

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING)
ORDINANCE NO. 88-266B ADOPTING)
THE REGIONAL SOLID WASTE)
MANAGEMENT PLAN TO INCORPORATE)
THE ILLEGAL DUMPING CHAPTER)

ORDINANCE NO. 91-406A
Introduced by:
Rena Cusma, Executive Officer

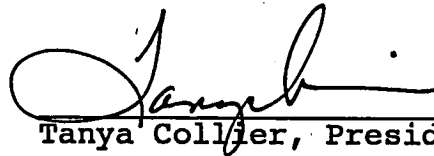
WHEREAS, Metropolitan Service District Ordinance No. 88-266B adopted the Regional Solid Waste Management Plan as a functional plan; and

WHEREAS, Chapter 4 of the Regional Solid Waste Management Plan provides recommendations for promoting proper solid waste disposal and for preventing illegal dumping; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY
ORDAINS:

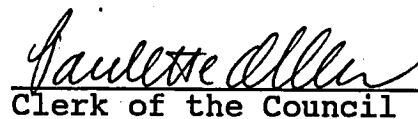
That the Regional Solid Waste Management Plan is amended to add Chapter 4, Illegal Dumping, shown as Exhibit A to this ordinance.

ADOPTED by the Council of the Metropolitan Service District this 10th day of October, 1991.



Tanya Collier, Presiding Officer

ATTEST:



Clerk of the Council

Exhibit A

CHAPTER 4 - ILLEGAL DUMPING

POLICY

4.0 ~~Solutions to the problems of illegal dumping and to other adverse impacts caused by changes in the waste management system shall be developed cooperatively by DEQ, Metro and cities and counties.~~

Metro, in its capacity as manager of the region's solid waste disposal system, will work cooperatively with DEQ, cities and counties to promote proper disposal of solid waste and to reduce illegal disposal.

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PURPOSE

DISCUSSION

This Chapter represents a program to address illegal dumping based on what is known today. This is a dynamic issue and, therefore, the programs identified in the Chapter will likely change over time as the region learns more about how to effectively address this problem.

The Illegal Dumping Chapter addresses the problems associated with illegal disposal of solid waste in the Portland metropolitan area. ~~The Chapter was developed in response to concerns that as the costs of waste disposal services increase, incidence of illegal disposal appears to increase commensurately. While it has not been determined empirically that this is the case, Metro recognizes the potential for such a situation.~~ Analysis for the Chapter establishes that illegal dumping occurs in the Metro area as a result of several factors including:

- continuing increases in per capita waste generation;
- confusion about disposal options available upon closure of the St. Johns Landfill;
- lack of public awareness about viable recovery and disposal options available for items such as waste tires and refrigerators;
- continuing increases in the costs of solid waste collection, transport, recycling, processing and disposal; and
- having a collection system in which participation is voluntary not mandatory.

The literature indicates that in a solid waste system where the costs of providing collection service are recovered through a type of user

fees and participation in collection service is not mandatory, the incidences of improper disposal increases with rising costs.¹

Policy 4.0 points out Metro's responsibility, as manager of the region's solid waste disposal system, to work cooperatively with DEQ, cities and counties to promote proper disposal of solid waste and to reduce illegal disposal.

The Chapter has been developed with the input of state and local government as well as non-profit citizen organizations, and recognizes the roles of all affected parties. The Illegal Dumping Chapter addresses the issue by identifying establishing causes, characterizing various facets of the problem and recommending solutions for appropriate individuals and agencies.

The objective of the Illegal Dumping Chapter is to reduce the incidence of illegal disposal of solid waste in the Portland metropolitan region in order to:

- mitigate an unsightly and potentially health-threatening problem;
- ease the financial burden of abatement on local governments and property owners;
- remove illegal dumping as an obstacle for meeting waste reduction goals; and
- capture disposal revenue that is otherwise lost.

~~The Chapter was developed through methodical identification of the types of materials dumped, establishment of sites where dumping occurs and acknowledgment of affected parties. The issues were prioritized and those receiving a higher priority were subjected to in-depth research and analysis.~~

Background information was compiled from interviews with local government solid waste and nuisance control staff in the metropolitan area. Recommendations to mitigate illegal dumping in the Portland metropolitan area are presented in the final section of the chapter and are tailored to appropriate agencies and individuals.

There are some issues the chapter does not address due to regulatory constraints, overlapping of authorities and a need to keep the scope of analysis focused on issues of regional significance. These issues include the following:

- ~~Hazardous and medical~~ waste disposal is regulated by federal and state laws that impose criminal penalties for violations. In terms of regional coordination of penalties, illegal

¹Said Atri and Thomas Schellbert, "A Market-based Approach to Solid Waste Management," *American City and County*, July 1991, p. 56.

dumping of hazardous wastes should remain a criminal violation, rather than a civil violation, to effectively deter incidence.

- ~~Medical waste disposal is addressed in the Special Waste Chapter of the RSWMP. Collection is regulated by local governments and disposal is regulated by Metro under state law. Hazardous waste disposal is not addressed because Metro does not have authority in this area.~~
- *Roadside litter*, except that which is found in solid waste facility impact areas, is an issue that was separated from roadside illegal dumping. Although specific volume or quantity guidelines were not developed, it is relatively easy to delineate litter from dump sites.
- *Private industrial dump sites*. Some local industries may store or dispose of specific materials on their property. Metro does not have the ability to regulate this practice as the material may be a source-separated recyclable material and may not be considered a waste until an attempt is made to dispose at a Metro facility. Regulation of this practice must be through local industrial zoning codes.

BACKGROUND

~~Illegal dumping is defined as improper disposal of solid waste in violation of state or local waste management laws. Illegal dumping of solid waste is unsightly and unsanitary in addition to creating potential environmental problems. Nationwide, incidence of illegal dumping of solid and hazardous waste has increased along with the cost of environmentally responsible solid waste management. It is believed that incidence of illegal dumping rises with increased disposal fees.~~

National Context

State governments in Massachusetts, Vermont and New Jersey are approaching the problem by establishing rewards and increasing fines. In Georgia, property owners are liable for illegal dumping violations, a situation which results in an incentive for property owners to apply both preventive measures and immediate cleanup. Local governments in Collin County, Texas and Alachua County, Florida focus on community awareness and siting roadside refuse and recycling containers as a tool for reducing the problem.²

In New York City, sanitation police are authorized to impound the cars of violators caught illegally dumping. As many as 314 vehicles were

² Shirley Hawk, "Making War on Illegal Dumping," *Waste Age*, November 1989, p. 108.

impounded during a two month period in 1990. Fines range from \$600 to \$12,500 may be levied against drivers and owners of vehicles, who must post a bond, pay an impoundment fee and a daily storage fee to reclaim their vehicle.³

Memphis, Tennessee approaches illegal dumping through establishment of an Environmental Court to handle municipal code violations related to health, fire, housing, building and zoning codes. Prior to establishing the environmental court, the morale of enforcement personnel was low because judges dismissed the cases of illegal dumping that were brought forward. Establishing the environmental court this has resulted in increased enforcement, overall enhanced code compliance and reduced incidence of illegal dumping.⁴

Nationwide, individuals and agencies involved in illegal dumping issues agree that consequences, costs and environmental effects of illegal dumping must be understood by the population at large so that needed legislation and funding can be developed to address the problem.

Local Issues

Illegal dumping in the Portland metropolitan area occurs on in a wide-range of sites, includes a variety of materials and affects broad segments of the population. Initial Research identified the following local problems associated with illegal disposal:-

- Enforcement of illegal dumping regulations is difficult because, under the status of criminal violations, illegal dumping cases do not receive priority in the criminal justice system. One reason is because
- Various local government agencies have are assigned this enforcement responsibility and neither enforcement mechanisms nor penalties are consistent from jurisdiction to jurisdiction. It is believed that consistency in enforcement procedures would lead to a greater level of enforcement. For example, if local government road maintenance personnel, law and code enforcement personnel, and legal personnel all have an understanding of the procedures for reporting violations, issuing citations and hearing cases, the result would be an increased probability that such violations would lead to effective enforcement.

³ "Police Nab Illegal Dumpers," *World Wastes*, August 1990, p. 10.

⁴ Shirley Hawk, "Making War on Illegal Dumping," *Waste Age*, November 1989, p. 108.

- Illegal use of dumpsters at retail, commercial and industrial sites is increasing. This has been identified as a particular problem along commercial strips in Clackamas County.
- Non-profit charitable organizations also report that illegal dumping at their facilities and drop-off centers has increased over the past few years as ~~the region's costs of disposal have increased~~. A large majority of this material is so contaminated it can not be sorted and must be immediately disposed. The cost of disposing of this waste has had an especially hard impact on these agencies serving lower-income clients.
- ~~Illegal~~ dumping is occurring at vacant lots in low-income residential areas of the region. Illegal disposal is a common occurrence in a wide range of residential areas but it appears that there is a higher incidence in neighborhoods that appear less affluent. Unlicensed "handyman" haulers may be profiting from a situation in which residents who are unable to afford regular garbage service pay such unlicensed haulers to have their refuse disposed. The hauler then illegally dumps the refuse. It is ~~thought~~ ~~speculated~~ that this is occurring as a result of increasing tip fees, unregulated collection by unlicensed haulers and the proximity of vacant lots in low-income areas.
- Incidence of illegal disposal has been increasing along the Sandy River Highway, and Clackamas County roadsides. A traditional method of rural waste management has been disposal of waste on one's own property or self-haul to a disposal site. Due to the lack of conveniently located facilities for self-haulers, the cost and time associated with hauling to regional disposal sites, and the relative abundance of lightly traveled roads, illegal disposal is a problem in many rural areas of the region. The cost of clean-up can be expensive when material is disposed of in steep ravines or gullies.
- Portland parks (Forest Park), Rivergate industrial park, Troutdale Airport, Portland International Airport, and the Hillsboro Airport all experience problems with illegal disposal. Large tracts of park and recreational space are also subject to illegal disposal activity. Illegal disposal sites create a marketing problem for industrial sites and damage wildlife habitat within parks.
- ~~Incidence of~~ Illegal disposal of bulky materials such as white goods, tires, and car bodies has ~~been increasing~~ ~~is a problem~~. Bulky items require unique collection practices. Pickup service for these items is not readily available in many parts of the region. Unregulated haulers may provide inexpensive pickup only to later dispose of the items inappropriately.

- Illegal disposal of construction/demolition debris and land-clearing debris as inert fill presents may be a widespread problem throughout the region because inert fill sites are unprotected and unsupervised. Use of inert fills as disposal sites for mixed waste poses significant risk to the environment.

