds	100
0	Beryllium Compounds	10
0	Cadmium Compounds	10

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0	Chromium Compounds	100
0	Coke Oven Emissions	10
0	Manganese Compounds	10
0	Mercury Compounds	100
0	Nickel Compounds	10

Stat. Auth.: ORS 468.020 & 468A.310

Stats Implemented: ORS 468A.310.

Hist.: DEQ 13-1993, f. & cert. Ef. 9-24-93; DEQ 24-1994, f. & cert. Ef. 10-28-94; DEQ 2-2005,  
f. & cert. ef. 2-10-05

**Attachment C**

Agenda Item M, Temporary Rule Adoption: Amend Plant Site Emission Limit Applicability Rule  
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<b>TABLE 3</b> <b>(OAR 340-244-0230)</b>		
<b>LIST OF REGULATED TOXIC AND FLAMMABLE SUBSTANCES FOR PURPOSES OF ACCIDENTAL RELEASE PREVENTION</b>		
<b>Part A - Regulated Toxic Substances</b>		
<b>CAS Number</b>	<b>Chemical Name</b>	<b>Threshold Quantity (lbs.)</b>
107-02-8	Acrolein [2-Propenal]	5,000
107-13-1	Acrylonitrile [2-Propenenitrile]	20,000
814-68-6	Acrylyl chloride [2-Propenoyl chloride]	5,000
107-18-6	Allyl alcohol [2-Propen-1-ol]	15,000
107-11-9	Allylamine [2-Propen-1-amine]	10,000
7664-41-7	Ammonia (anhydrous)	10,000
7664-41-7	Ammonia (concentration 20% or greater)	20,000
7784-34-1	Arsenous trichloride	15,000
7784-42-1	Arsine	1,000
10294-34-5	Boron trichloride [Borane, trichloro-]	5,000
7637-07-2	Boron trifluoride [Borane, trifluoro-]	5,000
353-42-4	Boron trifluoride compound with methyl ether (1:1) [Boron, trifluoro[oxybis[metane]]-, T-4-	15,000
7726-95-6	Bromine	10,000
75-15-0	Carbon disulfide	20,000
7782-50-5	Chlorine	2,500

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10049-04-4	Chlorine dioxide [Chlorine oxide (ClO <sub>2</sub> )]	1,000
67-66-3	Chloroform [Methane, trichloro-]	20,000
542-88-1	Chloromethyl ether [Methane, oxybis[chloro-]]	1,000
107-30-2	Chloromethyl methyl ether [Methane, chloromethoxy-]	5,000
4170-30-3	Crotonaldehyde [2-Butenal]	20,000
123-73-9	Crotonaldehyde, (E)- [2-Butenal, (E)-]	20,000
506-77-4	Cyanogen chloride	10,000
108-91-8	Cyclohexylamine [Cyclohexanamine]	15,000
19287-45-7	Diborane	2,500
75-78-5	Dimethyldichlorosilane [Silane, dichlorodimethyl-]	5,000
57-14-7	1,1-Dimethylhydrazine [Hydrazine, 1,1-dimethyl-]	15,000
106-89-8	Epichlorohydrin [Oxirane, (chloromethyl)-]	20,000
107-15-3	Ethylenediamine [1,2-Ethanediamine]	20,000
151-56-4	Ethyleneimine [Aziridine]	10,000
75-21-8	Ethylene oxide [Oxirane]	10,000
7782-41-4	Fluorine	1,000
50-00-0	Formaldehyde (solution)	15,000
110-00-9	Furan	5,000
302-01-2	Hydrazine	15,000

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7647-01-0	Hydrochloric acid (concentration 37% or greater)	15,000
74-90-8	Hydrocyanic acid	2,500
7647-01-0	Hydrogen chloride (anhydrous) [Hydrochloric acid]	5,000
7664-39-3	Hydrogen fluoride/Hydrofluoric acid (concentration 50% or greater) [Hydrofluoric acid]	1,000
7783-07-5	Hydrogen selenide	500
7783-06-4	Hydrogen sulfide	10,000
13463-40-6	Iron, pentacarbonyl- [Iron carbonyl (Fe(CO) <sub>5</sub> ), (TB-5-11)-]	2,500
78-82-0	Isobutyronitrile [Propanenitrile, 2- methyl-]	20,000
108-23-6	Isopropyl chloroformate [Carbonochloridic acid, 1-methylethyl ester]	15,000
126-98-7	Methacrylonitrile [2-Propenenitrile, 2- methyl-]	10,000
74-87-3	Methyl chloride [Methane, chloro-]	10,000
79-22-1	Methyl chloroformate [Carbonochloridic acid, methylester]	5,000
60-34-4	Methyl hydrazine [Hydrazine, methyl-]	15,000
624-83-9	Methyl isocyanate [Methane, isocyanato-]	10,000
74-93-1	Methyl mercaptan [Methanethiol]	10,000
556-64-9	Methyl thiocyanate [Thiocyanic acid, methyl ester]	20,000

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75-79-6	Methyltrichlorosilane [Silane, trichloromethyl-]	5,000
13463-39-3	Nickel carbonyl	1,000
7697-37-2	Nitric acid (concentration 80% or greater)	15,000
10102-43-9	Nitric oxide [Nitrogen oxide (NO)]	10,000
8014-95-7	Oleum (Fuming Sulfuric acid) [Sulfuric acid, mixture with sulfur trioxide] <sup>1</sup>	10,000
79-21-0	Peracetic acid [Ethaneperoxoic acid]	10,000
594-42-3	Perchloromethylmercaptan [Methanesulfenyl chloride, trichloro-]	10,000
75-44-5	Phosgene [Carbonic dichloride]	500
7803-51-2	Phosphine	5,000
10025-87-3	Phosphorus oxychloride [Phosphoryl chloride]	5,000
7719-12-2	Phosphorus trichloride [Phosphorus trichloride]	15,000
110-89-4	Piperidine	15,000
107-12-0	Propionitrile [Propanenitrile]	10,000
109-61-5	Propyl chloroformate [Carbonochloridic acid, propylester]	15,000
75-55-8	Propyleneimine [Aziridine, 2-methyl-]	10,000
75-56-9	Propylene oxide [Oxirane, methyl-]	10,000
7446-09-5	Sulfur dioxide (anhydrous)	5,000
7783-60-0	Sulfur tetrafluoride [Sulfur fluoride (SF4), (T-4)-]	2,500

