

PERMIT REQUIREMENTS FOR DEVELOPMENT
OF
ENERGY AND OTHER SELECTED NATURAL RESOURCES
FOR THE
STATE OF OREGON

PREPARED FOR
PACIFIC NORTHWEST REGIONAL COMMISSION
AND THE
U.S. GEOLOGICAL SURVEY

BY THE DEARBORN ASSOCIATES, INC.

Statements of opinion and/or recommendations are those of the authors and do not necessarily reflect the official opinion of the Pacific Northwest Regional Commission or the U.S. Geological Survey.

U.S. Geological Survey Open-File Report 81-1276

August 1981

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The statements contained in the Guide do not necessarily reflect the views of the Pacific Northwest Regional Commission. This report is the result of tax-supported research and may be reprinted in part or whole with the customary crediting of the source.

ACKNOWLEDGMENTS

This guide to Oregon's Environmental and Land Use Regulatory Permit Requirements was prepared under the direction of the U.S. Geological Survey (USGS) in cooperation with the Pacific Northwest Regional Commission and the State of Oregon. Funding support for this project was provided by the USGS Environmental Affairs Office. Wilbert J. Ulman and James Frederick of the USGS Resource Planning and Analysis Office (RPAO) served respectively as Program Manager and Project Coordinator during the preparation of this guidebook. Both the RPAO and EAO are under the Office of Earth Sciences Applications (OESA). Arthur D. Johnson acted as Project Coordinator on behalf of the Pacific Northwest Regional Commission's Executive Committee. Pat Amadeo of the Governor's Office served as State Representative and provided valuable technical assistance. The Dearborn Associates, Inc., of Seattle, Washington, was responsible for compiling all available information and producing the final document.

Request for information concerning this publication should be directed to either:

Pat Amadeo
Office of the Governor
160 State Capitol
Salem, Oregon 97310

or

U.S. Geological Survey
Environmental Affairs Office
760 National Center
Reston, Virginia 22092

PUBLICATION AVAILABILITY

This Oregon Permit Guide is available as an USGS Open-File Report #81-1276 from:

U.S. Geological Survey
Open-File Services Section
Branch of Distribution
Denver Federal Center
Box 25425
Denver, Colorado 80225

STATE PERMIT REQUIREMENTS FOR DEVELOPMENT OF
ENERGY AND OTHER SELECTED NATURAL RESOURCES

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December 1981

ACKNOWLEDGEMENTS

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Office of the Governor
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U.S. Geological Survey
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(703) 860-7455

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SECTION 1.0
INTRODUCTION

1.0 INTRODUCTION

This guidebook is one of a series prepared for every State. The purpose of the guidebook is to summarize environmental and land-use permits issued by the State for the development of energy and other natural resources. The guidebook is intended not only for private developers and interest groups, but also for regulatory officials of Federal, State, and local government as well.

All State agencies having jurisdiction over the permits, licenses, and approvals described in this guidebook helped to prepare it, and they reviewed the final draft of each summary for accuracy and completeness. Users of this guidebook should be aware, however, that changes in the laws, rules and regulations, or regulatory personnel since the guidebook was published may cause significant changes in permit requirements.

The guidebook should not be construed as a legal document or a final authority on permits for the State of Oregon: it is not intended to be a comprehensive reference to the specific requirements of each permit, but to provide concise, easy-to-use information on the State regulations that govern the development of such resources. Before attempting to obtain a permit or begin any activity that might require a permit, you should contact the appropriate State agency for further details.

The guidebook is divided into seven sections. Sections 1, 2, and 7 discuss introductory information, consolidated permit programs for the State of Oregon, and local regulatory policies, respectively. The remaining sections discuss permits that apply to Resource Extraction, Land Use Regulation, Environmental Quality Management, and Social/Ecological Preservation. Each section is divided into chapters; each chapter summarizes one permit, license, or approval. Permits administered by a single agency are generally grouped together in each section.

Each permit is discussed in the standard format shown at the end of this section.

The following Oregon programs do not fall into a particular chapter in this guide, but may be of interest to the reader.

POLLUTION TAX CREDIT PROGRAM

The Department of Environmental Quality administers a tax credit program to encourage the construction, installation, and use of facilities to prevent, control, or reduce air, noise, or water pollution and to utilize solid waste, hazardous wastes, and used oil. (Chapter 592, ORS, 1967).

To qualify for this program, applicants must first file for a Preliminary Certification for a Pollution Control Facility. This application must be made prior to construction. (Form number DEQ/TC-1-10/79). This application includes a description of the business, proposed facility, and pollution control or waste utilization equipment, along with types and amounts of pollutants. Statements of land use compatibility from the responsible local planning authority also need to be filed (Form DEQ/TC-12-10/79).

Upon completion of the approved construction, a Pollution Control Facility Application must be obtained from the Department of Environmental Quality (Form DEQ TC-2-10/79). Applicants need to provide an accountant's certification detailing the exact cost of the facilities. The department then issues a Final Certification. Within 60 days from this issuance, the applicant must provide the department with an irrevocable decision as to the type of tax credit they intend to receive, either a credit against income or excise taxes or as an exemption from ad valorem taxation on the pollution control facility. Tax credits can vary from 1 to 5 percent of the cost of the facility, depending on the portion of the total cost allocated to pollution control. The tax credit is approved for a 10-year period, and is administered by the Department of Revenue.

ADMINISTERING AGENCY

Tax Credit Coordinator
Department of Environmental Quality
Yeon Building
P.O. Box 1760
Portland, OR 97207

(503) 229-5696

SPECIAL PERMITS

The Department of Environmental Quality has the discretion to waive its procedural requirements and issue special permits for unexpected or emergency activities, operations, emissions or discharges. These permits cannot be authorized for more than 60 days, and are conditioned to ensure adequate protection of property and preservation of public health, welfare and resources. Applicants for these permits need to write to the department and describe the emergency and proposed activities, operations, emissions, or discharges in detail. (See OAR 340-14-050).

ADMINISTERING AGENCY

Department of Environmental Quality
522 S.W. Fifth Avenue
P.O. Box 1760
Portland, OR 97207

(503) 229-5696

STANDARD FORMAT FOR PERMIT SUMMARY

CHAPTER

TITLE OF ACTIVITY ADDRESSED BY PERMIT, LICENSE OR APPROVAL

INTRODUCTION

Description of administering agency and its role.

A. NAME OF PERMIT OR APPROVAL

Complete name of permit or approval.

B. STATUTORY AUTHORITY

Title of state statute(s) authorizing permit and appropriate legal citation.

C. TITLE OF REGULATION

Title of state regulation(s) which apply to permit.

D. SUMMARY OF PERMIT/APPROVAL PROCESS

Summary of major steps involved in the permit/approval process.

1. APPLICABILITY

Includes all types of activities which require the permit.

2. GENERAL REQUIREMENTS

Conditions which must be met by the project sponsor before a permit can be acquired; does not include Submission or Operation Requirements.

3. SUBMISSION REQUIREMENTS

Types of information which the project sponsor must include in the application for the permit.

4. PROCEDURES FOR OBTAINING PERMIT OR APPROVAL

Includes information on items such as submittal procedures, departmental review investigation, public notification/hearing, preliminary and final decisions, inspections, and processing times.

5. OPERATIONS REQUIREMENTS

Conditions which are established by the regulatory agency following permit approval and which must be met by the project sponsor in order to continue operations.

6. FEES

Costs incurred for obtaining and maintaining the permit.

7. APPEAL PROCESS

Process whereby decisions concerning permit approval/denial that are made by a regulatory agency can be appealed.

E. ADMINISTERING AGENCY

Name, address, and telephone number of the administering agency.

If applicable, the name, address, and telephone number of the counterpart Federal agency.

SECTION 2.0
STATE POLICY AND PROCEDURES
FOR CONSOLIDATED PERMIT PROGRAM

CHAPTER 2.1 ONE-STEP PERMIT AGENCY

INTRODUCTION

The Executive Department offers a Consolidated Permit Center for major projects. Once the application is filed, the State Permit Center will identify a guaranteed list of applicable State regulatory requirements within 30 days. The applicant negotiates individually with the identified agencies. The State Permit Center can initiate an informal meeting among the relevant regulatory agencies to determine a plan of action and tentative schedule for permit acquisition. The law provides for a consolidated public hearing on the project if the applicant desires.

The State Permit Center is also available to provide advice and assistance on all State requirements relating to business licenses, taxing measures, and other State regulatory and administrative actions. This assistance is available to any individual.

The center publishes a booklet describing the State's regulatory requirements. This booklet is available at no cost and can be obtained by writing to the Permit Center.

A. NAME OF PROGRAM

Consolidated Permit Center.

B. AUTHORIZING STATUTE

Plumbing Code; Structural Standards; Permits, ORS 447.800 through 447.990.

C. TITLE OF REGULATION

Prehearing Conferences, OAR Chapter 120-10.

D. APPLICABILITY AND PROCEDURES

1. Projects involving two or more State permits are eligible for the Master Application process. No fees are required.
2. Applicants need to complete a Master Application form, attaching a site diagram, and submit these to the State Permit Center.

3. An informal conference may be held with the applicant to obtain additional details on project scope.
4. Within 30 days, the State Permit Center issues a guaranteed list of necessary State permits.
5. The applicant assumes full responsibility for obtaining the necessary permits from the identified agencies.

E. ADMINISTERING AGENCY

Administrator
State Permit Center
Intergovernmental Relations Division
Executive Department
155 Cottage Street N.E.
Salem, Oregon 97310

(503) 378-3732

2.2 STATE CLEARINGHOUSE

INTRODUCTION

The Intergovernmental Relations Division of the Executive Department serves as the State Clearinghouse for A-95 review.

A. NAME OF PROGRAM

State Clearinghouse.

B. AUTHORIZING STATUTE

None.

C. TITLE OF PROGRAM

A-95 Clearinghouse System.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

State or local agencies, organizations or individuals applying for Federal funds from any source listed in the Catalogue of Federal Domestic Assistance or its quarterly supplement, must notify their local clearinghouse and submit a project application for an A-95 review, before funding. The clearinghouse system works on two levels: State and local. The applicant must send the application simultaneously to the State Office and the Local Clearinghouse with jurisdiction. The State is divided into 14 districts, and there are 13 active local clearinghouses. The local and State clearinghouses make independent reviews.

2. GENERAL REQUIREMENTS

The A-95 review process is designed to allow State and local governments to comment on projects within their geographical and functional area, and assure consistency with State and local policies and comprehensive plans. Federal grants requiring preparation of a State plan must be sent to the State clearinghouse to assure compatibility with other State plans and programs. These plans must be reviewed and signed off by the governor or governor's designee.

3. SUBMISSION REQUIREMENTS

Applicant prepares an A-95 "Notice of Intent Form," (S.F. 424) or a State Notice of Intent Form, containing a brief description of the project, amount of funds requested, area immediately affected by the project, and EIS requirement, if any.

4. PROCEDURES

- a. Application: Form and description need to be submitted to the State and local clearinghouses.
- b. Processing: The clearinghouses have 30 days from receipt of a notice to complete their review, with the possibility of an extension. The State and local clearinghouses send their comments directly to the applicant, and the applicant submits these comments to the funding agency. No fees are required.

