

**The Oregon Administrative Rules contain OARs filed through September 15,
2009**

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 93

SOLID WASTE: GENERAL PROVISIONS

340-093-0005

Purpose and Applicability

The purpose of OAR chapter 340, divisions 93 through 97 is to prescribe requirements, limitations, and procedures for storage, collection, transportation, treatment and disposal of solid waste. All persons storing, collecting, transporting, treating and disposing of solid waste in this state are subject to the provisions of OAR chapter 340, division 93 ("General Provisions"), in addition to any other rules in OAR chapter 340, divisions 94, 95, 96, and 97 governing the appropriate specific type of solid waste disposal site. This division also describes uniform procedures for permitting by the Department as prescribed in ORS 459.205 and 459.710 through 459.790.

Stat. Auth.: ORS 459.005 – ORS 459.418

Stats. Implemented: ORS 459.005 & ORS 459.015

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 26-1981, f. & ef. 9-8-81; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0005; DEQ 15-2000, f. & cert. ef. 10-11-00

340-093-0010

Policy

Whereas inadequate solid waste collections, storage, transportation, treatment, recycling and disposal practices cause nuisance conditions, potential hazards to public health and safety and pollution of the air, water and land environment, it is hereby declared to be the policy of the Department of Environmental Quality to require effective and efficient solid waste collection and disposal service to both rural and urban areas and to promote and support comprehensive county or regional solid waste management planning, utilizing progressive solid waste management techniques, emphasizing recovery and reuse of solid wastes and insuring highest and best practicable protection of the public health and welfare and air, water and land resources. In keeping with the Oregon policy to retain primary responsibility for management of adequate

solid waste programs with local government units (ORS 459.015) and the Environmental Quality Commission's perception of Legislative intent under Chapter 773, Oregon Laws 1979, the Commission will look for, and expect, the maximum participation of local government in the planning, siting, development and operation of needed landfills. It is expected that local government will have carried out a good faith effort in landfill siting, including but not limited to public participation and Department assistance, before requesting the Department to site the landfill. Local government will be expected to assume or provide for responsibility in the ownership and operation of any Department/Commission sited landfill under anything but an extraordinary circumstance.

Stat. Auth.: ORS 459.005 - ORS 459.418 & ORS 459A.100 - ORS 459A.120

Stats. Implemented: ORS 459.015

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 25-1980, f. & ef. 10-2-80; DEQ 30-1980, f. & ef. 11-10-80; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0015

340-093-0020

State of Oregon Solid Waste Plan

These rules constitute the State Solid Waste Plan for purposes of Section 4001 of the federal Resource Conservation and Recovery Act of 1976 as amended by PL 96-482, until such time as an Integrated State Solid Waste Management Plan is developed pursuant to ORS 459A.020.

Stat. Auth.: ORS 459.005 - ORS 459.418 & ORS 459A.100 - ORS 459A.120

Stats. Implemented: ORS 459.046

Hist.: DEQ 5-1981, f. & ef. 2-9-81; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0017

340-093-0030

Definitions

As used in OAR chapter 340, divisions 93, 94, 95, 96 and 97 unless otherwise specified:

(1) "Acceptable Risk Level" means a risk level as defined in OAR 340-122-0115(1) of the Hazardous Substance Remedial Action Rules.

~~(2)~~ "Access Road" means any road owned or controlled by the disposal site owner that terminates at the disposal site and that provides access for users between the disposal site entrance and a public road.

~~(23)~~ "Agricultural Waste" means waste on farms resulting from the raising or growing of plants and animals including but not limited to crop residue, manure, animal bedding, and carcasses of dead animals.

| (34) "Agricultural Composting" means composting conducted by an agricultural operation (as defined in ORS 467.120(2)(a) on lands used for farming (as defined in ORS 215.203).

| (45) "Agronomic Application Rate" means land application of no more than the optimum quantity per acre of compost, sludge or other materials. In no case may such application adversely impact the waters of the state. Such application must be designed to:

(a) Provide the amount of nutrient, usually nitrogen, needed by crops or other plantings, to prevent controllable loss of nutrients to the environment;

(b) Condition and improve the soil comparable to that attained by commonly used soil amendments; or

(c) Adjust soil pH to desired levels.

| (56) "Airport" means any area recognized by the Oregon Department of Transportation, Aeronautics Division, for the landing and taking-off of aircraft which is normally open to the public for such use without prior permission.

| (67) "Aquifer" means a geologic formation, group of formations or portion of a formation capable of yielding usable quantities of groundwater to wells or springs.

| (78) "Asphalt paving" means asphalt which has been applied to the land to form a street, road, path, parking lot, highway, or similar paved surface and that is weathered, consolidated, and does not contain visual evidence of fresh oil.

| (89) "Assets" means all existing and probable future economic benefits obtained or controlled by a particular entity.

| (910) "Baling" means a volume reduction technique whereby solid waste is compressed into bales for final disposal.

| (101) "Base Flood" means a flood that has a one percent or greater chance of recurring in any year or a flood of a magnitude equaled or exceeded once in 100 years on the average of a significantly long period.

(12) "Beneficial Use" means the productive use of solid waste in a manner that will not create an adverse impact to public health, safety, welfare, or the environment.

(13) "Beneficial Use Determination" means the approval of a beneficial use of a solid waste pursuant to OAR 340-093-0260 through 340-093-0290 either as a standing beneficial use or as a case-specific authorization.

| (144) "Biological Waste" means blood and blood products, excretions, exudates, secretions, suctionings and other body fluids that cannot be directly discarded into a municipal sewer

system, and waste materials saturated with blood or body fluids, but does not include diapers soiled with urine or feces.

| (125) "Biosolids" means solids derived from primary, secondary or advanced treatment of domestic wastewater which have been treated through one or more controlled processes that significantly reduce pathogens and reduce volatile solids or chemically stabilize solids to the extent that they do not attract vectors.

| (136) "Clean Fill" means material consisting of soil, rock, concrete, brick, building block, tile or asphalt paving, which do not contain contaminants which could adversely impact the waters of the State or public health. This term does not include putrescible wastes, construction and demolition wastes and industrial solid wastes.

| (147) "Cleanup Materials Contaminated by Hazardous Substances" means contaminated materials from the cleanup of releases of hazardous substances into the environment, and which are not hazardous wastes as defined by ORS 466.005.

| (158) "Closure Permit" means a document issued by the department bearing the signature of the Director or his/her authorized representative which by its conditions authorizes the permittee to complete active operations and requires the permittee to properly close a land disposal site and maintain and monitor the site after closure for a period of time specified by the department.

| (169) "Commercial Solid Waste" means solid waste generated by stores, offices, including manufacturing and industry offices, restaurants, warehouses, schools, colleges, universities, hospitals, and other non-manufacturing entities, but does not include solid waste from manufacturing activities. Solid waste from business, manufacturing or processing activities in residential dwellings is also not included.

| (1720) "Commission" means the Environmental Quality Commission or the Commission's authorized designee.

| (1821) "Composted material" is the product resulting from the composting process.

| (1922) "Composting" means the managed process of controlled biological decomposition of feedstocks. A managed process includes but is not limited to reducing particle size, adding moisture, manipulating piles, and performing procedures to achieve human pathogen reduction.

| (2023) "Composting Facility" means a site or facility composting feedstocks to produce a useful product through a managed process of controlled biological decomposition.. Sites and facilities that use methods such as vermiculture, vermicomposting and agricultural composting to produce a useful product are also considered composting facilities.

| (2124) "Construction and Demolition Waste" means solid waste resulting from the construction, repair, or demolition of buildings, roads and other structures, and debris from the clearing of land, but does not include clean fill when separated from other construction and demolition wastes and used as fill materials or otherwise land disposed. Such waste typically consists of

materials including concrete, bricks, bituminous concrete, asphalt paving, untreated or chemically treated wood, glass, masonry, roofing, siding, plaster; and soils, rock, stumps, boulders, brush and other similar material. This term does not include industrial solid waste and municipal solid waste generated in residential or commercial activities associated with construction and demolition activities.

| (~~2225~~) "Construction and Demolition Landfill" means a landfill that receives only construction and demolition waste.

| (~~2326~~) "Corrective Action" means action required by the department to remediate a release of constituents above the levels specified in 40 CFR 1258.56 or OAR chapter 340 division 40, whichever is more stringent.

| (~~2427~~) "Cover Material" means soil or other suitable material approved by the department that is placed over the top and side slopes of solid wastes in a landfill.

| (~~2528~~) "Cultures and Stocks" means etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate and mix cultures, wastes from production of biologicals, and serums and discarded live and attenuated vaccines. "Culture" does not include throat and urine cultures.

| (~~2629~~) "Current Assets" means cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

| (~~2730~~) "Current Liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

| (~~2831~~) "Department" means the Department of Environmental Quality.

| (~~2932~~) "Digested Sewage Sludge" means the concentrated sewage sludge that has decomposed under controlled conditions of pH, temperature and mixing in a digester tank.

| (~~303~~) "Director" means the Director of the Department of Environmental Quality or the Director's authorized designee.

| (~~314~~) "Disposal Site" means land and facilities used for the disposal, handling, treatment or transfer of or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, land application units (except as exempted by subsection (81)(b) of this rule), transfer stations, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting facilities and land and facilities previously used for solid waste disposal at a land disposal site; but the term does not include a facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste; a facility subject to the permit requirements of

ORS 468B.050; a site that is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar non-decomposable material, unless the site is used by the public either directly or through a collection service; or a site operated by a wrecker issued a certificate under ORS 822.110.

| (325) "Domestic Solid Waste" includes, but is not limited to, residential (including single and multiple residences), commercial and institutional wastes, as defined in ORS 459A.100; but the term does not include:

(a) Sewage sludge or septic tank and cesspool pumpings;

(b) Building demolition or construction wastes and land clearing debris, if delivered to a disposal site that is limited to those purposes and does not receive other domestic or industrial solid wastes;

(c) Industrial waste going to an industrial waste facility; or

(d) Waste received at an ash monofill from an energy recovery facility.

| (336) "Endangered or Threatened Species" means any species listed as such pursuant to Section 4 of the federal Endangered Species Act and any other species so listed by the Oregon Department of Fish and Wildlife.

| (347) "Energy Recovery" means recovery in which all or a part of the solid waste materials are processed to use the heat content, or other forms of energy, of or from the material.

| (358) "Feedstock" means organic and other solid wastes used in a composting process to produce composted material:

(a) Type 1 feedstocks include source-separated yard and garden wastes, wood wastes, agricultural crop residues, wax-coated cardboard, vegetative food wastes including department approved industrially produced vegetative food waste, and other materials the department determines pose a low level of risk from hazardous substances, physical contaminants and human pathogens.

(b) Type 2 feedstocks include manure and bedding and other materials the department determines pose a low level of risk from hazardous substances and physical contaminants and a higher level of risk from human pathogens compared to type 1 feedstock.

