

Administrative Search Warrant Procedures



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Environmental
Quality

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restoring, maintaining
and enhancing the quality
of Oregon's air, land and
water.*



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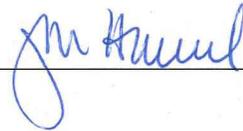
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Document Development

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1. Intent/Purpose/Statement of Need

The purposes of this memorandum are to familiarize inspectors and other Oregon Department of Environmental Quality (DEQ) personnel with their statutory authority to inspect facilities under DEQ jurisdiction and provide guidance on how to proceed in the event that access to either a property or documents is denied and an administrative search warrant is needed.

2. Applicability

This IMD is to be used by all DEQ inspectors to determine how and when they can enter onto a property and inspect documents.

3. Background

DEQ's primary investigatory authority is found in Oregon Revised Statutes (ORS) 468.095. ORS 468.095(1) gives DEQ the "power to enter upon and inspect, at any reasonable time, any public or private property, premises or place for the purpose of investigating either an actual or suspected source of water pollution or air pollution or air contamination or to ascertain compliance or noncompliance with any rule or standard adopted or order or permit issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B." This statute grants DEQ authority to inspect a property to determine compliance with sewage treatment (including on-site), water and air quality regulations. For land quality and other programs not covered by ORS 468.095, DEQ's authority to inspect a property is granted under other statutes. These other statutes, as well as ORS 468.095, are set forth in Attachment 1.

Additionally, some DEQ regulations grant DEQ authority to inspect a property or to review documents. Finally, most permits issued by DEQ also contain provisions which grant DEQ consent to enter the property covered by the permit for an inspection and to review documents held by the permittee.

This IMD provides guidance about when DEQ may need to obtain an administrative search warrant in order to inspect property or records and the process for doing so.

4. Directive

4.1 Authority to enter and inspect without a warrant

While the provisions outlined above grant DEQ the authority to either enter a property or to review documents, a person still has the right to refuse to allow DEQ to do so. Administrative inspections must be conducted consistent with Oregon and federal constitutional guarantees against unreasonable searches and seizures. Simply stated, a person generally has a constitutional right to deny DEQ access in the absence of a warrant, even if a permit, statute, or rule requires the person to allow access. Such a refusal may be grounds for an enforcement action, however, if refusal is in violation of a permit or law. Although the law remains

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unclear on this point, wrongfully obtained evidence may not be admissible in court or administrative hearings and in some circumstances, it may also give rise to a lawsuit against DEQ.

In the following circumstances, a DEQ inspector has the right to enter onto private property or to obtain the information it is seeking without a warrant¹:

4.1.A. Consent to Inspect

There are two types of consent: express and implied. Express consent is fairly simple to identify as the person in control of the property or documents tells DEQ they can enter the property or review the documents.

There is generally an implied consent to go into the public portions of a business, and to go to the front door of a home and knock, without violating the privacy interests. An inspector may also go to the side door if access to the door is visible and accessible from the sidewalk or street. Implied consent can be difficult to determine and DEQ inspectors should consult with their manager and the Department of Justice (DOJ) when they are uncertain if consent has been granted.

If the resident has taken actions expressing a denial of consent to access, the inspector may not enter. Examples of this include where land is posted with a no trespassing sign, or fenced in a manner that makes it objectively clear that the owner or occupant intends to exclude people.

4.1.B. Emergency or Exigent Circumstances

Where there is an emergency that poses an immediate threat to health or safety, If DEQ has the authority to protect against that particular threat, DEQ may enter property without a warrant for the purpose of responding to the threat. An example of this would be emergency response to a spill. Warrantless entry without consent may also be permissible in situations where evidence of a violation will be lost or destroyed if the person carrying out the inspection takes the time to obtain a warrant. DEQ staff should be aware that the second exception is very narrowly construed. If there is time to get a warrant, warrantless entry is not justified on the basis of the possible loss or destruction of evidence. If you are in doubt, you should contact your manager and DOJ .

