

Department of Ecology STATEMENT OF BASIS
Approval of Closure and Proposed Denial of Dangerous Waste Management Permit
for Fuel Processors Incorporated
701 Bozarth Avenue, Woodland, WA 98674
ID No. WAD 087462503

The Washington State Department of Ecology (Ecology) proposes to deny a dangerous waste management facility permit to Fuel Processors Incorporated (FPI) for its facility at 701 Bozarth Avenue, Woodland, WA 98674, and to terminate interim status for the facility. Fuel Processors has already ceased storing and recycling dangerous waste at the facility.

This Statement of Basis, developed by Ecology:

- Describes the facility
- Summarizes its compliance history
- Explains the reasons for denying a permit and terminating interim status
- Describes the process for making final decisions on the denial and termination

Ecology will make a final decision regarding permitting for the FPI facility after receiving and evaluating public comments.

When a final decision is made, Ecology will notify FPI and each person who has submitted written comments or requested notice of the final decision.

Facility Description:

The facility consists of a main warehouse building and a concrete covered bermed area that once contained a tank farm. All of the tanks in the tank farm were removed during the spring of 2007. One tank located in the warehouse was decontaminated and removed during the summer of 2007.

A Shell Oil Company wholesale petroleum plant was located on the Site during the 1930s. In 1979, ARRCOM, Inc. (ARRCOM), a used oil processing company owned by the Drexler family, set up a used-oil recycling operation at the site. ARRCOM, Inc. failed financially in 1981.

In 1982 ARRCOM sold the property to Warren Bingham. FPI, a firm owned by the Briggs family

of Portland, Oregon, leased the site from Mr. Bingham beginning in January 1985 for the purpose of using the facility for oil recycling. Mr. Briggs, as majority stockholder and president of FPI, has been responsible for environmental compliance during FPI's control and ownership of the facility, including directing waste management activities. In April, 1985 FPI purchased the property from Mr. Bingham. FPI used the site from January 1985, processing up to 25,000 gallons of used oil per month, until 1998. From 1998 to June, 2002, FPI used the site as a used oil transfer facility.

Since 2002 the site has been inactive.

Compliance History:

The Department of Ecology's Toxics Reduction and Hazardous Waste Program conducted inspections of this facility on a regular basis. Compliance inspections were documented after each site visit. On one site visit inspectors sampled a pile of contaminated soil on the property and did not find hazardous constituents above regulatory thresholds. No other releases from the facility were observed during these inspections.

In 2006 and 2007 Ecology identified specific surface features on the site that needed decontamination under closure. FPI complied by conducting closure activities and completing the requirements by decontaminating or removing tanks, equipment, and sumps.

Dangerous waste permit required:

The Washington State Hazardous Waste Management Act, Chapter 70.105 Revised Code of Washington (RCW), and the Dangerous Waste Regulations, Chapter 173-303 WAC, regulate the management of dangerous waste in Washington. The regulations specify that a facility such as FPI that stores and/or treats dangerous waste, must obtain a permit.

When an existing facility's activities become newly regulated by the Dangerous Waste Regulations, Chapter 173-303 WAC it can apply for "interim status." This status allows the facility to continue operating while it and the regulating agencies complete the process leading to a final permit decision. Both state and federal regulations require a facility having interim status to submit a detailed permit application for a "final status" permit.

Until the agencies make a decision on the permit, the facility continues to operate under "interim status" standards.

To obtain a final status permit, a facility must satisfactorily meet interim status standards and must provide a complete and technically adequate permit application. The application is substantial and provides site-specific information on the design and operation of the waste storage unit(s).

FPI obtained an interim status permit by submitting an application during the time that PCBs became newly regulated by Ecology. FPI used one tank to store oil contaminated with PCB during its operation, and therefore operated under the permit.

Ecology placed FPI as a low priority for final status permitting, and therefore did not proceed with FPI to develop a final permit. Since FPI no longer operates the facility there is no need to proceed further in the permit process.

The denial of a final status permit and associated termination of interim status does not relieve an owner or operator of responsibility for closure of the facility and any post-closure care required by law, including clean-up to address environmental contamination.