(c) Type 3 feedstocks include dead animals, meat and source-separated mixed food waste and industrially produced non-vegetative food waste. They also include other materials the department determines pose a low level of risk from hazardous substances and a higher level of risk from physical contaminants and human pathogens compared to type 1 and 2 feedstocks.

| (369) "Financial Assurance" means a plan for setting aside financial resources or otherwise assuring that adequate funds are available to properly close and to maintain and monitor a

disposal site after the site is closed according to the requirements of a permit issued by the department.

| (~~3740~~) "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters that are inundated by the base flood.

| (~~3841~~) "Gravel Pit" means an excavation in an alluvial area from which sand or gravel has been or is being mined.

| (~~3942~~) "Groundwater" means water that occurs beneath the land surface in the zone(s) of saturation.

| (~~403~~) "Hazardous Substance" means any substance defined as a hazardous substance pursuant to Section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9601 et seq.; oil, as defined in ORS 465.200; and any substance designated by the Commission under ORS 465.400.

| (~~414~~) "Hazardous Waste" means discarded, useless or unwanted materials or residues and other wastes that are defined as hazardous waste pursuant to ORS 466.005.

| (~~425~~) "Heat-Treated" means a process of drying or treating sewage sludge where there is an exposure of all portions of the sludge to high temperatures for a sufficient time to kill all pathogenic organisms.

| (~~436~~) "Home composting" means composting operated and controlled by the owner or person in control of a single or multiple family dwelling unit and used to compost residential food waste produced within the dwelling unit and yard debris produced on the property.

| (~~447~~) "Incinerator" means any device used for the reduction of combustible solid wastes by burning under conditions of controlled airflow and temperature.

| (~~458~~) "Industrial Solid Waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under ORS chapters 465 and 466 or under Subtitle C of the federal Resource Conservation and Recovery Act. Such waste may include, but is not limited to, waste resulting from the following processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; water treatment; and timber products manufacturing. This term does not include construction/demolition waste; municipal solid waste from manufacturing or industrial facilities such as office or "lunch room" waste; or packaging material for products delivered to the generator.

| (~~469~~) "Industrial Waste Landfill" means a landfill that receives only a specific type or combination of industrial waste.

- | (4750) "Inert" means containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the state or public health.
- | (4851) "Infectious Waste" means biological waste, cultures and stocks, pathological waste, and sharps; as defined in ORS 459.386.
- | (4952) "Land Application Unit" means a disposal site where sludges or other solid wastes are applied onto or incorporated into the soil surface for agricultural purposes or for treatment and disposal.
- | (503) "Land Disposal Site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, waste pile, pit, pond, lagoon or land application.
- | (514) "Landfill" means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.
- | (525) "Leachate" means liquid that has come into direct contact with solid waste and contains dissolved, miscible and/or suspended contaminants as a result of such contact.
- | (536) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.
- | (547) "Local Government Unit" means a city, county, Metropolitan Service District formed under ORS Chapter 268, sanitary district or sanitary authority formed under ORS Chapter 450, county service district formed under ORS Chapter 451, regional air quality control authority formed under ORS 468A.100 to 468A.130 and 468A.140 to 468A.175 or any other local government unit responsible for solid waste management.
- | (558) "Low-Risk Disposal Site" means a disposal site which, based upon its size, site location, and waste characteristics, the department determines to be unlikely to adversely impact the waters of the State or public health.
- | (569) "Material Recovery" means any process of obtaining from solid waste, by pre-segregation or otherwise, materials which still have useful physical or chemical properties and can be reused, recycled or composted for some purpose.
- | (5760) "Material Recovery Facility" means a solid waste management facility that separates materials for the purposes of recycling from an incoming mixed solid waste stream by using manual and/or mechanical methods, or a facility at which previously separated recyclables are collected.
- | (5861) "Medical Waste" means solid waste that is generated as a result of patient diagnosis, treatment, or immunization of human beings or animals.

(~~5962~~) "Monofill" means a landfill or landfill cell into which only one type of waste may be placed.

(~~603~~) "Municipal Solid Waste Landfill" means a discrete area of land or an excavation that receives domestic solid waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under §257.2 of 40 CFR, Part 257. It may also receive other types of wastes such as nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction and demolition waste and industrial solid waste.

(~~614~~) "Net Working Capital" means current assets minus current liabilities.

(~~625~~) "Net Worth" means total assets minus total liabilities and is equivalent to owner's equity.

(~~636~~) "Pathological Waste" means biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals. "Pathological waste" does not include teeth or formaldehyde or other preservative agents.

(~~647~~) "Permit" means a document issued by the department which by its conditions may authorize the permittee to construct, install, modify, operate or close a disposal site in accordance with specified limitations.

(~~658~~) "Permit Action" means the issuance, modification, renewal or revocation by the department of a permit.

(~~669~~) "Person" means the United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

(~~6770~~) "Processing of Wastes" means any technology designed to change the physical form or chemical content of solid waste including, but not limited to, baling, composting, classifying, hydropulping, incinerating and shredding.

(~~6871~~) "Public Waters" or "Waters of the State" include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, 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 or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(~~6972~~) "Putrescible Waste" means solid waste containing organic material that can be rapidly decomposed by microorganisms, and which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(703) "Recycling" means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity.

(714) "Regional Disposal Site" means a disposal site that receives, or a proposed disposal site that is designed to receive more than 75,000 tons of solid waste a year from outside the immediate service area in which the disposal site is located. As used in this section, "immediate service area" means the county boundary of all counties except a county that is within the boundary of the Metropolitan Service District. For a county within the Metropolitan Service District, "immediate service area" means that Metropolitan Service District boundary.

(725) "Release" has the meaning given in ORS 465.200(14).

(736) "Resource Recovery" means the process of obtaining useful material or energy from solid waste and includes energy recovery, material recovery and recycling.

(747) "Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(758) "Salvage" means the controlled removal of reusable, recyclable or otherwise recoverable materials from solid wastes at a solid waste disposal site.

(769) "Sensitive Aquifer" means any unconfined or semiconfined aquifer that is hydraulically connected to a water table aquifer, and where flow could occur between the aquifers due to either natural gradients or induced gradients resulting from pumpage.

(80) "Sensitive Environment" means a sensitive environment as defined in OAR 340-122-0115(50) of the Hazardous Substance Remedial Action Rules.

(7781) "Septage" means the pumpings from septic tanks, cesspools, holding tanks, chemical toilets and other sewage sludges not derived at sewage treatment plants.

(7882) "Sharps" means needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers.

(7983) "Sludge" means any solid or semi-solid waste and associated supernatant generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar characteristics and effects.

(804) "Sole Source Aquifer" means the only available aquifer, in any given geographic area, containing potable groundwater with sufficient yields to supply domestic or municipal water wells.

(815) "Solid Waste" means all useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial,

demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid materials, dead animals and infectious waste. The term does not include:

(a) Hazardous waste as defined in ORS 466.005;

(b) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates.

| (826) "Solid Waste Boundary" means the outermost perimeter (on the horizontal plane) of the solid waste at a landfill as it would exist at completion of the disposal activity.

| (837) "Source Separate" means that the person who last uses recyclable materials separates the recyclable material from solid waste.

| (848) "Tangible Net Worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

| (859) "Third Party Costs" mean the costs of hiring a third party to conduct required closure, post-closure or corrective action activities.

| (8690) "Transfer Station" means a fixed or mobile facility other than a collection vehicle where solid waste is taken from a smaller collection vehicle and placed in a larger transportation unit for transport to a final disposal location.

| (8791) "Treatment" or "Treatment Facility" means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid waste. It includes but is not limited to soil remediation facilities. It does not include "composting" as defined in section (18) of this rule, "material recovery" as defined in section (56) of this rule, nor does it apply to a "material recovery facility" as defined in section (57) of this rule.

| (8892) "Underground Drinking Water Source" means an aquifer supplying or likely to supply drinking water for human consumption.

| (8993) "Vector" means any insect, rodent or other animal capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.

| (904) "Vegetative" means feedstocks used for composting that are derived from plants including but not limited to: fruit and vegetable peelings or parts, grains, coffee grounds, crop residue, waxed cardboard and uncoated paper products. Vegetative material does not include oil, grease, or dairy products such as milk, mayonnaise or ice cream.

| (945) "Vermicomposting" means the controlled and managed process by which live worms convert solid waste into dark, fertile, granular excrement.

| (926) "Vermiculture" means the raising of earth worms for the purpose of collecting castings for composting or enhancement of a growing medium.

| (937) "Water Table Aquifer" means an unconfined aquifer in which the water table forms the upper boundary of the aquifer. The water table is typically below the upper boundary of the geologic strata containing the water, the pressure head in the aquifer is zero and elevation head equals the total head.

| (948) "Wellhead protection area" means the surface and subsurface area surrounding a water well, spring or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach that water well, spring, or wellfield. A public water system is a system supplying water for human consumption that has four or more service connections or supplies water to a public or commercial establishment which operates a total of at least 60 days per year, and which is used by 10 or more individuals per day.

| (959) "Wood waste" means chemically untreated wood pieces or particles generated from processes commonly used in the timber products industry. Such materials include but are not limited to sawdust, chips, shavings, stumps, bark, hog-fuel and log sort yard waste, but do not include wood pieces or particles containing or treated with chemical additives, glue resin, or chemical preservatives.

| (96100) "Wood waste Landfill" means a landfill that receives primarily wood waste.

| (97101) "Zone of Saturation" means a three-dimensional section of the soil or rock in which all open spaces are filled with groundwater. The thickness and extent of a saturated zone may vary seasonally or periodically in response to changes in the rate or amount of groundwater recharge, discharge or withdrawal.

NOTE: Definition updated to be consistent with current Hazardous Waste statute.

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

Stat. Auth.: ORS 459.045 & 468.020

Stats. Implemented: ORS 459 & 459A

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 26-1981, f. & ef. 9-8-81; DEQ 2-1984, f. & ef. 1-16-84; DEQ 18-1988, f. & cert. ef. 7-13-88 (and corrected 2-3-89); DEQ 14-1990, f. & cert. ef. 3-22-90; DEQ 24-1990, f. & cert. ef. 7-6-90; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0010; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 27-1998, f. & cert. ef. 11-13-98; DEQ 15-2000, f. & cert. ef. 10-11-00; DEQ 6-2009, f. & cert. ef. 9-14-09

340-093-0040

Prohibited Disposal

(1) No person shall dispose of or authorize the disposal of solid waste except at a solid waste disposal site permitted by the Department to receive that waste, or at a class of disposal site specifically exempted by OAR 340-093-0050(3) from the requirement to obtain a solid waste permit.

(2) Wastes prohibited from disposal at solid waste disposal sites:

(a) Hazardous Wastes. Wastes defined as hazardous wastes must be managed in accordance with ORS 466.005 et seq. and applicable regulations;

(b) Hazardous Wastes from Other States. Wastes which are hazardous under the law of the state of origin shall not be managed at a solid waste disposal site when transported to Oregon. Such wastes may be managed at a hazardous waste facility in Oregon if the facility is authorized to accept the wastes pursuant to ORS 466.005 et seq. and applicable regulations.