E. ADMINISTERING AGENCY

State Clearinghouse
Intergovernmental Relations Division
Executive Department
155 Cottage St. N.E.
Salem, OR 97310

(503) 378-3468

SECTION 3.0
RESOURCE EXTRACTION

CHAPTER 3.1 ENERGY RESOURCES

3.1.1 OIL AND GAS

INTRODUCTION

The Department of Geology and Mineral Industries regulates oil and gas drilling on all lands, including tidal and submerged lands, 3 miles out from the coast. The department also regulates production and abandonment of wells. Land use approval for the operation must be received from the local government. Materials and fluids from the operation must be placed in pits and sumps approved by both this department and the Department of Environmental Quality. Well logs, records, and samples are kept confidential for 2 years.

The Division of State Lands issues leases for oil and gas resources on State land; Individuals interested in obtaining application forms and information should contact that division. For description of prospecting permit requirements, see Chapter 3.2.

A. NAME OF PERMIT

Oil and Gas Drilling.

B. AUTHORIZING STATUTE

Conservation of Gas and Oil, ORS Chapter 520.

C. TITLE OF REGULATION

Department of Geology and Mineral Industries, OAR Chapter 632, Division 10.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Any drilling for oil or gas wells or proposals for drilling or use of wells for underground gas storage.

2. GENERAL REQUIREMENTS

Before drilling, a permit is required. The regulations stipulate drilling and

operation procedures designed to minimize environmental impacts, protect water quality, ensure adequate safety precautions, and minimize waste. The department regulates spacing of wells and can require detailed plans for a group of wells. A surety bond of \$10,000.00 is required for each well or \$50,000.00 for a blanket bond.

3. SUBMISSION REQUIREMENTS

The application form requires location, description, elevation, proposed casing and cementing programs, and geologic objectives.

4. PROCEDURES

a. Application: Completed applications should be submitted to the Department of Geology and Mineral Industries.

b. Review/Investigation: The application is investigated by the department, and also circulated to the natural resource State agencies and the local government. These agencies have 20 days to comment.

c. Public Notification/Hearing: Hearings may be held for proposed exceptions to the spacing rule, if adjacent mineral owners so request.

d. Processing: Decisions on complete applications are made within 30 days.

e. Terms: The proposed operation must occur within 1 year, with the possibility of an extension.

5. OPERATION REQUIREMENTS

Operators need to comply with drilling, operation, and reporting regulations; additional terms and conditions may be imposed. Before abandoning the well, written notice must be given to the department.

6. FEES

Application fee is \$100.00 per each well, with a 1 year renewal at no cost.

7. APPEAL PROCESS

Decisions can be appealed for a rehearing with the governing board within 30 days of the decision.

E. ADMINISTERING AGENCY

Petroleum Engineer
Department of Geology and Mineral Industries
1005 State Office Building
Portland, OR 97201

(503) 229-5580

CHAPTER 3.1 ENERGY RESOURCES

3.1.2 GEOTHERMAL RESOURCES

INTRODUCTION

The Department of Geology and Mineral Industries controls the drilling, redrilling and deepening of wells for the discovery and production of geothermal resources. The department's policy is to prevent resource waste and damage, protect water quality, and encourage the maximum economic recovery.

The Division of State Lands issues leases for geothermal resources on State land; individuals interested in obtaining application forms and information should contact that division.

A. NAME OF PERMIT

Geothermal Drilling Permit.

B. AUTHORIZING STATUTE

Geothermal Resources, ORS Chapter 522.

C. TITLE OF REGULATION

Geothermal Regulations, OAR Chapter 632, Division 20.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Covers all geothermal wells or prospect wells, except those drilled less than 2,000 feet where the geothermal fluids are less than 250° F, or those that are used as a water well.

2. GENERAL REQUIREMENTS

Permits are necessary before prospect wells are drilled, redrilled, or deepened. Bonds of not less than \$5,000.00 for each hole or \$50,000.00 for a blanket bond are required.

3. SUBMISSION REQUIREMENTS

The application form requires description of location, depth estimates, and purpose of the drilling.

4. PROCEDURES

a. Application: Completed applications need to be submitted to the Department of Geology and Mineral Industries.

b. Review/Investigation: Copies of the application are sent to the following State agencies and departments for review and comment: Fish and Wildlife, Water Resources, Environmental Quality, Soil and Water Conservation Commission, Highway Engineer, State Department of Energy, Department of Forestry, Land Conservation and Development, Lands Division. The local government and any geothermal heating district also receives notification.

c. Public Notification/Hearing: None required.

d. Processing: Decisions are made within 30 days for wells, and 15 days for prospect holes.

e. Terms: Drilling, re-drilling, or deepening must begin within 180 days of permit issuance, with one renewal allowed.

5. OPERATION REQUIREMENTS

For wells less than 500 feet deep, there are no drilling requirements, but plugging requirements are issued. Wells over 500 feet require casing to be 10 percent of the total proposed depth, and require blowout prevention equipment. Well records must be maintained and submitted; they remain confidential for 4 years. Before abandoning the well, the applicant must submit a notice of intent and receive approval; a subsequent abandonment report must also be filed.

6. FEES

Permit fees are \$100.00 per geothermal well (deeper than 2,000 ft.) or \$100.00 per program of prospect wells (shallower than 2,000 ft.).

7. APPEAL PROCESS

Appeals can be made to the board of the department within 30 days of a decision.

E. ADMINISTERING AGENCY

Petroleum Engineer
Department of Geology and Mineral Industries
1005 State Office Building
Portland, OR 97201

(503) 229-5580

CHAPTER 3.1 ENERGY RESOURCES

3.1.3 HYDROELECTRIC

INTRODUCTION

Any use of water for hydroelectric power generation requires a permit or license from the Water Resources Department. The water right granted by the license is subject to existing rights and established minimum streamflows, and will also be subject to rights established in the future for certain other beneficial uses. The use of water for power generation is restricted or prohibited in some parts of the State. For hydroelectric projects over 25 megawatts, the application and hearing process is coordinated with the Energy Facility Siting Council.

A. NAME OF PROGRAM

Hydroelectric Power Projects.

B. AUTHORIZING STATUTE

Hydroelectric Power Projects, ORS 543.010 through 543.730 and 543.990.

C. TITLE OF REGULATION

Appropriation and Use of Water for Hydroelectric Power Projects,
OAR 690-50-005 through 60-135.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

All private proposals for hydroelectric projects.

2. GENERAL REQUIREMENTS

Projects are divided into major projects (over 100 theoretical horsepower) and two levels of minor projects (50 theoretical horsepower and less; more than 50 and not more than 100 theoretical horsepower). The department issues preliminary permits (optional in some cases) as well as licenses.

3. SUBMISSION REQUIREMENTS

Information required includes a project description, water quantity needed

and sources, theoretical horsepower, location of points of diversion, heights of diversion and storage dams, and conduit sizes. Major license applications require submission of a project map and detailed plans and specifications which are certified by a registered engineer of Oregon. Major projects require additional documentation. Evidence of necessary right-of-way or easements are required prior to license issuance.

4. PROCEDURES

- a. **Application:** Application for preliminary permits and licenses is made to the department on printed forms.
- b. **Review/Investigation:** Applications are reviewed by the Departments of Fish and Wildlife, Environmental Quality, and Land Conservation and Development.
- c. **Public Notification/Hearing:** Written notification of application is made to municipalities or other parties likely to be interested or affected. Publication of notice once a week for 4 consecutive weeks in county where project is proposed.

Public hearings are required for projects involving more than 100 theoretical horsepower; hearings are discretionary for smaller projects. The director may hold hearings devoted to project construction and operation details.

- d. **Processing:** For projects involving 100 theoretical horsepower or more, a minimum review period of 6 months is mandatory. For projects involving controversy or litigation, processing can take up to 1 year.
- e. **Terms:** Preliminary permits are valid for 2 years, with an extension for 1 year within the department's discretion. Licenses are usually issued for a period of 20 years, but can be issued for a period not to exceed 50 years.

5. OPERATION REQUIREMENTS

The license and permit stipulate construction, operation, and reporting requirements necessary to ensure safety. Periodic inspections may be required.

6. FEES

Filing fees and annual fees are based on theoretical horsepower. Preliminary permit fees are calculated at \$250.00 plus \$.05 per theoretical horsepower at time permit is issued and licenses at \$250.00 plus \$.05 per theoretical horsepower. The annual fee is assessed at \$.20 per theoretical horsepower.

7. APPEAL PROCESS

Appeals heard by the court of appeals.

E. ADMINISTERING AGENCY

Water Resources Director
Water Resources Department
Mill Creek Office Park
555 13th St. N.E.
Salem, OR 97310

(503) 378-3066

CHAPTER 3.2 METALLIFEROUS MINING

3.2.1 PROSPECTING PERMIT

INTRODUCTION

The Division of State Lands requires a prospecting permit for all State-owned lands and mineral rights under the division's jurisdiction. If valuable minerals in commercial quantities are discovered, mining lease applications can be filed, and the division will suspend action on mining lease applications for land or mineral rights within 4 miles of the discovery site. Mineral prospecting permits allow exclusive use of the mineral estate but are not considered a possessing right.

A. NAME OF PERMIT

Prospecting Permit.

B. AUTHORIZING STATUTE

State Lands generally, ORS 273.780(2), 273.551, 517.420.

C. TITLE OF REGULATION

Onshore Minerals Prospecting and Leasing Rules, OAR 141-71-400 through 71-695.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Covers mechanized prospecting on State-owned lands and mineral rights.

2. GENERAL REQUIREMENTS

For mineral permits, a sequential exploration program is required to allow minimal environmental disturbances.

3. SUBMISSION REQUIREMENTS

Area maps need to be attached to the application. Additional material may be requested by the division to supplement the application.

4. PROCEDURES

a. Application: At least 2 copies of the mineral prospecting permit application form must be filed.

- b. **Review/Investigation:** Review of application by Departments of Environmental Quality, Geology and Mineral Industries, Energy, State Fish and Wildlife Commission, Land Conservation and Development Commission, and the State Historic Preservation Office. State agencies have 30 days to comment and may recommend permit conditions. The division may conduct additional investigation it deems necessary.
- c. **Public Notification/Hearing:** None required.
- d. **Processing:** No set time limits; generally, permits are issued in 45 days.
- e. **Terms:** Permits expire 3 years from date of issuance. Renewal for additional 3 years may be approved under certain circumstances.

5. OPERATION REQUIREMENTS

Terms and conditions are specific to each permit and designed to protect the environment. Copies of all exploration data must be filed with the State Geologist within 5 years after performance of the work. Evidence of adequate insurance and bonds are required.

6. FEES

The application fee is \$50.00 for each permit. If the application is rejected, the application fee is returned. The renewal fee is \$.50/acre annually.

7. APPEAL PROCESS

Within 10 days of adverse decision, applicant may request a hearing.

E. ADMINISTERING AGENCY

Permit Supervisor
 Division of State Lands
 1445 State Street
 Salem, OR 97310

(503) 378-3805

CHAPTER 3.2 METALLIFEROUS MINING

3.2.2 MINED LAND RECLAMATION

INTRODUCTION

The Mined Land Reclamation Program of the Department of Geology and Mineral Industries administers the surface mining reclamation laws. Land use approval for the mining site must be obtained by the operator from the local land use authority and may require a conditional use permit.