4.1.C. Open Fields/Plain View Exception

These two doctrines are based on the premise that there is no reasonable expectation of privacy for property or items in plain view to the public. The plain view doctrine means that any information gathered by an inspector in "plain view" from a location open to the public does not constitute a search and a warrant is not required. Similarly, a DEQ inspector is free to enter open areas of land, (for example, an unfenced yard) where the owner or occupant has not taken steps making it clear that entry is not permitted. DEQ can also enter business areas open to the public, such as the front lobby of a business and public right of ways (i.e., sidewalks) to gather evidence in plain view. DEQ can also enter a neighboring property with consent of that property owner, to view an adjoining property.

¹ List and explanations in this section are generally taken from the Oregon Attorney General's (AG's) Administrative Law Manual 2012. See AG's Manual, pages 65-67.

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4.2 When should DEQ consider obtaining an Administrative Search Warrant?

DEQ may seek and obtain a search warrant if entry is “denied” or “not consented to” by an owner or employee of a facility or site. Denial is a clear refusal (verbal or written) to allow access onto the property, while a lack of consent can mean the absence of personnel to authorize entry.³ DEQ may also obtain a search warrant when there is partial denial. Partial denial is where for example, an inspector is given full access to a facility except for one particular shed, or where the inspector is prohibited from taking samples. DEQ may also obtain a search warrant in advance of the inspection, when DEQ expects that access will be denied without actually having been denied access.

DEQ will not seek to obtain an administrative search warrant for every circumstance in which a DEQ cannot gain access. If the inspector either has been denied access or anticipates that occurring, the inspector should consult their manager to determine if the circumstances warrant expending DEQ’s resources on obtaining a warrant. The manager should call the lead ELS for the program to discuss the particular facts of the case.

In general, a search warrant is legally feasible if the need for it is based on a routine inspection program, or the inspector has reason to believe that a violation has occurred. A court will issue a warrant for an administrative search upon a showing of “reasonable cause.” The test for reasonable cause is whether reasonable legislative or administrative standards exist to govern the inspection. OCE, in consultation with DOJ, can also help the program determine if reasonable cause exists in the particular case.

4.3 Procedure for Obtaining a Warrant

In order to obtain an administrative search warrant, DEQ will need to draft several documents, including (1) a supporting affidavit; (2) the proposed warrant; and (3) the return of warrant. Templates of these documents are found in Attachment 2 and additional examples of affidavits and other documents can be provided by OCE or DOJ.

If DEQ determines that the circumstances warrant expending DEQ’s resources on obtaining a warrant, OCE will coordinate and work with the inspector and DOJ throughout the drafting process.

4.3.A. Required Documents

The inspector will prepare a draft affidavit that clearly and concisely explains whether the inspection is a routine inspection or why DEQ has reasonable cause to believe that a violation exists, background information on the facility (including past compliance issues related to the conduct alleged in this case), what information DEQ wishes to obtain, where that information is likely to be located, and the facts supporting why a search warrant is needed (i.e. denial of access). If any of this information was obtained through a confidential complaint, the complainant’s identity should not be identified in the affidavit and remain confidential. When the affidavit is in final form, it is signed by the inspector before a notary.

The actual warrant is the order, to be signed by a judge, authorizing DEQ to enter onto the property. The warrant must identify everything that DEQ intends to undertake during the inspection including taking photographs, reviewing/copying/removing records, inspecting equipment, and collecting samples. The

³ A Denial of Access form is available for inspectors and should be used to document any time that an inspector is denied access. The form is available through the Agencywide Inspector Manual.

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warrant must also identify who is allowed entry under the warrant and describe the manner and timeframe for conducting the inspection. If DEQ wishes for a sworn peace officer (Oregon State Police or another law enforcement officer) to join DEQ when accessing the property, the warrant must specifically state so. Failure to specifically identify everything that might be called for during the inspection, could make those activities a violation of the person's 4th amendment rights.

The return of warrant serves to document how and when the warrant was executed and what evidence was taken.

The affidavit, warrant and return of warrant may be drafted by DEQ regional and OCE staff, but must be reviewed by DOJ.

These documents, particularly the affidavit, may take a few drafts. Some courts also require original signatures on the affidavit. For that reason, the region should contact OCE sufficiently far in advance of the need for a warrant so the documents can be reviewed by DOJ in a timely manner.