(3) No person shall dispose of and no disposal site shall knowingly accept for disposal at a solid waste disposal site:

(a) Used oil as defined in ORS 468.850(5), including liquid used oil and used oil purposely mixed with other materials for the purpose of disposal, but not including cleanup materials from incidental or accidental spills where the used oil spilled cannot feasibly be recovered as liquid oil;

(b) Discarded or abandoned vehicles;

(c) Discarded large metal-jacketed residential, commercial or industrial appliances such as refrigerators, washers, stoves and water heaters;

(d) Whole tires, except as provided in OAR 340-064-0052. Tires processed to meet the criteria in OAR 340-064-0052 may be landfilled. For purposes of this subsection, "tire" shall have the meaning given in OAR 340-064-0010(26);

(e) Lead-acid batteries.

(4) Notwithstanding any other provision of law relating to solid waste disposal, if the state of origin prohibits or restricts the disposal of any kind of solid waste within the state of origin, such prohibition or restriction also shall apply to the disposal of the out-of-state solid waste in Oregon.

Stat. Auth.: ORS 459.005 - ORS 459.418, ORS 459.045(1), ORS 459.045(3), ORS 459A.100 - ORS 459A.120, ORS 459.235(2), ORS 459.420 & ORS 468.065

Stats. Implemented: ORS 459.005(8) & ORS 459.205(1)

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 30-1988(Temp), f. & cert. ef. 11-17-88; DEQ 6-1989, f. 4-24-89, cert. ef. 5-4-89; DEQ 14-1990, f. & cert. ef. 3-22-90; DEQ 24-1990, f. & cert. ef. 7-6-90; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0060; DEQ 17-1997, f. & cert. ef. 8-14-97

340-093-0050

Permit Required

(1) Except as provided by section (3) of this rule, no person may establish, operate, maintain or substantially alter, expand, improve or close a disposal site, and no person may change the method or type of disposal at a disposal site, until the person owning or controlling the disposal site obtains a permit therefore from the department.

(2) Persons owning or controlling the following classes of disposal sites must comply with the requirements in the following rules:

(a) Municipal solid waste landfills must comply with OAR 340, Division 94 "Municipal Solid Waste Landfills";

(b) Industrial Solid Waste Landfills, Construction and Demolition Landfills, Wood Waste Landfills and other facilities not listed in OAR 340, Division 96 must comply with OAR 340, Division 95 "Land Disposal Sites Other Than Municipal Solid Waste Landfills";

(c) Energy recovery facilities and incinerators receiving domestic solid waste must comply with OAR 340, Division 96 "Special Rules Pertaining to Incineration";

(d) Composting facilities must comply with OAR 340-096-0060 through 340-096-0150: "Special Rules Pertaining to Composting."

(e) Land used for deposit, spreading, lagooning or disposal of sewage sludge, septage and other sludges must comply with OAR 340-096-0030 "Special Rules Pertaining to Sludge and Land Application Disposal Sites";

(f) Transfer stations and Material Recovery Facilities must comply with OAR 340-096-0040 "Transfer Stations and Material Recovery Facilities";

(g) Petroleum contaminated soil remediation facilities and all other solid waste treatment facilities must comply with OAR 340-096-0050 "Solid Waste Treatment Facilities."

(3) Persons owning or controlling the following classes of disposal sites are specifically exempted from the above requirements to obtain a permit under OAR chapter 340, divisions 93 through 97, but must comply with all other provisions of OAR chapter 340, divisions 93 through 97 and other applicable laws, rules, and regulations regarding solid waste disposal:

(a) A facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste;

(b) Disposal sites, facilities or disposal operations operated pursuant to a permit issued under ORS 468B.050 if all applicable requirements in OAR chapter 340, divisions 93 through 97 have been met;

(c) A land disposal site used exclusively for the disposal of clean fill, unless the materials have been contaminated such that the department determines that their nature, amount or location may create an adverse impact on groundwater, surface water or public health or safety;

NOTE: Such a landfill may require a permit from the Oregon Division of State Lands. A person wishing to obtain a permit exemption for an inert waste not specifically mentioned in this subsection may submit a request to the department with such information as the department may require to evaluate the request for exemption, pursuant to OAR 340-093-0080.

(d) A Site or facility utilizing any amount of sewage sludge or biosolids under a valid water quality permit, pursuant to ORS 468B.050;

(e) Facilities which receive only source separated materials for purposes of material recovery, except when the department determines that the nature, amount or location of the materials is such that they constitute a potential threat of adverse impact on the waters of the state or public health;

(f) A site used to transfer a container, including but not limited to a shipping container, or other vehicle holding solid waste from one mode of transportation to another (such as barge to truck); if:

(A) The container or vehicle is not available for direct use by the general public;

(B) The waste is not removed from the original container or vehicle; and

(C) The original container or vehicle does not stay in one location longer than 72 hours, unless otherwise authorized by the department.

(4) The department may, in accordance with a specific permit containing a compliance schedule, grant reasonable time for solid waste disposal sites or facilities to comply with OAR chapter 340, divisions 93 through 97.

(5) If it is determined by the department that a proposed or existing disposal site is not likely to create a public nuisance, health hazard, air or water pollution or other environmental problem, the department may waive any or all requirements of OAR 340-093-0070, 340-093-0130, 340-093-0140, 340-093-0150, 340-094-0060(2) and 340-095-0030(2) and issue a letter authorization in accordance with OAR 340-093-0060.

(6) Each person who is required by sections (1) and (5) of this rule to obtain a permit must:

(a) Make prompt application to the department therefore;

(b) Fulfill each and every term and condition of any permit issued by the department to such person;

(c) Comply with OAR chapter 340, divisions 93 through 97;

(d) Comply with the department's requirements for recording, reporting, monitoring, entry, inspection, and sampling, and make no false statements, representations, or certifications in any form, notice, report, or document required thereby;

(e) Allow the department or an authorized governmental agency to enter the property under permit at reasonable times to inspect and monitor the site and records as authorized by ORS 459.385 and 459.272.

(7) Failure to conduct solid waste disposal according to the conditions, limitations, or terms of a permit or OAR chapter 340, divisions 93 through 97, or failure to obtain a permit is a violation of OAR chapter 340, divisions 93 through 97 and may be cause for the assessment of civil penalties for each violation as provided in OAR chapter 340, division 12 or for any other enforcement action provided by law. Each and every day that a violation occurs is considered a separate violation and may be the subject of separate penalties.

Stat. Auth.: ORS 459A.025, 459.045 & 468.020

Stats. Implemented: ORS 459.205, 459.215 & 459.225

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 26-1981, f. & ef. 9-8-81; DEQ 2-1984, f. & ef. 1-16-84; DEQ 14-1984, f. & ef. 8-8-84; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0020; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 2-1995, f. & cert. ef. 1-10-95; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 27-1998, f. & cert. ef. 11-13-98; DEQ 6-2009, f. & cert. ef. 9-14-09

340-093-0060

Letter Authorizations

Pursuant to OAR 340-093-0050(5), the Department may authorize the short-term operation of a disposal site by issuing a permit called "letter authorization" subject to the following:

(1) A letter authorization may be issued only on the basis of a complete written application which has been approved by the Department. Applications for letter authorizations shall be complete only if they contain the following items:

(a) The quantity and types of material to be disposed;

(b) A discussion of the need and justification for the proposed project;

(c) The expected amount of time which will be required to complete the project;

(d) The methods proposed to be used to insure safe and proper disposal of solid waste;

(e) The location of the proposed disposal site;

(f) A statement of approval from the property owner or person in control of the property, if other than the applicant;

(g) Written verification from the local planning department that the proposal is compatible with the acknowledged local comprehensive plan and zoning requirements or the Land Conservation and Development Commission's Statewide Planning Goals;

(h) Any other relevant information which the Department may require.

(2) Upon receipt of a complete written application the Department may approve the application if it is satisfied that:

(a) The applicant has demonstrated sufficient need and justification for the proposal;

(b) The proposed project is not likely to cause a public nuisance, health hazard, air or water pollution or other environmental problem.

(3) The Department may revoke or suspend a letter authorization on any of the following grounds:

(a) A material misrepresentation or false statement in the application;

(b) Any relevant violation of any statute, rule, order, permit, ordinance, judgment or decree.

(4) The Department may issue letter authorizations for periods not to exceed six months. If circumstances have prevented the holder of a letter authorization from completing the action allowed under the letter authorization, he or she may request a one-time six-month renewal from the Department. Further renewals are not allowed. A letter authorization shall not be used for any disposal actions requiring longer than a total of one year to complete; such actions are subject to a regular solid waste land disposal permit.

Stat. Auth.: ORS 459

Stats. Implemented: ORS 459.215

Hist.: DEQ 26-1981, f. & ef. 9-8-81; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0027; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 17-1997, f. & cert. ef. 8-14-97

340-093-0070

Applications for Permits

(1) Any person wishing to obtain a new, modified, or renewal permit from the department must submit a written application on a form provided by the department. The department must receive renewal applications at least 180 days before a permit is needed. All other applications must be received 60 days before a permit is needed. All application forms must be completed in full, signed by the applicant or the applicant's legally authorized representative, and accompanied by the specified number of copies of all required exhibits. The name of the applicant must be the legal name of the owner of the facility or the owner's agent or the lessee responsible for the operation and maintenance of the facility.

(2) The department will accept applications for a permit only when complete, as detailed in section (3) of this rule. Within 45 days after receipt of an application, the department will conduct a preliminary review of the application to determine the adequacy of the information submitted. Failure to complete this review within 45 days does not preclude the department from later requesting further information from the applicant as provided in this section.

(a) If the department determines that additional information is needed it will promptly request the needed information from the applicant. The application will be considered to be withdrawn if the applicant fails to submit the requested information within 90 days of the request or such other time as the department establishes in writing.

(b) If additional measures are necessary to gather facts regarding the application, the department will notify the applicant that such measures will be instituted, and the timetable and procedures to be followed. The application will be considered to be withdrawn if the applicant fails to comply with these additional measures.

(3) Applications for a permit will be complete only if they:

(a) Are submitted in triplicate on forms provided by the department, are accompanied by all required exhibits using paper with recycled content with copy printed on both sides of the paper whenever possible, follow the organizational format and include the level of informational detail required by the department, and are signed by the property owner or person in control of the premises;

(b) Include written recommendations of the local government unit or units having jurisdiction with respect to new or existing disposal sites, or alterations, expansions, improvements or changes in method or type of disposal at new or existing disposal sites. Such recommendations must include, but not be limited to, a statement of compatibility with the acknowledged local comprehensive plan and zoning requirements or the Land Conservation and Development Commission's Statewide Planning Goals;

(c) Identify any other known or anticipated permits from the department or other governmental agencies. If previously applied for, include a copy of such permit application and if granted, a copy of such permit;

(d) Include payment of application fees as required by OAR 340-097-0110 and 340-097-0120;

(e) Include a site characterization report(s) prepared in accordance with OAR 340-093-0130, to establish a new disposal site or to substantially alter, expand or improve a disposal site or to make a change in the method or type of disposal at a disposal site, unless the requirements of said site characterization report(s) have been met by other prior submittals;

(f) Include detailed plans and specifications as required by OAR 340-093-0140;

(g) For a new land disposal site:

(A) Include a written closure plan that describes the steps necessary to close all land disposal units at any point during their active life pursuant to OAR 340-094-0110 to 340-094-0120 or 340-095-0050 to 340-095-0060; and

(B) Provide evidence of financial assurance for the costs of closure of the land disposal site and for post-closure maintenance, of the land disposal site, pursuant to OAR 340-094-0140 or 340-095-0090, unless the department exempts a non-municipal land disposal site from this requirement pursuant to OAR 340-095-0050(3).