Applicants for mining projects may need to obtain additional permits from the following state agencies: the Department of Environmental Quality, Division of State Lands, Department of Forestry, and Water Resources Department. The Department of Geology and Mineral Industries coordinates applications for surface mining operating permits with the above and additional State agencies. The Department of Geology and Mineral Industries has Memorandums of Understanding with the Bureau of Land Management and with the United States Forest Service which are intended to minimize duplication in the permitting procedure on Federal or public land.

For projects involving the mining of radioactive energy sources when the mill site is at the same location as the mining site, the Department of Energy serves as the lead agency in processing permit applications. The Department of Geology and Mineral Industries coordinates with the Department of Energy through a Memorandum of Understanding.

A. NAME OF PERMITS

Surface Mining Operating Permit.

Grant of Limited Exemption.

Grant of Total Exemption.

B. AUTHORIZING STATUTE

Reclamation of Mining Lands ORS 517.750 through 517.900 and 517.990 (4).

C. TITLE OF REGULATION

Oregon Administrative Rules, Chapter 632, Division 3: 30-005 through 30-060.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Surface mining projects, except those which occur in the beds or banks of water bodies.

2. GENERAL REQUIREMENTS

Operators need to receive an operating permit. Separate permits are required for each separate mining operation. Requirements for the reclamation plan are detailed in the regulations (632-30-025). Applicants can apply for a total exemption from the requirements for projects involving less than 2,500 cubic yards of materials to be extracted from 1 acre or less within 12 months. Other total exemptions include valley dredging (ORS 517.770 (1)(b1)), mining activity between banks of a stream (ORS 517.750 (12)), on-site construction (ORS 517.750 (12)), and limited exempt sites which are inactive for a year or more. Total exemptions require that an application be completed but do not necessitate a fee, reclamation plan, or bond. Limited exemptions (based upon prior mined status) require an application and yearly fee, but not a reclamation plan or bond. An operating permit with no exemptions requires an application fee, approved reclamation plan, and the posting of a bond or other securities at an amount not to exceed \$500.00 per acre.

3. SUBMISSION REQUIREMENTS

The application form requires the identification of responsible parties, mineral deposit characteristics, site location, and legal description. For projects not qualifying for an exemption, a reclamation plan signed by the operator and by the landowner also needs to be submitted, along with a bond or other security.

4. PROCEDURES

- a. **Application:** Completed applications need to be submitted to the State Department of Geology and Mineral Industries, Mined Land Reclamation Program.
- b. **Review/Investigation:** The department conducts a field investigation. The application, reclamation plan, and a summary of the inspection are circulated to the local land use planning authority, the State's public resource agencies, and to Federal agencies as appropriate.
- c. **Public Notification/Hearing:** Public review occurs on the local level for the land use permit.
- d. **Processing:** The department takes some action on the permit within 30 days; weather conditions may necessitate a delay in completing the inspection.

Pending final approval of a reclamation plan, the department may issue a provisional operating permit. If the department refuses to approve the reclamation plan, the operator and landowner are notified in writing within 5 days.

- e. **Terms:** An annual renewal of the permit is required.

5. OPERATION REQUIREMENTS

The approved reclamation plan becomes a binding agreement, and the applicant must comply with all terms and conditions stipulated by the department. The landowner as well as the operator has legal responsibility if the reclamation plan is not adequately followed.

6. FEES

The application fee is \$295.00 for surface mining permits, with an annual fee of \$195.00.

7. APPEAL PROCESS

Appeals are heard by the governing board of the department, and must be filed within 30 days of receipt of order.

E. ADMINISTERING AGENCY

Supervisor
Mined Land Reclamation
State Department of Geology and Mineral Industries
1129 S.E. Santiam Road
Albany, OR 97321

(503) 967-2039

CHAPTER 3.3 CONSTRUCTION MATERIALS

Oregon regulates construction materials under the Solid Waste Management program (see Chapter 5.4).

SECTION 4.0
LAND USE REGULATION

CHAPTER 4.1 MAJOR FACILITY SITING

4.1.1 ENERGY FACILITY SITING

INTRODUCTION

The Energy Facility Siting Council and the Department of Energy regulate the siting, construction, and operation of energy facilities. The site certificates issued by the council are binding agreements between the State of Oregon and the applicant, and authorize the construction and operation of an energy facility on an approved site. The certificates incorporate all conditions imposed by the State on the applicant and all warranties given by the applicant to the State.

A. NAME OF PERMIT PROCESS

Energy Facility Site Certificate.

B. AUTHORIZING STATUTE

Regulation of Energy Facilities, ORS 469.300 through 469.570 and 469.922.

C. TITLE OF REGULATIONS

Rules for the Energy Facility Siting Council, OAR Chapter 345.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Covers nuclear power plants and other electrical generating facilities greater than 25 MW, large pipelines and transmission lines, nuclear installations including waste disposal, underground natural gas storage facilities, geothermal power plants, and uranium mills.

2. GENERAL REQUIREMENTS

A site certificate is required to construct or expand an energy facility. Applicants for thermal power plants with a capacity of more than 200,000 kW, except combustion turbine and geothermal-fueled power plants, need to first submit a notice of intent to file an application for a site certificate.

3. SUBMISSION REQUIREMENTS

Applicants must submit initial information as required by the appropriate siting standards of the Council. Further detailed information on each standard must be presented at the Council's hearing on an application.

4. PROCEDURES

- a. **Application:** (or if applicable, notice of an intent to file an application) is submitted to the Energy Facility Siting Council.
- b. **Review/Investigation:** The council may commission an independent study of any aspect of the proposed facility. Copies of the application are circulated to State agencies and any city or county affected by the application.
- c. **Public Notification/Hearing:** The Secretary of State issues an announcement of the proposal and the council publishes notice of receipt of an application. Following publication of a second public notice, hearings on the proposal are held in the affected area and wherever else the council deems necessary.
- d. **Processing:** Time limits on processing vary between 4 to 6 months and 2 years, depending on nature of proposal, but may be shortened by the council.

5. OPERATION REQUIREMENTS

The certificate stipulates terms and conditions for all aspects of construction and operation. Permits consistent with the site certificate must then be issued by the appropriate State agencies. These agencies maintain enforcement authority over the permits, as does the council over the certificate.

6. FEES

A notice of intent to file a site certificate requires a \$5,000 fee. That amount is credited toward the future site certificate application. Appli-

cations require an amount equal to \$0.05 per kilowatt of capacity, or \$1,000 for each \$1 million of estimated capital investment. In no case is the application fee less than \$15,000.

Annual fees are assessed at \$0.05 per kilowatt of capacity for nuclear plants, \$0.025 per kilowatt of capacity for all other electric power plants, and \$300 for each \$1 million investment for other energy facilities.

7. APPEAL PROCESS

The applicant, a party to the council's hearing, or any person adversely affected or aggrieved, can appeal decision within 60 days to the State Supreme Court.

E. ADMINISTERING AGENCY

Energy Facility Siting Council
Department of Energy
102 Labor and Industries Building
Salem, OR 97310

(503) 378-4040

CHAPTER 4.1 MAJOR FACILITY SITING
4.1.2 AIRPORT-HELIPORT SITE APPROVAL

INTRODUCTION

The Department of Transportation regulates the siting of airports and heliports, and establishes minimum dimensional and layout standards. Final site approval is conditioned on the applicant receiving approvals from the local land use authority, the Department of Environmental Quality and, after notifying the Federal Aviation Administration, a notice of no conflict in the use of airspace. All public use facilities must be licensed by the Department's Aeronautics Division and all personal use facilities must be registered with the Aeronautics Division. The division will work with applicants to coordinate this approval process, and has published booklets which describe the necessary requirements and procedures.

A. NAME OF PROGRAM

Airport-Heliport Site Approval.

B. AUTHORIZING STATUTE

Airports and Landing Fields, ORS 492.162 through 492.240.

C. TITLE OF REGULATION

Division 20, Aeronautics, Minimum Standards for Airports.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

All new airport and heliport sites must be approved by the department, except sites owned and operated by the Federal government.

2. GENERAL REQUIREMENTS

The site must meet or exceed the minimal standards of safety.

3. SUBMISSION REQUIREMENTS

Applicants need to submit a written description of the proposed facility use, and a map, plan or sketch depicting location, layout, dimensions,

topographic features, obstructions, and relationship to all other aeronautical facilities.

4. PROCEDURES

- a. **Application:** Completed applications need to be submitted to the Department of Transportation.
- b. **Review/Investigation:** Staff conducts review and investigation of proposed site for determination of site sufficiency.
- c. **Public Notification/Hearing:** None normally required by State. Local land use approval is necessary and may involve hearings.
- d. **Processing:** The division issues an initial site approval; to receive a confirmation of final site approval and a license or registration, the applicant must:
 - 1) obtain statement from the Federal Aviation Administration that use of the site will not interfere with the safe and efficient use of airspace;
 - 2) obtain acceptance of a noise impact boundary from State Department of Environmental Quality; and
 - 3) obtain land use approval from the county in which the site is located.

These steps may be accomplished simultaneously. Delays for public hearings concerning land use may slow the process. Most applicants receive final site approval within 90 days.

- e. **Terms:** Development should be completed within 2 years or site approval will be subject to revocation.

5. OPERATION REQUIREMENTS

Restrictions on operations are stipulated on an individual basis.

6. FEES

\$35.00 for site investigation; \$1.00 annual license fee.

7. APPEAL PROCESS

Decisions can be appealed to the circuit court where the appellant resides or the circuit court of Marion County.

E. ADMINISTERING AGENCY

Aeronautics Division
Department of Transportation
3040 25th Street S.E.
Salem, OR 97310

(503) 378-4880

CHAPTER 4.2 LAND USE

4.2.1 COMPREHENSIVE LAND USE PLANNING

INTRODUCTION

Oregon's 1973 Land Use Act provides for coordinated comprehensive land use planning through State standards and review. The Land Conservation and Development Commission (LCDC) is authorized to develop and adopt Goals and Guidelines which set forth State land use policy. The Commission has adopted 19 goals as of 1981. Each city and county is required to develop coordinated comprehensive plans, zoning, and subdivision ordinances which comply with the adopted goals. State agency and special district plans and actions also must comply to the goals and local comprehensive plans. LCDC reviews the comprehensive plans and formally certifies those in compliance.

The Department of Land Conservation and Development implements the commission's policies.

LCDC functions involving land use include:

- 1) review of comprehensive plans for compliance with statewide goals;
- 2) hear and resolve petitions for review regarding possible conflicts of plans or action with statewide goals;
- 3) recommend to the Legislature areas to be designated as areas of critical State concern, and plans for management of these areas;
- 4) coordinate planning efforts of State agencies to assure compliance with statewide goals and local comprehensive plans; and,
- 5) ensure citizen involvement in all phases of the land use planning.

ADMINISTERING AGENCY

Department of Land Conservation And Development
1175 Court Street N.E.
Salem, OR 97310

(503) 378-4929

CHAPTER 4.2 LAND USE
4.2.2 ROAD APPROACH PERMIT

INTRODUCTION

The Department of Transportation, Highway Division, governs the location, construction, maintenance, and use of approach roads and private road crossings upon those State highway rights-of-way under its jurisdiction. The applicant needs to obtain any necessary local government approvals.