4.3.B. Presenting affidavit and warrant to court

The warrant is obtained from the Circuit Court for the county in which the property is located. Procedures vary from county to county, and sometimes judge to judge. DOJ will contact the court in advance to determine that particular county's procedures so the inspector knows who to report to at the courthouse and what process to follow. Generally, the inspector will present the affidavit and warrant to a judge for signature. It is unnecessary and unlikely that DOJ will appear before the judge with the inspector, so the inspector should be prepared to answer any questions that the judge may have. The inspector may be asked to answer those questions under oath. OCE and DOJ will help the inspector to prepare for this. The inspector should also inform the judge that DOJ is available to answer any questions regarding the administrative search warrant. Once the judge signs the warrant, DEQ now has the court-ordered authority to inspect the property in compliance with the warrant.

4.4 Procedure for Executing a Warrant

4.4.A. Pre-Execution Briefing

DEQ personnel who will be conducting the inspection, and preferably the peace officer assisting with the warrant, should meet to discuss the logistics of the inspection.⁵ Note that the function of a peace officer during the execution of a warrant is to assist DEQ in accessing and securing the premises and is not to assist DEQ in its inspection. The facility should not be informed of the warrant or the date on which DEQ intends to execute the warrant.

All participants should be briefed on the layout of the property, the locations of items to be inspected, sampling procedures, the likelihood of encountering confidential documents, and other details. Each participant should be clear about their role in the execution of the warrant. Any supplies that will be necessary to bring to the inspection, such as sample containers and equipment, photo copying equipment, boxes and envelopes for copied records, and tools for cutting locks and opening containers should be

⁵ In small-town rural jurisdictions, be mindful of the peace officer's potential relationship with and/or loyalty to the facility owner and act accordingly. In these circumstances, the inspector should avoid discussing the facts surrounding DEQ's decision to inspect the facility.

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identified and obtained prior to the date of the inspection.⁶ In general, you should prepare for an inspection conducted pursuant to a warrant in the same manner as any other inspection, with the caveat that you may need more staff to assist. For example, if you plan to review a large number of documents, you will want to assign DEQ staff to a document review team, or if there will be a significant number of people present at the property, you may want DEQ staff available to ensure they do not tamper with any evidence.

4.4.B. Executing the Search Warrant

Typically, a search warrant sets forth the timeframe or date on which the inspection must be conducted. Execution should occur as soon as practicable within the timeframe allowed in the warrant. This is especially true if DEQ was denied access and DEQ believes there are on-going violations with potential for environmental harm, or documents substantiating the violation might be destroyed.

DEQ should bring the original and at least one copy of the warrant to the property. DEQ staff executing the warrant should carry identification and tell the person in control of the property his or her name, title and purpose for being there. DEQ staff should read the warrant aloud and give a copy to the person in control of the property (hereinafter referred to as “owner/operator”). The time and date of the execution of the warrant must be entered on the original warrant, and the warrant must be signed by a DEQ representative present during the execution. Even if the owner/operator gives consent to enter the property when presented with a warrant, the warrant should be read, a copy given, and the time and dated entered onto the warrant.

In the vast majority of cases, an owner/operator will not refuse access to a DEQ inspector who has a warrant. If an inspector is denied access, the inspector should contact DOJ and the inspector’s manager immediately for direction on next steps. If the inspector is accompanied by a peace officer, the officer can be called upon to ensure entry and cooperation by facility employees.

In situations where the facility appears vacated or otherwise absent of attendants and forcible entry (i.e. lock cutting) is required, you should be prepared to force the lock. Inspectors should bring along a replacement lock and should either arrange for a locksmith to assist with gaining entry or bring tools necessary to remove the lock. Once the inspection is complete, the point of entry should be re-secured with a replacement lock in order to protect DEQ from allegations by the owner of subsequent damage or wrongdoing to the property. The warrant should be left for the owner in a conspicuous place as well as an explanation regarding any re-secured access points (i.e. “call us and we will mail you the key”). Bring a clear, plastic bag to the site in anticipation of the need to leave these documents outdoors.