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7446-11-9	Sulfur trioxide	10,000
75-74-1	Tetramethyllead [Plumbane, tetramethyl-] ]	10,000
509-14-8	Tetranitromethane [Methane, tetranitro-]	10,000
7550-45-0	Titanium tetrachloride [Titanium chloride (TiCl <sub>4</sub> ) (T-4)-]	2,500
584-84-9	Toluene 2,4-diisocyanate [Benzene, 2,4- diisocyanato-1-methyl-] <sup>1</sup>	10,000
91-08-7	Toluene 2,6-diisocyanate [Benzene, 1,3- diisocyanato-2-methyl-] <sup>1</sup>	10,000
26471-62-5	Toluene diisocyanate (unspecified isomer) [Benzene, 1,3- diisocyanatomethyl-] <sup>1</sup>	10,000
75-77-4	Trimethylchlorosilane [Silane, chlorotrimethyl-]	10,000
108-05-4	Vinyl acetate monomer [Acetic acid ethenyl ester]	15,000



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<b>TABLE 3                      (OAR 340-244-0230)</b>		
<b>LIST OF REGULATED TOXIC AND FLAMMABLE SUBSTANCES FOR PURPOSES OF                      ACCIDENTAL RELEASE PREVENTION</b>		
<b>Part B - Regulated Flammable Substances<sup>1</sup></b>		
<b>CAS Number</b>	<b>Chemical Name</b>	<b>Threshold Quantity (lbs.)</b>
75-07-0	Acetaldehyde	10,000
74-86-2	Acetylene [Ethyne]	10,000
598-73-2	Bromotrifluorethylene [Ethene, bromotrifluoro-]	10,000
106-99-0	1,3-Butadiene	10,000
106-97-8	Butane	10,000
106-98-9	1-Butene	10,000
107-01-7	2-Butene	10,000
25167-67-3	Butene	10,000
590-18-1	2-Butene-cis	10,000
624-64-6	2-Butene-trans [2-Butene, (E)]	10,000
463-58-1	Carbon oxysulfide [Carbon oxide sulfide (COS)]	10,000
7791-21-1	Chlorine monoxide [Chlorine oxide]	10,000
557-98-2	2-Chloropropylene [1-Propene, 2-chloro-]	10,000
590-21-6	1-Chloropropylene [1-Propene, 1-chloro-]	10,000
460-19-5	Cyanogen [Ethanedinitrile]	10,000
75-19-4	Cyclopropane	10,000
4109-96-0	Dichlorosilane [Silane, dichloro-]	10,000
75-37-6	Difluoroethane [Ethane, 1,1-difluoro-]	10,000

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124-40-3	Dimethylamine [Methanamine, N-methyl-]	10,000
463-82-1	2,2-Dimethylpropane [Propane, 2,2-dimethyl-]	10,000
74-84-0	Ethane	10,000
107-00-6	Ethyl acetylene [1-Butyne]	10,000
75-04-7	Ethylamine [Ethanamine]	10,000
75-00-3	Ethyl chloride [Ethane, chloro-]	10,000
74-85-1	Ethylene [Ethene]	10,000
60-29-7	Ethyl ether [Ethane, 1,1'-oxybis-]	10,000
75-08-1	Ethyl mercaptan [Ethanethiol]	10,000
109-95-5	Ethyl nitrite [Nitrous acid, ethyl ester]	10,000
1333-74-0	Hydrogen	10,000
75-28-5	Isobutane [Propane, 2-methyl]	10,000
78-78-4	Isopentane [Butane, 2-methyl-]	10,000
78-79-5	Isoprene [1,3-Butadiene, 2-methyl-]	10,000
75-31-0	Isopropylamine [2-Propanamine]	10,000
75-29-6	Isopropyl chloride [Propane, 2-chloro-]	10,000
74-82-8	Methane	10,000
74-89-5	Methylamine [Methanamine]	10,000
563-45-1	3-Methyl-1-butene	10,000
563-46-2	2-Methyl-1-butene	10,000
115-10-6	Methyl ether [Methane, oxybis-]	10,000
107-31-3	Methyl formate [Formic acid, methyl ester]	10,000
115-11-7	2-Methylpropene [1-Propene, 2-methyl-]	10,000

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Agenda Item M, Temporary Rule Adoption: Amend Plant Site Emission Limit Applicability Rule  
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504-60-9	1,3-Pentadiene	10,000
109-66-0	Pentane	10,000
109-67-1	1-Pentene	10,000
646-04-8	2-Pentene, (E)-	10,000
627-20-3	2-Pentene, (Z)-	10,000
463-49-0	Propadiene [1,2-Propadiene]	10,000
74-98-6	Propane	10,000
115-07-1	Propylene [1-Propene]	10,000
74-99-7	Propyne [1-Propyne]	10,000
7803-62-5	Silane	10,000
116-14-3	Tetrafluoroethylene [Ethene, tetrafluoro-]	10,000
75-76-3	Tetramethylsilane [Silane, tetramethyl-]	10,000
10025-78-2	Trichlorosilane [Silane, trichloro-]	10,000
79-38-9	Trifluorochloroethylene [Ethene, chlorotrifluoro-]	10,000
75-50-3	Trimethylamine [Methanamine, N,N-dimethyl-]	10,000
689-97-4	Vinyl acetate [1-Buten-3-yne]	10,000
75-01-4	Vinyl chloride [Ethene, chloro-]	10,000
109-92-2	Vinyl ethyl ether [Ethene, ethoxy-]	10,000
75-02-5	Vinyl fluoride [Ethene, fluoro-]	10,000
75-35-4	Vinylidene chloride [Ethene, 1,1-dichloro-]	10,000
75-38-7	Vinylidene fluoride [Ethene, 1,1-difluoro-]	10,000
107-25-5	Vinyl methyl ether [Ethene, methoxy-]	10,000

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\*1 A flammable substance when used as a fuel or held for sale as a fuel at a retail facility  
is excluded from all provisions of 40 CFR part 68

Stat. Auth.: ORS 468.020 & 468A.310

Stat. Implemented: ORS 468A.025

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 24-1994,  
f. & ef. 10-28-94; DEQ 2-2005, f. & cert. ef. 2-10-05

**Addendum 1 to Staff Report for Agenda Item M,  
Temporary Rule Adoption: Amend Plant Site Emission Limit Applicability Rule**

February 22, 2008 EQC Meeting  
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**DEPARTMENT RECOMMENDATION**

1. The Staff Report recommends the following:

“The Department recommends that the Environmental Quality Commission (Commission, EQC) amend the rules as proposed in Attachment A.”