A. NAME OF PERMIT

Road Approach Permit.

B. AUTHORIZING STATUTE

Highways, Roads, Bridges, and Ferries, ORS 374.305 through 374.330.

C. TITLE OF REGULATION

Permit Administration Rule no. 45.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

The applicant is the person, firm or corporation having the legal right to apply for a permit. Such legal right is vested only in the owner or lessee of the property abutting the highway or the holder of an easement or similar right to construct and use a facility upon the abutting property; providing the Highway Division has not acquired the rights of access from property.

2. GENERAL REQUIREMENTS

No work on highway right-of-way can be initiated without a valid permit.

3. SUBMISSION REQUIREMENTS

Application is made on a form entitled, "State of Oregon, Department of Transportation, Highway Division, application or permit to construct approach road or private road crossing."

4. PROCEDURES

- a. **Application:** Application is submitted to the State Highway Division or a district engineer.
- b. **Review/Investigation:** The district engineer makes a site review. To facilitate this review, the applicant needs to place markers such as lath or stakes at the right-of-way line where it intersects applicant's property lines and at the center line of the proposed approach road, and furnish the district engineer the approximate distance in feet from each property line to the approach road center line. If this distance is in excess of 300 feet, marking of the property may be omitted.
- c. **Public Notification/Hearing:** None required by State. Applicant needs to conform to any local government requirements.
- d. **Processing:** Processing time varies; usually can be issued within a month.
- e. **Terms:** The permit is valid for an indefinite period of time, unless revoked by mutual consent or because of the applicant's failure to abide by the permit's terms and conditions. Applicants need to notify the district engineers at least 48 hours before starting construction on a permit-approved facility.

5. OPERATION REQUIREMENTS

Permit provisions are stipulated as deemed necessary. Design criteria outlined in regulations need to be followed. The cost of maintaining the approach road from the outside edge of the highway shoulder or curb line to the right-of-way line is the applicant's responsibility.

6. FEES

Application fee is \$50.00, non-refundable. The entire cost of constructing the facility is borne by the applicant.

7. APPEAL PROCESS

Permittees who object to revocations of, or certain conditions within a road approach permit, are permitted an administrative hearing before officials of the Highway Division to contest these issues, pursuant to the Oregon Administrative Process Act. If dissatisfied with the agency's decision, the permittee may appeal the decision to the Oregon Court of Appeals.

E. ADMINISTERING AGENCY

Director of Permits
Oregon State Highway Division
2960 State Street, Room 102
Salem, OR 97310

(503) 378-2568

A listing of district engineers is available at this office.

CHAPTER 4.2 LAND USE
4.2.3 SCENIC WATERWAYS

INTRODUCTION

The State of Oregon, by vote of the people in 1969, established 527 miles within 8 rivers and river segments as scenic waterways, and declared their highest and best use to be recreation, fish and wildlife. The scenic waterways program is administered by the Parks and Recreation Division of the Department of Transportation. No dams, reservoirs or other water impoundment facilities are allowed on these waterways; placer mining is also prohibited. Filling of beds or removal of materials is not allowed, except in special situations approved by the State Land Board. Roads, railroads, and utilities are not permitted, except to service the permissible uses or when permitted by the Transportation Commission.

Some constraints on future development are authorized by the Act, and vary depending on the classification of river segments and corresponding administrative rules; classifications range from "primitive" to "fully developed." In most cases, landowners within the scenic waterway who wish to change the use of their land (e.g., harvest timber, build roads, mine, develop homes) must have the approval of the Transportation Commission.

The Act also prescribes the process for adding new rivers to the system through a study procedure. One river has been added through this procedure.

A. TITLE OF PROGRAM

Oregon State Scenic Waterway Program.

B. AUTHORIZING STATUTE

Scenic Waterways, ORS 390.805 through 390.925.

C. TITLE OF REGULATION

Oregon Administrative Rules 50-005 through 50-040.

D. SUMMARY OF PROGRAM

I. APPLICABILITY

A scenic waterway includes the river and related adjacent land within

0.25 mile of ordinary high water on each bank. Affected rivers include: Clackamas, Sandy, Deschutes, John Day, Minam, Owyhee, Illinois, and Rogue.

2. GENERAL REQUIREMENTS

Landowners need to receive the approval of the Transportation Commission for most changes in land use. If a proposal is denied, a landowner may modify the proposal to gain commission approval. If the landowner and commission cannot reach agreement within 1 year, he or she may proceed with the proposal, unless the commission purchases the property or acquires easements.

3. SUBMISSION REQUIREMENTS

Applicants need to submit a notification of proposed action and a site map 1 year ahead of anticipated date of change.

4. PROCEDURES

a. **Application:** Letter with specific and detailed description submitted to the State Parks and Recreation Division, Department of Transportation.

b. **Review/Investigation:** Division staff make an on-site inspection. Applications are reviewed by the local government, Bureau of Land Management, the U.S. Forest Service, and any other interested public agencies, groups or individuals upon request.

c. **Public Notification/Hearing:** Any interested person can comment on the application. The local government may request a hearing.

d. **Processing:** Proposals are negotiated within 1 year.

5. OPERATION REQUIREMENTS

Development requirements are frequently incorporated into the approval.

6. FEES

None.

E. ADMINISTERING AGENCY

River Programs
Parks and Recreation Division
Department of Transportation
Vick Building
525 Trade Street S.E.
Salem, OR 97310

(503) 378-6305

CHAPTER 4.2 LAND USE
4.2.4 WILLAMETTE RIVER GREENWAY

INTRODUCTION

The 1973 Oregon Legislative Assembly enacted the Willamette River Greenway Law to develop and maintain a natural, scenic, historical, and recreational greenway through cooperative efforts of the State and local units of government. The Willamette River Valley was recognized as one of Oregon's most significant natural resources. Within the valley's approximately 3 million acres, almost half of the State's agricultural income is generated and 70 percent of Oregon's population lives and works. This program is administered and implemented by the Department of Transportation and Land Conservation and Development Commission, (LCDC). (See Chapter 4.2.1 for discussion of LCDC).

A. NAME OF PROGRAM

Willamette River Greenway.

B. AUTHORIZING STATUTE

Greenway Law, ORS 390.310 through 390.368.

C. TITLE OF REGULATION

Willamette River Greenway Program; LCDC Goal 15.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

The Greenway system includes all channels of the Willamette River, from its confluence with the Columbia River upstream to the Dexter Dam on the Middle Fork and to Cottage Grove Dam on the Coast Fork.

2. GENERAL REQUIREMENTS

The law directed three actions to protect the Willamette River Greenway:

- a) Preparation of a State Greenway Plan by the Department of Transportation that delineated: the boundaries of the Greenway;

the boundaries of lands to be acquired by the State and units of local government; lands for which a scenic easement would be sufficient to protect the natural scenic, recreation, and historic values of the river; and the location of all known subsurface aggregate deposits.

- b) Reinforcement of farmland protection along the river.
- c) Removal of right of eminent domain from the State within the Greenway, except at 5 specific areas designated as future State parks.

In 1975, LCDC adopted the Willamette Greenway Goal as its Statewide Planning Goal 15. This goal requires the protection of Greenway resources through local comprehensive plans and ordinances. Following LCDC approval, the provisions of the local comprehensive plans and ordinances govern management of Willamette River Greenway.

E. ADMINISTERING AGENCY

Department of Land Conservation and Development
1175 Court Street N.E.
Salem, OR 97310

(503) 378-8871

Parks and Recreation Division
Department of Transportation
Vick Building
525 Trade Street S.E.
Salem, OR 97310

(503) 378-6500

Individual local city and county governments with jurisdiction within the designated Greenway areas.

CHAPTER 4.3 FLOOD PLAIN MANAGEMENT

Oregon participates in the Federal flood insurance program of the Federal Emergency Management Agency (FEMA). This program is implemented on the local level, with the State functioning as an intermediary. Local governments adopt land use zoning ordinances related to flood control which are approved by FEMA.

ADMINISTERING AGENCY

Department of Water Resources
555 13th Street, N.E.
Salem, OR 97310

(503) 378-3739

CHAPTER 4.4 FORESTRY

INTRODUCTION

The Department of Forestry administers several regulations which may be pertinent to developers. This section provides a brief description of burning permits and forest practice notification. Additional regulations cover various equipment requirements, water supply, watchman service, and slash burning.

A. NAME OF PERMITS

Burning Permit; Forest Practice Notification.

B. AUTHORIZING STATUTE

Fire Prevention, ORS 477.505 through 447.530. Oregon Forest Practices Act, ORS 527.670.

C. TITLE OF REGULATION

Fire Prevention, OAR Chapter 629, Division 43.

D. SUMMARY OF REGULATION

Burning Permits: During closed seasons, burning permits are required to burn grass, grain, stubble, or forest land. Burning permits are required year round on certain forest lands and in the area surrounding the Willamette Valley. Applicants need to apply for a permit by phone or in person from one of the fire protection agencies before burning. The permit form requires the name and address of the permittee, a legal description of the property, and a smoke management plan. The area is inspected by a district office representative, and additional terms and conditions may be stipulated to protect the resource. No fee.

Forest Practices Act: Operators, timber owners, or landowners need to notify the State Forester before starting an operation. The notification form requires information on the operators and owners, and a legal description of the areas. The notification must be made to the State Forester 15 days before the operation begins. An agency representative makes an inspection, and can stipulate terms and conditions for resource

protection. Permission to operate power machinery and logging equipment can be obtained on the same form. No fee.

E. ADMINISTERING AGENCY

Department of Forestry
2600 State Street
Salem, OR 97310

(503) 378-2521

SECTION 5.0
ENVIRONMENTAL QUALITY MANAGEMENT

CHAPTER 5.1 AIR QUALITY
CHAPTER 5.1.1 NOTICE OF CONSTRUCTION

INTRODUCTION

Oregon's air quality program was the first statewide program in the country. Administered by the Department of Environmental Quality, the program has established air purity and quality standards and classified air contaminant sources by levels and types of emissions.

The department issues permits for air contaminant sources and also requires that no new source of emission be constructed or established without departmental approval.

A. NAME OF PROGRAM

Air Quality.

B. AUTHORIZING STATUTE

Air Pollution, ORS 468.325.

C. TITLE OF REGULATION

Air Pollution, OAR 340-20-020 and 20-030.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

Covers construction, installation or establishment of a new source of air contaminant, including: air pollution control equipment; fuel burning equipment rated at 50 pounds per hour or greater; open burning operations; process equipment having emissions.

2. GENERAL REQUIREMENTS

Persons intending to construct, install, or establish such new sources need to notify the department. The department may, in some cases, require submission of plans and specifications; for these proposals, a notice of approval to proceed with construction is required.

3. SUBMISSION REQUIREMENTS

Notice of Construction is made on a departmental form. If plans and specifications are later required, the following information may need to be submitted: name of responsible individuals; description of the production processes; plot plan showing location and height of all air contaminant sources; type and quantity of fuel used; amount, nature, and duration of emissions; estimated efficiency of air pollution control equipment; amount and method of refuse disposal.