Persons present on the property have the right to leave without being detained or questioned, provided their exit does not create security issues. Their exit should be monitored to prevent them from removing or tampering with any items described in the warrant. DEQ may interview any person who remains present, although that person is under no obligation to answer questions. Owners/operators and their attorney(s) are allowed to be present during an inspection, provided they do not interfere with the inspection. If a person is allowed to remain on the site, they should be monitored to ensure they do not tamper with any evidence.

If the warrant allows for the review of documents, all documents identified in the warrant may be inspected and copied. If a copier is not available at the facility or the number of documents is too voluminous to allow for copying, an inspector may take originals from the facility if the warrant allows copying of the

⁶ Further information on pre-planning for an inspection is provided in the Agencywide Inspector Manual. Additionally, OCE can assist in pre-warrant planning.

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documents. If an inspector discovers documents during the inspection that need to be copied which are not set forth in the warrant, the inspector should contact DOJ immediately for direction on whether or not the warrant needs to be amended prior to taking those documents. Any documents taken from the facility should be copied and returned as soon as possible. The owner/operator or attorney has no right to examine the records being inspected or copied, or to request copies at the time of the inspection. Copies can be provided through the regular public record request process. The inspector will need to fill out an inventory of any documents taken from the facility. A form for an inventory is attached in Attachment 2.

If the inspector finds documents that are labeled as protected by the attorney-client privilege (confidential communications that are in furtherance of legal services) or are claimed as confidential by the owner/operator, the documents should be sealed in separate envelopes or boxes and clearly marked as potentially privileged.

Any samples collected must also be added to the inventory of items seized. DEQ is not required to provide a portion of any samples collected, except for samples related to the cleanup of hazardous substances.⁷ The owner/operator is free to collect its own samples from the same material that DEQ samples unless (1) doing so will not allow DEQ to obtain the required amount of material for analysis or (2) the time required to collect both samples or the conditions under which the samples are being collected pose a threat to inspector's safety and well being. If the owner/operator wishes to obtain a portion of the samples collected by DEQ, the inspector should direct them to contact LEAD.

The final step in executing the warrant is completing and filing the "Return of Inspection Warrant" prepared as part of the initial application for the warrant with the court who issued the warrant. This documents how and when the warrant was executed, and that the inspection has been concluded. Attached to the return of warrant must be an inventory of any documents seized or samples taken.

⁷ See ORS 465.250.

5. Attachments

Attachment 1 DEQ Investigatory Authorities⁸

Chapter 459 — Solid Waste Management

459.385 Entry upon private premises authorized; access to records. The Department of Environmental Quality or county, district or city board of health personnel, authorized environmental health specialists or other authorized city or county personnel may enter upon the premises of any person regulated under ORS 459.005 to 459.105, 459.205 to 459.385, 466.005 to 466.385 and 466.992 or under regulations adopted pursuant to ORS 450.075, 450.810, 450.820 and 451.570, at reasonable times, to determine compliance with and to enforce ORS 450.075, 450.810, 450.820, 451.570, 459.005 to 459.105, 459.205 to 459.385, 466.005 to 466.385 and 466.992 and any rules or regulations adopted pursuant thereto. The department shall also have access to any pertinent records, including but not limited to blueprints, operation and maintenance records and logs, operating rules and procedures. As used in this section, “pertinent records” does not include financial information unless otherwise authorized by law. [Formerly 459.285; 1993 c.526 §9; 1993 c.560 §45; 2003 c.547 §114]

Chapter 465 — Hazardous Waste and Hazardous Materials I

465.250 Accessibility of information about hazardous substances; entering property or facility; samples; confidentiality. (1) Any person who has or may have information, documents or records relevant to the identification, nature and volume of a hazardous substance generated, treated, stored, transported to, disposed of or released at a facility and the dates thereof, or to the identity or financial resources of a potentially responsible person, shall, upon request by the Department of Environmental Quality or its authorized representative, disclose or make available for inspection and copying such information, documents or records.