Site Contamination:

In April, 1985, EPA conducted soil sampling within the uncovered portion of the tank farm. At three locations both surface and two-foot samples were collected and at a fourth location only a surface sample was collected. Contamination was found to be present in soils above allowable cleanup levels

for constituents commonly found in used oil. Concentrations of polychlorinated biphenyls were also detected, however, they did not exceed the cleanup standard under Washington's Model Toxics Control Act (MTCA).

At the same time Ecology proposes to take this permit action a draft agreed order to further investigate historical contamination at the site is also under public review. This administrative order requires FPI to address contamination that still exists and evaluate any risks associated with the now-closed facility.

Reasons Supporting proposed denial and

termination: The statute and regulations grant Ecology the authority to require permit applications and make final permit decisions, including permit denial and termination. FPI obtained an interim status permit, ceased operating as a dangerous waste management facility, and properly closed the tank and equipment at the site. FPI has no further need for the permit, therefore Ecology proposes to terminate interim status.

A facility owner/operator is required to clean up or remove all dangerous waste or dangerous waste constituents by carrying out a Closure Plan (40 CFR 265.113 (a) as referenced in WAC 173-303-400 (3)(a)). FPI complied with Ecology's request to meet the requirements of closure by decontaminating and removing the remaining tanks and equipment in 2007. As part of compliance FPI submitted a closure report providing a description of the steps that were taken to clean the surface of the facility. This report included a certification from the owner as well as a professional engineer licensed in the State of Washington that Ecology's closure requirements were met. Any remaining contamination will be addressed under the MTCA agreed order.

Conclusion:

Based on these facts, the tentative decision is to terminate the interim status permit and to deny a final status permit in accordance with WAC 173-303-805 (8).

The result of this decision, once implemented, will be that the facility will no longer be able to manage dangerous wastes that require a treatment, storage or disposal permit. Any proposal to store, treat, or dispose of dangerous waste requiring such a permit at this site would have to meet the statewide siting criteria in WAC 173-303-282 for a *new facility*, before an owner or operator could apply for a dangerous waste management facility permit.

Procedures for Reaching a final Decision:

Ecology has reached the tentative decision to deny a "final status" permit for the FPI facility and to terminate the site's interim status. The comment period on these proposed actions is from June 1, 2008 to June 30, 2008.

The public is invited to submit written comments to:

Kerry Graber
Department of Ecology
P.O. Box 47775
Olympia, WA 98504-7775 or by e-mail to:
alst461@ecy.wa.gov.

E-mailed comments should include your name and mailing address.

To be considered, written comments must be submitted to Ecology or post-marked by June 30, 2008.

In addition, if significant interest is expressed in having a public hearing, Ecology will conduct a hearing to take formal comments on the proposed permit denial and interim status termination. If a hearing is held, Ecology will record oral comments from people who wish to make them. To request a hearing, submit a written request by the end of the comment period to Kerry Graber. Please identify the issues to be raised at the hearing.

Ecology will consider all written comments received by the deadline and orally during the public hearing, if held, in making final decisions regarding the proposed denial of the dangerous waste management facility permit and termination of interim status.

Once the comment period is over, Ecology will consider all the comments submitted during that period, then issue a final decision. When the final decisions have been made, Ecology will provide notice to FPI and to each person who has submitted written comments or requested notice of the final decision.

The final decision will state the date the decision will become effective. If no comments are received on the proposed denial/termination, the final decision may become effective as early as the final decision date. If the agency receives comments, the final decision will become effective no sooner than thirty (30) days after notice is provided. If someone appeals Ecology's decision under WAC 173-303-845, then the effective date of the denial may be impacted.

Information Review: The information Ecology and EPA used to make their tentative decisions to issue permits can be reviewed at the following during normal business hours, 9 a.m. and 4:30 p.m.:

Department of Ecology
Southwest Regional Office
300 Desmond Drive
Lacey WA 98503
Attn: Sherri Greenup
(360) 407 - 6365

Public Hearing: Interested persons can request a public hearing. See page 6 for more information.

Questions? If you have questions, or want to obtain documents in an alternate format, contact Kerry Graber at the address above or at (360) 407-0241, 711 or (800) 833-6388 (TDD).

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