4. PROCEDURES

- a. Application: Application needs to be submitted before construction or installation.
- b. Review/Investigation: The department makes a review and determines if plans and specifications are required.
- c. Public Notification/Hearing: None.
- d. Processing: Within 30 days after receipt of notice of construction, the department may require the submission of plans and specifications for air pollution control equipment and facilities. If the department determines that proposed construction is not allowable, an order of prohibition shall be issued within 60 days of receipt of plans and specifications.

If the department does not notify the applicant within 30 days after the notice is submitted, the applicant may assume the construction is authorized.

5. OPERATION REQUIREMENTS

Within 30 days after construction, a form must be filed with the department stating date of construction and date the source will be in operation. Written records must be maintained. All sources not subject to air contaminant discharge permit must register or report emission-related information annually to the department.

6. FEES
None.

7. APPEAL PROCESS

Orders prohibiting construction may be appealed in writing within 20 days to the Director of the Department of Environmental Quality.

E. ADMINISTERING AGENCY

Air Quality Division
Department of Environmental Quality
522 S.W. Fifth Avenue
P.O. Box 1760
Portland, OR 97207

(503) 229-6093

CHAPTER 5.1 AIR QUALITY
5.1.2 AIR CONTAMINANT DISCHARGE

INTRODUCTION

The Department of Environmental Quality issues discharge permits for sources of air contamination. Special permit requirements apply to sources located in or near areas where air pollution exceeds any national ambient air quality standard. (See OAR 340-20-191). Permits are issued in three categories: letter, minimal source, and regular. Individuals may apply to the department for a special letter permit if they operate a facility with no, or insignificant, air contaminant discharges. Fees are usually waived for special permits. Minimal source permits cover space heating boilers and are usually issued for 10 years, with an inspection every 5 years. The regular permits are described in detail below.

A. NAME OF PERMIT

Air Contaminant Discharge.

B. AUTHORIZING STATUTE

Air Pollution, ORS 468.065, 468.070, 468.310, 468.535 and 468.315.

C. TITLE OF REGULATION

Air Pollution, OAR 340-14-005 through 14-050 and 340-20-140 through 20-185.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Covers a variety of air contaminant sources. (See OAR 340-20-155 for complete listing.)

2. GENERAL REQUIREMENTS

A permit must be obtained before constructing, installing, establishing, or operating air contaminant sources.

3. SUBMISSION REQUIREMENTS

Application form requires: information on production processes; a plot

plan showing location and height of all air contaminant sources; type and quantity of fuel used; amount, nature, and duration of emissions; estimated efficiency of air pollution control equipment; amount and method of refuse disposal.

4. PROCEDURES

- a. **Application:** Application can be made to DEQ Headquarters or to their regional offices.
- b. **Review/Investigation:** Department staff reviews application and prepares a draft permit.
- c. **Public Notification/Hearing:** A notice is published in the Secretary of State's bi-weekly bulletin, with additional notification to the local government, local press, and a mailing list of interested persons. A 30-day comment period is allowed. A hearing may be held on the draft permit if the department determines it is in the public interest.
- d. **Processing:** The applicant receives a draft permit and has 14 days to comment. The final permit is usually issued within 3 to 6 months.
- e. **Terms:** Permits are usually issued for 5 years, and no longer than 10 years.

5. OPERATION REQUIREMENTS

The permit stipulates mandatory terms and conditions. Plant site emission limits are established.

6. FEES

Application processing fee is \$50.00. Application processing review and annual compliance fees vary. Multiple permits to cover several emissions from the same facility can be issued to lower the filing fee cost.

7. APPEAL PROCESS

Appeals can be made in writing to the Director of the Department of Environmental Quality within 20 days of decision.

E. ADMINISTERING AGENCY

Air Quality Division
Department of Environmental Quality
522 S.W. Fifth Avenue
P.O. Box 1760
Portland, OR 97207

(503) 229-6093

CHAPTER 5.1 AIR QUALITY

5.1.3 INDIRECT SOURCES

INTRODUCTION

The Department of Environmental Quality requires certain parking facilities, highway sections, and airports to obtain construction permits. These permits do not relieve the applicant from complying with the Clean Air Act implementation requirements.

A. NAME OF PERMIT

Indirect Source Construction Permit.

B. AUTHORIZING STATUTE

Air Pollution, ORS 468.020, 468.320, 468.330.

C. TITLE OF REGULATION

Air Pollution, OAR 340-14-005 through 14-050 and 20-100 through 20-135.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Covers construction and modification of parking facilities, highway sections, and airports. Regulations apply to specific capacity sizes, and vary depending on which city or county the construction occurs in. (For complete description, see OAR 340-20-115.)

2. GENERAL REQUIREMENTS

Application needs to be made at least 90 days in advance of anticipated construction date. Applicants need to complete a short application for all sources in the State except those located in or within 5 miles of the municipal boundaries of Portland, Salem, Eugene, or Medford and with planned parking of 1,000 or more spaces. The department notifies the applicant if a more extensive application is necessary.

3. SUBMISSION REQUIREMENTS

Submission requirements vary depending on whether proposal is a parking

facility, highway, or airport, and if the area has an approved parking and circulation plan. (For complete details, see OAR 340-20-125 and 20-129.)

4. PROCEDURES

- a. **Application:** The short form or long form application must be submitted.
- b. **Review/Investigation:** The department determines if the applicant needs to submit a long form within 15 days of receipt of short form.
- c. **Public Notification/Hearing:** The department notifies the press and a mailing list of interested persons. A 20-day comment period is allowed. Hearings may be held for good cause in controversial cases.
- d. **Processing:** Complete applications are acted on within 60 days of receipt.
- e. **Terms:** Permit is in effect unless it is revoked.

5. OPERATION REQUIREMENTS

The permit may be conditioned to provide air quality controls.

6. FEES

None.

7. APPEAL PROCESS

Appeals can be made in writing to the Environmental Quality Commission.

E. ADMINISTERING AGENCY

Air Quality Division
Department of Environmental Quality
522 S.W. Fifth Avenue
P.O. Box 1760
Portland, OR 97207

(503) 229-6093

CHAPTER 5.2 WATER QUALITY

5.2.1 NPDES

INTRODUCTION

The Department of Environmental Quality regulates the discharge of waste into waters of the state through National Pollutant Discharge Elimination System (NPDES) permits. The department will not permit the discharge of radioactive, chemical, or biological warfare agent, or high-level radioactive waste into any navigable or public waters. Discharges that would impair anchorage and navigation are also not allowed.

General permits can be issued for certain categories of minor sources when individual NPDES or Water Pollution Control Facilities (WPCF) permits are not considered necessary by the department to protect the environment. The department will accept a NPDES application filed with the EPA, as long as the application is complete and the information current.

In addition to the specific State water quality programs, a water quality certification procedure is incorporated into federally permitted projects with potential water quality impacts. The Department of Environmental Quality reviews these projects to ensure that water quality standards are maintained during construction.

A. NAME OF PERMIT

National Pollutant Discharge Elimination System (NPDES).

B. AUTHORIZING STATUTE

Pollution Control, ORS 468.740.

C. TITLE OF REGULATION

Regulations Pertaining to NPDES and WPCF Permits, OAR 340-45-005 through 45-070.

D. SUMMARY OF PERMIT PROCEDURES

I. APPLICABILITY

Any discharge of waste to waters of the State.

2. GENERAL REQUIREMENTS

Permits for discharge are required. Permits stipulate effluent limitations, operating and reporting requirements and schedule of compliance.

3. SUBMISSION REQUIREMENTS

The applicant must submit the applicable Federal NPDES application plus whatever preliminary engineering report and environmental assessment is necessary to provide the department with sufficient information to evaluate the application. A conference is often held before the application is submitted to determine the feasibility of major proposals.

4. PROCEDURES

a. **Application:** Applicants for new permits should submit EPA Standard Form A, B, C, or Consolidated Permit Application forms as they are developed by EPA, depending on type of proposed discharge (see Table I, 340-45-030). The application needs to be submitted at least 180 days ahead of planned date of use. Renewal applications for major primary industries also must file the Consolidated Application Form 2-C. To renew other NPDES permits, the applicant may file the State NPDES renewal application form.

b. **Review/Investigation:** A field investigation may be made. Other State and Federal agencies may review the application upon request.

c. **Public Notification/Hearing:** A public notice is circulated for comment, with a minimum of 30 days allowed for comment. For proposed discharges of more than 500,000 gallons on any day of the year, the department prepares a fact sheet for public circulation which describes the discharge and tentative permit requirements. Public hearings are held if the department determines there is a significant public interest.

d. **Processing:** A draft permit is prepared by the department with a

14-day review period by the applicant. Public notice of the draft permit is issued with a 30-day review period. Hearings may be held following this public review if there is significant public interest. Application processing time averages around 6 months.

EPA has veto authority over major permits and certain others where they have not waived that right.

5. OPERATION REQUIREMENTS

Individual operating requirements may be prescribed in the permit. Detailed plans and specifications must be submitted prior to the construction of waste collection, treatment, disposal, or discharge facilities. Privately owned sewerage systems require a performance bond.

6. FEES

Filing fee is \$25.00. Application processing fee varies depending on type of facility, ranging from \$175.00 to \$1,000.00. Annual compliance determination fees are also charged, along with renewal and modification fees. The annual compliance determination fees range from \$75.00 to \$1,200.00.

7. APPEAL PROCESS

Decisions can be appealed to the Environmental Quality Commission within 20 days of receipt.

E. ADMINISTERING AGENCY

Water Quality Division
Department of Environmental Quality
522 S.W. Fifth Avenue
P.O. Box 1760
Portland, OR 97207

(503) 229-5696

Federal Counterpart

Oregon Operations Office
Environmental Protection Agency
522 S.W. Fifth Avenue
Portland, OR 97207

(503) 423-3250

CHAPTER 5.2 WATER QUALITY

5.2.2 WATER POLLUTION CONTROL FACILITIES

INTRODUCTION

The Department of Environmental Quality regulates water pollution control facilities not discharging to public waters through its Water Pollution Control Facilities (WPCF) permits.

All plans and specifications for the construction, installation or modification of disposal systems, treatment works and sewerage systems must be submitted to the Department for prior approval (ORS 468.742).

A. NAME OF PERMIT

Water Pollution Control Facilities (WPCF).

B. AUTHORIZING STATUTE

Water Pollution, ORS 468.740.

C. TITLE OF REGULATION

Regulations Pertaining to NPDES and WPCF Permits, OAR 340-14-005 through 14-050, 340-45-005 through 45-025.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Covers water pollution control facilities which do not discharge to public waters.

2. GENERAL REQUIREMENTS

Permits are issued to construct and operate such facilities.

3. SUBMISSION REQUIREMENTS

A preliminary engineering report should be submitted, along with an environmental assessment if one is available.

4. PROCEDURES

a. Application: Applicants should submit form WPCF-N at least 60 days before the permit is needed.

- b. Review/Investigation: Staff makes a field investigation.
- c. Public Notification/Hearing: Public notice and/or hearing is within department's discretion.
- d. Processing: Department will review application within 15 days after filing to determine adequacy of information. Additional information requested by the department must be submitted within 90 days of the request. If the department is unable to make a decision on the application within 45 days after notification of application's completeness, applicant is allowed temporary permit subject to final action. Provisional permits are circulated to applicant for 14 days; following that review, a final action is taken.