2. The Department also recommends that the Commission adopt the findings proposed in the section of the Statement of Need and Justification titled “Justification of Temporary Rule(s).”

State of Oregon  
Department of Environmental Quality

Memorandum

**Date:** January 14, 2008  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Acting Director *Dick Pedersen*  
**Subject:** Agenda Item N, Informational Item: Draft 2009 Legislative Agenda  
February 21-22, 2008 EQC Meeting

**Purpose of Item** The preliminary Department of Environmental Quality (Department, DEQ) budget policy concepts and legislative concepts for the 2009 Legislative Agenda were presented at the December Environmental Quality Commission (Commission, EQC) meeting. These included an initial listing of program concepts that are under consideration that could be either legislative concepts, budget policy packages or both. There was also an overview of the legislative concept and budget development process, listing of the Governor's legislative priorities for 2009 and an overview of the next steps.

The purpose of this agenda item is to present to the Commission updated information about the DEQ draft legislative concepts and budget policy packages. Since the December meeting, staff have incorporated comments made by the Commission in December and have further developed these concepts into better-defined packages. At this meeting, there will be more clarity about the packages, their purpose, proposed funding source(s) and likely staffing needs. The goal of this session will be to share this information with the Commission and to allow Commissioners to provide guidance to staff as the development process continues into 2008.

**Background** Every two years, state agencies must develop legislative concepts and budget policy packages as part of the legislative and budget development process. The October 2007 Strategic Planning discussion was considered the beginning of the development of the 2009 Legislative Agenda. This development process will continue throughout 2008 in preparation for the 2009 Legislative Session. Key deadlines in this process include the following:

- Submittal of draft legislative concepts to the Department of Administrative Services (DAS) on April 4, 2008; and
- Submittal of the Agency Request Budget on September 1, 2008 to DAS and the Governor's Office. This submittal includes the

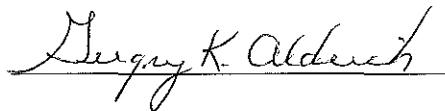
base budget and the budget policy packages.

**EQC  
Involvement**

At each of the 2008 Commission meetings, DEQ plans to bring to the Commission updates and seek input on the development of the 2009 Legislative Agenda. The goal is for the Commission to be actively engaged in the development of legislative concepts, budget policy packages and the base budget. At the August 2008 meeting, the Commission Chair will need to certify the 2009-11 Agency Request Budget for submittal to DAS and the Governor's Office on September 1, 2008.

Approved:

Division:



Report Prepared By: Gregory K. Aldrich

Phone: (503) 229-6345

**DEQ's 2009-11 Legislative Agenda**  
February 22, 2008 EQC Talking Points - Greg Aldrich

**Brief Presentation Outline**

1. Update on 2008 Special Session
2. Current Budget Context
3. 2009 Legislative Agenda
  - Governor's Priorities
  - Draft legislative concepts and budget policy package ideas
  - Focus on Legislative Concepts for April 4 submittal date
4. Next steps

**1. Update on 2008 Special Session**

- Special Session is nearly wrapped up, funding plan is in place
- Bills of interest:
  - SB 1069 – Water Conservation, Reuse and Storage (\$2.5M)
  - SB 1091 – Environmental Investment Tax Credit
  - HB 3609 – Marine Reserves
  - HB 3610 – Climate Change
  - HB 3611 – Dental Wastes

**2. Current Budget Context**

Context for current budget situation

- February revenue forecast indicated that GF is down by \$175 M
  - No cuts are required now, but Gov is requesting that agencies defer some spending
  - June revenue forecast could result in status quo, cuts or improvement
  - Agencies must build budget request in time of uncertainty
- Due to factors relating to staff and manager compensation increases and some decreased fee revenues, DEQ is facing a \$9M shortfall compared to the Legislatively Approved Budget (LAB) of \$194M
  - Roughly equates to 45-50 positions out of the approved 798 positions
  - DEQ needs to manage through this revenue shortfall.
  - Currently understaffed by another 50 positions, which means we can cautiously ramp up staffing but not fill certain positions
  - DEQ in conjunction with the EQC will need to decide on how many of these unfunded positions we will want to include as restorations in our 2009-11 budget request.
  - Will need to balance restorations with expanding some existing work or taking on new work.



- Funding Considerations for 2009
  - GF status is unknown, though less will be available in 2009
    - AQ and WQ programs received substantial increases in GF in 2007, yet staffing is below levels from 2001
    - LQ doesn't have a funding source for the emergency preparedness work we need to do. This can in part be traced back to the elimination of GF funding for emergency response in 2003.
    - Many of the unrestored positions relate to agency and program infrastructure needs
  - FF will remain flat or decline depending on the program
    - Flat funding buys less each biennia
    - Looking ahead, federal funding for Oregon air quality work does not look positive. EPA plans to reallocate funding among the 50 states in the next year. To date, the options under consideration will mean a further loss of federal dollars for Oregon.
  - OF will vary by program area, but seeking fee increases will be harder in 2009
    - Decreased/declining fee revenues for UIC, Onsite and Stormwater programs.
  - Agency Management can currently afford to fill half of the 8 new positions approved by the 2007 Legislature.