Metro Region Context

In June 1988, Metro completed a survey of sites where illegal dumping of waste was known to occur. The survey was conducted to establish a baseline of information to determine if illegal dumping would increase with rising tip fees. Metro updated its information base on illegal dumping in 1989 in an effort to:

- measure the effect, if any, of subsequent rate increases on the number of illegal dumping incidents;
- establish the location of sites within the Metro area where illegal dumping is a chronic problem; and
- assemble background information to assist in defining the scope of the problem Metro's role.

The initial survey was intended to identify sites and drew no conclusions. The 1989 follow-up survey concluded that illegal dumping was a pervasive problem in the region, but it was difficult to demonstrate that rate increases directly contribute to illegal dumping of refuse by a greater number of individuals.

Further analysis of illegal dumping issues in the metropolitan area was conducted and is contained in the appendix to this chapter. The appendix includes a map of identified dump sites, an analysis of local government illegal dumping programs as they exist in 1991, an analysis of costs of illegal dumping to local governments, and an identification and analysis of some of the causes of illegal dumping.

The map in the appendix appended to this chapter is a compilation of known illegal dump sites in the Metro region from the initial survey in 1988 to 1991. The map indicates patterns of illegal dumping in both densely populated urban areas and more secluded rural areas of the region. Many of the sites indicated are sites where dumping is a chronic problem, justifying the three-year accumulative identification. The map is illustrative of some known illegal dump sites and demonstrates the severity of the issue for the Metro region but it is not an exhaustive identification of all illegal dump sites.

The analysis of local government illegal dumping programs as they exist in 1991 identifies how each county and the city of Portland have approached the problem in the past. Included is a discussion of enforcement procedures and penalties.

The analysis of costs of illegal dumping to local governments explores costs associated with cleaning up illegal dump sites, enforcing laws prohibiting illegal dumping, costs of prosecution, and includes a discussion of fines recovered through prosecution.

The analysis of the causes of illegal dumping establishes the causes and the effects of illegal dumping as they relate to identified sites, materials and affected parties.

SUMMARY CONCLUSIONS

Throughout the country, illegal dumping is an issue that appears to be growing in significance. It is generally agreed that there is a need to educate the public as to the consequences, costs and environmental effects of illegal dumping so that necessary enforcement and funding mechanisms can be developed to address the issue.

Illegal dumping also continues to be a problem in the Metro area. If rising disposal fees do indeed affect the incidence of illegal dumping, then it may be assumed that the problem will continue to increase in proportion. An analysis of collection options would be a meaningful exercise in addressing potential solutions to illegal dumping in the metropolitan area.

The analysis conducted in developing this chapter identified materials, affected parties and locations in the Metro area where illegal dumping is a chronic problem, and demonstrated that the largest issues are enforcement, lack of effective penalties, lack of knowledge of appropriate disposal options, dumping in vacant lots in residential areas, public and private open spaces, waste tires and litter at solid waste facility impact areas. Reasons for illegal dumping fall into three major categories: economic, convenience and behavioral. Problems associated with lack of education and consistent enforcement represent a major obstacle to reducing incidence of illegal dumping.

RECOMMENDATIONS: Regional Illegal Dumping Work Program

REGIONAL ILLEGAL DUMPING PROGRAMS

This section identifies management includes recommendations for solutions to illegal dumping, outlines the Regional Illegal Dumping Work Program and addresses implementation roles and responsibilities. Each issue was analyzed according to three factors: economic, convenience, and behavioral. Where recommendations involve enforcement mechanisms, that recommendation is outlined in the enforcement section.

The following general recommendations were identified as potential solutions to illegal dumping in the Portland metropolitan area as a result of analysis of causes.

Enforcement

There is a need for both increased enforcement of existing laws and consistency eoordination of enforcement penalties. Currently, the state agencies and each local jurisdiction handles illegal dumping through different divisions, a situation which may result in less effective interagency eoordination on illegal dumping issues that are inter-jurisdictional. If all local governments approach illegal dumping with a similar enforcement process, more cases would be successfully prosecuted. This would be a significant deterrence factor to those contemplating acts of illegal disposal. Another facet of the issue is that Local budget constraints result in placement of illegal dumping enforcement as a lower priority. This situation is exacerbated by the fact that, under the criminal penalty system, it is difficult to get a conviction for illegal dumping violations without eyewitness identification. Passage of HB 3361 addresses this issue by enhancing local governments' ability to prosecute illegal dumping as a civil violation rather than a criminal violation. An additional enforcement consideration is that, as responses to illegal dumping violations increase, illegal dumpers may travel farther from the urban area resulting in a higher level of illegal dumping on both public and private forest lands outside of the Metro boundary. The following recommendations address enforcement:

- Develop or amend local nuisance codes to enhance the ability of local jurisdictions to enforce against illegal disposal. Currently, nuisance codes in most jurisdictions are not easily enforced. An exception is Clackamas County, which has the ability to threaten confiscation of eonfiscate vehicles to cover the cost of clean-up of an illegal dump site.
- Consistent penalties. There is a need for development of a model illegal disposal ordinance with provisions for consistent and effective penalties has been a major focus of the Illegal Dumping Task Force/Subcommittee. Such an ordinance would serve to assist local governments support implement the provisions of House Bill 3361 (1991), which is legislation aimed at increasing penalties for illegal dumping and enhancing the option of prosecution of illegal dumping as a civil violation rather than a criminal violation. The model ordinance will as well as help local governments clarify local authorities and thus enhance their enforcement efforts eliminate the problem of lower fines administered by the state taking precedence over higher fines that are administered locally.

Education/Promotion

One of the most effective means of addressing illegal disposal issues that have been identified as having behavioral causes is to educate the public as to costs and consequences of their actions and promote

~~behavior in addition to promotion of the appropriate recycling and disposal practices.~~

- Public education. Greater awareness of the environmental and economic consequences of illegal dumping could result in fewer incidents. Many individuals who dispose of yard debris in ravines do not consider their actions to qualify as illegal dumping. A public campaign to inform the public of the location of transfer stations and other disposal sites would also result in a decrease in illegal dumping. Educational programs should target potential illegal dumpers. For instance, young persons with an interest in working on automobiles should gain an understanding of appropriate junk car and waste tire disposal practices. Individuals and businesses that do yard maintenance work and landscaping should be targeted with materials describing appropriate yard waste recycling and composting options. The public at large needs to be better informed of options for recycling and disposal of bulky materials including furniture and appliances.
- Hotline for reporting illegal dumping. More incidents of illegal dumping would probably be reported if an easily remembered public hotline were made available. The hotline number could be directly referred to nuisance abatement enforcement personnel.
- Region-wide annual clean-up events. Currently, localized clean-up events are sponsored by neighborhood and non-profit organizations, such as scout troops in cooperation with haulers. More coordinated cleanup events are sponsored by Stop Oregon Litter and Vandalism (SOLV). Regular semi-annual cleanup events that are coordinated on a region-wide basis would offer an opportunity for a greater number of individuals, businesses and organizations to have an effect on existing dump sites and increase public awareness of the problem. Metro, local governments and haulers could combine forces to promote cleanup events similar to household hazardous waste collection events.

Preventive Measures

Illegal dumping has been reduced in some cases through installation of barricades. This is a costly solution initially but may result in lower long-run cleanup costs.

- Barricades and improved lighting at known sites of illegal dumping activity have demonstrably reduced the number of dumping incidents. Barricades may either be temporary or permanent. If permanent barricades such as concrete highway dividers or guard-rails are installed, factors such as liability, aesthetics and maintenance must be considered.
- Increased signage may deter potential dumpers. Warning signs in areas that are known illegal dump sites have been used to discourage dumping in the recent past in Portland and Multnomah

County. Clackamas and Washington Counties have also placed warning signs at problem sites. There is a deterrence factor associated with having a sign stating that the activity is illegal. Signs should reflect the severity of potential penalties and potential for rewards.

Improvement of Service

Convenience has been identified as a factor major causing cause some of illegal dumping. If service can be improved to the point that it is as convenient to recycle and dispose of refuse, the option of illegal dumping will be less attractive. Improvement of service may include instituting more efficient refuse and recycling collection systems, an issue that has been identified as needing further analysis.

- ~~Region-wide annual clean-up events. Currently, localized clean-up events are sponsored by neighborhood organizations. More coordinated cleanup events are sponsored by Stop Oregon Litter and Vandalism (SOLV). More frequent cleanup events that are coordinated on a region-wide basis would offer an opportunity for a greater number of individuals, businesses and organizations to have an effect on existing dump sites and increase public awareness of the problem. Metro, local governments and haulers could combine forces to promote cleanup events similar to household hazardous waste collection events. [Moved to Education/Promotion section, page 9.]~~
- ~~Enhanced recycling incentives. If it was more convenient and economically viable for waste generators to recycle, fewer individuals would be prone to dispose of recyclable items illegally. Deposits on items such as tires and appliances may fall in this category. This would provide a strong incentive to recycle the item.~~
- Conveniently located disposal and recycling facilities. Distance from site of generation to disposal and recycling facilities may act as a disincentive to responsible disposal practices. Recycling and disposal containers may be located in areas where there is a high incidence of illegal dumping. Such containers have proven to be effective in deterring illegal dumping along highways in rural Bulloch County, Georgia. The County maintains the containers under the premise that it is more cost-effective than cleaning up illegal dump sites.

This management alternative would probably not be as effective in the Metro region for several reasons. In Oregon, solid waste collection is not a mandatory service. This practice results in several homeowners hauling their own refuse to disposal. Placement of disposal containers throughout the region as a deterrent to illegal disposal would probably result in increased incidents of self-haulers utilizing these free disposal containers.

rather than paying to take their solid waste to an appropriate facility.

If a local government desired this type of program as a means to manage illegal disposal it would be prudent to have these sites staffed and maintained on a continuous full-time basis. The benefits possibly derived from conveniently locating these facilities may be outweighed by the cost of maintenance and disposal of solid waste collected at the sites. Therefore, local governments would have to weigh the cost of providing and maintaining containers with the cost of remediating illegal dump sites.

~~For the Metro area, such an arrangement would constitute a change from current practice: local governments would have to weigh the cost of providing and maintaining containers with the cost of remediating rural illegal dump sites. An option is to levy an established percentage of the cost to a special benefit district of property owners who would rather maintain dumpsters than continually clean up illegally dumped refuse from their property.~~

Funding/Incentives

For those problems that have been identified as economic in nature, means of providing funding and/or economic incentives to appropriate parties is addressed.