(2) Upon reasonable basis to believe that there may be a release of a hazardous substance at or upon any property or facility, the department or its authorized representative may enter any property or facility at any reasonable time to:

(a) Sample, inspect, examine and investigate;

(b) Examine and copy records and other information; or

(c) Carry out removal or remedial action or any other action authorized by ORS 465.200 to 465.545 and 465.900.

(3) If any person refuses to provide information, documents, records or to allow entry under subsections (1) and (2) of this section, the department may request the Attorney General to seek from a court of competent jurisdiction an order requiring the person to provide such information, documents, records or to allow entry.

(4)(a) Except as provided in paragraphs (b) and (c) of this subsection, the department or its authorized representative shall, upon request by the current owner or operator of the facility or property, provide a portion of any sample obtained from the property or facility to the owner or operator.

(b) The department may decline to give a portion of any sample to the owner or operator if, in the judgment of the department or its authorized representative, apportioning a sample:

⁸ Oregon Revised Statutes 2011 Edition: https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx

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(A) May alter the physical or chemical properties of the sample such that the portion of the sample retained by the department would not be representative of the material sampled; or

(B) Would not provide adequate volume to perform the laboratory analysis.

(c) Nothing in this subsection shall prevent or unreasonably hinder or delay the department or its authorized representative in obtaining a sample at any facility or property.

(5) Persons subject to the requirements of this section may make a claim of confidentiality regarding any information, documents or records, in accordance with ORS 466.090. [Formerly 466.565]

Chapter 466 — Hazardous Waste and Hazardous Materials II

466.185 Investigation upon complaint; hearings; orders. (1) The Department of Environmental Quality shall investigate any complaint made to it by any person that the operation of any generator, air or water transporter or hazardous waste disposal, storage or treatment site is unsafe or that the operation is in violation of the provisions of ORS 466.005 to 466.385 and 466.992 or the rules adopted under ORS 466.005 to 466.385 and 466.992.

466.195 Monitoring and surveillance program; inspection. (1) The Department of Environmental Quality shall establish and operate a monitoring, inspection and surveillance program over all hazardous waste generators, air or water transporters and disposal, storage and treatment sites or may contract with any qualified public or private agency to do so.

(2) Any person who generates, stores, treats, transports, disposes of or otherwise handles or has handled hazardous waste, shall upon request of any officer, employee or representative of the department, furnish information relating to such waste and permit such person at all reasonable times to have access to and to copy all records relating to such waste.

(3) For the purposes of enforcing the provisions of ORS 466.005 to 466.385, any officer, employee or representative of the department may:

(a) Enter at reasonable times any establishment or other place where hazardous waste is or has been generated, stored, treated, disposed of or transported from; and

(b) Inspect and obtain samples from any person of any such waste and samples of any containers or labeling for such waste. [Formerly 459.670; 1987 c.540 §14]

466.225 Monitoring site; access. (1) If the Department of Environmental Quality determines that the presence of hazardous waste at a facility or site at which hazardous waste is or has been stored, treated or disposed of, or that the release of hazardous waste from a hazardous waste storage, treatment or disposal facility or site may present a substantial hazard to human health or the environment, the department may order the owner or operator of the facility or site to conduct any monitoring, testing, analysis and reporting as the department considers necessary to determine the nature and extent of the hazard.

(2) If a facility or site is not in operation at the time a determination is made under subsection (1) of this section and the department finds that the owner of the facility or site could not reasonably be expected to have actual knowledge of the presence of hazardous waste at the facility or site and of its potential for release, the department may order the most recent previous owner or operator of the facility or site, who could most reasonably be expected to have such actual knowledge, to carry out the actions required in subsection (1) of this section.

(3) Within 30 days after the department issues an order under subsection (1) or (2) of this section, the person to whom the order is issued shall submit to the department a proposal for carrying out the required monitoring, testing, analysis and reporting. The department may require the person to carry out the monitoring, testing, analysis and reporting described in the proposal and in any modifications to the proposal that the department considers necessary to determine the nature and extent of the hazard.