5. OPERATION REQUIREMENTS

Permit terms and conditions vary depending on individual facilities; construction, operation, maintenance, reporting, and monitoring requirements may be stipulated.

6. FEES

Filing fee is \$25.00. Application fees and annual compliance determination fee required; the amount varies depending on nature of facility and quantity of discharge.

7. APPEAL PROCESS

Hearings may be requested before the Environmental Quality Commission within 20 days of decision's mailing date.

E. ADMINISTERING AGENCY

Supervisor
Water Quality Division
Department of Environmental Quality
522 S.W. Fifth Avenue
P.O. Box 1760
Portland, OR 97207

(503) 229-5696

CHAPTER 5.2 WATER QUALITY

5.2.3 DREDGE AND FILL

INTRODUCTION

The Division of State Lands controls the removal of material from the beds and banks or the filling of the waters of the State. The Division of Lands has established procedures allowing a joint application and review for projects requiring permits from the Corps of Engineers. The law does not apply to filling within forest lands as long as the fill is in a non-navigable waterway, is directly connected with a forest management practice, and conforms to the Forest Practices Act. A permit is also not required for fill and removal activity associated with authorized dams, pump platforms, or other water diversion projects. Emergency removal or filling is allowed, but the department must be notified within 24 hours, or within 72 hours when a highway is involved.

Applicants need to obtain the approval of the appropriate local government agency, except for erosion repair, maintenance dredging, or riprap projects. These permits do not grant permission to trespass on either public or private lands without permission of the owner. Applicants are expected to seek permission of the property owner before applying for a permit.

A. NAME OF PERMIT

Dredge and Fill.

B. AUTHORIZING STATUTE

Removal of Material; Filling, ORS 541.605 through 541.695.

C. TITLE OF REGULATION

Rules for Issuance and Enforcement of Removal and Fill Permits, OAR 141-82-005 through 035.

D. SUMMARY OF PERMIT PROCESS

I. APPLICABILITY

Regulations cover removal of more than 50 cubic yards of material from

beds or banks of all waters of the State in a calendar year; or placement of more than 50 cubic yards of fill in any waters.

2. GENERAL REQUIREMENTS

A permit is required from any person or government body for dredging and filling. Maintenance dredging projects require a long-range (10 to 20 years) spoils disposal plan.

3. SUBMISSION REQUIREMENTS

Applicants need to complete a form and provide a detailed description of the project including type and volume of material, method of operation, project and waterway location, and a project map showing project site and proposed alterations. A letter of approval from the appropriate local government must be included.

4. PROCEDURES

- a. **Application:** Completed applications must be submitted to the Department of Lands.
- b. **Review/Investigation:** The department reviews application, and consults with any private parties and groups as well as State, local, and Federal agencies that may be affected by the permit issuance or denial. Comments on the application must be submitted within 25 days from notification.
- c. **Public Notification/Hearing:** Adjoining property owners are notified. Any member of the public may request a copy of the application. Any aggrieved or adversely affected party can submit a written request for a hearing within 60 days after the permit is issued; the hearing must be held within 45 days of the request. The department also can hold hearings at their discretion.
- d. **Processing:** The department has the discretion to order a 30-day suspension of the application process to allow the applicant to alter

or modify the proposal. Non-controversial permits are issued or denied within 45 days after application receipt. More controversial projects may require up to 90 days.

- e. Term: Permits expire annually and must be renewed before they expire if the project is incomplete or ongoing. Permits for commercial material sites which do not affect natural resources or water quality may be issued for 5 years subject to annual review.

5. OPERATION REQUIREMENTS

The permit may stipulate required mitigation activities.

6. FEES

There is a variable fee schedule set by statute.

7. APPEAL PROCESS

Requests for a hearing must be filed with the director in writing within 10 days.

E. ADMINISTERING AGENCY

Permit Supervisor
Division of State Lands
1445 State Street
Salem, OR 97310

(503) 378-3805

Federal Counterpart

Regulatory Functions
Corps of Engineers
P.O. Box 2946
Portland, OR 97208

(503) 221-6995

CHAPTER 5.3 WATER SUPPLY

5.3.1 WATER RIGHTS

INTRODUCTION

Oregon law declares that all waters of the State belong to the public. The Water Resources Department administers water rights appropriation for both ground and surface water. The acceptance of an application or the issuance of a permit gives no assurance of water availability. The land use associated with the water use must comply with Statewide land use goals and local land use plans; following proof of beneficial uses, water right certifications are issued to qualified permit holders.

A water right permit does not authorize construction of pipelines, ditches, or other works on property not owned or controlled by the water user, and would require a right of access or right-of-way. Water wells must be constructed and altered by a licensed driller, except for landowners, who can drill wells on their own land if they post a landowners' bond.

A. NAME OF PERMIT

Water Rights Permit.

B. AUTHORIZING STATUTE

Water Rights Act, ORS 537.505 through 537.790, 537.110 through 537.290, 537.410 through 537.450; 537.810 through 537.990.

C. TITLE OF REGULATION

Oregon Administrative Rules, Chapter 690, Water Resources Department, 690-10-005 through 10-015, 690-01-005 through 01-045, 690-20-005 through 20-020, 690-01-005 through 01-045.

D. SUMMARY OF PERMIT PROCESS

I. APPLICABILITY

All uses of ground water and surface water require a water right permit except ground water used for the following: stock watering purposes; watering a lawn or non-commercial garden not exceeding one-half acre;

single domestic use up to 15,000 gallons per day; single industrial or commercial use up to 5,000 gallons per day.

2. GENERAL REQUIREMENTS

An approved application constitutes a water right permit, which allows construction of the water-use system and use of the water. The permit stipulates the time limits to begin and complete construction of the water-use system and to apply the water to beneficial use. A complete water right belongs to the specific place of use and no change in use, place of use, or point of appropriation may be made without prior approval from the department.

3. SUBMISSION REQUIREMENTS

A completed application requires: a legal description of property; identification of water supply source; the nature and amount of proposed use; the location and description of the proposed canal or ditch. Maps must accompany the application and identify the following: well location; location of canals, ditches, pipelines or flumes; location of place for water use.

4. PROCEDURES

- a. **Application:** Separate applications are available for the appropriation of ground or surface water and must be submitted to the Water Resources Department.
- b. **Review/Investigation:** The department reviews the application.
- c. **Public Notification/Hearing:** If a protest is filed on any application, a hearing can be held. A hearing may also be held if the proposed use may prejudicially affect the public interest, or proposes hydro-electric power development in excess of 100 theoretical horsepower.
- d. **Processing:** Applications are subject to a 30-day waiting period from the date of filing before being considered for approval.

- e. Term: Applications may be approved for less water than requested. Construction of the well or other means of securing water must begin within 1 year from date of permit issuance.

5. OPERATION REQUIREMENTS

Beneficial use must be established. Extension on the time limits for construction may be possible if the applicant shows reasonable diligence towards completing the work; an application for such an extension must be filed and approved.

6. FEES

Application fee is \$20.00. Recording fees for the water right vary depending on quantity of water.

7. APPEAL PROCESS

Appeals are heard by the court of appeals.

E. ADMINISTERING AGENCY

Water Rights Division
Water Resources Department
555 13th Street N.E.
Salem, OR 97310

(503) 378-3066

CHAPTER 5.3 WATER SUPPLY
5.3.2 SYSTEM CONSTRUCTION

INTRODUCTION

The Environmental Health Services office of the Health Division of the Department of Human Resources approves plans for the construction of water supply systems. Supply systems are divided into four categories: public, community, municipal, and public utility.

A. NAME OF PROGRAM

Domestic Water Supply Program.

B. AUTHORIZING STATUTE

Water Supply Systems, ORS 448.205 through 448.990.

C. TITLE OF REGULATION

Domestic Water Supply Rules, OAR 333-42-200 through 333-42-245 (by authority of ORS 448.325).

D. SUMMARY OF PROGRAM

1. APPLICABILITY

All supply systems serving more than 3 users and any supply system serving any establishment open to the public.

2. GENERAL REQUIREMENTS

Tentative and final plans for domestic water supply source construction must be submitted for review and approval for all classes of systems before construction begins. Construction plans for community and public water supply distribution systems also need to be submitted, with final plans submitted after construction. Plans, specifications, and a construction schedule must be prepared by a registered professional engineer unless waived by the Health Division. Systems must meet established water quality and construction standards of OAR 333-42-200 through 333-42-245.

3. SUBMISSION REQUIREMENTS

Submittals must describe facility construction, water quality, procedures for cleaning and disinfecting the system. A vicinity map, names of owner and operator, and tentative operating manual for the facilities must be included.

4. PROCEDURES

a. **Application:** Plans must be sent to the Office of Environmental Health Services, Water Supply Section, Oregon State Health Division.

b. **Review/Investigation:** Staff makes an internal review.

c. **Public Notification/Hearing:** None on the State level. Counties usually receive copies through the land use approval procedures or through county health departments, and may hold hearings if local ordinances provide for them.

d. **Processing:** If plans initially submitted are substandard and if modifications are required, plans must be resubmitted for final approval. The approval process can take several months to complete.

5. OPERATION REQUIREMENTS

Established standards need to be met for continuous water quality, fluoridation, sanitary survey, operation, and maintenance. Final plans must be submitted following construction if any deviation from approved plan has occurred. If construction is not completed within 1 year, re-submission and approval of the plans may be required.

6. FEES

Fees cover tentative and final plan approval; variable rates depending on facility components and system category.

7. APPEAL PROCESS

A hearing can be requested with the Administrator of the Health Division on any final disapproval of a plan.

E. ADMINISTERING AGENCY

Plan Review Section
Water Program
State Health Division
State Office Building
1400 S.W. Fifth
Portland, OR 97201

(503) 229-5861

CHAPTER 5.3 WATER SUPPLY
5.3.3 RESERVOIR CONSTRUCTION

INTRODUCTION

The Water Resources Department regulates construction of reservoirs and the use of stored water and stream flow. The applicant must receive a permit to construct a reservoir, and then obtain a permit to appropriate surface water. The permit to construct a reservoir allows construction of the reservoir and storage of streamflow that is surplus to the needs of existing rights. The permit to appropriate surface water allows the use of the stored water under the terms of the permit. This permit can also allow the use of streamflow, when available in excess of existing rights, to maintain the reservoir by offsetting seepage and evaporation losses.

Land use approval for the reservoir must be obtained from the local government.

A. NAME OF PROGRAM

Reservoir Construction.

B. AUTHORIZING STATUTE

Water Rights Act, ORS 537.110 through 537.450; 537.810 through 537.990.

C. TITLE OF REGULATION

Oregon Administrative Rules, Chapter 690, Water Resources Department, 690-20-025 through 20-045; 690-01-005 through 01-045.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

Any impoundment of water for future use.

2. GENERAL REQUIREMENTS

Any dam 10 feet and over or which impounds 9.2 or more acre-feet must be designed and constructed under the supervision of a registered professional engineer of Oregon. Plans must be approved by the department, and follow the published guidelines.

3. SUBMISSION REQUIREMENTS

The required application form requires stream identification, a description of the diversion works, legal description of the dam location, intended water use, estimated water quantity, and a project map.