- Enhanced recycling incentives. If it was more convenient and economically viable for waste generators to recycle bulky items, fewer individuals would be prone to dispose of recyclable items illegally. Incentives to recycle yard debris exist through lower rates at processing and disposal facilities by Metro, local governments and recyclers. There are deposits on lead-acid batteries that results in a higher level of recycling and diverts them from the landfill. Future deposits on items such as tires, bulky furniture and appliances may fall in this category. This would provide a strong incentive to recycle the item. The public utility in British Columbia has undertaken a program to buy back and recycle old refrigerators for \$50 with the purpose of improving energy conservation programs. Such a program also has the added advantage of removing problem items from the illegal dumping wastestream.
- Subsidies for low-income households. Some illegal dumping may occur because of economic hardship. If required collection service is instituted, the financial burden will increase. This issue would require extensive policy analysis.
- Metro should continue to assist in funding local community cleanup events. Metro includes funds in its annual budget to support community cleanup efforts.

~~Specific Recommendations~~

~~The following recommendations target specific issues identified and analyzed in this chapter.~~

- ~~• Untarped loads at solid waste facilities.~~

~~Untarped Loads at Solid Waste Facilities~~

Uncovered loads arriving at transfer and recycling facilities result in a significant amount of litter that is blown off the open vehicles. This is a problem with both commercial waste haulers and individual who choose to self-haul. Metro ~~is currently proposing~~ ~~has instituted~~ an approach to discourage litter at facilities by levying a \$25 surcharge for cash customers and a \$100 surcharge for credit account customers with ~~untarped loads that are not fully covered and contained.~~

The approach of levying a surcharge may be more effective than other measures. If untarped loads were refused altogether, loads that would otherwise have been disposed properly may be subject to illegal disposal by frustrated individuals. ~~It is recommended that the practice of levying fines for uncovered loads be used.~~

- ~~• Bulky materials (furniture, appliances, autos)~~

~~Bulky Materials (Furniture, Appliances, Autos)~~

~~Improvement of Service.~~ Pick up service ~~for bulky materials~~ should be enhanced, especially in areas outside of the City of Portland. ~~Currently,~~ Individuals who live in Portland and wish to recycle or dispose of an appliance may have it picked up for a nominal charge by one of ~~several light-haulers, waste haulers or recyclers~~ ~~two reeyelers.~~ However, Portland's proposed residential franchise system, ~~scheduled for implementation February 1992,~~ requires that the franchised hauler provide on-call service for removal of bulky materials. ~~Alternatives include free drop off at Metro transfer stations or drop off at one of two scrap recyclers.~~ Individuals ~~outside of the city of Portland may have their bulky materials picked up on call by franchised haulers for an additional fee, but there should be some uniformity of factors such as making known the availability of the service through publicity and establishing, through franchise agreements, reasonable fees for the service. There is a need for the fee for pick up of bulky materials to be reasonable so that it does not act as a disincentive for the public to use the service.~~ ~~Individuals outside of the immediate Portland area are currently not as well served.~~

~~Education/Promotion.~~ Education of recycling/disposal options and consequences of illegal disposal of these items should be a priority. Metro's Recycling Information Center currently receives ~~numerous~~ ~~2-3~~ calls per ~~week~~ ~~day~~ requesting information on recycling/disposal

options for appliances alone. This indicates a need for better promotional efforts.

Funding/Incentives. Incentives for haulers to establish improved on-call service for pick up would result in less illegal dumping, particularly in areas outside of the City of Portland. Currently, there are only two recyclers registered with the Recycling Information Center providing pick up service for appliances in Portland. There should be an effort to register additional haulers with the Recycling Information Center since registration will offer a greater certainty that persons offering pick up service for bulky materials will not dispose of the materials improperly.

• ~~Construction and demolition debris (C&D)~~

Construction and Demolition Debris (C&D)⁵

Programs for enhanced recycling of C&D debris are currently being implemented in the region. The following recommendations for C&D debris could be in the form of programs developed and implemented by Metro as part of the Special Waste Plan and also could be incorporated into annual local government waste reduction programs.

Enforcement. To stem illegal disposal of C&D materials, it is necessary to target construction and demolition permitting practices. Applications for building and demolition permits could include a statement of how a contractor is disposing any C&D materials. Proof of disposal, such as a landfill or C&D processor's receipt could be made a requirement that local governments could include in the permit process.

Improvement of Service. Haulers and recyclers who specialize in serving construction and demolition sites may have a need to operate in a franchised collection area, resulting in a potential violation of a collection franchise agreement. This situation must be addressed in such a way as to both stem incidence of illegal dumping and to enhance recycling of C&D materials. A process to allow C&D recyclers to subcontract with franchised haulers should be more clearly defined, possibly in renewals of franchise agreements.

• ~~Waste tires~~

Waste Tires

In 1987 the Oregon Legislature passed House Bill 2022 to address the problem of waste tires, setting up the Waste Tire Program. The Program was amended by 1991 HB 2246. Through the Program, DEQ

⁵ Roles, responsibilities, recycling practices and regulatory recommendations for C&D materials are addressed in Chapter 3, Special Waste.

requires a permit for storage and transport of more than 100 tires, and a permit for persons in the business of transporting waste tires. Exceptions to the hauling permit requirements include government carriers, persons hauling to retreaders, and persons hauling fewer than five tires. House Bill 2246 (1991) changed the exemptions to include one-day cleanup events and also to allow refuse haulers to carry more tires without a permit. ~~Refuse haulers are required to obtain a permit if they carry more than nine tires at one time. Exceptions to the storage permit requirements include persons with fewer than 100 tires, retail tire dealers with fewer than 1,500 tires and retreaders with fewer than 3,000 tires stored outdoors.~~

Activities of the program are mainly concentrated on cleanup of large tire piles, which constitute a significant health and fire hazard. Cleanups have occurred in several parts of the state. Currently, DEQ has ~~not~~ participated in community cleanup efforts in an advisory capacity. A point system for prioritizing abatement efforts and allocating necessary funds has been developed by DEQ. The point system takes into account a number of criteria including pile size, characteristics of the site and size of the nearest affected community. ~~The point system gives a higher priority to cleanup of large piles.~~

Metro entered into an intergovernmental agreement with DEQ in March 1990 for shared funding of a waste tire recycling project. The project entails development of road construction specifications for the application of rubber-modified concrete in highway construction.

While DEQ's Waste Tire Program ~~has been~~ is effective in controlling larger tire piles throughout the state, ~~it has not been used on sites with less than 1,000 tires there is no indication that it has an effect on small-scale, isolated incidents of illegal dumping.~~ Further analysis of how the Waste Tire Program affects illegal dumping in the Portland metropolitan area reveals ~~that~~ the following:

1. • DEQ's Waste Tire Program is currently more focused on cleaning up large tire piles than with assisting in community cleanup efforts that may produce small quantities of waste tires. The department may get more involved in projects that involve smaller quantities in the future after larger tire piles are remediated.
2. • DEQ may be able to assist local governments with funding for waste tire cleanup efforts. The particulars of this sort of arrangement need to be investigated. There is a need for government agencies affected by illegal dumping of tires to express the nature and severity of the problem to DEQ.
3. • There should be an easier means of disposing or recycling waste tires available for people in the Metro area. Getting tires out of the hands of potential dumpers would involve

tightening the trade-in arrangements for people buying new tires.

Based on the above information, the following options should be followed to reduce the incidence of illegally dumped waste tires:

- DEQ's Waste Tire Program should shift its focus to include community cleanups. This often involves small scale, isolated incidents of illegal dumping of tires but cumulatively, this translates into a significant problem in the Metro region. Another consideration is that, since most tires in the state are purchased in the Portland metropolitan area, most of the funding for the Waste Tire Program is derived from residents of the region. It follows that the greatest number of illegal dumping incidents involving waste tires occurs in or near the Metro region. Therefore, the Waste Tire Program should make cleanup of illegal disposed tires in the Metro region a higher priority.
- A potential solution to the problem of illegally dumped waste tires is to institute a program whereby tires dealers accept one waste tire for every new tire they sell and mount. This policy would not have a significant impact in terms of administrative responsibility on the part of tire dealers, who are currently required by statute to keep records of tires sold for the purpose of administering the surcharge on new tires that pays for the DEQ Waste Tire Program. Tire dealers could pass their cost of proper recycling or disposal through to customers.
- A waste tire collection event could be sponsored jointly by DEQ, Metro and local governments. Waste tire collection events have been successfully conducted in Olympia, Washington and Baltimore, Maryland, where the waste tire collection events have been conducted by Boy Scout troops for fundraising. Locally, the collection event could be modeled after prior successful events such as Metro's household hazardous waste events or DEQ's pesticide collection event. Such an event would offer an option to individuals who may have tires stored in their garage and are not able to have them picked up by their hauler, thus reducing the potential improper disposal.

Roles and Responsibilities

REGIONAL ILLEGAL DUMPING WORK PROGRAM

To successfully reduce illegal dumping in the Portland metropolitan area, the work program must identify roles and responsibilities of each entity that does or may affect the issue. The following section describes the roles for that Metro, local governments, DEQ, citizen

groups and waste haulers to successfully reduce illegal dumping in the metropolitan area: should take.

■ Metro

Through the solid waste planning process, Metro has taken steps to identify the issues associated with illegal dumping by providing coordination and a forum for state and local agencies and concerned citizens to discuss the issues and develop broad solutions. Enforcement of illegal dumping regulations and nuisance codes is a function of local governments, therefore Metro can best only assist in this area if enforcement and penalties are coordinated throughout the region.

~~Metro's direct roles are to:~~

- Mitigate litter problems at solid waste facilities. Metro currently has contractual provisions to minimize litter in solid waste facility impact areas for Metro facilities. Metro will continue this emphasis at Metro-owned facilities as well as through enhancing language in franchise agreements with non-Metro facilities to assure that litter is minimized at all solid waste facility impact areas in the region are addressed.

~~Timeline: Ongoing~~

- Continue to provide education and promotion of proper solid waste reduction, disposal and recycling practices.

~~Timeline: Ongoing~~

- Continue to assist with funding local government and citizen group community cleanup efforts. Metro budgets for assistance with cleanup of illegal dump sites each fiscal year. Metro should continue to respond to illegal dumping through this mode.

~~Timeline: Ongoing~~

- Support local governments in the legislative process on issues that will result in increased effectiveness in mitigating illegal dumping activities legislative actions to increase penalties and provide for civil penalties for certain violations.

~~Timeline: Ongoing~~

~~Metro's potential roles are to:~~

~~Enforcement~~

Work with local governments to establish a process for a regional hearings officer, based on provisions of House Bill 3361 if all local governments agree to a coordinated enforcement standard. A regional hearings officer Metro can effectively reduce the work load of local justice systems by providing a regional hearings officer to handling handle illegal dumping violations. This would require local governments to establish similar enforcement standards throughout the region to ensure efficiency. Metro will provide local governments with a model enforcement code to initiate the development of regionally consistent enforcement standards.