### **3. Governor's Priorities:**

#### Governor's Top Priorities

- Health care
- Education
- Transportation

#### Governor's Natural Resource Office Priorities

- Climate Change
- Toxics
- Water Initiative – H2O – Headwaters to Ocean
- Marine Reserves

#### Other Significant Activities

- Sen. Avakian's pesticides task force

### **3. 2009 draft legislative concepts and budget policy package ideas:**

- Handout – timeline

Focus of today's presentation is on the draft legislative concepts and budget policy packages

- As noted earlier, refinement of these will continue during the next several months
- Collaborative efforts are underway to coordinate with ODA, ODF, WRD, ODOT, DHS/Public Health, DOE
- Official budget development directions will be coming on March 6

DEQ's General Themes for 2009 – that have emerged for both legislative concepts and budget policy packages are:

- Toxics
- Water
- Climate Change
- Agency Infrastructure

Handouts:

- Draft 2009 legislative agenda matrix
  - All legislative concepts and policy packages are presented by program area
  - Still working on staffing and costs
  - Still looking at budget affordability issues for 2009
- Two summary sheets
  - Package titles are sorted by themes and by funding source(s)

Draft Legislative Concepts

- Relates to modifying or creating new statute language
- Handout - Listing of package titles
- Draft LCs need to be submitted to DAS by April 4
- Ability to firm up LCs will continue into July
- If LCs are approved by DAS and Gov, drafting will occur in the fall

### **4. Next Steps:**

- Executive Team will continue to refine these packages, including prioritizing needs and funding requests
- Ongoing conversations with the Governor's Natural Resource Office
- Ongoing collaborating with other state agencies
- Checking in with key legislators
- Public Involvement/Stakeholder Outreach

- The Legislative Agenda is a compilation of individual programs or projects. Many have their own stakeholder and public involvement component.
- Other legislative requests will involve seeking the support of interested stakeholders without a formal process. These will include involving legislators, key stakeholders, or various interest groups
- Dick has had meetings with a some legislators and stakeholders – these have focused on general issues
  - Sensing support for DEQ
  - Understanding concerns
- In April, we will connect with stakeholders to share the draft legislative agenda to gage their support and concerns for what is proposed.
  - The comments and suggestions will be used to further shape the packages
  - These will be shared will you at the April EQC meeting
  - These conversations will continue into the 2009 Session

Moving Forward/EQC Involvement:

1. Do you have any questions or need clarification?
2. Are there issues that raise red flags for you or is there something missing?
3. Do you have specific requests for types of information to be presented at the April meeting?
4. Are you interested in working with DEQ to review or have opportunities to comment on these packages? We could do this with a single commissioner or a small group of commissioners. This would help shape the packages for your April meeting.

Next meeting – April 24-25 – focus on budget development

- At that time, we will have better defined budget policy packages to present and discuss. This will include information on staffing and costs.

Closing

- Are there questions about today's presentation?

## DEQ's 2009-11 Legislative Agenda Development Timeline

June 2007

- DEQ's 2007-09 Budget was adopted

October 2007

- 18-19 EQC Strategic Planning Session and Discussion

December 2007

- 14 – EQC meeting to share preliminary concepts for the legislative agenda

**Late 2007 through February 2008**

- **Development begins on 2009-11 Budget**
  - **Determine cost of currently approved programs adjusting for 2009-11 costs**
  - **Estimate future revenues**
  - **Determine “restorations” needed to cover future costs**
  - **Develop budget package proposals for new work that DEQ anticipates doing**
  - **Develop legislative concepts**

**February 2008**

- **22 - EQC Meeting – focus on draft legislative concepts and budget policy packages**

**March 2008**

- **6– Budget and Legislative Concept Instructions are released by DAS**
- **Ongoing legislative concept and budget policy package proposal development**

**April 2008**

- Stakeholder Outreach
- Ongoing legislative concept and budget policy package proposal development
- **4 – Legislative concepts are due to DAS**
- 24-25 – EQC Meeting – focus on budget development

**May 2008**

- Ongoing budget development

**June 2008**

- 2– DAS submits approved legislative concepts to Legislative Counsel
- 19-20 – EQC Meeting – update on legislative agenda and approval of initial budget submittal to DAS on 6/30
- 30 – Budget request submitted to DAS for audit

July 2008

- Budget narrative development
- 14 – Last day to modify legislative concepts

August 2008

- Budget narrative development
- 21-22 – EQC Meeting – legislative agenda update and Chair signs the Budget Certification Form (part of the agency of budget request document)

September 2008

- 1 – Agency Request Budget due to DAS and Governor

Fall 2008

- DEQ works with Legislative Counsel on draft bills (legislative concepts)
- DAS and Governor review DEQ budget request
- Governor's Recommended Budget submitted to the Legislature
- Governor pre-session files approved bills

January 2009

- 12 – 2009 Legislative Session begins

2/20/08

# Draft 2009 Legislative Agenda

Sorted by Theme

2/22/08

## Toxics

AQ-2 Heat Smart for clean air (residential wood heating) SB 338 in 2007 Session  
AQ-3 Diesel emission reductions  
AQ-5 Implementing federal air toxics requirements for small businesses  
AQ-6 Air Quality monitoring and analysis  
AQ-9 Burning and Air Quality  
AQ-10 Placeholder for Agriculture Air Quality  
LQ-2 Producer Responsibility for Difficult-to-Manage Products (climate change)  
LQ-3 Emergency Preparedness & Response (also Water)  
LQ-4 Orphan Site Account / O&M Funding (also Water)  
WQ-1 Implement SB 737  
WQ-8 Pesticide Stewardship Partnerships  
Enf-1 Spill penalty enhancement (also Water)  
CP-1 Toxics Reduction

## Water

WQ-2 Water Quality Administration  
WQ-3 Aquifer Storage and Recovery (ASR) and Artificial Recharge  
(AR) Support  
WQ-5 Clean Water State Revolving Fund Program  
WQ-6 TMDL Implementation and Nonpoint Source Pollution  
WQ-7 WQ Program Infrastructure  
WQ-9 401 Water Quality Fee Revision  
WQ-10 Drinking Water Protection  
WQ-11 Beach Monitoring

## Climate Change

AQ-1 Climate Change Package  
LQ-1 Bottle Bill Changes

## Infrastructure

WQ-4 State match for the Clean Water State Revolving Fund loan program  
CP-2 Environmental Information Exchange Network  
CP-3 E-Commerce  
AM-1 Modernize Information Management Infrastructure  
AM-2 Human Resources Service Delivery

## Miscellaneous

AQ-4 Vehicle Inspection placeholder  
AQ-7 AQ support for local communities  
AQ-8 Title V Fee Technical Correction  
WQ-12 Placeholder WQ Program Restorations  
Enf-2 Penalty maximum enhancement (affects multiple programs)  
Enf-3 Environmental crimes investigation enhancement (affects multiple programs)  
Enf-4 Environmental crimes prosecution enhancement (affects multiple programs)  
CP-4 Public Access to Environmental Information (affects multiple programs)