4. PROCEDURES

- a. **Application:** Complete applications need to be submitted to the Water Resources Department.
- b. **Review/Investigation:** Notice of application is mailed to list of individuals and State agencies. If a protest is filed, a hearing may be held at least 30 days after public notice. The Water Policy Review Board also reviews selected applications.
- c. **Processing:** All applications are subject to a 30-day waiting period from the date of filing before being considered for approval. Most complete applications are processed within 45 to 70 days.

5. OPERATION REQUIREMENTS

Terms and conditions may be stipulated in the permit. A filling and excavation schedule may be included.

6. FEES

Application fee is \$20.00. Recording fees for a permit to store 100 acre-feet of water are \$10.00; each acre-foot or fraction in excess of 100 is \$0.01.

7. APPEAL PROCESS

Appeals are heard by the court of appeals.

E. ADMINISTERING AGENCY

Supervisor
Permit Application Section
Water Resources Department
555 13th St. N.E.
Salem, OR 97310

(503) 378-3066

CHAPTER 5.4 SOLID WASTE MANAGEMENT

INTRODUCTION

The Department of Environmental Quality regulates solid waste disposal sites. The department cooperates with local governments in establishing and permitting disposal facilities.

A. NAME OF PERMIT

Solid Waste Disposal Permit.

B. AUTHORIZING STATUTE

Solid Waste Management, ORS 459.005 through 459.285.

C. TITLE OF REGULATION

Solid Waste Management, OAR Chapter 340, Division 61.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Covers solid waste disposal sites, including those with industrial, commercial, demolition, and construction wastes. Environmentally hazardous wastes are excluded, along with fertilizer materials.

2. GENERAL REQUIREMENTS

Disposal sites require a permit from the department. Landfill sites used only by an owner to dispose of non-decomposable materials such as soil or rock, need to comply with rules and regulations regarding disposal practices but do not require a permit. (Note: ash disposal requires a permit). The regulations establish special rules for landfills, incineration, composting plants, and sludge disposal sites. Variances to the requirements may be allowed, if approved by the Commission.

3. SUBMISSION REQUIREMENTS

Applications require detailed plans and specifications and a feasibility study report as specified in OAR 340-61-030. A statement of land use

compatibility from the land use planning agency must also be submitted, along with a recommendation from the local government unit(s) with jurisdiction over solid waste.

4. PROCEDURES

- a. Application: 3 completed copies of the application need to be submitted to the department.
- b. Review/Investigation: The State and local government may make a joint review. The Water Resources Department participates in the department's review.
- c. Public Notification/Hearing: Public hearings are usually held on the local level; if they are not held, the department has the discretion to require such a hearing by the local government agency with jurisdiction for solid waste. The Environmental Quality Commission may also hold a hearing.
- d. Processing: Every completed application is approved or disapproved within 60 days after its receipt.
- e. Term: Permits usually valid for 5 years; by law they cannot exceed 10 years.

5. OPERATION REQUIREMENTS

Permit conditions cover disposal practices, operation requirements, reporting, and monitoring; terms vary depending on factors such as the variety and amount of waste and ground water conditions. Special rules have been established for landfills, incineration, composting plants, and sludge disposal sites.

6. FEES

None.

7. APPEAL PROCESS

Appeals are heard by the Environmental Quality Commission, and must be requested in writing.

E. ADMINISTERING AGENCY

Supervisor
Solid Waste Program
Department of Environmental Quality
522 S.W. Fifth Avenue
P.O. Box 1760
Portland, OR 97207

(503) 229-5913

CHAPTER 5.5 HAZARDOUS/TOXIC WASTE MANAGEMENT

5.5.1 HAZARDOUS WASTE

INTRODUCTION

The Department of Environmental Quality controls hazardous waste from the point of generation through transportation, storage, treatment, and disposal. A license from the Environmental Quality Commission is needed to establish or operate a disposal site for hazardous wastes. Companies who store hazardous wastes for longer than 180 days need to be licensed, or if they treat hazardous wastes, they need to be licensed. The following procedure requirements only apply to disposal sites; storage and treatment procedures are similar but less complex.

The disposal license does not allow disposal of radioactive material or radioactively contaminated containers and receptacles used in transportation, storage, use, or application. Specific hazardous wastes (those which are ignitable, corrosive, or reactive but not toxic) can be disposed at specified non-hazardous disposal sites if the applicant receives a solid waste permit for this purpose. Generators of hazardous waste are required to identify themselves and their activity to the Department of Environmental Quality and obtain an identification number.

A. NAME OF PROGRAM

Hazardous Waste.

B. AUTHORIZING STATUTE

Solid Waste Control, ORS 459.410 through 459-690 (459.510 for disposal license).

C. TITLE OF REGULATION

Hazardous Waste Management, Department of Environmental Quality, OAR 340-62-005 through 62-100, 340-63-006 through 63-435.

D. SUMMARY OF PROGRAM

I. APPLICABILITY

Hazardous wastes include discarded, useless, or unwanted materials or

residues in solid, liquid, or gaseous state and their empty containers. (Further defined in OAR 340 Division 63 by characteristics of ignitable, corrosive, reactive, and toxic).

2. GENERAL REQUIREMENTS

A license is required to establish or operate a disposal site for hazardous wastes. All hazardous wastes must be disposed of at a licensed facility. The site must conform with all local, State, and Federal standards to protect life, property and the environment. The land upon which the disposal site is located must be deeded to the State as a condition of the license. Accident insurance is required in specified amounts to cover sudden and accidental events as well as non-sudden environmental impairments. A bond is required which covers the costs needed to close the site and provide for its supervision for 30 years after closure. An annual license fee is also required for monitoring, surveillance, and administrative costs.

3. SUBMISSION REQUIREMENTS

The application needs to include: name and address of applicant and responsible persons; financial condition of applicant; experience of applicant in similar operations; detailed management program for site; schedule and description of sources, types, and quantities of disposed material; description of site facilities; preliminary engineering sketch and flow chart; legal description of site; preliminary geologist's survey report; proposal for monitoring, reporting, and surveillance; evidence of insurability; and evidence of bondability.

4. PROCEDURES

- a. Application: 8 copies of the application need to be submitted to the department.
- b. Review/Investigation: Applications for a hazardous waste disposal site are also reviewed by the Health Division, the Public Utility Commissioner, the State Fish and Wildlife Commission, and the

Water Resources Director. The Health Division has veto power over the license, with the other agencies making recommendations.

- c. Public Notification/Hearing: See 4(d) below.
- d. Processing: As soon as possible after receipt of an application, a determination of completeness is made. Immediately thereafter a draft license is prepared. The applicant is given 14 days to review and comment on the draft license. Following applicant review, the license is put on 30-day public notice for public hearing in the county of the site location. Following the hearing in that county, a public hearing in front of the Environmental Quality Commission is scheduled. Additional public hearings and review periods may be held if significant comments are made on the draft license.

Review time is 90 days minimum, with possibility of extended review depending on the scope of the proposal and the public concern.

5. OPERATION REQUIREMENTS

No construction or operation can occur before detailed engineering plans are received. The license stipulates minimum requirements for disposal, operation, maintenance, monitoring and reporting, and site supervision.

6. FEES

The non-refundable application fee is \$5,000.00. An annual license fee is charged to cover monitoring, surveillance, and administrative costs (the fee for the existing site is \$87,500.00 a year).

7. APPEAL PROCESS

A rehearing can be requested from the Environmental Quality Commission.

E. ADMINISTERING AGENCY

Supervisor
Hazardous Waste Program
Department of Environmental Quality
522 S.W. Fifth Avenue
P.O. Box 1760
Portland, OR 97207

(503) 229-5913

CHAPTER 5.5 HAZARDOUS/TOXIC WASTE MANAGEMENT

5.5.2 RADIATION SOURCES

INTRODUCTION

The Radiation Control Section of the Department of Human Resources' Health Division administers a regulatory program for radiation sources to provide for the protection of occupational and public health and safety. This program does not regulate radioactive waste burial, but does regulate the handling and disposal of radioactive waste by means other than burial.

Oregon is one of the 26 states operating a State program which meets the approval of the Nuclear Regulatory Commission. The Commission receives a copy of all licenses and makes an annual review of program performance.

A. NAME OF PROGRAM

Radiation Control.

B. AUTHORIZING STATUTE

Hazardous Substances; Radiation Sources, ORS 453.605 through 453.755.

C. TITLE OF REGULATION

Oregon Regulations for the Control of Radiation, OAR 333-22-150 and 333-22-153.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

All radioactive by-product materials, source materials, or special nuclear materials in quantities not sufficient to form a critical mass, and devices or equipment that utilize these materials.

2. GENERAL REQUIREMENTS

No person can receive, acquire, own, possess, use, manufacture, produce, or transfer any radiation source without a license or registration. The licenses can be general licenses which cover limited activities specified in

the regulation, or specific licenses which apply to other radiation sources and uses.

Licenses stipulate terms and conditions. Detailed records can be required, including survey records. Inspections are made routinely by the department to assure compliance with license conditions. X-ray machines must be registered before being used.

3. SUBMISSION REQUIREMENTS

The application needs to include a detailed description of the proposed activity on a form supplied by the department, supplemented by attachments. The department publishes licensing guides which detail the guidelines for each major type of activity.

4. PROCEDURES

- a. **Application:** Completed applications need to be submitted to the Radiation Control Section.
- b. **Review/Investigation:** Staff makes an investigation as necessary.
- c. **Public Notification/Hearing:** Not required.
- d. **Processing:** The department has a policy that any proposed action will receive a response within 2 weeks. New applications average between 2 and 5 weeks' processing time.
- e. **Terms:** License is approved for 5 years. Complete new applications required for renewal.

5. OPERATION REQUIREMENTS

Terms and conditions of the license can be changed at any time, and the applicant can be requested to provide additional information. Operation requirements are detailed in the license, and vary according to the operation.

6. FEES

No application fee. Specific licenses are charged an annual validation fee depending on the required scope of administrative review. (Ranges from \$80.00 - \$1,000.00.) General licenses do not require a fee.

7. APPEAL PROCESS

Decisions can be appealed to the administrator of the Health Division. Those decisions can be reviewed at a public hearing with an appointed hearings officer.

E. ADMINISTERING AGENCY

Manager
Radiation Control Section
Health Division
State Office Building
1400 S.W. Fifth, Room 1012
Portland, OR 97207

(503) 229-5797

CHAPTER 5.6 NOISE REGULATIONS

INTRODUCTION

The Department of Environmental Quality administers the Noise Control Program to prevent excessive noise pollution. The department has issued noise standards for motor vehicles, industry and commerce, motor sports vehicles and facilities, and airports. Individuals desiring to be exempted from these standards need to file for an exception or variance from the department. The department issues exceptions, and variances are issued by the Environmental Quality Commission. Exceptions are department-granted variances as specially provided for in the regulations, otherwise the procedures and requirements are identical. The law allows cities and counties to adopt and enforce stricter noise standards and ordinances.

A. NAME OF PERMIT

Noise Exception/Variance.

B. AUTHORIZING STATUTE

Noise Control, ORS 467.