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(4) If the department determines that an owner or operator is not able to conduct monitoring, testing, analysis or reporting required under subsection (1) or (2) of this section in a manner satisfactory to the department, or if the department considers any such action carried out by an owner or operator to be unsatisfactory, or if the owner or operator fails to comply with the order, or if the department initially cannot determine that there is an owner or operator able to conduct such monitoring, testing, analysis or reporting, the department may:

(a)(A) Conduct any monitoring, testing or analysis that the department considers reasonable to determine the nature and extent of the hazard associated with the facility or site; or

(B) Authorize another state agency, local authority or person to conduct the necessary monitoring, testing or analysis; and

(b) Require, by order, the owner or operator to reimburse the department, state agency, local authority or person for the costs of conducting the monitoring, testing or analysis.

(5) The department may not require an owner or operator to reimburse the department for the costs of any action carried out by the department under subsection (4) of this section if the department's actions confirm the results of monitoring, testing, analyses or reporting conducted by an owner or operator under subsection (1) or (2) of this section.

(6) Any order issued under this section shall be subject to the provisions set forth in ORS 466.190 and 466.200.

(7) In order to carry out the provisions of this section, the owner or operator of the site or facility shall allow necessary access according to the requirements of ORS 466.195 to the department or any state agency, local authority or person conducting the monitoring, testing or analysis required under subsection (4)(a) of this section. [1987 c.540 §2]

466.310 Monitoring, inspection and surveillance program; access to facility and records. The Department of Environmental Quality shall establish and operate a monitoring, inspection and surveillance program over all PCB disposal facilities or may contract with any qualified public or private agency other than the owner or permittee to do so. Owners and operators of a PCB disposal facility must allow necessary access to the PCB disposal facility and to its records, including those required by other public agencies, for the monitoring, inspection and surveillance program to operate. [1985 c.670 §25; 1987 c.540 §46]

466.805 Site inspection; subpoena or warrant. (1) In order to determine compliance with the provisions of ORS 466.706 to 466.882 and 466.994 and rules adopted under ORS 466.706 to 466.882 and 466.994 and to enforce the provisions of ORS 466.706 to 466.882 and 466.994, any employees of or an authorized and identified representative of the Department of Environmental Quality may:

(a) Enter at reasonable times any establishment or site where an underground storage tank is located;

(b) Inspect and obtain samples of a regulated substance contained in an underground storage tank; and

(c) Conduct an investigation of an underground storage tank, associated equipment, contents or the soil, air or waters of the state surrounding an underground storage tank.

(2) If any person refuses to comply with subsection (1) of this section, the department or a duly authorized and identified representative of the department may obtain a warrant or subpoena to allow such entry, inspection, sampling or copying. [1987 c.539 §30 (enacted in lieu of 468.907)]

Chapter 468 — Environmental Quality Generally

468.095 Investigatory authority; entry on premises; status of records. (1) The Department of Environmental Quality shall have the power to enter upon and inspect, at any reasonable time, any public or private property, premises or place for the purpose of investigating either an actual or suspected source of water pollution or air pollution or air contamination or to ascertain compliance or noncompliance with any

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rule or standard adopted or order or permit issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B. The Environmental Quality Commission shall also have access to any pertinent records relating to such property, including but not limited to blueprints, operation and maintenance records and logs, operating rules and procedures.

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Attachment 2

Sample forms patterned off of the Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure Under the Administrative Procedures Act, 2012

Affidavit in Support of Request for Inspection Warrant

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR _____ COUNTY

STATE OF OREGON, ex rel) Case No. _____
_____, Director, Oregon)
Department of Environmental Quality) Affidavit of _____
) in Support of Request for an
In the Matter of the Application for) Inspection Warrant
An Inspection Warrant)
)
STATE OF OREGON)
County of _____)

I, _____, being first duly sworn, depose and say that:

1. I am employed by the Oregon Department of Environmental Quality (Department) as a _____.

2. In my capacity as a _____, I am required to inspect (describe type of facility or property) for the purpose of investigating a source of (categorize type of pollution/investigation such as water pollution, etc.) and to ascertain compliance with the Department's statutes, rules, standards and permit conditions relating to the control or prevention of (type of pollution) from the operations. My authority and duty for inspecting (describe facility or property) derives from ORS _____.