(h) Include any other information the department may deem necessary to determine whether the proposed disposal site and the operation thereof will comply with all applicable rules of the department.

(4) If the department determines that a disposal site is a "low-risk disposal site" or is not likely to adversely impact the waters of the State or public health, the department may waive any of the requirements of subsections (3)(e) and (f) of this rule, OAR 340-093-0150, 340-094-0060(2) and 340-095-0030(2). In making this judgment, the department may consider the size and location of the disposal site, the volume and types of waste received and any other relevant factor. The applicant must submit any information the department deems necessary to determine that the proposed disposal site and site operation will comply with all pertinent rules of the department.

(5) If a local public hearing regarding a proposed disposal site has not been held and if, in the judgment of the department, there is sufficient public concern regarding the proposed disposal site, the department may, as a condition of receiving and acting upon an application, require that such a hearing be held by the county board of commissioners or county court or other local government agency responsible for solid waste management, for the purpose of informing and receiving information from the public.

(6) Permit modifications and renewals:

(a) Permit Modification: An application for a permit modification is required for:

(A) The sale or exchange of the activity or facility; or

(B) Any change in the nature of the activities or operations from those of the last application including modification or expansion of the disposal site or a change in the method or type of disposal. Any application that would substantially change the scope or operations of the disposal site must include written recommendations from the local government unit as required in subsection (3)(b) of this rule.

(b) Permit Renewal: An application for a permit renewal is required if a permittee intends to continue operation beyond the permitted period. A complete renewal application must be filed at least 180 days before the existing permit expires.

(A) A complete application for renewal must be made in the form required by the department and include the information required by this Division and any other information required by the department.

(B) Any application for renewal which would substantially change the scope of operations of the disposal site must include written recommendations from the local government unit as required in subsection (3)(b) of this rule.

(C) If a completed application for renewal of a permit is filed with the department in a timely manner before the expiration date of the permit, the permit does not expire until the department takes final action on the renewal application.

(D) If a completed application for renewal of a permit is not filed with the department in a timely manner before the expiration date of the permit, the department may require the permittee to close the site and apply for a closure permit, pursuant to OAR 340-094-0100 or 340-095-0050.

(7) Permits extended under subsection (6) of this rule remain fully effective and enforceable until the effective date of the new permit.

Stat. Auth.: ORS 459

Stats. Implemented: ORS 459.235

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 26-1981, f. & ef. 9-8-81; DEQ 2-1984, f. & ef. 1-16-84; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0025; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 15-2000, f. & cert. ef. 10-11-00; DEQ 6-2009, f. & cert. ef. 9-14-09

340-093-0080

Variations and Permit Exemptions

(1) Variations. The Commission may by specific written variance waive certain requirements of OAR Chapter 340, Divisions 93 through 97 when circumstances of the solid waste disposal site location, operating procedures, and/or other conditions indicate that the purpose and intent of OAR Chapter 340, Divisions 93 through 97 can be achieved without strict adherence to all of the requirements.

(2) Permit exemptions. Pursuant to OAR 340-093-0050(3), a person wishing to obtain an exemption from the requirement to obtain a solid waste permit for disposal of an inert waste in specified locations may submit a request to the Department. The applicant must demonstrate that the waste is substantially the same as "clean fill." The request shall include but not be limited to the following information:

(a) The exact location (including a map) at which the waste is to be disposed of and a description of the surrounding area;

(b) The monthly rate of disposal;

- (c) A copy of the Material Safety Data Sheet (or equivalent, if a MSDS is not available) for all applicable raw materials used at the facility generating the waste;
- (d) A description of the process generating the waste and how that process fits into the overall operation of the facility;
- (e) Documentation that the waste is not hazardous as defined in OAR Chapter 340, Division 101. The procedure for making a hazardous waste determination is in OAR 340-102-0011;
- (f) A demonstration that the waste is inert, stable, non-putrescible, and physically similar to soil, rock, concrete, brick, building block, tile, or asphalt paving;
- (g) A demonstration that the waste will not discharge constituents which would adversely impact the waters of the state or public health.

Stat. Auth.: ORS 459

Stats. Implemented: ORS 459.225

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0080; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 17-1997, f. & cert. ef. 8-14-97

340-093-0090

Preliminary Approval

- (1) The Department may issue written preliminary approval to any applicant for a Solid Waste Disposal Permit, prior to submission of detailed engineering plans and specifications, based on the material submitted in a site characterization report(s) in accordance with the requirements of OAR 340-093-0070.
- (2) The purpose of the preliminary review and approval process is to inform the applicant of the Department's concerns, if any, regarding the proposal and to provide guidance in the development of the detailed plans and specifications required to complete the permit application. Receipt of preliminary approval does not grant the applicant any right to begin construction or operation of a disposal site.
- (3) Request for preliminary approval shall be made to the Department in writing. Within 45 days of receipt of such request, the Department shall either grant or deny preliminary approval or request additional information.
- (4) Granting of preliminary approval shall not prevent the Department from denying or conditionally approving a completed permit application.
- (5) If the Department denies preliminary approval, it shall clearly state the reasons for denial. Failure to receive preliminary approval shall not prevent an applicant from completing a permit application. Any application completed after denial of preliminary approval shall specifically address those concerns listed in the Department's letter of denial.

Stat. Auth.: ORS 459

Stats. Implemented: ORS 459.245

Hist.: DEQ 26-1981, f. & ef. 9-8-81; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0031; DEQ 10-1994, f. & cert. ef. 5-4-94

340-093-0100

Public Notice and Participation Requirements Regarding Permit Actions

(1) The department has categorized permit actions according to environmental and public health significance. Category 1 represents permit actions with low environmental and public health significance and less public notice and opportunity for public participation. Category 4 represents permit actions with potentially high environmental and public health significance, and the greatest level of public notice and opportunity for participation.

(2) OAR 340-093-0105 classifies permits as Category 1 through Category 4. If a permit action is uncategorized, the permit action will be processed under Category 3. The following describes the public notice and participation requirements for each category:

(a) Category 1 — No public notice or opportunity for public participation;

(b) Category 2 — The department will provide public notice of the proposed permit action and a minimum of 30 days to submit written comments.

(c) Category 3 — The department will provide public notice of the proposed permit action and a minimum of 35 days to submit written comments. The department will provide a minimum of 30 days notice for a hearing if one is scheduled. The department will schedule a hearing to allow interested persons to submit oral or written comments if:

(A) Within 14 days of the mailing of the notice, the department receives written requests from ten persons, or from an organization representing at least ten persons, for a hearing, or

(B) The department determines that a hearing is necessary.

(d) Category 4 — Once an application is considered complete under OAR 340-093-0070, the department will:

(A) Provide public notice of the receipt of a completed application and requested permitting action; and

(B) Schedule an informational meeting within the community where the facility will be or is located and provide public notice of the meeting. The department will consider any information gathered in this process when it drafts the proposed permit.

(C) Once a draft permit is completed, provide public notice of the proposed permit and a minimum of 40 days to submit written comments.

(D) Schedule a public hearing to allow interested persons to submit oral or written comments and a minimum of 30 days notice for the hearing.

(3) The department may move a permit action to a higher category under (2) of this rule, based on, but not limited to, the following factors:

(a) Anticipated public interest in the facility;

(b) Compliance and enforcement history of the facility or owner;

(c) Potential for significant environmental or public harm due to location or type of facility; or

(d) A change in the nature of the facility or the quantity or types of solid waste received, processed or disposed of at the facility.

(4) The public notice required under (2)(b), (2)(c) and (2)(d)(C) of this rule will contain at least the following information:

(a) Name of the applicant and location of the facility;

(b) Type of facility including a description of the facility's process subject to the permit;

(c) Description of permitted substances stored, disposed of, discharged or emitted, including whether there has been an increase or decrease in the substance since the last permit action for the facility;

(d) Location and description of documents relied upon in preparing the draft permit action;

(e) Other permits required by the department;

(f) Date of previous permit action;

(g) Opportunity for public comment, whether in writing or in person;

(h) Compliance, enforcement and complaint history along with resolution of the same; and

(i) A summary of the discretionary decisions made by the department in drafting the permit.

(5) The department will provide the notice, as required under section (2) of this rule, to the applicant, those requesting notice of the permitting action, local news media, and other interested persons as identified by the department.

Stat. Auth.: ORS 459.005 - 459.418 & 459A.100 - 459A.120

Stats. Implemented: ORS 459.245

Hist.: DEQ 34-1990, f. 8-20-90, cert. ef. 9-1-90; DEQ 5-1993, f. & cert. ef. 3-10-93,

Renumbered from 340-061-0024; DEQ 15-2000, f. & cert. ef. 10-11-00; DEQ 6-2009, f. & cert. ef. 9-14-09

340-093-0105

Categories for Permit Actions

(1) Category 1:

- (a) Waste Tire Carrier Permit under 340-064-0055.
- (b) Letter Authorization under 340-093-0060.
- (c) Modification to a permit that is administrative in nature or does not alter permit conditions.

(2) Category 2:

- (a) Renewal of a construction and demolition debris landfill permit under 340-093-0070.
- (b) Renewal of an industrial waste landfill permit under 340-093-0070.
- (c) Renewal of a closure permit under 340-094-0100 and 340-095-0500.
- (d) Renewal of a transfer station permit under 340-096-0040.
- (e) Renewal of a material recovery facility permit under 340-096-0040.
- (f) Renewal of a solid waste treatment facility permit under 340-093-0070.
- (g) Renewal of a waste tire storage site permit under 340-064-0015.
- (h) Renewal of a solid waste composting permit under 340-093-0070.
- (i) New composting registration issued under OAR 340-096-0100.
- (j) Renewal of a composting facility registration under 340-096-0100.
- (k) All other modifications not listed under category 1.

(3) Category 3:

- (a) New captive industrial facility permit as defined in 340-097-0120(1)(c).
- (b) New transfer station or material recovery facility permit under 340-096-0040.
- (c) New composting permit issued under 340-096-0110.

