

# DEPARTMENT OF ENVIRONMENTAL QUALITY

## DIVISION 93

### SOLID WASTE: GENERAL PROVISIONS

#### 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 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.

(3) "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.

(4) "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).

(5) "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.

(6) "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.

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

(8) "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.

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

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

(11) "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.

(14) "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.

(15) "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.

(16) "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.

(17) "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.

(18) "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.

(19) "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.

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

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

(22) "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.

(23) "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.

(24) "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.

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

(26) "Corrective Action" means action required by the department to remediate a release of constituents above the levels specified in 40 CFR§258.56 or OAR chapter 340 division 40, whichever is more stringent.

(27) "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.

(28) "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.

(29) "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.

(30) "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.

(31) "Department" means the Department of Environmental Quality.

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

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

(34) "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.

(35) "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.

(36) "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.

(37) "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.

(38) "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.

(39) "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.

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

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

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

(43) "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.

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

(45) "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.

(46) "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.

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

(48) "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.

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

(50) "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.

(51) "Infectious Waste" means biological waste, cultures and stocks, pathological waste, and sharps; as defined in ORS 459.386.

(52) "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.

(53) "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.

(54) "Landfill" means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.

(55) "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.

(56) "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.

(57) "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.

(58) "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.

(59) "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.

(60) "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.

(61) "Medical Waste" means solid waste that is generated as a result of patient diagnosis, treatment, or immunization of human beings or animals.

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

(63) "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.

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

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

(66) "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.

(67) "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.

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

(69) "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.

(70) "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.

(71) "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.

(72) "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.

(73) "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.

(74) "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.

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

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

(77) "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.

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

(79) "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 defined in OAR 340-122-0115(50) of the Hazardous Substance Remedial Action Rules.

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

(82) "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.

(83) "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.

(84) "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.

(85) "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.

(86) "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.

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

(88) "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.

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

(90) "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.

(91) "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.

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

(93) "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.

(94) "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.

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

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

(97) "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.

(98) "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.

(99) "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.

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

(101) "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

### **340-093-0260**

#### **Beneficial Use of Solid Waste**

OAR 340-093-0260 through 340-093-0290 establish criteria and procedures for determining if the use of a solid waste is a beneficial use. OAR 340-093-0270 lists approved standing beneficial uses of solid waste. The Department may approve case-specific beneficial uses of solid waste according to the criteria and procedures in OAR 340-093-0280 and OAR 340-093-0290.

(1) A beneficial use determination is not needed for the:

(a) Disposal of solid waste that is exempt from permit requirements under OAR, chapter 340, divisions 93 or 96; or

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

(2) The Department will review and approve the beneficial use of a solid waste at a permitted solid waste or hazardous waste disposal site through the applicable permit.

(3) The Department may consider the policy and waste management hierarchy in ORS 459.015(2)(a) in making case-specific beneficial use determinations under OAR 340-093-0290.

(4) A solid waste managed according to 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.

(5) 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.

(6) 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 according to a standing beneficial use determination listed in section (5) without contacting the Department's Solid Waste Program for approval if the person complies with the requirements of this rule.

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

(a) Manage the material until the time it is used for its approved beneficial use, including any storage, transportation, or processing, so as to prevent releases to the environment or nuisance conditions;

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

(c) Ensure that hazardous substances in the material meet one of the criteria in this subsection,

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

(ii) Do not exceed naturally occurring background concentrations, or

(iii) Will not exceed acceptable risk levels, including evaluation of persistence and potential bioaccumulation, when managed according to a beneficial use determination;

(d) Ensure the use does 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 solid waste to another person for a beneficial use must provide information to the recipient of the material through written documentation, labeling, or other means that identifies the:

- (a) Type of material;
- (b) Type and concentration of hazardous substances if known;
- (c) Approved beneficial uses; and
- (d) Any conditions that apply under this rule.

(3) At the request of the Department, a person managing a solid waste according to a standing beneficial use determination must provide information sufficient to demonstrate the material and use comply with this rule.

(4) A person beneficially using a solid waste must submit a report to the Department for any material managed within a calendar year for those solid wastes listed in section (5), subsections (c), (d), (f), and (g), which involve the direct land application of solid wastes that contain hazardous substances exceeding clean fill criteria. Reports must include: material characterization, the type and concentration of hazardous substances, the beneficial use, volume used, and location of land application.