Establishing the regional hearings officer process would clarify and reinforce the substantial discretion of local government code enforcement officers. Either through routine inspection or acting on citizen complaints, the enforcement officer has authority to cite an individual for illegal dumping based on eyewitness evidence or based on identification of names on envelopes or other printed items found in the dumped materials. The code enforcer would have the discretion to request that the individual clean up the dumped materials and the discretion to levy all or part of the penalties as provided by the adopted model ordinance. If evidence is sufficient, the code enforcer may pursue a criminal penalty through his or her local justice system. This is the desired approach if a penalty of community service is the object, as the regional hearings officer would not have clear authority to levy a penalty of community service. The regional hearings officer process would be engaged if the person alleged to have dumped the material contests the code enforcement officer's determination and the local decision is made to use the hearings officer service rather than pursue a criminal penalty.

Process

The specific guidelines that describe how a regional hearings officer proceeding is initiated will be developed in the model ordinance. Generally, the citation brought before the hearings officer will include the name and address of the respondent, address or location of the alleged violation, nature of the violation with proper code citation, type of relief sought, and identification of the entity initiating the procedure. The hearings officer would have the authority to administer oaths, take the testimony of witnesses and issue subpoenas in accordance with the Oregon Rules of Civil Procedure. The person alleged to have committed the violation has the right to submit evidence and cross-examine witnesses.

The hearings officer would schedule the hearing and make a determination after consideration of the evidence and arguments. If the violation has not been established, an order dismissing the complaint is entered into the record. If the violation has been established, the hearings officer enters into the record an appropriate order, a copy of which is delivered to the person found guilty. The person found guilty may file an appeal within an established timeframe.

Fines

All participating jurisdictions should adopt the same fine schedule. When the hearings officer makes a determination of a violation, a fine will be imposed. The intent of the fine is punitive. The primary intent of collecting costs is to recover the costs of cleaning up the specific site(s) named in the complaint, recovering the administrative costs of conducting hearings and recovering costs associated with local code enforcement measures. The schedule of fines and costs will be established through development of the model ordinance. The model ordinance should contain a provision requiring a hearings officer to levy a minimum fine if the person is found guilty of the charge. This would assure the deterrence factor of having the hearings process in place.

Options for Implementing

- Establish regional hearings officer function as an adjunct to Metro's Office of General Counsel.
- Establish regional hearings officer as an independent contract to Metro and local governments to process cases.
- Establish regional hearings officer as a non-attorney. A hearings officer does not necessarily have to be an attorney. The Department of Environmental Quality (DEQ) authorizes their staff to act as hearings officers. Hearing illegal dumping cases could be a rotating responsibility of local government, Metro staff or an independent contracted party.
- Establish regional hearings officer program through the Young Lawyers Division/Multnomah Bar Association. For a small fee for each case, the Young Lawyers Division offers the services of young attorneys in who want to gain experience in administrative cases. Members of the Division have successfully provided services to the Housing Authority of Portland and currently provide services to Multnomah County for animal control cases for \$15 per case.

Funding Options

- Local governments could be billed on a per-case basis for hearings. If the Young Lawyers Division attorneys were used, the per-case cost would be in the neighborhood of \$15 per case.
- The costs of the hearings officer process could be recovered through assessment of fines and costs. Costs would include additional administrative and maintenance costs that extend beyond each individual case.
- Participating jurisdictions could pay into a pool of funds that would cover the maintenance and administrative costs. Unexpended funds could be returned to local governments.

Timeline: Subject to local government action on establishing consistent local enforcement provisions.

Model Enforcement Code

- Develop a model regional enforcement code for use by local governments, based on provisions of House Bill 3361. Local governments presently address illegal dumping violations through a variety of means. The City of Portland works through its bureau of buildings, Washington County through its Health Department, and Clackamas County through a solid waste department. If regulations concerning illegal dumping were developed in a consistent format in a handbook that also describes new provisions of HB 3361, it follows that enforcement would be more consistent and effective. ~~Metro has had success in developing model ordinances for issues of regional concern. Developing a model illegal dumping enforcement code would be an appropriate role for Metro.~~

Timeline: December 1992

Promotion/Education

- Work with local governments in developing a regional promotion and education program to address illegal dumping issues including education of the problems associated with illegal dumping, enforcement programs and options available for proper disposal and recycling.

Collection Options Analysis

- Analyze the various refuse collection options, their cost, efficiency, impact on illegal dumping and potential for recovering lost system revenues. Alteration of solid waste collection service is a potential solution to mitigate illegal dumping. Mandatory collection may offer a broad solution to the problem. Since mandatory collection would be a significant shift from present practices, the issue must be thoroughly analyzed and the input of all affected parties must be obtained. State law ORS gives authority to cities and counties for establishing the level and character of collection service. Metro could perform this analysis in order to provide cities and counties with a factual basis from which they may consider adjustments to their collection services.

Timeline: December 1992

Tire Trade-in

- Initiate a program whereby tire dealers within the Metro boundary will accept one waste tire for every new tire sold and mounted. Traction tires would be excepted from the requirement. This measure would help reduce the number of waste tires that are illegally dumped by channeling a greater number of waste tires to tire dealers who are better able to recycle or dispose of them properly. The one-for-one trade in requirement would not be an additional administrative burden since, currently, tire dealers are required by statute to keep accurate records of tires sold.

Timeline: June 1992

Future Legislation

- Monitor illegal dumping programs throughout the development and implementation of this chapter in order to plan for additional legislation, if needed.

Timeline: Fall 1992

Waste Reduction Annual Work Program

- Work with local governments to initiate a local program of requiring building/demolition contractors to specify on local permits where their waste will be managed. This required statement of waste recycling and/or disposal by contractors should be identified as a task for local governments in the 1992/1993 waste reduction annual work program.

Timeline: 1992/1993

■ Local Government

Local governments are directly affected by illegal dumping. They respond to complaints, identify sites, provide crews to clean sites and pay or recover the costs. Recommended Local government roles are to:

- Support Metro's efforts by working cooperatively through the planning process to establish an illegal dumping enforcement process that is consistent regionwide as well as adopting and implementing any resulting ordinances. This includes local adoption of consistent enforcement mechanisms based on the regional model enforcement code to be developed by Metro in cooperation with local governments.
- ~~Support and adopt a regional illegal dumping ordinance with enhanced enforcement standards and consistent penalties.~~

- Support legislation regional illegal dumping program efforts by implementing provisions of House Bill 3361, which allows local governments to increase penalties for illegal dumping and impose civil penalties for certain illegal dumping violations.
- Continue to enforce illegal dumping through local nuisance codes. Until a model enforcement code is developed by Metro to assist local governments in changing their local codes and adopted and implemented by local governments, cities and counties should continue to identify dump sites and prosecute violators with existing remedies.
- Continue to provide waste reduction and recycling educational and promotional information outlined in local government waste reduction programs. Increased recycling and waste reduction programs should reduce the overall amount of illegal dumping. Continued education and promotion will help to achieve these goals.
- Initiate further mitigation efforts and approve new waste reduction programs aimed at both enhancing waste reduction and eliminating illegal dumping. As part of the waste reduction programs for local governments, cities and counties are providing some portion of an FTE to focus on solid waste and recycling issues. The person in this position could provide a valuable link between nuisance abatement and waste reduction efforts through coordinated information and facilities.
- Enhance efforts to license or regulate "handyman" haulers. It has been demonstrated through investigations by the Port of Portland that part-time "handyman" haulers contribute significantly to illegal dumping. Local governments should have available regulation through business licenses or itinerant⁶ merchant ordinances. Regulation would ensure that such haulers will use appropriate means of disposal. The City of Portland intends to address this problem through current development of franchise agreements. Their method of addressing the problem of "handyman" haulers may serve as a model for the rest of the region.
- As a task in the 1992/1993 waste reduction annual work program, require local building/demolition contractors to specify on local permits where their waste will be managed.
- Work with haulers, recyclers and solid waste industry to develop a promotion and education program which addresses

⁶An itinerant merchant is typically an unlicensed travelling salesperson. Handyman haulers would be classified as itinerant merchants.

illegal dumping issues including enforcement programs and options available for proper disposal and recycling.

- Work with neighborhood associations, citizen groups, haulers and recyclers in carrying out local community clean up events if demonstrated to be a viable local option by local governments in addressing illegal dumping problems.

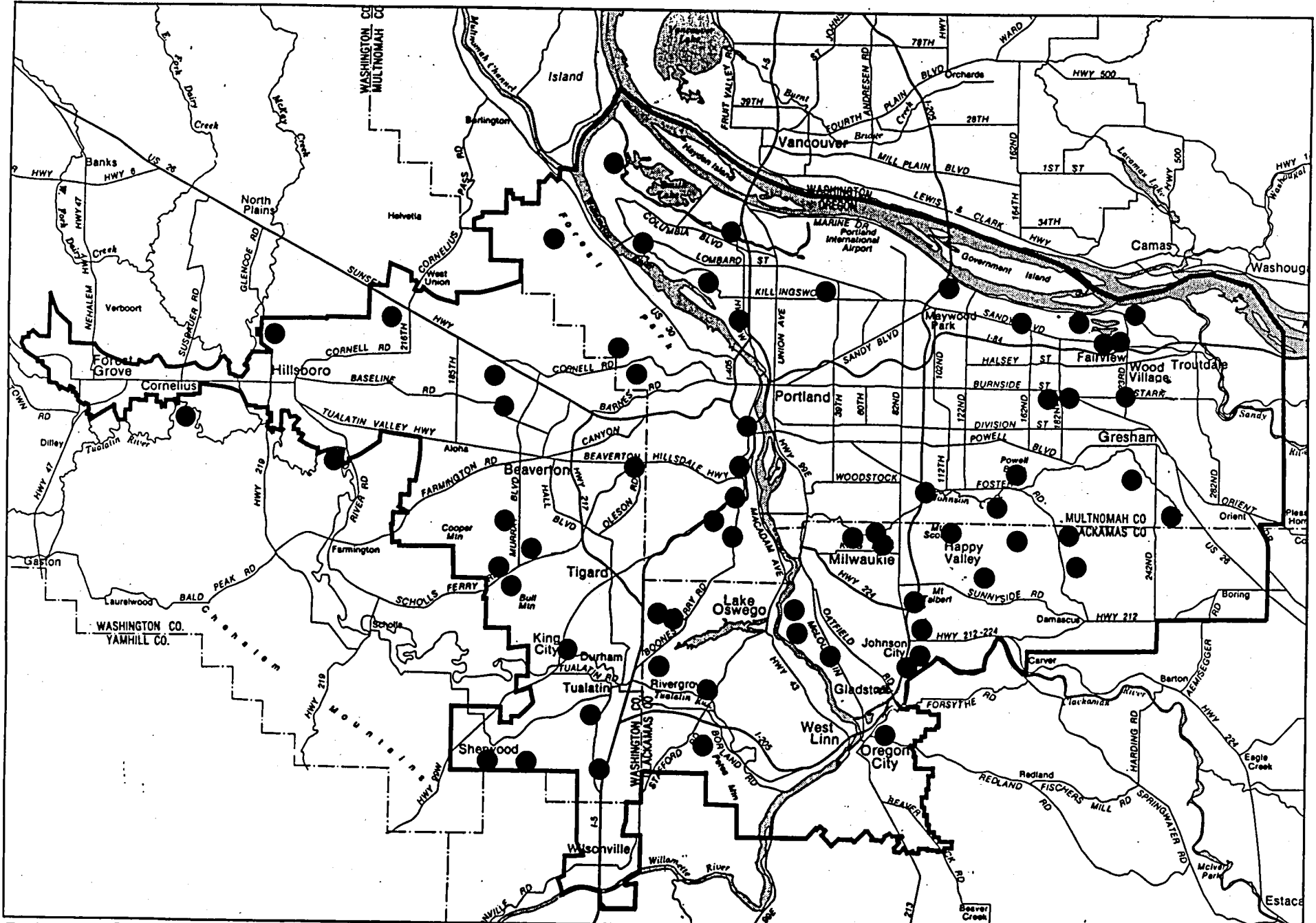
■ DEQ

DEQ can affect illegal dumping through existing programs, such as the Waste Tire Program, ~~which is up for reauthorization in 1990-91 legislative session.~~ This program can be expanded to provide funding and assistance with community cleanup efforts for a what constitutes a major factor of the illegal dumping issue. DEQ will continue to develop legislative measures to deal with tires and illegal dumping issues.