- (d) New closure permit under 340-094-0100 and 340-095-0500.
- (e) New construction and demolition landfill permit under 340-095-0001.
- (f) New solid waste treatment facility permit under 340-096-0050.
- (g) New off-site industrial facility permit under 340-097-0120(2)(a).
- (h) New sludge disposal facility permit under 340-096-0030.
- (i) New waste tire storage facility permit under 340-064-0015.
- (j) Renewal of a municipal landfill permit under 340-093-0070.
- (k) Renewal of an incinerator or energy recovery facility permit under 340-093-0070.
- (4) Category 4:
 - (a) New municipal solid waste landfill facility permit under 340-094-0001.
 - (b) New incinerator permit under 340-096-0010.
 - (c) New energy recovery facility permit under 340-097-0120(2)(a).

Stat.Auth.: ORS 459A.025, 459.045 & 468.020

Stat. Implemented: ORS 459.245

Hist.: DEQ 15-2000, f. & cert. ef. 10-11-00; DEQ 6-2009, f. & cert. ef. 9-14-09

340-093-0110

Issuance or Denial of a Permit

(1) The Department must take final action on the permit application within 45 days of the close of the comment period. The scheduling of a hearing and the consideration of comments will automatically constitute good cause for an extension of time under ORS 459.245. The Department will consider all timely received comments and any other information obtained that may be pertinent to the permit action.

(2) Issuance of a permit: The Department may adopt or modify the proposed provisions in the permit application. The Department will promptly notify the applicant in writing of the final action as provided in OAR 340-011-0097 and will include a copy of the permit. If the permit conditions are different from those contained in the permit application, the notification will include the reasons for the changes.

(3) Denial of a permit: The Department will promptly notify the applicant in writing of the final action as provided in OAR 340-011-0097. If the Department denies a permit application, the notification will include the reasons for the denial. The Department will deny the permit if:

(a) The application contains false information.

(b) The Department wrongfully accepted the application .

(c) The proposed disposal site would not comply with OAR chapter 340, divisions 93 through 97 or other applicable rules of the Department.

(d) The proposal is not part of or not compatible with the adopted local solid waste management plan, or

(e) There is no clearly demonstrated need for the proposed new, modified or expanded disposal site or for the proposed change in the method or type of disposal.

(4) The Department's decision is effective 20 days from the date of service of the notice unless within that time the Department receives a request for a hearing from the applicant. The request for a hearing must be in writing and state the grounds for the request. The hearing will be conducted as a contested case hearing in accordance with ORS 183.413 through 183.470, and OAR chapter 340, division 011.

Stat. Auth.: ORS 459A.025, ORS 459.045 & ORS 468.020

Stats. Implemented: ORS 459.245

Hist.: DEQ 26-1981, f. & ef. 9-8-81; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0026; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 27-1998, f. & cert. ef. 11-13-98; DEQ 15-2000, f. & cert. ef. 10-11-00

340-093-0113

Department Initiated Modification of a Permit

If the Department determines it is appropriate to modify a permit, the Department will notify the permittee by registered or certified mail of the proposed modification and include them and the reasons for them. The modification will become effective upon mailing unless the permittee requests a hearing within 20 days. A request for hearing shall be made in writing and state the grounds for the request. The hearing will be conducted as a contested case hearing in accordance with ORS 183.413 through 183.470 and OAR chapter 340, division 011. If a hearing is requested, the existing permit continues in effect until a final order is issued.

Stat. Auth.: ORS 459A.025, ORS 459.045 & ORS 468.020

Stats. Implemented: ORS 459.245

Hist.: DEQ 15-2000, f. & cert. ef. 10-11-00

340-093-0115

Termination or Revocation of a Permit

(1) Automatic Termination: A permit automatically terminates when:

- (a) The Department issues a new permit for the same activity or operation;
 - (b) The permittee requests in writing that the permit terminate, if the Department determines that a permit is no longer needed; or
 - (c) The permittee fails to timely submit an application for permit renewal.
- (i) Termination is effective on the permit expiration date.
 - (ii) A permit may be reinstated only if the permittee applies for a new permit including the associated fees pursuant to division 097.
 - (iii) All permit conditions will remain in effect until such time as a new permit is issued by the Department. Failure by a permittee to abide by the terms of any permit conditions will be a violation of this provision.

(2) Revocation with prior notice:

- (a) If the Department determines that a permittee is in noncompliance with the terms of the permit, submitted false information in the application or other required documentation, or is in violation of any applicable law, the Department may revoke the permit.
- (b) The Department will provide notice of the intent to revoke the permit in accordance with OAR 340-011-0097. The notice will include the reasons why the permit will be revoked, and include an opportunity for hearing before the revocation. The Department must receive a written request for hearing stating the grounds for the request within 60 days from service of the notice. The hearing will be conducted as a contested case hearing in accordance with ORS 183.413 through 183.470 and OAR chapter 340, division 011. The permit will continue in effect until the 60 days expires or until a final order is issued.

(3) Revocation without prior notice:

- (a) If the Department finds that the permittee's activities cause a serious danger to the public health, safety or the environment, the Department may immediately revoke or refuse to renew the permit without prior notice or opportunity for a hearing.
- (b) If no advance notice of the revocation is provided, the Department will notify the permittee as soon as possible as provided in OAR 340-011-0097. The notification will set forth the specific reasons for the revocation or refusal to renew.
- (c) The Department must receive a written request for a hearing stating the grounds for the request within 90 days of service of the notice. The hearing will be conducted as a contested case

hearing in accordance with ORS 183.413 through 183.470 and OAR chapter 340, division 011. If the Department does not receive a request for a hearing within 90 days, the revocation or refusal to renew becomes final without further action by the Department.

Stat. Auth.: ORS 459.045 & ORS 459.785

Stats. Implemented: ORS 459.255 & ORS 459.755

Hist.: DEQ 15-2000, f. & cert. ef. 10-11-00

340-093-0120

Violations

Violations of OAR Chapter 340, Divisions 93 through 97 shall be punishable as provided in ORS Chapter 459 and pursuant to OAR Chapter 340, Division 12.

Stat. Auth.: ORS 459

Stats. Implemented: ORS 459.255, ORS 459.376, ORS 459.992 & ORS 459.995

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0085; DEQ 10-1994, f. & cert. ef. 5-4-94

340-093-0130

Site Characterization Report(s)

The purpose of the site characterization report(s) required by OAR 340-093-0070(3)(e) is to demonstrate that the proposed facility will be located in a suitable site and will use appropriate technology in design, construction and operation. The site characterization report(s) must describe existing site conditions and a conceptual engineering proposal in sufficient detail to determine whether the facility is feasible and protects the environment. Except as provided in OAR 340-093-0070(4), the site characterization report(s) must include, but not be limited to, the following:

(1) Information on site location and existing site conditions, including:

(a) A site location description, including a location map and list of adjacent landowners;

(b) An Existing Conditions Map of the area showing land use and zoning within 1/4 mile of the disposal site; and

(c) Identification of any siting limitations and how those limitations will be addressed.

(2) A description of the scope, magnitude, type, and purpose of the proposed facility, including but not limited to the following:

(a) Estimated capacity and projected life of the site;

- (b) Identification of the communities, industries and/or markets to be served;
 - (c) Anticipated types and quantities of solid wastes to be received, disposed of and/or processed by the facility;
 - (d) Summary of general design criteria and submittal of conceptual engineering plans;
 - (e) Description of how the proposed technology compares to current technological practices, or to similar proven technology, including references to where similar technology has been effectively implemented;
 - (f) Demonstration that the proposed facility is compatible with the local solid waste management plan and the state solid waste management plan;
 - (g) Planned future use of the disposal site after closure;
 - (h) Key assumptions used to calculate the economic viability of the proposed facility; and
 - (i) The public involvement process that has been and will be implemented.
- (3) A proposal for protection and conservation of the air, water and land environment surrounding the disposal site, including control and/or treatment of leachate, methane gas, litter and vectors, and control of other discharges, emissions and activities which may result in a public health hazard, a public nuisance or environmental degradation.
- (4) For a landfill, the following must be included:
- (a) A detailed soils, geologic, and groundwater report of the site prepared and stamped by a professional Engineer, Geologist or Engineering Geologist with current Oregon registration. The report must include consideration of surface features, geologic formations, soil boring data, water table profile, direction of groundwater flow, background quality of water resources in the anticipated zone of influence of the landfill, need and availability of cover material, climate, average rates of precipitation, evapotranspiration, runoff, and infiltration (preliminary water balance calculations);
 - (b) Information on soil borings to a minimum depth of 20 feet below the deepest proposed excavation and lowest elevation of the site or to the permanent groundwater table if encountered within 20 feet. A minimum of one boring per representative landform at the site and an overall minimum of one boring per each ten acres must be provided. Soil boring data must include the location, depth, surface elevation and water level measurements of all borings, the textural classification (Unified Soil Classification System), permeability and cation exchange capacity of the subsurface materials and a preliminary soil balance;
 - (c) For all water wells located within the anticipated zone of influence of the disposal site, the depth, static level and current use must be identified;

(d) Background groundwater quality must be determined by laboratory analysis and must include at least each of the constituents specified by the department.

(5) Any other information the department may deem necessary to determine whether the proposed disposal site is feasible and will comply with all applicable rules of the department.

Stat. Auth.: ORS 459

Stats. Implemented: ORS 459.015 & 459.205(1)

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 26-1981, f. & ef. 9-8-81; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0030; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 6-2009, f. & cert. ef. 9-14-09

340-093-0140

Detailed Plans and Specifications Required

Except as provided in OAR 340-093-0070(4):

(1) Any person applying for a Solid Waste Disposal Permit must submit plans and specifications conforming with current technological practices, and sufficiently detailed and complete so that the department may evaluate all relevant criteria before issuing a permit. The plans and specifications must follow the organizational format, and include the level of information detail, as required by the department. The department may refuse to accept plans and specifications that are incomplete and may request such additional information as it deems necessary to determine that the proposed disposal site and site operation will comply with all pertinent rules of the department.

(2) Engineering plans and specifications submitted to the department must be prepared and stamped by a professional engineer with current Oregon registration.

(3) If in the course of facility construction any person desires to deviate significantly from the approved plans, the permittee must submit a detailed description of the proposed change to the department for review and approval prior to implementation. If the department deems it necessary, a permit modification must be initiated to incorporate the proposed change.

Stat. Auth.: ORS 459

Stats. Implemented: ORS 459.015 & 459.205(1) Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 26-1981, f. & ef. 9-8-81; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0035; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 6-2009, f. & cert. ef. 9-14-09

340-093-0150

Construction Certification

Except as provided in OAR 340-093-0070(4):

(1) The department may require, upon completion of major or critical construction at a disposal site, that the permittee submit to the department a final project report signed by the project engineer or manager as appropriate. The report must certify that construction has been completed in accordance with the approved plans including any approved amendments thereto.

(2) If any major or critical construction has been scheduled in the plans for phase development subsequent to the initial operation, the department may require that the permittee submit additional certification for each phase when construction of that phase is completed.