# Draft 2009 Legislative Agenda

Sorted by Fund Type

2/22/08

## General Fund (GF)

AQ-1 Climate Change package (includes OF)  
AQ-2 Heat Smart for clean air (residential wood heating) (potential for OF)  
AQ-3 Diesel emission reductions  
AQ-6 Air Quality monitoring and analysis  
AQ-7 AQ support for local communities (potential for OF)  
LQ-3 Emergency Preparedness & Response (includes OF)  
LQ-4 Orphan Site Account / O&M Funding  
WQ-1 Implement SB 737  
WQ-2 Water Quality Administration  
WQ-3 Aquifer Storage and Recovery (ASR) and Artificial Recharge  
(AR) Support  
WQ-6 TMDL Implementation and Nonpoint Source Pollution  
WQ-7 WQ Program Infrastructure  
WQ-8 Pesticide Stewardship Partnerships  
CP-1 Toxics Reduction  
CP-2 Environmental Information Exchange Network (includes FF)  
CP-3 E-Commerce  
CP-4 Public Access to Environmental Information

## Federal Funds (FF)

WQ-10 Drinking Water Protection  
WQ-11 Beach Monitoring

## Other Funds (OF)(fees)

AQ-4 Vehicle Inspection placeholder  
AQ-5 Implementing federal air toxics requirements for small businesses  
AQ-8 Title V Fee Technical Correction  
WQ-5 Clean Water State Revolving Fund Program  
WQ-9 401 Water Quality Fee Revision

## Indirect (Agency Management Funds)

AM-1 Modernize Information Management Infrastructure  
AM-2 Human Resources Service Delivery

## To Be Determined

AQ-9 Burning and Air Quality  
AQ-10 Placeholder for Agriculture Air Quality  
LQ-1 Bottle Bill Changes  
LQ-2 Producer Responsibility for Difficult-to-Manage Products  
WQ-12 Placeholder WQ Program Restorations  
Enf-1 Spill penalty enhancement  
Enf-2 Penalty maximum enhancement  
Enf-3 Environmental crimes investigation enhancement  
Enf-4 Environmental crimes prosecution enhancement

**DRAFT 2009 LEGISLATIVE AGENDA**

Name	Problem Statement	Brief Description of Proposal	PP	LC	Fund Type	Relates to Toxics(T), H2O(H), Climate Chg(C), Infrast(I)
<b>Air Quality</b>						
AQ-1 Climate Change package	HB 3543 established Greenhouse Gas (GHG) reduction goals for the state, and the Governor asked the EQC to adopt mandatory GHG reporting rules. The next step is to develop market based programs to reduce GHG emissions. The Governor's office intends to submit comprehensive climate change legislation in coordination with DOE and DEQ.	The DEQ Leg Concept will fill gaps in GHG reporting authority, add authority for a cap and trade program, and add authority to adopt GHG emission reduction measures and incentives. Policy package should include staff to support GHG reporting, develop a cap and trade program, and develop GHG reduction strategies beyond cap and trade, as well as funding for dues to the Western Climate Initiative (WCI) and The Climate Registry (TCR). A portion of the funding may come from fees charged to participants.	Y	Y	GF/OF	C
AQ-2 Heat Smart for clean air (residential wood heating) SB 338 in 2007 Session	Residential heating with old, uncertified woodstoves releases fine particles and air toxics such as benzene that contribute to a myriad of human health effects. Heat Smart is a critical component of plans to meet and maintain the federal fine particulate standard and meet state air toxics benchmarks.	In the 2007 session, SB 338, the Heat Smart bill, failed to move past the Ways & Means Committee but had wide-spread support from Legislators and stakeholders. Legislators encouraged us to bring the bill back in the 2009-2011 session. The LC would establish a grant and loan program to remove old, uncertified woodstoves and replace them with new, cleaner alternatives, require the removal of uncertified woodstoves upon home sale, plug loopholes in the federal certification program, and prevent burning of toxic materials in fireplaces. Unlike the 2007-2009 bill, this LC would also authorize DEQ to update emission standards for woodstoves, fireplace inserts and other woodburning devices.	Y	Y	GF or OF (a surcharge on new stoves)	T
AQ-3 Diesel emission reductions	Diesel engine exhaust is one of the most prevalent toxic air pollutants in Oregon, and contributes significantly to fine particulate pollution, regional haze, smog and global warming.	HB 2172 established the clean diesel grant and loan program, and the 2007 legislature provided initial funding for the bill (\$1M GF and \$500K CMAQ funding). To reach acceptable risk levels, DEQ estimated that \$14 million/biennium would be needed for 5 biennia. LC may be needed for additional authorities to prevent dumping of high-emitting engines from other states into Oregon and to adopt CA rules that set fleet average emission standards for certain categories of engines (e.g. construction equipment). PP: Expanded grant program and staff to implement (GF).	Y	P	GF	T



**DRAFT 2009 LEGISLATIVE AGENDA**

Name	Problem Statement	Brief Description of Proposal	PP	LC	Fund Type	Relates to Toxics(T), H2O(H), Climate Chg(C), Infrast(I)
AQ-4 Vehicle Inspection placeholder	Vehicle Inspection Program (VIP) fees were last increased in 1997 to pay for the enhanced emissions test in Portland. Through early implementation of more efficient testing technology, DEQ was able to reduce emission testing staff and control costs. Further efficiencies are no longer available and by the 2009-2011 biennium, VIP revenue will be insufficient to support the program. Without additional revenue, DEQ will be forced to cut staffing at our stations and have longer customer wait times.	DEQ will request a fee increase and in developing the fee increase package, DEQ will be addressing the differences in Portland fees \$21 VS Medford fees \$10, disparity in the cost of issuing DMV vehicle registrations VS the DMV payment for services and reviewing station manager's classification.	Y	P	OF	
AQ-5 Implementing federal air toxics requirements for small businesses	EPA is about to adopt national air toxics standards (National Emissions Standards for Hazardous Air Pollutants -NESHAP) for 70 different source categories. Most are small businesses (area sources) and include businesses like auto body repair shops, paint strippers and parts coaters. DEQ estimates that several thousand Oregon business will be affected, most of which do not currently have air quality permits. DEQ's Small Business Compliance Panel(CAP) recommended that we provide alternatives to permitting. EQC only has authority to assess a fee for permits and needs an alternative method to fund this program.	The LC would change the statute to authorize a registration fee for alternative compliance options. As each category of NESHAP is adopted, DEQ would determine if there is a viable, beyond compliance, certification program available for that category. If an alternative is available, DEQ would allow the source to register, pay the registration fee and comply with the certification program. If no alternative is available, the source would apply for an ACDP permit. With the large number of new sources that will be added, DEQ will seek additional staff to implement the new federal regulation through a policy package.	Y	Y	OF	T