ILLEGAL DUMPING APPENDIX
TO THE
REGIONAL SOLID WASTE MANAGEMENT PLAN

	<u>Page</u>
A. Map of Dump Sites	4-23
B. Local Government Programs	4-24
C. Cost Analysis	4-27
D. Program Analysis	4-34

September 1991



METRO

Illegal Dump Sites 1988 - 1991

2000 S.W. First Ave., Portland, OR 97201-5398, (503) 221-1646, 1" = 4 mi., 7-87-01

B: LOCAL GOVERNMENT PROGRAMS (1991)

Illegal Dumping in the Metro Area: 1991 Current Approaches to the Issue

Incidents of illegal dumping are currently handled by a variety of state and local government agencies. The Oregon Department of Transportation is responsible for dump sites that occur on roadsides under its jurisdiction. The Port of Portland is responsible for sites that occur appear on industrial land owned by the agency. All local governments in the region may prosecute illegal dumpers under ORS 164.785 or 164.805. Below is a description of the problem as it affects major divisions of local government in the Portland metropolitan area.

Clackamas County

Clackamas County has an ongoing program to control illegal dumping. County Solid Waste staff report that most illegal dumping occurs on roadsides and dead-end streets. Improved, but not heavily travelled roads in the County's urban area have shown the highest incidence of illegal dumping.

Illegal dumping in the form of unauthorized use of commercial dumpsters at shopping malls has also become evident, primarily on McLoughlin Boulevard.

Clackamas County provides a cleanup crew for dumping which occurs on county-owned property. Enforcement mechanisms are not typically available unless the perpetrator is either caught in the act or identified by an eyewitness. Clackamas County, like other local governments in the region, may choose to prosecute offenders under ORS 164.805 or 164.785 (Placing offensive substances in waters, on highways or other property). Violations under ORS 164.785 constitute a Class A misdemeanor: the convicted illegal dumper may be levied a penalty of up to \$2,500 and one year in jail.

A specific enforcement tool available to Clackamas County is to threaten impoundment of vehicles of persons identified as illegal dumpers. The vehicle would be held to cover the cost of cleanup.

Washington County

Washington County staff report that they have not seen an increase in illegal dumping on public lands although problems continue to exist at specific sites around the County. Disposal costs for the fraction of illegally dumped refuse requiring disposal in a general purpose landfill were an estimated \$6,500 in 1990. A particular problem is seen with individuals who use their own property to illegally dispose their garbage.

The County Health Department enforces a nuisance code which holds property owners responsible for removal of accumulations of refuse or debris. This is the case even if the property owner was not the perpetrator. If a property owner does not clean up an identified site, a citation is issued. A maximum penalty of \$500 per day of violation can be levied against the property owner. If there has been a prior conviction of a violation of the nuisance code within two years, the penalty increases to a maximum of \$1000 per day of the current violation. Failure to appear at a court hearing or falsifying information related to the violation is cause for additional fines or imprisonment.

Persons caught illegally dumping can be prosecuted under ORS 164.785. Violations, when reported, are typically referred to the County Sheriff's Department. Presently, most violations are unreported and cleanup is left to the property owner.

Multnomah County

There has been a chronic problem with illegal dumping at access turnouts along the Sandy River Highway, at the eastern edge of the Metro boundary. In March 1989, an accumulated six tons of illegally disposed refuse which included household garbage, white goods and animal carcasses cost Multnomah County approximately \$8000 to clean up. The County has had some degree of success in containing the problem by installing barricades at the sites.

If an illegal dumper is apprehended and convicted in Multnomah County, they are subject to a \$500 fine for offensive littering under ORS 164.805, as well as a \$500 civil fine for illegal accumulation of solid waste.

County nuisance control staff suggested that additional reports of illegal dumping incidents in the Columbia Gorge National Scenic Area are possibly being channeled to the Forest Service or to Mt. Hood National Forest. In 1990, enforcement personnel at Mt. Hood National Forest reported more than 775 incidents of illegal dumping in the ranger districts on the urban fringe. The majority of incidents occur on the Larch Mountain road, the Columbia River Scenic Highway and in the Bull Run vicinity. Illegal use of Park dumpsters for household refuse was also reported. In addition, personnel at the National Forest reported the existence of two major illegal tire piles, one with 3,000 and one with 10,000 tires. The National Forest has litter and sanitation regulations that enable them to require the convicted perpetrator to clean the site or pay the cost of cleaning the site.

City of Portland

Illegal dumping in the City of Portland appears to occur most frequently on vacant property in low-income areas. Portland nuisance control staff report that there has been a marked increase in dumping near abandoned buildings in residential areas.

The City holds property owners responsible for cleanup of illegally dumped refuse. If property owners do not comply with a cleanup order within 15 days, the City contracts for cleanup and levies a fine of \$200 in addition to the cost of cleanup plus 26 percent overhead. The City levies additional penalties for repeat complaints.

Metro Region Context: *Summary*

Illegal dumping issues in the Metro region affect area local governments in two major respects: 1) cost and personnel required to enforce existing regulations, and 2) cost and personnel required to clean up illegal dump sites. Added to these factors is the administrative cost of processing notices and prosecuting identified violators. ~~While no effort was made to estimate the total fiscal impact on the region as a whole, it may be assumed to be significant.~~

C: ANALYSIS OF COST OF ILLEGAL DUMPING

Background Data on Illegal Dumping Costs

The following is background information on costs incurred by local governments for responding to problems associated with illegal dumping. The information and data address the following four issues related to illegal dumping:

- Costs associated with cleaning up illegal dump sites;
- Costs associated with enforcing laws and ordinances prohibiting illegal dumping;
- The number of illegal dumping cases prosecuted and the costs associated with prosecution; and
- The number of illegal dumping cases successfully prosecuted and the fines recovered through prosecution.

Data and information was gathered from Multnomah County, Washington County, Clackamas County, the City of Portland Bureaus of Buildings, Environmental Services and Parks, the Port of Portland, the Oregon Department of Transportation (ODOT) and Stop Oregon Litter and Vandalism (SOLV), a non-profit organization. With the exception of SOLV, no jurisdiction or agency contacted had detailed specific data about their illegal dumping cleanup and enforcement programs. However, in most cases they were able to provide cost estimates for their activities related to illegal dumping.

In summary, the numerical data and information regarding enforcement that was made available demonstrates that known costs associated with illegal dumping are not significantly great, though they are high in relation to the actual volume of material collected. Costs associated with enforcement are minimal because enforcement actions are also minimal, and there is therefore virtually no history of prosecution.

Reasons for this limited amount of activity include the following:

- Individuals and departments responsible for managing illegal dumping within each jurisdiction, from collection to enforcement and prosecution, also have other responsibilities that require larger percentages of their time and budgets. These other responsibilities include building inspections and code enforcement, road maintenance and construction and basic law enforcement.
- Illegal dumping has historically been a criminal offense in Oregon and, for this reason, rules of evidence apply. Illegal dumping cases require an eyewitness to the actual event, which is nearly impossible to obtain. Therefore, successful prosecution of offenders has not occurred.

- Illegal dumping cases are not considered a priority by the court system due to the difficulty in obtaining evidence and the comparative minor damage caused in relation to other types of crimes being tried.

Costs Associated with Illegal Dump-Site Cleanup

Generally, the cost associated with the cleanup of illegal dump sites is small when compared to budgets for other activities. However, the cost is high in relation to the actual volume of material recovered. Costs are incurred for labor, equipment to pick up and haul away collected materials and disposal. Agencies and jurisdictions contacted stated that only a small percentage of the total illegal dump sites in their jurisdictions had been identified and were being cleaned up. It was uniformly stated that resources were not available to undertake such a task.

County Programs

Due to the high cost of cleanup and the resources available, the three counties in the region clean up sites on county property or rights of way only. The costs and responsibility for the cleanup of illegal dump sites on private property within the three counties rest with the property owner. Jurisdictions and agencies administer different types cleanup programs depending upon the problems they face and the resources available to them. The following examples illustrate this point.

Clackamas County, who had the most detailed information available, operates a cleanup program targeted specifically at illegal dump sites on County property and rights of way. The program is complaint-driven. Labor consists mostly of County road crews and, when possible, they are assisted by County corrections crews. The annual costs of cleanup, including disposal, for Clackamas County are:

Fiscal Year	Annual Cleanup Cost	Sites	Tires	Total Tons
1988	\$14,091	101	N/A	N/A
1989	\$13,681	152	224	26.49
1990	\$10,739	102	375	20.71
1991 (to date)	\$12,000	85	301	17.88

Washington County also operates a program geared specifically to cleaning up illegal dump sites. However, costs are significantly lower compared to Clackamas County because the program relies heavily on the use of community corrections crews for labor. Costs for the program have remained steady over the last four years. Program

administration is approximately \$3,000 annually and additional annual disposal costs range from \$3,000 to \$5,000. No accurate figures related to volumes collected were available, however, it is estimated to be between 50 and 75 tons annually, based on average tip-fees and haul costs.