(3) Solid waste may not be disposed of in any new waste management unit (such as a landfill cell) of a land disposal site unless/until the permittee has received prior written approval from the department of the required engineering design, construction, Construction Quality Assurance, operations, and monitoring plans. Only after the department has accepted a construction certification report prepared by an independent party, certifying to the department that the unit was constructed in accordance with the approved plans, may waste be placed in the unit. If the department does not respond to a certified construction certification report within 30 days of its receipt, the permittee may proceed to use the unit for disposal of the intended solid waste.

Stat. Auth.: ORS 459.045, 459A.025 & 468.020

Stats. Implemented: ORS 459.015 & 459.205 - 459.245

Hist.: DEQ 26-1981, f. & ef. 9-8-81; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0036; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 27-1998, f. & cert. ef. 11-13-98; DEQ 6-2009, f. & cert. ef. 9-14-09

340-093-0160

Place for Collecting Recyclable Material

(1) All solid waste permittees shall ensure that a place for collecting source separated recyclable material is provided for every person whose solid waste enters the disposal site. The place for collecting recyclable material shall be located either at the disposal site or at another location more convenient to the population served by the disposal site.

(2) Any disposal site that identifies a more convenient location for the collection of recyclable materials as part of providing the opportunity to recycle shall provide information to users of the disposal site about the location of the recycling collection site, what recyclable materials are accepted and hours of operation.

(3) Exemption. Any disposal site meeting one of the following criteria is not required to provide a place for collecting source separated recyclable material:

(a) Receives only feedstocks for composting; or

(b) Does not receive source separated recyclable material; or

(c) Does not receive solid waste containing recyclable material.

(4) Small Rural Sites. Any disposal site from which marketing of recyclable material is impracticable due to the amount or type of recyclable material received or geographic location shall provide information to the users of the disposal site about the opportunity to recycle at another location serving the watershed. Such information shall include the location of the recycling opportunity, what recyclable materials are accepted and hours of operation.

(5) The Department may modify the requirements in this rule if the Department finds that the opportunity to recycle is being provided through an acceptable alternative method.

Stat. Auth.: ORS 459.045, ORS 459A.100 - ORS 459A.120 & ORS 468.020

Stats. Implemented: ORS 459.250

Hist.: DEQ 26-1981, f. & ef. 9-8-81; DEQ 26-1984, f. & ef. 12-26-84; DEQ 31-1992, f. & cert. ef. 12-18-92 (and corrected 1-5-93); DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-060-0065; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 17-1997, f. & cert. ef. 8-14-97

340-093-0170

Cleanup Materials Contaminated with Hazardous Substances

(1) Applicability:

(a) For the purposes of this rule, "cleanup materials contaminated by hazardous substances" such as petroleum contaminated soils include only those materials which are not hazardous wastes as defined by ORS 466.005;

(b) This rule applies to cleanup materials contaminated with hazardous substances when such materials are removed from the site of contamination for treatment and/or disposal elsewhere. It does not apply to activities governed under ORS Chapters 465 or 466.

(2) Management "hierarchy." Preferred management options for cleanup materials contaminated by hazardous substances are as follows:

(a) First, use of alternative or resource recovery technologies where cross media effects are well controlled, such as thermal desorption;

(b) Use of alternative technologies where cross media effects are less easily controlled, such as biological treatment of petroleum contaminated soils (bioremediation);

(c) Disposal at a permitted landfill using best management practices;

(d) If subsection (c) of this section is clearly impractical, or if local needs require disposal at a facility without a liner and leachate collection system, disposal at another permitted landfill pursuant to subsection (3)(d) of this rule may be authorized by the Department.

(3) Landfill disposal:

(a) For the purpose of this rule, best management practices shall be defined as a landfill meeting the design criteria in **40 CFR 258, Subpart D**, or an alternate design approved by the Department with a bottom lining system which performs equivalent to a composite liner consisting of a 60 mil thickness geomembrane component and two feet of soil achieving a maximum saturated hydraulic conductivity of 1×10^{-6} centimeters per second; and a leachate collection and treatment system designed to maintain a leachate head of one foot or less;

(b) The land and facilities used for disposal, treatment, transfer, or resource recovery of cleanup material contaminated by hazardous substances, unless that activity is otherwise regulated by the Department, shall be defined as a disposal site under ORS 459.005 and shall be subject to the requirements of OAR Chapter 340, Divisions 93 through 97, including permit requirements;

(c) Cleanup materials contaminated by hazardous substances may be landfilled only in solid waste landfills authorized by the Department to receive this type of material;

(d) To protect groundwater, the Department may authorize an owner or operator of a landfill to receive cleanup materials contaminated by hazardous substances if the following criteria are met:

(A) The landfill uses "best management practices" as defined in this rule;

(B) A Special Waste Management Plan for the facility pursuant to OAR 340-094-0040(11)(b)(J) or 340-095-0020(3)(j) is approved by the Department which specifically addresses the management of the cleanup materials and requires, at a minimum, the following practices:

(I) The owner or operator of the landfill maintains for the facility a copy of the analytical results of one or more representative composite samples from the contaminated materials received for disposal;

(ii) The owner or operator maintains for the facility a record of the source, types, and volumes of the contaminated materials received for disposal, and reports the sources, types, and volumes received to the Department in a quarterly waste report;

(iii) Petroleum-contaminated soils, whenever possible, are incorporated into the daily cover material unless such practice would increase risks to public health or the environment; and

(iv) Any other requirements which the Department determines are necessary to protect public health and the environment.

(e) The Department may authorize an owner or operator of a landfill to receive cleanup materials contaminated by hazardous substances for disposal at a landfill which does not meet the requirements of subsection (d) of this section if:

(A) The landfill accepts less than 1,000 tons or five percent of the total volume of waste received, whichever is less, per year of cleanup material contaminated by hazardous substances;
or

(B) The cleanup materials contain concentrations of hazardous substances which do not exceed the cleanup levels approved by the Department for the site from which the materials were removed; or

(C) The Department determines that the total concentrations and the hazardous characteristics of the hazardous substances in the cleanup materials will not present a threat to public health or the environment at the disposal facility, after considering the following factors:

(i) The compatibility of the contaminated materials with the volumes and characteristics of other wastes in the landfill;

(ii) The adequacy of barriers to prevent release of hazardous constituents to the environment, including air, ground and surface water, soils, and direct contact;

(iii) The populations or sensitive areas, such as aquifers, wetlands, or endangered species, potentially threatened by release of the hazardous substances;

(iv) The demonstrated ability of the owner or operator of the facility to properly manage the wastes;

(v) Relevant state and federal policies, guidelines and standards; and

(vi) The availability of treatment and disposal alternatives.

(4) Procedures: A landfill owner or operator who wants to receive cleanup materials contaminated with hazardous substances shall apply to the Department for Hazardous Substance Authorization, including a Special Waste Management Plan for the materials to be received.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 459.045, ORS 459A.100 - ORS 459A.120 & ORS 468.020

Stats. Implemented: ORS 459.205 & ORS 459.235

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 30-1988(Temp), f. & cert. ef. 11-17-88; DEQ 6-1989, f. 4-24-89, cert. ef. 5-4-89; DEQ 14-1990, f. & cert. ef. 3-22-90; DEQ 24-1990, f. & cert. ef. 7-6-90; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0060; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 9-1996, f. & cert. ef. 7-10-96

340-093-0190

Wastes Requiring Special Management

(1) The following wastes require special handling or management practices, and shall not be deposited at a solid waste disposal site unless special provisions for such disposal are included in a Special Waste Management Plan pursuant to OAR 340-094-0040(11)(b)(J) or 340-095-0020(3)(j), or their disposal is otherwise approved by the Department:

(a) Agricultural Wastes. Residues from agricultural practices shall be recycled, utilized for productive purposes or disposed of in a manner not to cause vector creation or sustenance, air or water pollution, public health hazards, odors, or nuisance conditions;

(b) Construction and Demolition Materials. Due to the unusually combustible nature of construction and demolition materials, construction and demolition landfills or landfills incorporating large quantities of combustible materials shall be designed and operated to prevent fires and the spread of fires, in accordance with engineering or operations plans required by OAR Chapter 340, Divisions 93 through 96. Equipment shall be provided of sufficient size and design to densely compact the material to be included in the landfill;

(c) Oil Wastes. More than 25 gallons of petroleum-bearing wastes such as used oil filters, oil-absorbent materials, suspended solids that have settled to the bottom of the tank (tank bottoms) or oil sludges shall not be placed in any disposal site unless all recoverable liquid oils are removed and special provisions for handling and other special precautions are included in the facility's approved plans and specifications and operations plan to prevent fires and pollution of surface or groundwaters. See also OAR 340-093-0040(3)(a), Prohibited Disposal;

(d) Infectious Wastes. All infectious wastes must be managed in accordance with ORS 459.386 to 459.405:

(A) Pathological wastes shall be treated by incineration in an incinerator which complies with the requirements of OAR 340-025-0850 to 340-025-0905 unless the Department determines:

(i) The disposal cost for incineration of pathological wastes generated within the individual watershed exceeds the average cost by 25 percent for all incinerators within the State of Oregon which comply with the requirements of OAR 340-025-0850 to 340-025-0905; or the generator is unable to contract with any incinerator facility within the State of Oregon due to lack of incinerator processing capacity; and

(ii) The State Health Division of the Oregon Department of Human Resources has prescribed by rule requirements for sterilizing "cultures and stocks," and this alternative means of treatment of the pathological waste is available.

(B) Sharps. Sharps may be treated by placing them in a leak-proof, rigid, puncture-resistant, red container that is taped closed or tightly lidded to prevent loss of the contents. Sharps contained within containers which meet these specifications may be disposed of in a permitted municipal solid waste landfill without further treatment if they are placed in a segregated area of the landfill;

(C) Medical Waste. Medical waste other than infectious waste as defined by ORS 459.386 or hazardous wastes as defined by ORS 466.055 may be disposed of without special treatment in municipal solid waste landfills permitted by the Department if such disposal is not prohibited in the permit.

(e) Asbestos. Wastes containing asbestos shall be disposed of pursuant to OAR 340-032-0100 through 340-032-0120 and 340-032-5590 through 340-032-5650;

(f) Abrasive Blast Media Containing Pesticides. Waste described in OAR 340-101-0040(1) may be disposed of at a solid waste landfill if the site meets the design criteria of **40 CFR 258.40** for new municipal solid wastes landfill units;

(g) Pesticide Treated Wood. Waste described in OAR 340-101-0040(2) may be disposed of at a solid waste landfill if the site meets the design criteria of **40 CFR 258.40** for new municipal solid waste landfill units.

(2) Incinerator ash. Ash from domestic energy recovery facilities and from domestic solid waste incinerator disposal sites shall be disposed of at an ash monofill permitted by the Department. Such a monofill must meet standards in **40 CFR 258** and OAR Chapter 340, Division 94.

