



Oregon

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Kirk Maag
Stoel Rives, LLP
760 SW Ninth Ave., Suite 3000
Portland OR, 97205

**RE: Permitting Requirements for Proposed Conversion Technology Facility
Oregon Torrefaction, LLC & Restoration Fuels, LLC**

Dear Mr. Maag:

Thank you for your letter dated May 6, 2019, regarding permitting requirements for a conversion technology permit utilizing materials generated by Malheur Lumber Company. In that letter, you agree that solid waste disposal sites may be permitted, but assert saw dust and other residual material that will be used at your clients' wood torrefaction facility are not solid waste. Therefore, you conclude DEQ has no authority to require a conversion technology permit requiring plans protective of human health and the environment. We address these claims here.

Sawdust and other residual material generated during the processing of trees into wood products is solid waste. Solid waste is broadly defined at ORS 459.005(24):

"Solid waste" means all useless or discarded putrescible and nonputrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined in ORS 459.386.

The Oregon Attorney General has provided DEQ with legal interpretations¹ that describe the scope of materials defined as solid waste. The fact that a material may be useful, recyclable, reclaimable, or saleable does not alone exempt it from the definition of solid waste. When identifying whether a material is solid waste, we consider whether the material must be reclaimed, processed, altered, transformed, mixed, purified, etc. to be useful. If so, it will generally be considered a solid waste until actually converted to a bona fide, valuable product.

The materials proposed for use by Oregon Torrefaction and Restorations Fuels are specifically defined at OAR 340-093-0030 (106) as "wood waste:"

¹ 42 Op. Atty Gen. Ore. 132 (1981)

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

DEQ considers wood waste a subcategory of solid waste that has the potential to adversely impact human health and the environment. The waste has the potential to spontaneously combust, which can impact air quality and can result in uncontrolled fires, which have subsequent impacts such as destroying personal and public property, degrading landscapes, impacting wildlife habitat, creating dust, and increasing soil erosion. Leachate and runoff from accumulated wood wastes can migrate to Oregon’s groundwater and surface water, degrading beneficial uses. Additionally, accumulated wood waste has the potential to create dust during wind events, which generates particulate matter that impacts human health and creates nuisance conditions. In Oregon, there have been multiple cases where improper management of wood waste has resulted in fires and leachate generation, which have contaminated the air, soil, surface water, and groundwater.

Residual material from the processing of trees into lumber, including sawdust, chips, and shavings anticipated for use at Oregon Torrefaction are solid waste². We understand that proposed operations at the facility will process, alter, or transform this waste through torrefaction, which is a process of heating the wood. The processing necessary to transform the residual material into a product, as described above, further highlights that the residual material fits the definition of solid waste. As such, the wood waste is subject to regulation under a solid waste conversion technology permit.

Conversion technology permit requirements are described at OAR 340-096-0200 and consist of documenting common sense environmental and safety standards that may already be planned by facility operators. Conversion technology rules are generally described at <https://www.oregon.gov/deq/mm/swpermits/Pages/Conversion-Technology.aspx>. Exemptions from permitting requirements are allowed for activities that are low risk. A fact sheet on the conversion technology exemptions can be found at <https://www.oregon.gov/deq/FilterDocs/ConTechExemptFS.pdf>.

² DEQ notes that the source materials are described by a funder of the facility, the U.S. Endowment for Forestry and Communities, as using “locally-sourced low-value and waste wood” and “small-diameter, dying or dead trees with little market value.” These descriptions are consistent with the sawdust, planar shaving, and other wood debris anticipated for processing at the facility being a solid waste. These descriptions also call into question whether small no-saw logs discussed in our April 1 letter may also be a waste. <https://www.usendowment.org/what-we-do/wood-to-energy/oregon-torrefaction/> The Endowment also characterizes the project as a “high-risk” experiment. https://www.usendowment.org/wp-content/uploads/2019/03/2018_use_ar-web-1.pdf at page 13 of 20.

If, as discussed above, Oregon Torrefaction and Restoration Fuels use residuals from the wood products industry in their process, they must either apply for a solid waste disposal permit or an exemption from permit requirements.

DEQ appreciates the efforts of Oregon Torrefaction and Restoration Fuels to minimize the disposal of wood wastes. We look forward to continued discussions on this significant project. If you have questions or comments on this letter, or wish to better understand permitting requirements, please contact me at 541-298-7255 ext. 222 or by email at doughten.ron@deq.state.or.us.

Cordially,



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