Fiscal Year	Annual Cleanup Cost	Total Tons
1990	\$2,000 to 5,000	50 to 75
1991 (to date)	2,000 to 5,000	50 to 75

Multnomah County operates a litter cleanup program which includes the cleanup of illegal dump sites. Cleanup activities are part of the annual work program of the road department. Illegal dump sites and litter are cleaned as they are discovered and as time allows. The County does not have a separate accounting system for costs associated with litter cleanup and illegal dump site cleanup. The costs associated with program administration and actual cleanup and disposal are also not easily separated. Total program costs are as follows:

Fiscal Year	Annual Cleanup Cost
1988	\$28,000
1989	44,678
1990	47,511
1991 (to date)	N/A

■ City of Portland

Within the City of Portland, illegal dumping is a violation of the City's nuisance ordinance. Therefore, cleanup of illegal dump sites is the responsibility of the nuisance abatement department of the Bureau of Buildings. The City contracts with a private vendor to clean up dump sites on private and public property throughout the City. ~~The vendor is responsible for removing trees, hedges or vegetation that impede rights of way, overgrown vegetation that becomes a nuisance on vacant property, fire hazards, and the removal of illegally dumped waste.~~

~~Cost data related to the contractors services as well as an estimate of what percentage of the costs are attributed to cleaning up illegal dump sites were requested from the City but were not yet available to be included in this report. The following are the City's actual~~

clean-up costs of illegal dump sites for fiscal years 1988-89 through 1990-91. The costs include the contractor's labor, operational and disposal costs.

Fiscal Year	Dollar Amount	Number of Sites
1988-89	\$82,836	525
1989-90	\$136,267	755
1990-91	\$155,954	731

The Bureau of Buildings is also responsible for inspection and enforcement of the City's nuisance law. With regard to illegal dumping, enforcement takes the form of trying to get those responsible for dumping material to clean up and properly dispose of illegally dumped material. For fiscal year 1991-92 the Bureau is budgeted to expend \$450,000 for inspection and enforcement of the illegal dumping portion of the City's nuisance ordinance. The expenditure is the equivalent of 7.5 full-time enforcement officers.

Portland Parks Bureau

The Portland Parks Bureau also experiences a high level of illegal dumping on its property including illegal use of dumpsters and other trash containers. Bureau has responsibility for several heavily wooded parks, such as Forest Park, which are targets for illegal dumping. The costs of illegal dumping to the Parks Bureau were approximately \$61,000 for 1990.

■ Port of Portland

The Port owns large tracts of industrial park land throughout the region, including the Rivergate industrial area. Due to the isolated location of many of the Port's holdings, a problem with illegal dumping developed. The Port feels that the problem was exacerbated by the close proximity of the Rivergate industrial area to the St. Johns Landfill. By 1988, the cost to the Port for cleanup was approximately \$12,500 per year. Since 1989, costs have dropped sharply to approximately \$3,000 annually as the result of an aggressive program to identify those responsible for illegally dumping solid waste on Port property and encourage them to clean it up. The Port reports that it is experiencing up to 90 percent compliance with their program.

■ Oregon Department of Transportation (ODOT)

As a part of their regular highway maintenance responsibilities within the region, ODOT must remove litter and illegally dumped material

along highways. It is estimated that 15 percent the annual cleanup budget goes to clean up illegal dump sites. The Department's largest problem with illegal dumping is caused by transient camps under highway bridges and overpasses. The total annual costs are summarized below:

Fiscal Year	Annual Cleanup Cost
1988	\$63,085
1989	58,659
1990	46,087
1991 (to date)	N/A

■ Stop Oregon Litter and Vandalism (SOLV)

SOLV was responsible for organizing the April 1991 half-day cleanup event in the metro area that included the cleanup of nine illegal dump sites. At the half-day event, 124 tons of mixed waste and 4,300 waste tires were collected and disposed. The total cost for this effort was \$59,000. These costs included approximately \$10,000 for disposal costs in addition to administrative and promotional costs for the cleanup event. All labor was donated by citizen and waste management industry volunteer efforts. Local haulers also volunteered time and equipment. Without the assistance of volunteers, costs would have been much hire.

The inaugural cleanup event was in 1990. Costs for the event were similar to the 1991 event but the amount of waste collected was lower: 36 tons of mixed waste and 2,500 waste tires. The reason for the higher costs in relation to volume of waste collected was attributed to the fact that it was the first attempt at organizing an event of this scale. Additional promotion was needed and organizational and administrative costs were also higher.

Costs Associated with Code Enforcement:

Different departments within local jurisdictions are responsible for enforcement of illegal dumping laws. Therefore, the methods and costs associated with enforcement vary significantly. Generally, costs associated with enforcement are low because other responsibilities demand the time and resources of the enforcing department. The following is a summary of the methods and associated costs of enforcement within the region.

■ County Programs

Clackamas County addresses illegal dumping through its solid waste ordinance and enforces illegal dumping cases through the Department of

Transportation and Development. The enforcement procedure involves notifying those suspected of being responsible for illegally dumping waste that they should remove the waste they dumped. Identification is through evidence found in illegally dumped waste, usually address labels. Enforcement actions and prosecution are not common due to the difficulty in eyewitness identification of responsible parties. Total annual enforcement costs average approximately \$2,500.

~~Due to the difficulty in identifying responsible parties, Washington County does not have an active enforcement program. The Sheriff's Department has the ability to enforce nuisance codes, but would only do so if there were eyewitnesses to an actual incidence. Such an enforcement occurrence has not arisen in a number of years.~~

In Washington County code enforcement is shared by the Sheriff's Department and the Department of Health and Human Services. Illegal dumping enforcement within the Sheriff's Department is limited to acts of illegal dumping or littering actually witnessed by an individual or officer. In 1990 and 1991 only forty-one total arrests or citations were issued. Of these, twenty-one were for littering. Of the twenty illegal dumping cases, nineteen were misdemeanors where a citation was issued. A single case was prosecuted as a felony case. However, this was a unique case where several other charges were involved.

The Health and Human Service Department is responsible for enforcing the County's nuisance ordinance which addresses illegal dumping on private property. The ordinance makes property owners responsible for clean up regardless of whether or not they were responsible for the act of illegal dumping. Enforcement is complaint driven and written complaints are required. Over the last year, the County has received approximately ninety nuisance complaints. Of these, approximately thirty have been for illegal dumping. Enforcement procedures within the Department include a notice and order to property owners to clean up a site. If the site is not properly cleaned up a citation is written. Most of the sites are cleaned up by the property owner without the need for a citation. The Department estimates is spends approximately \$6,000 annually in personnel costs to investigate illegal dumping cases.

Multnomah County relies on their Sheriff's Department to enforce illegal dumping ordinances. Due to more urgent law enforcement responsibilities, illegal dumping is not a priority in the department. This is exhibited by the fact that only two citations were issued for illegal dumping over the last four years in the County. Another fourteen cases included littering or illegal dumping as an offense in the accompanying arrest reports. However, littering or illegal dumping was not the primary infraction that resulted in the arrest. The costs associated with enforcing illegal dumping ordinances in the County were so small that they could not be estimated.

■ City of Portland

The City runs a full service nuisance abatement program that includes addressing illegal dumping as one of their tasks. They have eleven full-time enforcement officers within the Bureau of Buildings that enforce the nuisance ordinance. Annual budget figures for these personnel along with an assessment of how much of their time is spent on illegal dumping cases was requested from the City but is not yet available.

Information Related to the Prosecution of Cases

Illegal dumping may be a criminal violation of ORS 164.785 or 164.805, or a violation of local nuisance codes. Rules of evidence for illegal dumping require an eyewitness account of the actual event. This type of evidence is extremely difficult to get. Therefore, none of the jurisdictions contacted could cite any cases that were actually prosecuted. In the case of Multnomah County where sixteen arrests or citations over the last four years included charges for littering or illegal dumping, the charges were dropped in all but one case. In the single case that was pursued, it was done so through traffic court. No fine was levied or collected because it was determined illegal dumping was not a traffic violation.

Summary

The costs of illegal dumping are difficult to estimate, since most agencies have not made a concerted effort to isolate and monitor those costs previous to this analysis. It may be assumed that the costs represented in the analysis are only a fraction of the total costs. Representatives from state and local agencies contacted uniformly agreed on three points:

1. it appears that dumping increases commensurately with increases in the cost of disposal;
2. if the costs were tracked more carefully, and if there were more active patrols and more violations reported, the true reported costs of providing enforcement, cleaning up sites, and prosecuting violations would be much higher than those represented in this analysis; and
3. under the existing system, illegal dumping is not a priority because of limited resources.

D: PROGRAM ANALYSIS

Analysis of regional issues

Analysis of illegal dumping issues in the Portland metropolitan area yielded a list of specific types of *sites* where illegal dumping occurs, types of *materials* dumped, and *affected parties*. ~~Where appropriate, analysis includes discussion that addresses probable causes, which are identified as economic, convenience, and behavioral.~~

■ Enforcement

Enforcement of state and local regulations that address illegal dumping has been is difficult at best due to three factors: stringent evidentiary requirements for criminal violations, inadequate allocation of enforcement personnel due to local budgetary constraints, and overburdened courts resulting in a low number of illegal dumping cases actually heard.

For violations that are classified as criminal, judges typically require eyewitness evidence for conviction in criminal cases. Civil violations do not require the same level of proof. Given that most illegal dumping occurs in remote areas, eyewitness evidence is unlikely. Designation of enforcement personnel and their level of empowerment may vary from jurisdiction to jurisdiction. Since most courts are overburdened with cases involving more serious crimes, it is not surprising that most judges consider illegal dumping violations to be a trivial offense and therefore a very low priority; penalties often reflect this attitude.

~~Notifying perpetrators~~ Mere notification of illegal dumping violations appears to be an effective enforcement mechanism. The Oregon Department of Transportation, Port of Portland, and Clackamas County all use form letters that are delivered to persons whose names are found on items within illegally dumped materials. When suspected violators are notified and informed of potential penalties if convicted, they may be easily persuaded to clean up the illegally dumped waste.

Provisions of House Bill 3361 will allow for enhanced enforcement of illegal dumping by using the option of civil penalties rather than criminal penalties.

■ Vacant lots (Residential)

Illegal disposal in low-income residential areas and other vacant properties in urban, suburban and rural areas is a major issue. ~~This issue was identified as a high priority, requiring an in-depth analysis in order to make recommendations to the appropriate individuals and agencies.~~

~~—Economic.~~ Dumping in vacant residential lots appears to be a problem primarily in three areas: low-income residential areas with a large number of vacant houses, mixed urban residential areas with large wooded lots and sparsely populated areas on the urban fringe. Primary motivation for illegal disposal in these areas is the inability or unwillingness to pay the cost of disposal.