(5) Standing beneficial use determinations:

Solid Waste	Beneficial Use	Conditions on Use
(a) Asphalt pavement or asphalt grindings from road projects	As asphalt and aggregate in new asphalt pavement or as fill within road prisms	Asphalt grindings must be compacted when used within road prisms
(b) Asphalt shingle waste from roof tear-offs and manufacturer scrap	As asphalt binder in asphalt mixtures	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
(c) Dredged sediment approved by the department's water quality program for unconfined in-water placement based on chemical screening	Non-residential construction fill, surcharge, utility trench fill, or roadbase; habitat improvement, beach nourishment or other similar uses	A person using the material must submit a report to the Department in accordance with section (4) of this rule
(d) Dredged sediment not approved by the	Non-residential construction fill, utility	Concentrations of hazardous substances are below the higher of Department-approved human health

department's water quality program for in-water placement	trench fill, or roadbase	occupational risk-based screening levels or naturally occurring background; placed where it will not be in contact with or adversely impact waters of the state; 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
(e) Foundry sand produced by iron, steel, or aluminum foundries	As aggregate in asphalt mixtures, concrete, Portland cement, or masonry mortar	None specified beyond the requirements of this rule
(f) Foundry sand produced by iron, steel, or aluminum foundries	Non-residential construction fill, utility trench fill, or roadbase	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 be in contact with or adversely impact waters of the state; 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
(g) Soil from cleanup sites	Non-residential construction fill, utility trench fill, or roadbase	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 be in contact with or adversely impact waters of the state; covered in a manner that minimizes exposure to ecological receptors; the use is approved through Department Cleanup or Tanks Program cost recovery oversight; and a person using the material must submit a report to the Department in accordance with section (4) of this rule
(h) Soil from petroleum cleanup sites	As aggregate in asphalt mixtures	Petroleum contamination from releases of heating oil or motor fuel only
(i) Steel slag	As aggregate in asphalt mixtures, concrete, or Portland cement	None specified beyond the requirements of this rule

(j) Street sweeping fines	Spill response absorbent	After use of the waste a hazardous waste determination must be conducted and the material disposed at an appropriate permitted disposal site
(k) Street sweeping sand from winter storm applications	Road sanding	Swept up within 6 months of application or being re-exposed on the road after snowmelt; and the sand is separated from the street sweepings
(l) Wood-derived bottom ash, boiler rock, or clinkers, including rock, sand, dirt, and fused wood ash, from wood and wood waste fired boilers	As aggregate in asphalt mixtures, concrete, or Portland cement	None specified beyond the requirements of this rule

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 applicant has characterized the solid waste and use 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 that is not speculative;
  - (b) The use is a valuable part of a manufacturing process, an effective substitute for a valuable raw material or commercial product, or otherwise authorized by the Department and 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 under ORS 466.005;

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

(c) Hazardous substances in the material meet one of the criteria in this subsection,

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

(ii) Do not exceed naturally occurring background concentrations, or

(iii) Will not exceed acceptable risk levels, including evaluation of persistence and potential bioaccumulation, when the material is managed according to 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 Beneficial Use 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 solid waste that does not contain hazardous substances significantly exceeding the concentration in a comparable raw material or commercial product and that 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 solid waste 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 solid waste 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)(f).

(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 up to 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 solid waste 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; and

(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 denial or revocation of a case-specific beneficial use determination or a demonstration project authorization, the material is subject to regulation as a solid waste in accordance with applicable provisions of ORS 459 and OAR chapter 340, divisions 93 through 97. In such a case,

failure to comply with these provisions 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

# DEPARTMENT OF ENVIRONMENTAL QUALITY

## DIVISION 97

### SOLID WASTE: PERMIT FEES

**340-097-0120**

#### **Permit/Registration Categories and Fee Schedule**

(1) For purposes of OAR chapter 340, division 97:

(a) A "new facility" means a facility at a location not previously used or permitted, and does not include an expansion to an existing permitted site;

(b) An "off-site industrial facility" means all industrial solid waste disposal sites other than a "captive industrial facility";

(c) A "captive industrial facility" means an industrial solid waste disposal site where the permittee is the owner and operator of the site and is the generator of all the solid waste received at the site.

(2) Application Processing Fee. Except as provided in sections (3), (4), and (5) of this rule with respect to composting facilities, an application processing fee must be submitted with each application for a new facility, including application for preliminary approval pursuant to OAR 340-093-0090. The amount of the fee will depend on the type of facility and the required action as follows:

(a) A new municipal solid waste landfill facility, construction and demolition landfill, incinerator, energy recovery facility, solid waste treatment facility, off-site industrial facility or sludge disposal facility:

(A) Designed to receive over 7,500 tons of solid waste per year: \$10,000;

(B) Designed to receive less than 7,500 tons of solid waste per year: \$5,000.