**DRAFT 2009 LEGISLATIVE AGENDA**

Name	Problem Statement	Brief Description of Proposal	PP	LC	Fund Type	Relates to Toxics(T), H2O(H), Climate Chg(C), Infrast(I)
AQ-6 Air Quality monitoring and analysis	Current air quality monitoring resources are inadequate to meet the needs created by new federal standards and increasing concern about health risks from toxic air pollution. These needs include: determining compliance with standards, assessing health risk, developing and implementing strategies to reduce health risks, and providing information to the public.	DEQ's Air Quality monitoring policy package will seek new ozone monitoring sites to determine compliance with the new ozone standard, add ammonia and nitrate monitoring in the Gorge, fill gaps in the fine particulate network, expand air toxics monitoring and rotate sites around the state, and provide visibility cameras for urban areas with public access on the web. Work can be prioritized and phased-in over two biennia.	Y		GF	T
AQ-7 AQ support for local communities	Often land use and transportation planning decisions are made with little AQ involvement and the decisions become Air Quality problems later on.	Need regional staff to participate in land-use and transportation planning and neighborhood involvement on the front end. We are researching the potential for transportation funds to support these positions.	Y		GF or OF	
AQ-8 Title V Fee Technical Correction	SB 107, adopted in 2007, increased Title V fees and made several changes to the fee collection process. The bill changed the rulemaking for CPI fee increases from annual to biennial, but failed to make corresponding changes to the way the CPI is calculated. The net effect is that we will lose the equivalent of one CPI increase from 2008 forward if this is not corrected.	Options are to amend the statute to allow for a return to annual CPI increases or to change the base year of the CPI from 1989 to 1988. DEQ is also researching the legality of a statute change to allow publication of the current CPI adjusted fee on our web site and rather than adopting CPI increases by rule.	P	Y	OF	

**DRAFT 2009 LEGISLATIVE AGENDA**

Name	Problem Statement	Brief Description of Proposal	PP	LC	Fund Type	Relates to Toxics(T), H2O(H), Climate Chg(C), Infrast(I)
AQ-9 Burning and Air Quality	Reducing burning is a key strategy to improve air quality in Oregon. DEQ is researching a number of proposals that would reduce burning. Some of the proposals are based on EQC suggestions and/or directives and some of the proposals would require coordination with and implementation by other agencies.	Placeholder for burning Leg Concepts and Policy Packages: DEQ is exploring the following strategies to minimize smoke impacts on the public: DEQ is working with ODA and the Governor's Office on next steps regarding field burning; with ODA and ODF, DEQ will look at the concept of a burning command center to centralize complaint response and coordination of all open burning programs; and DEQ and DOE will investigate opportunities with other agencies to enhance existing incentives for biomass utilization by creating an entity to help developers secure long term supply contracts (would probably not be a DEQ LC or PP).	P	P	U	T
AQ-10 Placeholder for Agriculture Air Quality	SB 235 established a Dairy Task Force, which may make recommendations for legislation related to dairies.	This ODA/DEQ placeholder concept could be used to implement recommendations of the Task Force or the Governor's Office. Also, with new interest in agricultural air quality issues, DEQ needs an expert on control of secondary particulate, especially from agricultural sources.	Y	P	U	T
<b>Land Quality</b>						
LQ-1 Bottle Bill Changes	The task force is currently meeting to discuss further changes to the bottle bill law. Those issues include whether the statute should be expanded for additional items, the amount of the redemption, whether recycling should occur at retail locations or some other place, etc. Given the visibility of this law, DEQ should have a legislative "placeholder" for the 2009 session.	Placeholder for possible 2009 legislation.	TBD	TBD	TBD	C

**DRAFT 2009 LEGISLATIVE AGENDA**

Name	Problem Statement	Brief Description of Proposal	PP	LC	Fund Type	Relates to Toxics(T), H2O(H), Climate Chg(C), Infrast(I)
LQ-2 Producer Responsibility for Difficult-to-Manage Products	Some products have unique waste management challenges. They contain toxics or multiple materials, making them costly and difficult to recycle or safely dispose of in the traditional waste management system. As a result, the public lacks convenient and safe recycling or disposal options. This increases the risk of mismanagement and human health / environment impacts. Finally, where these products are handled through the current system, local governments and ratepayers bear the fiscal burden.	DEQ is evaluating whether a "producer responsibility" approach should be implemented in Oregon for these difficult-to-manage products. A "producer responsibility" approach shifts the burden for managing these products from taxpayers and ratepayers to the producers. Over the long run, such legislation could potentially induce producers to redesign their products for greater durability, ease of recycling, less energy consumption, less use of toxics, etc.	TBD	TBD	TBD	C, T
LQ-3 Emergency Preparedness & Response	Currently, DEQ lacks a local presence in each region to engage local governments and other stakeholders in the necessary planning and coordination for effective emergency preparedness. Additionally, the existing DEQ staff available for emergency response has limited capacity for regional outreach.	This policy package improves DEQ's emergency preparedness by placing an FTE in each region (for a total of 3 new FTEs), allowing them to develop relationships with local governments and key stakeholders. Such outreach, training and coordination is essential to effective catastrophic planning and maintaining a high degree of readiness. This package also improves DEQ's emergency response to oil and hazardous substance spills by adding back-up State-on-Scene Coordinators in each region. Funding for these positions would be allocated yet-to-be determined percentages of GF and Hazardous Substance Remedial Action Fund (HSRAF) monies. HSRAF, however, may be legally used for only a portion of these costs.	Y		GF / OF	W, T
LQ-4 Orphan Site Account / O&M Funding	O&M costs impose a significant and recurring commitment upon limited orphan site cleanup funds. Typically, O&M costs are paid by bond financing, thereby reducing the dollars actually available for cleanup.	This policy package requests General Funds to pay O&M costs associated with orphan site cleanup projects. In 2007, the Legislature authorized a \$4.5M bond sale -- an amount insufficient to pay O&M expenses and to continue already-in-progress site work and cleanup in 2009-11. This package would request a \$1.5M appropriation to cover the expected O&M expenses for 2009-11.	Y		GF	W, T
013						