~~—Convenience.~~ Availability of solid waste collection service, and the opportunity to recycle, are required by Oregon Revised Statutes (ORS). The statutes allow local governments to establish the character and frequency of service. If adequate collection and recycling service is not available on a regular basis, or if availability and time of pickup is not well understood, generators of solid waste may not be inclined to use conventional services. The alternative is to save waste until there is a sufficient quantity to haul to a disposal facility --- or to dispose illegally. If collection services are not used (use of collection service is voluntary, not mandatory), it is important that self-haul options are well understood.

~~—Behavioral.~~ Reasons for illegal dumps in low-income areas may be traced to individuals who do not have a fundamental understanding of the environmental and economic consequences of their actions. When an area appears to be unkempt due to litter and illegal dumping it invites further activity. It must be stressed that these individuals who dump in low-income areas are not necessarily residents of low-income neighborhoods, but they may be unlicensed "handyman" haulers or people from other areas who see low-income neighborhoods as an opportunity to dump illegally. Lack of education and a general sense of disenfranchisement from public agencies may play a role.

■ Open Areas (Public)

This category includes illegal disposal in parks, playgrounds and natural areas. Analysis and subsequent recommendations are focused on areas within the Metro boundary, but information regarding illegal disposal in open areas outside the boundary was not excluded.

~~—Economic.~~ Open public areas offer ample opportunity to dispose bulky wastes for both visitors and persons who live near these areas. It may be surmised that motivations to illegally dispose of waste in public open areas are largely based on economic considerations. The cost of disposing bulky materials by persons who live in rural areas that are adjacent to open areas may influence the illegal disposer to make the wrong choice.

~~—Convenience.~~ Convenient collection service may be limited to persons who live near or adjacent to public open areas, but this

~~is unlikely. This could possibly lead to use of less visible public open areas as dumps.~~

~~Behavioral.~~ Persons living adjacent to open areas have traditionally enjoyed the freedom to accumulate refuse on their property. It is known that when a refuse pile is visible it invites further dumping in the vicinity. ~~Users of open areas may not understand the implications of their behavior when they carelessly dispose of solid waste, or they may willfully dump refuse knowing that the act is illegal. This may be due to the lack of a sense of "ownership" with public areas, or a general sense of disenfranchisement from public agencies who manage open areas.~~

■ Roadsides

Illegal disposal on roadsides includes: (1) refuse on roadsides as a result of solid waste and recycling activities; and (2) litter and other illegally disposed refuse found on roadsides.

~~Economic.~~ Economic motivations that may be associated with illegal disposal on roadsides may be similar to those described above. Additionally, Citizens who self-haul solid waste or any other type of load may not own be able to afford adequate equipment for the purpose. Transient camps in highway rights-of-way present an additional problem with an economic cause.

~~Convenience.~~ If a load is inadvertently scattered or lost, it may be both inconvenient and hazardous to retrieve. Also, individuals may illegally dispose of litter in small or large quantities unless disposal containers are conveniently located at highway turnouts.

~~Behavioral.~~ Dumping and/or scattering of loads by both private and commercial vehicles is usually the result of carelessness or lack of understanding of consequences. The Oregon Department of Transportation (ODOT) reports that isolated incidents of deliberate scattering frequently occur.

■ Open Areas (Commercial and Industrial)

This category includes illegal disposal in open areas that are located in or near sites of industrial or commercial activity. Analysis was mainly focused on commercial and industrial areas that are in the vicinity of solid waste and recycling facilities.

~~Economic.~~ Like the issues of dumping in vacant lots of residential areas and public open spaces, Deliberate illegal disposal in commercial and industrial open areas may be the result of inability to pay the cost of conventional disposal.

~~—Convenience.~~ Convenient collection service may be limited to persons who live near or adjacent to commercial or non-waste disposal industrial open areas. This could possibly lead to use of less visible open areas as dumps.

~~—Behavioral.~~ Some commercial or industrial open areas may not be well kept. This may invite illegal dumpers to add seemingly insignificant amounts to what appears to be an existing dump.

■ Bulky Materials (Furniture, Appliances, Autos)

Furniture, appliances, tires and other large bulky items that are abandoned or otherwise illegally disposed comprise this category. These items constitute a significant amount of illegal dumping in the Portland metropolitan area.

~~—Economic.~~ These materials can be costly to dispose, especially if special pick up is required. ~~Though it is obviously wrong,~~ The alternative of casting off bulky materials at illegal dump in the sites identified may seem an inexpensive solution to illegal disposers.

~~—Convenience.~~ In addition to cost, as discussed above, Disposing of bulky materials may occur if adequate garbage service is not available. This may be especially true in rural areas.

~~—Behavioral.~~ Some illegal disposers may travel great distances and expend much effort to dispose of bulky items that could possibly be recycled or sold. ~~This indicates a fundamental lack of understanding of cost of disposal, environmental consequences and social responsibilities.~~

■ Construction and Demolition Debris (C&D)

Included in this category is debris from construction, demolition and land clearing that is illegally disposed. This aspect of illegal dumping was analyzed in the context of management practices identified in Chapter 3, Special Waste.

~~—Economic.~~ Illegal disposal of C&D materials is usually perpetrated by private individuals and disreputable contractors who do not wish to incur the costs of disposing unusable or unwanted materials from small construction and/or demolition projects.

~~—Convenience.~~ Disposal of C&D material is in not always convenient. Material must either be hauled or picked up from the site by a haulers or recyclers. Currently, there are haulers and recyclers who specialize in serving construction and demolition sites. A problem lies in the fact that the sites may be within a franchised collection area, ~~resulting in potential violation of a collection franchise agreement.~~ Franchised garbage collectors are

granted the exclusive right by cities or counties to haul waste within defined collection areas. Allowing non-franchised haulers to haul C&D debris within a franchised collection area may result in a violation of the collection franchise agreement.

~~—Behavioral.~~ Illegal disposal of C&D materials is perpetrated by individuals involved in home improvement projects as well as construction and demolition contractors. ~~In either case it is difficult to justify that it is a convenient alternative in view of the fact that some illegal disposers travel great distances and expend much effort to dispose of material that may be recycled or sold. This indicates a lack of understanding of value of recyclable material, cost of disposal, environmental consequences and social responsibilities.~~

■ Mixed Solid Waste in Inert Fills

This category includes municipal solid waste mixed with material designated as clean fill and deposited at inert fill sites.

~~—Economic.~~ In addition to major disposal sites like Lakeside Reclamation Landfill, there are many small, effectively unregulated inert fills in the metropolitan area that accept material for no charge. When putrescible solid waste is mixed with desired material (dirt, rocks, concrete) odor and leaching problems arise. ~~Some disposers may consider mixing solid waste with inert fill an economical means of disposal.~~

~~—Convenience.~~ As indicated above, mixing in quantities of solid waste may serve as a convenient means of disposal for those using the inert fill legitimately. Another side of the problem is that inert fills are widely distributed throughout the region and offer ample opportunities for illegal disposers of household, commercial or industrial wastes.

~~—Behavioral.~~ Mixing putrescible waste with fill material may be the result of unintentional contamination or a deliberate act to conveniently dispose waste that is not approved for inert fills. ~~This indicates a fundamental lack of understanding of cost of disposal, environmental consequences and social responsibilities.~~

■ Non-Profit Charitable Organizations

Illegal disposal of refuse and abandonment of useless articles at charity recyclers creates an economic burden for non-profit benevolent organizations. Although this issue was identified as significant, it was not subjected to analysis for the development of the Illegal Dumping Chapter. Instead, Metro has undertaken an effort to provide recycling credits towards the cost of disposal, an approach that recognizes the amount of material these organizations reuse and recycle in comparison to the amount of material that cannot be processed.

■ Illegal Use of Dumpsters

Illegal use of dumpsters in parks and at commercial and industrial areas places an economic burden on those responsible for maintenance. In effect, the operators of these sites subsidize the portion of the population choosing to dispose of their garbage ~~illegally~~ ~~illegal disposal over responsible behavior.~~

~~—Economic.~~ Many individuals dispose household waste in dumpsters located in shopping malls and other commercial districts. Illegal disposers of this sort typically do not choose to have residential collection service.

~~—Convenience.~~ Convenient collection service may be limited or unavailable to persons who illegally use dumpsters.

~~—Behavioral.~~ Illegal use of dumpsters is difficult to justify in view of the fact that some illegal disposers travel great distances and expend much effort to dispose of items that may even possibly be recycled or sold. This indicates a fundamental lack of understanding of cost of disposal, environmental consequences and social responsibilities.

■ Waste Tires

Waste tires represent a significant solid waste problem. Approximately two million tires are discarded in Oregon each year. A significant portion of discarded waste tires is ~~currently being~~ reclaimed, mostly for fuel. Many of those that are not reclaimed are illegally disposed.

~~—Economic.~~ In 1991, cost of pickup for waste tires ~~currently~~ ranged from \$3 to \$5 each. If an individual chooses to self-haul to a transfer or disposal facility, the cost is \$1 per tire or \$3 per tire on the rim. Truck tires are more costly to dispose. In the absence of a tire deposit or other incentive to recycle waste tires, individuals may choose to stockpile tires.

~~—Convenience.~~ ~~Disposing waste tires is currently inconvenient.~~ Refuse collectors are reluctant to pick them up ~~waste tires~~ since they are legally restricted to carrying fewer than nine tires without obtaining a permit.

~~—Behavioral.~~ When individuals purchase new tires, there is an inclination to keep their old tires rather than giving them to a tire dealer. ~~Waste tires may also be illegally disposed by irresponsible individuals who derive pleasure in casting rolling objects from a moving vehicle. It is necessary to target the segment of the population prone to such activities with an educational campaign.~~

■ **Untarped Loads at Solid Waste Facilities**

Uncovered loads arriving at transfer and recycling facilities result in a significant amount of litter that is blown off the open vehicles. This is a problem with both commercial waste haulers and individual who choose to self-haul. Metro is currently developing a policy to assess penalties for untarped loads. In 1991, Metro adapted its policy to address untarped loads. Both commercial and public users of Metro facilities are levied a surcharge in addition to the regular tip fee if loads are not appropriately covered.

Using this method, non-enforcement recommendations were developed according to the following scheme:

Cause	Solution
Economic	Funding / incentives
Convenience	Improvement of service
Behavioral	Education / promotion



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

DRAFT

TO: Council Solid Waste Committee

FROM: Council Analyst

DATE:

RE: Interim report: Ordinance No. 91-406 - Adding the illegal dumping chapter to the Regional Solid Waste Management Plan

Ordinance No. 91-406 will come before the Solid Waste Committee for consideration at the upcoming meeting. The Committee initially considered the Ordinance at the July 2, 1991 meeting. This interim report is provided to assist the Committee in reviewing the issues raised at that time.

Meeting of July 2, 1991

The Committee first considered Ordinance No. 91-406 on July 2, 1991. Becky Crockett, Senior Planning Supervisor, indicated that the Planning and Development Department concurs with many of the changes recommended by Council staff. She suggested that the Committee provide guidance, so that the proposed chapter could be revised accordingly and brought back to the committee for another public hearing.