C. TITLE OF REGULATION

Department of Environmental Quality, Noise Control Regulations, OAR, Chapter 340, Division 35.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Motor vehicles, industry and commerce, motor sports vehicles and facilities, and airports unable to meet noise control standards.

2. GENERAL REQUIREMENTS

The regulations specify types and conditions for application of an exception which can be considered within each category of noise control.

Applicants can apply for variances in the following situations:

- a) conditions exist beyond the control of the applicant;

- b) strict compliance would be unreasonable due to special circumstances;
- c) strict compliance would result in substantial curtailment or closing down of business, plant, or operation; or
- d) no other alternative facility or method is available.

3. SUBMISSION REQUIREMENTS

The application should be in a letter format, stating the supporting facts.

4. PROCEDURES

- a. **Application:** Applicant must apply to the Noise Control Program for exceptions and the Environmental Quality Commission for variances.
- b. **Review/Investigation:** Review will consider factors such as: protection of health, safety, and welfare of citizens; feasibility and cost of noise abatement; the past, present, and future land use patterns; the relative timing of land use changes and other legal constraints.
- c. **Public Notification/Hearing:** Discretionary procedures; usually, affected people will be notified and invited to respond.
- d. **Processing:** Duration varies depending on nature of the request; an average of 30 days is needed for processing an exception and 60 days for a variance.

5. OPERATION REQUIREMENTS

Requirements vary according to nature of proposed action. The requirements can indicate when the standard can be exceeded, quantity and quality of noise, and in some circumstances, outline the increments of progress necessary toward meeting the noise rules.

6. FEES

None.

7. APPEAL PROCESS

Denial of exceptions can be appealed to Environmental Quality Commission.

E. ADMINISTERING AGENCY

Noise Program Manager
Department of Environmental Quality
522 S.W. Fifth Avenue
P.O. Box 1760
Portland, Oregon 97207

(503) 229-5989

CHAPTER 5.7 WILDERNESS, RECREATION, AND SCENIC AREA RULES

INTRODUCTION

The Department of Environmental Quality has established special rules for the protection of wilderness, recreation, and scenic areas. The rules are intended to maintain these environments as free from air, water and noise pollution as is practically possible, with minimal alterations.

A. NAME OF PROGRAM

Environmental Standards for Wilderness Areas.

B. AUTHORIZING STATUTE

Pollution Control, ORS 467.030, 468.295, 468.310, 468.735, and 468.740.

C. TITLE OF REGULATION

Wilderness, Recreational and Scenic Area Rules, OAR 340-13-005 to 13-035.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

All activities in wilderness area, except emergency or recreational.

2. GENERAL REQUIREMENTS

A permit is required before initiating any activity which causes emissions of air contaminants, water pollutants, or noise in excess of established standards (340-13-020).

3. SUBMISSION REQUIREMENTS

A letter must be filed describing the proposed activity in detail. Proposed emissions exceeding water or air standards should be made on regular departmental forms.

4. PROCEDURES

a. Application: The letter should be submitted to the Department of

Environmental Quality no less than 90 days prior to the proposed date of starting the activity.

- b. Review/Investigation: Variable depending on proposal.
- c. Public Notification/Hearing: Public hearing is discretionary; at least 20 days notice must be provided to the applicant and other interested persons.
- d. Processing: No set timelines.

5. OPERATION REQUIREMENTS
Variable depending on proposal.

6. FEES
Applicants need to pay fees associated with the applicable permit program: air, water, or noise.

7. APPEAL PROCESS
Appeals can be taken to the Environmental Quality Commission.

E. ADMINISTERING AGENCY

Department of Environmental Quality
522 S.W. Fifth Avenue
P.O. Box 1760
Portland, OR 97207

(503) 229-5696

SECTION 6.0
SOCIAL/ECOLOGICAL PRESERVATION

CHAPTER 6.1 RARE AND ENDANGERED SPECIES

INTRODUCTION

The Department of Fish and Wildlife's regulations prohibit the importation, exportation, transportation, sale, or purchase of many species of wildlife, including game fish. Permits are required in most instances where transporting, holding, or propagating of wildlife is involved. The Department of Fish and Wildlife administers these licenses and permits; individuals should contact the department for information on specific species of wildlife. The department administers all regulations providing for protection of wildlife and fish, including a requirement for a blasting permit when explosives are used in waters of Oregon.

A. NAME OF PERMIT

Blasting Permit.

B. AUTHORIZING STATUTE

Wasting, Injuring and Destroying Fish, ORS 509.140.

C. TITLE OF REGULATION

None.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Covers in-water use of explosives or any substance deleterious to fish.

2. GENERAL REQUIREMENTS

A permit must be obtained before activity occurs.

3. SUBMISSION REQUIREMENTS

Application letter needs to include project location, blasting dates, type and amount of explosives, and blasting conditions.

4. PROCEDURES

a. Application: Letters should be received at least 2 weeks in advance of planned blasting.

- b. Review/Investigation: Staff reviews the potential damage to aquatic life.
- c. Public Notification/Hearing: None.
- d. Processing: Staff reviews application and makes a decision within 2 weeks. No work is to be done before the written permit is received.

5. OPERATION REQUIREMENTS

The permit may be conditioned to protect fish and wildlife.

6. FEES

None.

7. APPEAL PROCESS

Appeals can be made to the Fish and Game Commission.

E. ADMINISTERING AGENCY

Environmental Management
Department of Fish and Wildlife
P.O. Box 3503
Portland, OR 97208

(503) 229-5433

CHAPTER 6.2 ARCHAEOLOGICAL AND HISTORICAL
6.2.1 REMOVAL FROM STATE LANDS

INTRODUCTION

The Division of State Lands regulates the removal of historical and other valuable materials from State land.

A. NAME OF PERMITS

Archaeological Exploration Permit; Semiprecious Stones and Petrified Wood Permit; Treasure Trove Permit.

B. AUTHORIZING STATUTE

Removal of Historical and Other Valuable Materials, ORS 273.705 through 273.742, and 273.990.

C. TITLE OF REGULATION

Treasure Trove Permits, OAR 141-20-005 through 20-030.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Regulation covers three activities on State land or water: excavation of any archeological, prehistorical, or anthropological value; removal of semiprecious stones and petrified wood having a value of \$500.00 or more; salvage or excavation of treasure troves (precious metals, bullion, jewelry, pottery, tools, weapons, documents, etc.).

2. GENERAL REQUIREMENTS

Prior to excavation or removal, a permit is required.

3. SUBMISSION REQUIREMENTS

Description of material, site location, intended use, and excavation/-removal procedures must accompany application. The names and addresses of all individuals with a financial interest or share must be included.

4. PROCEDURES

- a. **Application:** A letter of intent must be filed with the division.
- b. **Review/Investigation:** The application is circulated to the Oregon State Museum of Anthropology, Division of Parks and Recreation (Historic Preservation Office), the land-owning agency, and others at the discretion of the Division (i.e., Fish and Wildlife when waterways are involved).
- c. **Public Notification/Hearing:** In most cases, the permit is considered by the Land Board at a public meeting.
- d. **Processing:** No set time requirements.

5. OPERATION REQUIREMENTS

The division may prescribe terms and conditions. For archaeological and historical materials, not less than half the specimens usually become the property of the State. Archaeological exploration permits are issued jointly with the President of the University of Oregon, who may also prescribe terms and conditions.

6. FEES

None.

7. APPEAL PROCESS

None.

E. ADMINISTERING AGENCY

Division of State Lands
1445 State Street
Salem, OR 97310

(503) 378-3805

CHAPTER 6.2 ARCHAEOLOGICAL AND HISTORICAL

6.2.2 PROTECTION OF INDIAN GRAVES

The Oregon State Legislation has provided for the protection of Indian graves and cairns on all lands in the State. (ORS 97.740, 97.745, 97.750, and 97.990). The law covers all willful as well as inadvertent acts. If an Indian grave or cairn is uncovered, the individual needs to contact the State Historical Preservation Office, the Commission on Indian Services, or the local police. Re-burial at the applicant's expense and under the supervision of the appropriate Indian organization is required.

ADMINISTERING AGENCIES

Oregon State Historical Preservation Office
525 Trade St. S.E.
Salem, OR 97310

(503) 378-5023

Commission on Indian Services
454 State Capitol
Salem, OR 97310

(503) 378-5481

CHAPTER 6.3 WETLANDS

For Oregon's control over wetlands, refer to Chapter 4.2.1, "Comprehensive Land Use Planning."

CHAPTER 6.4 COASTAL ZONE REGULATIONS

INTRODUCTION

Oregon's Coastal Management program includes two components: the shared authorities and responsibilities of local governments, State agencies and the Land Conservation and Development Commission; and other special-purpose, statewide statutes. This description will concern the permit programs administered by the Department of Transportation. Reference should also be made to the following chapters:

Chapter 4.2.1 Comprehensive Land Use Planning.

Chapter 5.2.3 Dredge and Fill (Submerged Lands).

The Department of Transportation regulates building in the ocean shore area of the State.

A. NAME OF PERMIT

Ocean Shore Permit.

B. AUTHORIZING STATUTE

Oregon Beach Law, ORS 390.605 through 390.770.

C. TITLE OF REGULATION

Ocean Shore Permits.

D. SUMMARY OF REGULATION

1. APPLICABILITY

All the beach lying seaward of the beach zone line to extreme low tide is defined as the Ocean Shore Area. The beach zone line is approximately the line of vegetation and the 16-foot elevation.

2. GENERAL REQUIREMENTS

A permit is required before a structure can be built in the Ocean Shores Area. Removal of material is restricted and may require a permit.

3. SUBMISSION REQUIREMENTS

The application form requires information on the project timeline, location, applicable building permits; attachments are needed showing ownership and legal description, detailed plans and drawings, and a list of neighboring property owners.

4. PROCEDURES

a. Application: Applicants need to complete an application form obtained from the Region Park Supervisor or District Park Manager.

b. Review/Inspection: Copies of the application are circulated to the Division of State Lands, Department of Land Conservation and Development, the affected local government, the local citizen advisory committee, the Oregon Shores Conservation Coalition, 1,000 Friends of Oregon, and other interested agencies and persons. The Parks Design and Engineering Section makes a field inspection and reviews any comments from agencies and individuals.

c. Public Notification/Hearing: A notice of the proposed action is posted on the site. If 10 written requests are received, or at the request of the applicant, a public hearing is held. The hearing allows testimony on consistency with the statewide planning goals and acknowledged comprehensive plan.

d. Processing: A decision is issued within 60 days of receipt of complete application, unless a hearing is held. In this case, a decision is required within 45 days of the hearing.

5. OPERATION REQUIREMENTS

The permit conditions vary depending on the project.

6. FEES

None.

7. APPEAL PROCESS

Appeals can be taken to the circuit court of the county where the property is located.

E. ADMINISTERING AGENCY

Parks and Recreation Division
Department of Transportation
Vick Building
525 Trade Street S.E.
Salem, OR 97310

(503) 378-5012

SECTION 7.0
LOCAL REGULATORY POLICY

CHAPTER 7.1 LOCAL GOVERNMENT LAND USE
AND NATURAL RESOURCE CONTROL ENABLING LAWS

Local government land use in Oregon is regulated through the Land Conservation and Development Commission (see Chapter 4.2.1).