**DRAFT 2009 LEGISLATIVE AGENDA**

Name	Problem Statement	Brief Description of Proposal	PP	LC	Fund Type	Relates to Toxics(T), H2O(H), Climate Chg(C), Infrast(I)
<b>Water Quality</b>						
WQ-1 Implement SB 737	Senate Bill 737 requires DEQ to: develop a list of priority persistent pollutants by June 2009 report to the Legislature by June 2010 on the point, nonpoint and legacy sources of the priority persistent pollutants from "existing data" and source reduction and control methods that can reduce discharges of these pollutants. SB 737 also requires Oregon's 52 large municipal wastewater treatment plants to develop plans by 2011 to reduce persistent pollutants through pollution prevention and toxics reduction. To fully implement SB 737, DEQ needs permanent resources dedicated to the program.	The purpose of this package is to fund a permanent position to conduct rulemaking, assist permit writers and municipalities with implementation plans, respond to requests for information about persistent pollutants and associated Attorney General costs.	Y		GF	T
WQ-2 Water Quality Administration	The WQ program is currently involved in at least 14 separate legal cases and is extensively engaged in developing new water quality standards for human health criteria and turbidity, tracking our budget, developing the proposed 2009 budget while maintaining critical and timely work on core subprograms and high priority outputs.	The purpose of this package is to ensure that all of the WQ program's internal and external needs are met, that our rulemaking process is done as efficiently and accurately as possible, and that all of our legal issues are managed and coordinated appropriately.	Y		GF	W
WQ-3 Aquifer Storage and Recovery (ASR) and Artificial Recharge (AR) Support	Intensive water use in the Umatilla Basin, primarily for high value agriculture, has led to serious depletion of the deep basalt aquifers and declines in water quality in the shallow alluvial aquifers.	The purpose of this package is to allow DEQ to work with the Water Resources Department, agricultural and other stakeholders to ensure that future Aquifer Storage and Recovery and Aquifer Recovery projects do not result in further degradation of shallow groundwater quality, but rather restore water quantity in depleted deep aquifers while improving shallow aquifer quality.	Y		GF	W

**DRAFT 2009 LEGISLATIVE AGENDA**

Name	Problem Statement	Brief Description of Proposal	PP	LC	Fund Type	Relates to Toxics(T), H2O(H), Climate Chg(C), Infrast(I)
WQ-4 State match for the Clean Water State Revolving Fund loan program	The State of Oregon is required to raise matching funds for grant money available from EPA that helps capitalize the Clean Water State Revolving Fund (CWSRF) loan program. Oregon's match currently comes from the fund, which reduces the amount of loans made for water quality improvement projects.	The purpose of this proposal is to increase the CWSRF loan capacity by altering the source of funds we use for the required match.		Y	N/A	I
WQ-5 Clean Water State Revolving Fund Program	The Environmental Protection Agency requires the Clean Water State Revolving Fund (CWSRF) program to complete a State Environmental Review process for all projects that receive a SRF loan.	The purpose of this package is to ensure there are adequate resources to complete the required Environmental Review for all new CWSRF projects.	Y		OF	I
WQ-6 TMDL Implementation and Nonpoint Source Pollution	Nonpoint source pollution is a major water quality problem in OR. DEQ does not have the resources needed to have a collaborative and comprehensive program that works with stakeholders and other agencies needed to effectively and efficiently reduce nonpoint source pollution.	The purpose of this proposal is to increase resources for TMDL implementation and nonpoint source pollution control .	Y		GF	W
WQ-7 WQ Program Infrastructure	The water quality program needs additional infrastructure to support well-developed and maintained data systems to provide easier, faster access to information.	The purpose of this proposal is to provide the technology resources necessary to improve work methods and make current, accurate information easily accessible to DEQ staff as well as the public.	Y		GF	W
WQ-8 Pesticide Stewardship Partnerships	In 2000, DEQ and other organizations initiated a Pesticide Stewardship Partnership project, designed to use monitoring data to focus the implementation of voluntary best management practices. These projects have been very successful in reducing amounts of pesticide concentrations over time, but are currently funded by small, competitive grants.	This proposed package is to provide stable funding for the Pesticide Stewardship Partnership program which works in five watershed and add two new watersheds that have a surface and groundwater component to the program.	Y		GF	T

**DRAFT 2009 LEGISLATIVE AGENDA**

Name	Problem Statement	Brief Description of Proposal	PP	LC	Fund Type	Relates to Toxics(T), H2O(H), Climate Chg(C), Infrast(I)
WQ-9 401 Water Quality Fee Revision	The 401 Water Quality Certification (fill and removal projects) program's fee structure exempts approximately 52% of applicants from fees. Many of these dredge and fill projects in rivers, lakes, streams, and wetlands are complex and take a great deal of time.	The purpose of this proposal is to have a equitable fee structure that will provide sustainable funding for the program.	Y	Y	OF	W
WQ10 Drinking Water Protection	DEQ has worked in partnership with the Oregon Department of Human Services (DHS) since 1997 to help communities protect their drinking water sources.	This package continues that work by continuing federally-funded limited duration positions to help carry out the requirements of the 1996 Federal Safe Drinking Water Act Amendments (SDWA) and assist communities with protecting their public water sources.	Y		FF	W
WQ-11 Beach Monitoring	The Beach Act authorized EPA grants to states and tribes to help develop and implement beach monitoring programs.	This package continues the work we do to monitor beaches in Oregon.	Y		FF	W
WQ-12 Placeholder WQ Program Restorations	Increase in program costs and decrease in program revenue is adversely affecting the WQ Program's 2007-09 Operating Budget. Program managers are working to keep expenditures within budget, but projected deficits will likely not allow fully staffing to the Legislatively Approved Budget in several programs.	The purpose of this package is to restore the positions that we cannot afford for the 2009-11 Biennium.	Y			
<b>Enforcement</b>						
Enf-1 Spill penalty enhancement	The \$20,000 maximum penalty for negligent or intentional spills of oil and hazardous materials is low.	Increase the penalty for negligent or intentional spills of oil and hazardous materials.		Y	TBD	T,H(I)
Enf-2 Penalty maximum enhancement	The \$10,000 per day statutory maximum penalty applicable to most DEQ penalties was set in 1973. Because of inflation, today's \$10,000 penalty is only worth 20% to 25% of its original potency.	Increase the statutory maximum penalty.		Y	TBD	T,H,C