(b) A new captive industrial facility (other than a transfer station or material recovery facility): \$1,000;

(c) A new transfer station or material recovery facility:

(A) Receiving over 50,000 tons of solid waste per year: \$500;

(B) Receiving between 10,000 and 50,000 tons of solid waste per year: \$200;

(C) Receiving less than 10,000 tons of solid waste per year: \$100.

(d) Letter Authorization (pursuant to OAR 340-093-0060):

(A) New site: \$500;

(B) Renewal: \$500.

(e) Permit Exemption Determination (pursuant to OAR 340-093-0080(2)): \$500.

(f) Beneficial use of solid waste application and reporting fees (pursuant to OAR 340-093-0260 through 340-093-0290):

(A) The review of an annual or other report required under a beneficial use determination: \$250;

(B) A Tier One beneficial use determination: \$1,000;

(C) A Tier Two beneficial use determination: \$2,000;

(D) A Tier Three beneficial use determination: \$5,000;

(E) Annual extension to a demonstration project authorization: \$1,000.

(3) Composting Facility Screening Fee. Every composting facility that is required to comply with OAR 340-096-0080: Screening must pay a screening fee of \$150. The fee must be submitted with the application for screening, as provided in OAR 340-096-0080(1).

(4) Composting Facility Plan Review and Approval Fee. Every composting facility that is required to comply with OAR 340-096-0090: Operations Plan Approval must pay a fee as provided below. The fee must be submitted with the proposed Operations Plan, as provided in OAR 340-096-0090(1). Agricultural composting facilities for which the Oregon Department of Agriculture is providing facility plan review and approval are not required to pay this fee.

(a) For facilities composting over 100 tons and less than or equal to 3,500 tons of feedstocks per year: \$500;

(b) For facilities composting over 3,500 tons and less than or equal to 7,500 of feedstocks tons per year: \$750;

(c) For facilities composting over 7,500 tons and less than or equal to 10,000 tons per year: \$1000;

(d) For facilities composting over 10,000 tons and less than or equal to 50,000 tons per year: \$2,000;

(e) For facilities composting over 50,000 tons per year: \$5,000.

(5) Composting Facility Engineering Review Fee. Every composting facility that requires department review of engineering plans and specifications under OAR 340-096-0130 must pay a fee of \$500. This fee is in addition to the fee required by (4) of this rule. Agricultural composting facilities for which the Oregon Department of Agriculture provides review of engineering plans and specifications are not required to pay this fee.

(6) Solid Waste Permit Compliance Fee. The Commission establishes the following fee schedule including base per-ton rates to be used to determine the solid waste permit compliance fee beginning with fiscal year 1993. The per-ton rates are based on the estimated solid waste to be received at all permitted solid waste disposal sites and on the department's Legislatively Approved Budget. The department will review annually the amount of revenue generated by this fee schedule. To determine the solid waste permit compliance fee, the department may use the base per-ton rates or any lower rates if the rates would generate more revenue than provided in the department's Legislatively Approved Budget. Any increase in the base rates must be fixed by rule by the Commission. (In any case where a facility fits into more than one category, the permittee must pay only the highest fee):

(a) All facilities accepting or permitted to accept solid waste except transfer stations, material recovery facilities and composting facilities:

(A) \$200, if the facility receives less than 1,000 tons of solid waste a year; or

(B) A solid waste permit compliance fee based on the total amount of solid waste received at the facility in the previous calendar quarter or year, as applicable, at the following rate:

(i) All municipal landfills, construction and demolition landfills, off-site industrial facilities, sludge disposal facilities, incinerators and solid waste treatment facilities: \$.21 per ton;

(ii) Captive industrial facilities: \$.21 per ton;

(iii) Energy recovery facilities. \$.13 per ton.

(C) If a disposal site (other than a municipal solid waste facility) is not required by the department to monitor and report volumes of solid waste collected, the solid waste permit compliance fee may be based on the estimated tonnage received in the previous quarter or year.

(b) Transfer stations and material recovery facilities:

(A) Facilities accepting over 50,000 tons of solid waste per year: \$1,000;

(B) Facilities accepting between 10,000 and 50,000 tons of solid waste per year: \$500;

(C) Facilities accepting less than 10,000 tons of solid waste per year: \$50.

(c) Composting facilities with a Composting Permit, except agricultural composting facilities for which the Oregon Department of Agriculture is providing facility oversight:

(A) Utilizing over 50,000 tons of feedstocks for composting per year: \$5,000;

(B) Utilizing over 7,500 and less than or equal to 50,000 tons of feedstocks for composting per year: \$1,000

(C) Utilizing over 3,500 and less than or equal to 7,500 tons of feedstocks for composting per year: \$500.