(3) Polychlorinated Biphenyls (PCBs). Wastes containing polychlorinated biphenyls shall be disposed of pursuant to OAR Chapter 340, Division 110.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 459.045, ORS 459.046, ORS 459A.025 & ORS 468.020

Stats. Implemented: ORS 459.015, ORS 459.205 – ORS 459.245 & ORS 459.411 – ORS 459.405

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 30-1988(Temp), f. & cert. ef. 11-17-88; DEQ 6-1989, f. 4-24-89, cert. ef. 5-4-89; DEQ 14-1990, f. & cert. ef. 3-22-90; DEQ 24-1990, f. & cert. ef. 7-6-90; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0060; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 10-1994, f. & cert. ef. 5-4-94; Administrative correction 10-27-97; DEQ 27-1998, f. & cert. ef. 11-13-98

340-093-0210

Storage and Collection

(1) General Requirements. Storage and collection of solid waste shall be conducted in a manner to prevent:

(a) Vector production and sustenance;

(b) Conditions for transmission of diseases to man or animals;

(c) Hazards to service or disposal workers or to the public;

(d) Air pollution;

(e) Water pollution or allow escape of solid wastes or contaminated water to public waters;

(f) Objectionable odors, dust, unsightliness, aesthetically objectionable conditions or other nuisance conditions.

(2) Containers and Storage Areas:

(a) Standard Garbage Containers. Individual containers for manual pickup shall have a tight-fitting lid or cover, handle holds or bales and be in good condition;

(b) Storage Bins and Storage Vehicles:

(A) Storage bins shall be watertight and storage vehicles shall be operated in such manner to minimize leakage or spillage. Bins and vehicles shall have tight lids and covers that may be easily opened for intended use and shall have suitable fittings to facilitate removal or emptying;

(B) Containers, storage bins or storage vehicles shall be readily washable or have liners of paper, plastic or similar materials, or both.

(c) Storage Area:

(A) Storage houses, rooms or areas shall be of rodent proof construction which is readily cleanable with proper drainage;

(B) Storage rooms or buildings, if not refrigerated, shall be adequately vented and all openings shall be screened.

(d) Unconfined Waste. Unless special service or special equipment is provided by the collector for handling unconfined waste, materials such as rubbish and refuse, brush, leaves, tree cuttings, and other debris for manual pickup and collection shall be in securely tied bundles or in boxes, sacks, or other receptacles and solid waste so bundled shall not exceed 60 pounds in weight.

(3) Removal Frequency. Putrescible solid waste shall be removed from the premises at regular intervals. All solid waste shall be removed at regular intervals so as not to create the conditions cited in section (1) of this rule.

(4) Cleaning of Storage Area. Areas around storage containers shall be cleaned regularly so as not to create the conditions cited in section (1) of this rule.

(5) Storage of Specified Wastes:

(a) Industrial Solid Wastes. Storage of industrial solid wastes shall be in accordance with these rules. Open storage areas shall not be closer than 100 feet horizontal distance from the normal highwater mark of any public waters unless special provision is made which prevents wastes, or drainage therefrom, from entering public waters;

(b) Agricultural Wastes. Storage of agricultural wastes shall not create vector production or sustenance, conditions for transmission of diseases to man or animals, water or air pollution and

shall be in a manner to reduce and minimize objectionable odors, unsightliness, aesthetically objectionable and other nuisance conditions;

(c) Hazardous Wastes. Containers for hazardous wastes shall be marked to designate the content as toxic, explosive, or otherwise hazardous in a manner designed to give adequate protection to the collector and storage site operator and consistent with **40 CFR, Part 262**;

(d) Asbestos. Wastes containing asbestos shall be stored and handled pursuant to OAR 340-025-0450 through 340-025-0469;

(e) Polychlorinated Biphenyls (PCBs). Wastes containing polychlorinated biphenyls shall be stored and handled pursuant to OAR Chapter 340, Division 110.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 459.005 - ORS 459.418 & ORS 459A.100 - ORS 459A.120

Stats. Implemented: ORS 459.388, ORS 459.415, ORS 459.715 & ORS 459.720

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0070

340-093-0220

Transportation

(1) Collection and Transfer Vehicles Construction and Operation:

(a) Solid waste collection and transfer vehicles and devices shall be constructed, loaded and operated so as to prevent dropping, leaking, sifting, or blowing or other escapement of solid waste from the vehicle;

(b) Collection and transfer vehicles and devices carrying loads which are likely to blow or fall shall have a cover which is either an integral part of the vehicle or device or which is a separate cover of suitable materials with fasteners designed to secure all sides of the cover to the vehicle or device and shall be used while in transit.

(2) Cleaning Collection Vehicles. Collection and transfer vehicles or other devices used in transporting solid waste shall be cleanable and shall be cleaned at regular intervals as necessary to prevent odors, insects, rodents, or other nuisance conditions.

(3) Waste Water. Waste water from the cleaning process of containers of non-hazardous waste shall be disposed of in a manner approved by the Department or state or local health department having jurisdiction.

Stat. Auth.: ORS 459.005 - ORS 459.418 & ORS 459A.100 - ORS 459A.120

Stats. Implemented: ORS 459.405 & ORS 459.712

Hist.: DEQ 41, f. 4-5-72, ef. 4-15-72; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0075

340-093-0250

Landfill Siting: Request for DEQ Assistance

(1) A city or county responsible for implementing a Department approved Solid Waste Management Plan which identifies the need for a landfill may request assistance from the Department in establishing a landfill under ORS 459.047.

(2) Applications for requests for assistance in siting landfills under ORS 459.047 shall be in the form of a letter signed by the governing body of the city or county with attachments as necessary to fully describe the need and justification for the request, need for the site as outlined in the Department approved Solid Waste Management Plan and types of assistance required.

(3) When the request for assistance includes Department siting of the landfill under ORS 459.047, exhibits and information shall be submitted which document the following:

(a) The local government has an adopted, Department approved Solid Waste Management Plan which identifies the need for a landfill;

(b) The local government has reevaluated the plan in consultation with the Department and has confirmed that siting a landfill in the immediate future is still needed;

(c) An explanation of why the local government is unable to proceed successfully to site the landfill, including a discussion of progress to date and the obstacles to be overcome;

(d) All pertinent reports, plans, documents and records relative to the siting process to date will be made available to the Department at the Department's request;

(e) The local government has carried out a process for landfill siting (with technical assistance from the Department if requested) including a minimum of the following:

(A) Alternative sites have been reviewed and ranked as to adequacy and probable acceptability based upon locally developed criteria and applicable laws and regulations;

(B) Information has been gathered on at least the top ranked site sufficient to satisfy the requirements of the "site characterization report(s)" provided for in OAR 340-093-0130. Certain requirements of the "site characterization report(s)" may be waived, for the purpose of this section, by the Department upon a demonstration of prohibitive cost or legal constraint;

(C) A public participation process, including the use of a citizens advisory committee or other approach which provides for public access, review and input has been carried out in the siting process.

(4) The Department shall give reasonable public notice of each such request, including the prompt publication of a summary of such request in the Secretary of State's Bulletin.

(5) Requests for siting under ORS 459.047 will be reviewed by the Commission and written findings as to the acceptability of the process under subsection (3)(e) of this rule will be prepared. Should the process be found incomplete, the Commission may request the Department or the local government to complete the process.

(6) Landfill siting in Marion, Polk, Clackamas, Washington or Multnomah Counties under ORS 459.049:

(a) Public comment to determine need. Prior to the Commission making a determination of need for any landfill site under ORS 459.049, the Department shall give prior reasonable public notice of, and hold a public informational hearing on, the need for the landfill site;

(b) Public hearing in area affected by proposed site. Prior to siting a landfill under ORS 459.049, the Department shall give prior reasonable public notice of and hold a public informational hearing in the area affected by the proposed site.

Stat. Auth.: ORS 459

Stats. Implemented: ORS 459.017, ORS 459.035 & ORS 459.047

Hist.: DEQ 25-1980, f. & ef. 10-2-80; DEQ 30-1980, f. & ef. 11-10-80; DEQ 2-1984, f. & ef. 1-16-84; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0021, 340-061-0022 & 340-061-0023; DEQ 10-1994, f. & cert. ef. 5-4-94

340-093-0260

Beneficial Use of Solid Waste

OAR 340-093-0260 through 340-093-0290 establishes criteria and procedures for determining when use of a solid waste is a beneficial use. The wastes and associated uses listed in OAR 340-093-0270 are approved as standing beneficial uses. The department may approve other proposed uses of solid waste as case-specific beneficial use determinations in accordance with the procedures in OAR 340-093-0280 and OAR 340-093-0290.

(1) The following are not subject to OAR 340-093-0260 through 340-093-0290:

(a) Materials managed at a permitted solid waste or hazardous waste disposal site;

(b) Uses of materials at sites exempt by rule from solid waste permitting requirements; and

(c) Recycling of a recyclable material under the Recycling and Waste Reduction Rules, OAR chapter 340, divisions 90 and 91.

(2) In making case-specific beneficial use determinations under OAR 340-093-0290, the department will consider the policy and waste management hierarchy in ORS 459.015(2)(a).

(3) A material managed in accordance with a standing beneficial use determination under OAR 340-093-0270 or a case-specific beneficial use determination under OAR 340-093-0280 and OAR 340-093-0290 is not regulated as solid waste.

(4) The department may review solid waste uses authorized before the effective date of this rule and may require the recipient of a prior authorization to apply for and obtain a case-specific beneficial use determination to continue implementing the earlier approved use, if the use is not a standing beneficial use under OAR 340-093-0270.

(5) OAR 340-093-0260 through OAR 340-093-0290 do not supersede any city or county authority under ORS chapter 268, 459, or 459A.

Stat. Auth.: ORS 459.045, 459.215, 459.235, 459.A025 & 468.065

Stats. Implemented: ORS 459.045, ORS 459.215 & 459.235

340-093-0270

Standing Beneficial Use Determinations

A person may manage solid waste in accordance with a standing beneficial use determination listed in section (5) of this rule without contacting the department for approval as long as that person complies with the requirements of this rule.

(1) A person managing material as a standing beneficial use must:

(a) Manage the material until the time it is used, including any storage, transportation, or processing, to prevent releases to the environment or nuisance conditions;

(b) Use the material in accordance with applicable engineering standards, commercial standards, and agricultural or horticultural practices;

(c) Ensure that hazardous substances in the material:

(i) Do not significantly exceed the concentration in a comparable raw material or commercial product; or

(ii) Will not exceed acceptable risk levels including evaluation of persistence and potential bioaccumulation, or naturally occurring background concentrations, whichever is higher, when the material is managed in accordance with a beneficial use determination;

(d) Ensure that the use will not result in the increase of a hazardous substance in a sensitive environment; and

(e) Use the material in compliance with applicable federal, state, and local regulations.

(2) A person who supplies a material to another person for a beneficial use must provide information to the recipient of the material through written materials, labeling, or other means that identifies the type of material, whether it contains hazardous substances, the approved beneficial uses, and any conditions that apply under this rule.

(3) At the request of the department, a person managing a material in accordance with a standing beneficial use determination must provide information sufficient to demonstrate that the material and use comply with this rule.