3. The following (specify the specific facility or property) has been scheduled for inspection: _____ (Facility).

4. On the ___ of _____ 20___, I sought entry and permission to inspect this Facility at approximately _____ A.M./P.M. I was denied entry without an inspection warrant by _____.

OR

4. The purpose of the inspection might be jeopardized if entry were sought without a warrant for the following reasons:

5. WHEREFORE, the Oregon Department of Environmental Quality appears and requests that the court issue a inspection warrant to inspect the (type of facility or property) described above for the purpose of investigating a source of (type of pollution) and to ascertain compliance with the Department's statutes, rules, standards and permit conditions relating to the control or prevention of (type of pollution) from the operations.

DATED this ___ day of _____ 20___.

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Signature

SUBSCRIBED AND SWORN TO before me this ____ day of ____, 20__.

Seal

Notary Public for Oregon
My Commission Expires:

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Inspection Warrant

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR _____ COUNTY

STATE OF OREGON, ex rel)	Case No. _____
_____, Director, Oregon)	
Department of Environmental Quality)	Affidavit of _____
)	in Support of Request for an
In the Matter of the Application for)	Inspection Warrant
An Inspection Warrant)	

TO: The Director of the Oregon Department of Environmental Quality, or any of his designated representatives

RE: Location of the property

IN THE NAME OF THE STATE OF OREGON

WHEREAS, the Oregon Department of Environmental Quality is authorized by ORS _____ to enter the above-described property to conduct an inspection of the (type of facility or property) to conduct an inspection of the (facility's) operation and appurtenant land for the purpose of investigating a source of (type of pollution) and ascertaining compliance with the Department's statutes, rules, standards and permit conditions relating to the control or prevention of (type of pollution) from the operation, and whereas, based on the accompanying affidavits, it appears that _____, the owner(s) or lawful occupant(s) of the _____ operation located at _____, _____ County, Oregon, has not given consent to an authorized representative of the Oregon Department of Environmental Quality to enter onto the property for that purpose, thereby frustrating the purpose of the inspection and necessitating the issuance of an inspection warrant:

THEREFORE, YOU ARE HEREBY AUTHORIZED to enter the above-described property to conduct an inspection for the purpose of investigating a source of (type of) pollution and ascertaining compliance with the Department's statutes, rules, standards and permit conditions relating to the control or prevention of (type of pollution) from the operation. This warrant authorizes you to enter the property on _____, between the hours of ____ A.M. to ____ P.M. You are authorized to obtain the assistance of the Oregon State Police to gain access to the property, if necessary, and you are to return this warrant to the Circuit Court of _____ County, Oregon, when said inspection has been completed. This warrant shall be executed not later than ____ P.M. on _____.

DATED at _____, Oregon, at ____ A.M./P.M., this ____ day of _____ 20 ____.

Circuit Court Judge

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Return of Inspection Warrant

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR _____ COUNTY

STATE OF OREGON, ex rel)	Case No. _____
_____, Director, Oregon)	
Department of Environmental Quality)	Affidavit of _____
)	in Support of Request for an
In the Matter of the Application for)	Inspection Warrant
An Inspection Warrant)	

I, _____, (title) _____, an authorized representative of the Department of Environmental Quality of the State of Oregon, certify that I received the original and true copy of the administrative warrant issued for entry onto the real property located at (town) _____, (county) _____, Oregon, for the purpose of investigating a source of (type of pollution) pollution and ascertaining compliance with the Department's statutes, rules, standards and permit conditions relating to the control or prevention of (type of pollution) from the operation. I served the true copy of the administrative warrant at _____ A.M./P.M. on _____, 20 ____, by (state who the warrant was read to and given to or "by posting the warrant on or about the door at the above-described property.

The above-described property was entered on the above-stated date and inspected for the purpose of investigating a source of (type of) pollution and ascertaining compliance with the Department's statutes, rules, standards and permit conditions relating to the control or prevention of (type of pollution) from the operation. I hereby return the original administrative warrant.

DATED this ____ day of _____ 20 __.

Name