**DRAFT 2009 LEGISLATIVE AGENDA**

Name	Problem Statement	Brief Description of Proposal	PP	LC	Fund Type	Relates to Toxics(T), H2O(H), Climate Chg(C), Infrast(I)
Enf-3 Environmental crimes investigation enhancement	The Oregon State Police resources available to investigate and prosecute environmental crimes is inadequate. Additional OSP resource would increase the efficiency of investigations.	Identify additional OSP resources to investigate environmental crimes in the DEQ-administered programs.	Y		TBD	T,H,C(I)
Enf-4 Environmental crimes prosecution enhancement	The District Attorney Assistance Section of the Oregon Attorney General's Office has attorneys available to prosecute state environmental crimes, but some costs would be charged to DEQ.	Identify additional DOJ resources to prosecute environmental crimes in the DEQ-administered programs.	Y		TBD	T,H,C(I)
<b>Cross Program</b>						
CP-1 Toxics Reduction	Current programs do not address all aspects of toxics control, including the lack of information, the fact that toxics are not "point source" pollutants and thus spread in a diffuse manner, and the significant volume of chemicals entering the marketplace. While all of DEQ's major programs address toxics, there is no agency-wide approach as DEQ lacks the resources to integrate toxics reduction actions across all environmental media (air, water, land). Finally, there are no resources to implement an "upstream" strategy to fill the gaps in the existing regulatory system.	This package proposes to develop and implement an integrated, cross-media toxics reduction strategy with an emphasis on "upstream" measures. One FTE would work to integrate, enhance and prioritize existing toxics reduction efforts (e.g., SB 737, Portland Air Toxics Reduction Plan, etc.). This position would also coordinate DEQ activities with other state agencies and stakeholders. A second FTE would develop and implement an "upstream" strategy to fill the gaps in the current regulatory approaches to toxics. This strategy would likely encompass the following measures to reduce the toxicity of chemicals, fuels, and products used in Oregon: toxic chemical information and data disclosure; evaluation and prioritization of toxics; research and promotion of alternatives; and development of regulatory controls. Upon completion of the "upstream" strategy, the 0.5 FTE would assist in implementation.	Y		GF	T
CP-2 Environmental Information Exchange Network	EPA grants continue to fund the work to develop the infrastructure to meet EPA's new reporting requirements, and the network requires permanent operations and maintenance support.	Begin next round of EPA funded grant work on Environmental Information Exchange Network (add electronic Discharge Monitoring Reports, Global Climate Change Registry) and fund operations and maintenance of Exchange Network services.	Y		FF / GF	I (T,H,C)

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**DRAFT 2009 LEGISLATIVE AGENDA**

Name	Problem Statement	Brief Description of Proposal	PP	LC	Fund Type	Relates to Toxics(T), H2O(H), Climate Chg(C), Infrast(I)
CP-3 E-Commerce	Presently the extent of our online permitting options includes the ability to download forms that must be filled out and mailed in.	In 0911 we can begin to develop online permitting/licensing applications that would allow an applicant to submit or complete an application online, pay fees, and receive timely verification of receipt & approval. Start with simpler licenses and permits and work toward more complex permits in following biennia.	Y		GF	I
CP-4 Public Access to Environmental Information	DEQ lacks the capacity to convert its raw environmental data and scientific reports into easy-to-understand format and system limitations prevent reliable, easily access via the Internet. There is a growing demand from stakeholders and the public to view existing permits on line.	Request staff to run queries, mine data, produce data report, edit scientific reports into layperson terms, Graphics/GIS to visually represent data, web improvements to support easy public access.	Y		GF	T, I, C
<b>Agency Management</b>						
AM-1 Modernize Information Management Infrastructure	DEQ's growing demands for modern electronic systems, information asset security, and quick access to information require strategic planning and management capacity, current systems and related software are inadequate to support e-commerce and public access to data, LAN administrator positions are incomplete, administrative policies are out of date.	Request Chief Information Officer, Information Services Manager, restore GIS services; improve servers, expand system bandwidth & information storage capacity; LAN administrator positions; position for policy coordination & operational work.	Y		Indirect	I
AM-2 Human Resources Service Delivery	HR needs of regional offices are not adequately served, current HR capacity does not allow for focus on affirmative action/diversity/ADA, DAS audit corrections require long term maintenance.	Add HR professional staff to better serve the regional offices, prioritize & coordinate affirmative action/diversity/ADA efforts, and to continue to improve procedures & recordkeeping in response to the DAS HR audit.	Y		Indirect	I
<b>Definitions</b>						
N=No						
Y=Yes						
P=Possible						
TBD=Unknown at this time						
PP=Policy Package						
LC=Legislative Concept						
*Restoration means existing FTE that is no longer affordable.						

## Draft 2009 Legislative Concepts

2/22/08

AQ-1 Climate Change Package

AQ-2 Heat Smart for clean air (residential wood heating) SB 338 in 2007 Session

AQ-3 Diesel emission reductions (possible need for LC)

AQ-4 Vehicle Inspection placeholder (possible need for LC)

AQ-5 Implementing federal air toxics requirements for small businesses

AQ-8 Title V Fee Technical Correction

AQ-9 Burning and Air Quality (possible need for LC)

AQ-10 Placeholder for Agriculture Air Quality (possible need for LC)

LQ-1 Bottle Bill Changes (TBD)

LQ-2 Producer Responsibility for Difficult-to-Manage Products (TBD)

WQ-4 State match for the Clean Water State Revolving Fund loan program

WQ-9 401 Water Quality Fee Revision

Enf-1 Spill penalty enhancement

Enf-2 Penalty maximum enhancement