(4) Where a report is listed as a condition on use in section (5) of this rule, a person using that material must submit a report to the department for any material managed within a calendar year. The report must include: material characterization, concentrations of hazardous substances, the beneficial use, volume used, and location if land applied at a specific property.

(5) Standing beneficial use determinations:

<u>Material</u>	<u>Beneficial Use</u>	<u>Conditions on Use</u>
<u>(a) Asphalt paving or asphalt grindings from road projects</u>	<u>As aggregate in new asphalt pavement or as fill within road prisms</u>	<u>Asphalt grindings must be compacted when used within road prisms</u>
<u>(b) Asphalt shingle waste from roof tear-offs and manufacturer scrap</u>	<u>As aggregate in asphalt mixtures</u>	<u>The waste does not contain asbestos or other non-asphalt shingle materials from roof tear-offs, such as nails, metal flashing, paper, or wood waste</u>
<u>(c) Dredged sediment approved by the department's water quality program for unconfined in-water placement based on chemical screening</u>	<u>Non-residential construction fill, surcharge, utility trench fill, or roadbase; habitat improvement, beach nourishment or other similar uses</u>	<u>A person using the material must submit a report to the department in accordance with section (4) of this rule</u>
<u>(d) Dredged sediment not approved by the department's water quality program for in-water placement</u>	<u>Non-residential construction fill, utility trench fill, or roadbase</u>	<u>Concentrations of hazardous substances are below the higher of department-approved human health occupational risk-based screening levels or naturally occurring background; placed where it will not adversely impact waters of the State due to leaching; covered in a manner that minimizes exposure to ecological receptors; and a person using the material must submit a report to the department in accordance with section (4) of this rule</u>
<u>(e) Foundry sand produced by iron, steel, or aluminum foundries</u>	<u>As aggregate in asphalt mixtures, concrete, Portland cement, or masonry mortar</u>	<u>None specified beyond the requirements of this rule</u>
<u>(f) Foundry sand</u>	<u>Non-residential</u>	<u>Concentrations of hazardous substances are below</u>

<u>produced by iron, steel, or aluminum foundries</u>	<u>construction fill, utility trench fill, or roadbase</u>	<u>the higher of department-approved human health occupational risk-based screening levels or naturally occurring background; placed where it will not adversely impact waters of the State due to leaching; and covered in a manner that minimizes exposure to ecological receptors</u>
<u>(g) Log and mill yard fines consisting of wood fiber, bark, soil, and gravel</u>	<u>Soil amendments or landscape products</u>	<u>Must not be used in thicknesses that act as a substitute for clean fill, including uses as soil berms</u>
<u>(h) Soil from cleanup sites</u>	<u>Non-residential construction fill, utility trench fill, or roadbase</u>	<u>Concentrations of hazardous substances are below the higher of department-approved human health occupational risk-based screening levels or naturally occurring background; placed where it will not adversely impact waters of the State due to leaching; covered in a manner that minimizes exposure to ecological receptors; and the use is approved through department cleanup or tanks program oversight</u>
<u>(i) Soil from cleanup sites</u>	<u>As aggregate in asphalt mixtures, concrete, Portland cement, or masonry mortar</u>	<u>Concentrations of hazardous substances are below the higher of department-approved human health occupational risk-based screening levels or naturally occurring background; and the use is approved through department cleanup or tanks program oversight</u>
<u>(j) Soil from petroleum cleanup sites</u>	<u>As aggregate in asphalt mixtures</u>	<u>Petroleum contamination from releases of heating oil or motor fuel only</u>
<u>(k) Steel slag</u>	<u>As aggregate in asphalt mixtures, concrete, or Portland cement</u>	<u>None specified beyond the requirements of this rule</u>
<u>(l) Street sweeping fines</u>	<u>Spill response absorbent</u>	<u>After use a hazardous waste determination must be conducted and the material disposed at an appropriate permitted disposal site</u>
<u>(m) Street sweeping sand from winter storm applications</u>	<u>Road sanding</u>	<u>Swept up within 6 months of a application; and the sand must be separated from street sweepings by screening</u>
<u>(n) Wood-derived bottom ash, including rock, sand, dirt, and fused wood ash, from wood and wood waste fired boilers</u>	<u>As aggregate in asphalt mixtures, concrete, or Portland cement</u>	<u>None specified beyond the requirements of this rule</u>
<u>(o) Wood waste and chemically treated or contaminated wood</u>	<u>As wood fuel for steam production, electricity generation, process heat,</u>	<u>None specified beyond the requirements of this rule</u>

<u>materials containing glue, preservatives, paint, or petroleum</u>	<u>or facility heating</u>	
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Stat. Auth.: ORS 459.045, 459.215, 459.235, 459.A025 & 468.065

Stats. Implemented: ORS 459.045, ORS 459.215 & 459.235

340-093-0280

Case-Specific Beneficial Use Performance Criteria

The department may approve a beneficial use of a solid waste that meets the criteria of this rule.

(1) The material and use have been characterized sufficiently to demonstrate compliance with this rule.

(2) The use is productive, including:

(a) There is an identified or reasonably likely use for the material;

(b) The use is a valuable part of a manufacturing process, an effective substitute for a valuable raw material or commercial product, or a use otherwise authorized by the department that does not constitute disposal; and

(c) The use is in accordance with applicable engineering standards, commercial standards, and agricultural or horticultural practices.

(3) The use will not create an adverse impact to public health, safety, welfare, or the environment, including:

(a) The material is not a hazardous waste pursuant to ORS 466.005;

(b) Until the time a material is used in accordance with a beneficial use determination, the material will be managed, including any storage, transportation, or processing, to prevent releases to the environment or nuisance conditions;

(c) Hazardous substances in the material:

(i) Do not significantly exceed the concentration in a comparable raw material or commercial product; or

(ii) Will not exceed acceptable risk levels including evaluation of persistence and potential bioaccumulation, or naturally occurring background concentrations, whichever is higher, when the material is managed in accordance with a beneficial use determination;

(d) The use will not result in the increase of a hazardous substance in a sensitive environment;

(e) The use will not create objectionable odors, dust, unsightliness, fire, or other nuisance conditions; and

(f) The use must comply with applicable federal, state, and local regulations.

Stat. Auth.: ORS 459.045, 459.215, 459.235, 459.A025 & 468.065

Stats. Implemented: ORS 459.045, ORS 459.215 & 459.235

340-093-0290

Case-Specific Review Procedures

Any person may apply to the department for case-specific approval for the beneficial use of a solid waste that is not a standing beneficial use under OAR 340-093-0270. A written application must include the information required under the tier in sections (1), (2), or (3) of this rule that is most appropriate for the level of department review necessary to make a determination.

(1) Tier One, an application for the beneficial use of a material that does not contain hazardous substances significantly exceeding the concentration in a comparable raw material or commercial product and will be used in a manufactured product, must include:

(a) Name, address, and telephone number of the applicant and the generator;

(b) Description of the material, manner of generation, and estimated quantity to be used each year;

(c) A description of the proposed use;

(d) A comparison of the chemical and physical characteristics of the material proposed for use with the material it will replace;

(e) A demonstration of compliance with the performance criteria in OAR 340-093-0280 based on knowledge of the process that generated the material, properties of the finished product, or testing; and

(f) Any other information the department may require to evaluate the proposal.

(2) Tier Two, an application for the beneficial use of a material that contains hazardous substances significantly exceeding the concentration in a comparable raw material or commercial product, or involves application on the land must include:

(a) The information required in section (1) of this rule;

(b) Sampling and analysis that provides chemical, physical, and where appropriate, biological characterization of the material and potential contaminants in the material or the end product if applicable;

(c) A risk screening comparing the concentration of hazardous substances in the material to existing, department approved, risk-based screening level values and demonstrating compliance with acceptable risk levels;

(d) Location or type of land use where the material will be applied, consistent with the risk scenarios used to evaluate risk; and

(e) A description of how the material will be managed to minimize potential adverse impacts to public health, safety, welfare, or the environment.

(3) Tier Three, an application for the beneficial use of a material that requires research, such as a literature review or risk assessment, or for a demonstration project to demonstrate compliance with this rule, must include:

(a) The information required in section (2) of this rule;

(b) A discussion of the justification for the proposal;

(c) The expected length of time that will be required to complete a demonstration; and

(d) The methods proposed to ensure safe and proper management of the material during a demonstration.

(4) Upon receipt of an application, the department:

(a) May request additional information necessary to determine whether the application meets the criteria for approval under this rule, and

(b) Will determine the tier in sections (1), (2), or (3) of this rule that applies to the application and require payment of the associated fee in OAR 340-097-0120 (2)(g).

(5) Upon completing review of the information submitted, the department will:

(a) Notify the applicant in writing that a beneficial use determination has been made including any conditions for the determination;

(b) Deny the request for a case-specific beneficial use determination; or

(c) Authorize a demonstration project for an innovative process or technology that is a proposed beneficial use.

(6) The department will issue demonstration project authorizations for a period of one year to determine whether the proposed use meets the criteria for a beneficial use determination. Within one year, the applicant must submit a progress report to the department. Upon completing review of the report, the department will:

(i) Issue a case-specific beneficial use determination for the proposed use;

(ii) Extend the demonstration authorization for up to an additional year; or

(iii) Deny the request for a beneficial use determination if the proposed use is not likely to meet the criteria for a beneficial use determination within an additional one-year period.

(7) At the request of the department, a person managing material under this rule must:

(a) Submit a material management plan that specifies pre-use management requirements for department review and approval;

(b) Document the current and reasonably likely future land use, where the beneficial use involves land application at a specific location;

(c) Allow the department at any reasonable time to inspect the location where the material is stored, used, or otherwise located to ensure compliance with this rule;

(d) Submit a report that confirms that the material characterization and operating practices continue to comply with the beneficial use as approved.

(8) The department will publish a list of all case-specific beneficial use determinations.

(9) The department may modify or revoke a case-specific beneficial use determination or a demonstration project authorization if it determines that:

(a) The application includes a material misrepresentation or false statement;

(b) The material has not been used in accordance with the performance criteria listed in OAR 340-093-0280 and all specified conditions of approval;

(c) A violation of any statute, rule, order, permit, ordinance, judgment or decree regarding the use has occurred; or

(d) Based on new information or changed conditions, the proposed beneficial use has the potential to cause an adverse impact to public health, safety, welfare, or the environment.

(10) Upon revocation of a case-specific beneficial use determination or a demonstration project authorization, the department will regulate the material as a solid waste in accordance with applicable provisions of ORS 459 and OAR chapter 340 divisions 93 through 97. Failure to manage the material as solid waste in accordance with these provisions is a violation of OAR

chapter 340 divisions 93 through 97 and may be cause for the assessment of civil penalties as provided in OAR chapter 340, division 12 or for any other enforcement action provided by law.

Stat. Auth.: ORS 459.045, 459.215, 459.235, 459.A025 & 468.065

Stats. Implemented: ORS 459.045, ORS 459.215 & 459.235

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