(D) Utilizing over 100 tons and less than or equal to 3,500 tons of feedstocks for composting per year: \$100.

(d) Closed Disposal Sites:

(A) Year of closure. If a land disposal site stops receiving waste before April 1 of the fiscal year in which the site permanently ceases active operations, the department will determine a pro-rated permit compliance fee for those quarters of the fiscal year not covered by the permit compliance fee paid on solid waste received at the site. The pro-rated fee for the quarters the site was closed shall be based on the calculation in paragraph (B) of this subsection;

(B) Each land disposal site which closes after July 1, 1984: \$150; or the average tonnage of solid waste received in the three most active years of site operation multiplied by \$.025 per ton, whichever is greater; but the maximum permit compliance fee shall not exceed \$2,500.

(7) 1991 Recycling Act permit fee:

(a) A 1991 Recycling Act permit fee must be submitted by each solid waste permittee which received solid waste in the previous calendar quarter or year, as applicable, except transfer stations, material recovery facilities, composting facilities and captive industrial facilities. The Commission establishes the 1991 Recycling Act permit fee as \$.09 per ton for each ton of solid waste received in the subject calendar quarter or year;

(b) The \$.09 per-ton rate is based on the estimated solid waste received at all permitted solid waste disposal sites subject to this fee and on the department's Legislatively Approved Budget. The department will review annually the amount of revenue generated by this rate. To determine the 1991 Recycling Act permit fee, the department may use this rate or any lower rate if the rate would generate more revenue than provided in the department's Legislatively Approved Budget. Any increase in the rate must be fixed by rule by the Commission;

(c) This fee is in addition to any other permit fee and per-ton fee which may be assessed by the department.

(8) Per-ton solid waste disposal fees on domestic solid waste. Each solid waste disposal site that receives domestic solid waste (except transfer stations, material recovery facilities, solid waste treatment facilities and composting facilities), and each person transporting solid waste out of Oregon for disposal at a disposal site that receives domestic solid waste except as excluded under

OAR 340-097-0110(4)(c), must submit to the department the following fees for each ton of domestic solid waste received at the disposal site:

(a) A per-ton fee of 50 cents;

(b) An additional per-ton fee of 31 cents;

(c) Beginning January 1, 1993, an additional per-ton fee of 13 cents for the Orphan Site Account;

(d) Submittal schedule:

(A) These per-ton fees must be submitted to the department quarterly. Quarterly remittals shall be due on the 30th day of the month following the end of the calendar quarter;

(B) Disposal sites receiving less than 1,000 tons of solid waste per year must submit the fees annually on January 31. If the disposal site is not required by the department to monitor and report volumes of solid waste collected, the fees must be accompanied by an estimate of the population served by the disposal site;

(C) For solid waste transported out of state for disposal, the per-ton fees must be paid to the department quarterly. Quarterly remittals are due on the 30th day of the month following the end of the calendar quarter in which the disposal occurred. If the transportation is not on-going, the fee must be paid to the department within 60 days after the disposal occurs.

(e) As used in this rule and in OAR 340-097-0110, the term "domestic solid waste" does not include source separated recyclable material, or material recovered at the disposal site;

(f) Solid waste that is used as daily cover at a landfill in place of virgin soil will not be subject to the per-ton solid waste fees in this section, provided that:

(A) The amount of solid waste used as daily cover does not exceed the amount needed to provide the equivalent of six inches of soil used as daily cover;

(B) If disposed of in Oregon, the solid waste is not being used on a trial basis, but instead has received final approval from the department for use as daily cover; and

(C) If disposed of in a landfill outside of Oregon, the solid waste has received final approval from the appropriate state or local regulatory agency that regulates the landfill.

(g) For solid waste delivered to disposal facilities owned or operated by a Metropolitan Service District, the fees established in this section will be levied on the district, not on the disposal site.

Stat. Auth.: ORS 459.045, 459.235 & 468.065

Stats. Implemented: ORS 459.235, 459.236, 459A.110 & 459A.115

Hist.: DEQ 3-1984, f. & ef. 3-7-84; DEQ 12-1988, f. & cert. ef. 6-14-88; DEQ 14-1990, f. & cert. ef. 3-22-90; DEQ 45-1990, f. & cert. ef. 12-26-90; DEQ 12-1991(Temp), f. & cert. ef. 8-2-

91; DEQ 28-1991, f. & cert. ef. 12-18-91; DEQ 8-1992, f. & cert. ef. 4-30-92; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0120; DEQ 23-1993, f. 12-16-93, cert. ef. 1-1-94; 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 6-2009, f. & cert. ef. 9-14-09