In particular, the Department noted the following possible revisions:

1. Revised policy statement to reflect Metro's role in addressing illegal dumping, rather than linking Metro's involvement to increased disposal rates. Solid Waste Director Bob Martin noted that an informal survey of illegal dumpsites turned up very little evidence of a relationship to increased rates. However, there is evidence from other jurisdictions that mandatory collection reduces illegal dumping.
2. Incorporate reference to newly enacted legislation providing for local imposition of civil penalties for illegal dumping.
3. Provide more information and analysis about the need for consistent regional penalties.

With regard to incorporating a cost-effectiveness analysis, Ms. Crockett indicated that the Department is uncertain how to develop costs, and that the approach has been to combine all jurisdictions into a consistent civil penalty system. Additionally, the Department is reluctant to include a discussion of the study of mandatory vs. voluntary collection, given the sensitivity of the topic.

Councilor McLain noted that this is a functional plan, and should be more descriptive. If the intent is to provide solutions, specific scenarios and options should be provided, rather than a discussion of motivations. She believes more specifics should be provided at the end rather than at the beginning, that the chapter should not be so generic, and that it should be more structured. Councilor Gardner concurred, and further noted that the Department should take into account the fact that the chapter also applies to Metro. He favors including specific information about programs, with Metro activities clearly labeled. He also thought the chapter should be shorter.

Ms. Crockett asked whether background information should be included. Councilor McFarland thought some background is necessary, but that it is dangerous to attempt to ascribe motive. Councilor DeJardin suggested including background material in an appendix to the chapter.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING)
ORDINANCE NO. 88-266B ADOPTING)
THE REGIONAL SOLID WASTE)
MANAGEMENT PLAN TO INCORPORATE)
THE ILLEGAL DUMPING CHAPTER)

ORDINANCE NO. 91-406A (Proposed)
Introduced by:
Rena Cusma, Executive Officer

WHEREAS, Metropolitan Service District Ordinance No. 88-266B adopted the Regional Solid Waste Management Plan as a functional plan; and

WHEREAS, Chapter 4 of the Regional Solid Waste Management Plan [~~has been expanded to fulfill the purpose of providing solutions to illegal dumping;~~] provides recommendations for promoting proper solid waste disposal and for preventing illegal dumping;

NOW THEREFORE,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY
ORDAINS:

That the Regional Solid Waste Management Plan is amended to [~~include the expanded~~] add Chapter 4, Illegal Dumping, shown as Exhibit A to this ordinance.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1991.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

DATE: September 20, 1991

TO: Council Solid Waste Committee Members

FROM: *Becky Crockett*
Becky Crockett, Urban Services Supervisor
John Houser
John Houser, Council Analyst

SUB: ORDINANCE NO. 91-406, ILLEGAL DUMPING CHAPTER TO THE
REGIONAL SOLID WASTE MANAGEMENT PLAN

Attached you will find two copies of the Illegal Dumping Chapter to the Regional Solid Waste Management Plan (RSWMP). The first copy shows the changes that have been made as a result of the Metro Council Solid Waste Committee (CSWC) comments after review by the Illegal Dumping Subcommittee, the Technical Committee and the Policy Committee.

The second copy is a "clean" and more readable version of the chapter. None of the changes are noted in this document.

Background

The draft chapter went before CSWC on July 2, 1991. With the help of Council staff, the Committee reviewed the draft chapter thoroughly. The CSWC requested several changes to the text including the following:

- Revision to Policy 4.0

Council staff proposed a change to the wording of Policy 4.0 that would reflect the spirit of the statement that there is no clear correlation of increases in tip fees and an increase in illegal dumping incidents.
- Update of the language describing Metro's policy on uncovered loads at Metro facilities.

The draft chapter contained language that was written prior to the adoption of the current policy on uncovered loads at Metro facilities. The CSWC requested that this be changed to reflect the present policy on surcharges for uncovered loads.

- House Bill 3361

Council staff also requested that the chapter be updated to reference the recently passed illegal dumping legislation. HB 3361 includes provisions for increased penalties for illegal dumping, the option for civil rather than criminal remedies, and the option for use of a hearings officer. The language in the draft chapter was written before passage of the legislation and was less definite as to programs that could be a result of passage of the bill.

- Increased Enforcement

Council staff requested that there be a discussion of the extent to which increased enforcement reduces illegal dumping and why jurisdictionally inconsistent penalties are a problem. This information was already in the draft chapter, but could be reinforced.

- Regional Hearings Officer

An explanation of how the regional hearings officer approach would be implemented and funded was requested.

- Costs

The CSWC requested that the chapter contain a discussion of costs of illegal dumping, including the costs of cleaning dump sites, the potential costs associated with increases in the disposal rate, and the costs of implementing proposed options for solutions. Also requested was a discussion of the potential effectiveness of the proposed solutions.

- Shortening the Text of the Chapter

Councilor McFarland questioned the need for examining the behavioral motivations behind illegal dumping. Councilors Gardner and McLain independently suggested that the draft chapter would be improved by removing portions of the background section and all of the analysis section. The discussion led to a critique of the structure of plan chapters in general and the CSWC had several suggestions as to how the format may be improved.

- Work Program

The CSWC requested that an implementation program with timelines be attached to the chapter.

Each of the issues raised by the CSWC and Council staff were addressed in the revised draft of the chapter.

Key Issues

Several important issues were discussed by the planning committees as the CSWC concerns were addressed. The following summarizes the conclusions made on key issues that were incorporated into the Chapter as a result of those discussions.

1. The Chapter needs to be recognized as a "living document." It represents programs to address illegal dumping based on what is known today. Illegal dumping is a dynamic issue and, therefore, the programs identified in the Chapter will likely change over time as the region learns more about how to effectively address this problem.
2. Increased solid waste system cost is a major contributor to increased illegal dumping in the region. While this cannot be documented with data, it is recognized in several pieces of literature from across the country. Local governments believe strongly that this correlation does exist.
3. Local governments share the responsibility of contributing to the problems of illegal dumping through cost increases to local solid waste programs.
4. There is a need for a strong coordinated regional promotion and education program to address illegal dumping issues including education of the problems associated with illegal disposal, enforcement programs and options available for proper disposal and recycling.
5. There is an identified need for Metro to complete a model enforcement code for the region expeditiously. Multnomah County has already drafted a model which can be used to move this work forward in the next three months.

BC/srs

a:\mml\91406csw

Attachments



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

DATE: October 9, 1991

TO: Metro Council

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 6.5; ORDINANCE NO. 91-406A

Attached are comments received at the Solid Waste Committee meeting on October 1, 1991 on Ordinance No. 91-406A.



Port of Portland

Box 3529 Portland, Oregon 97208
503/231-5000

September 30, 1991

Solid Waste Committee
METRO
2000 SW 1st
Portland, OR 97204

ILLEGAL DUMPING CHAPTER COMMENTS

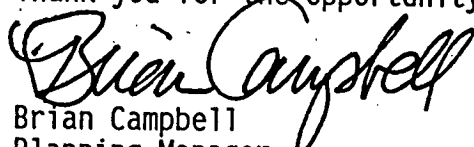
The Port of Portland has had representation on both the Solid Waste Policy and Technical Advisory Committees for the last several years and has long been an advocate for a regional approach to the problem of illegal dumping. We have also participated on the Illegal Dumping sub-committee in its efforts to devise a viable strategy to address this problem. The Port strongly supports the proposed Illegal Dumping chapter of the Solid Waste Plan.

The Port owns approximately 9500 acres in the Portland region, much of it vacant industrial or natural resource land. Illegal dumping has always been a problem on these properties, and is especially acute in the Rivergate Industrial District and the Smith and Bybee Lakes area near the St. Johns Landfill. For several years we have had a program of actively pursuing those who are responsible for illegal dumping on Port property. While this has been somewhat successful in both identifying those responsible and having them remove their trash, this success has been limited, expensive, and does not get to the root of the problem.

Though no plan by itself can eliminate illegal dumping, the proposed language identifies the problem accurately and begins to articulate how the region can deal with it over the long term. The Port believes that provisions for a hearings officer to deal with the legal impediments to resolution of illegal dumping cases is the most important step included in the plan. Another important provision that will greatly reduce roadside litter (probably the most visible of the illegal dumping problems) is the requirement that all loads, commercial as well as private, be securely covered.

Though not all of the concerns raised by this issue may have been adequately addressed by the proposed language, it can certainly be updated and improved over the years as new techniques for dealing with illegal dumping are devised. What the region needs now is to start addressing the problem in a comprehensive and coordinated manner. Metro should adopt this chapter as soon as possible.

Thank you for the opportunity to comment.


Brian Campbell
Planning Manager





CITY OF

PORTLAND, OREGON

BUREAU OF ENVIRONMENTAL SERVICES

Earl Blumenauer, Commissioner
Mary T. Nolan, Director
1120 S.W. 5th, Rm. 400
Portland, Oregon 97204-1972
(503) 796-7740
FAX: (503) 796-6995

September 30, 1991

TO: Metro Council
Solid Waste Committee

FROM: Susan Keil *Susan D. Keil*

SUBJECT: Illegal Dumping Chapter to the Regional Solid Waste Management Plan

We believe the Chapter properly addresses issues surrounding those problems associated with illegal dumping and provides positive direction for corrective action. Portland supports the current Chapter and recommends that it be approved.

Topics in the Chapter of particular concern include focusing on and mitigating the causes of illegal dumping and waste tire clean-up in the region. Probable causes are well documented in the Chapter, with a strong need shown for development of a consistent and uniform program that local governments can use to discourage illegal dumping activities. We look forward to development of the proposed model illegal disposal ordinance and public education programs to work in conjunction with HB 3361 to allow implementation of a consistent set of penalties.

DEQ having an emphasis on cleaning up large piles of waste tires illegally dumped outside of the Portland area is understandable, however, we continue to urge a higher priority be given to the local situation. In this regard we are most interested in programs that Metro and DEQ can enact jointly to reduce the numerous small, illegal deposits of waste tires in our area.

I am available to answer questions in this matter or provide additional information. My telephone number is 796-7763.

sw/other/illegal.mcm



WASHINGTON
COUNTY,
OREGON

WASHINGTON COUNTY SOLID WASTE SYSTEMS DESIGN STEERING COMMITTEE
TESTIMONY TO METRO COUNCIL SOLID WASTE COMMITTEE REGARDING
METRO WEST TRANSFER AND MATERIAL RECOVERY SYSTEM CHAPTER, AND
REQUEST FOR FRANCHISE APPLICATIONS FOR THE PROVISION OF TRANSFER AND
MATERIAL RECOVERY SERVICES FOR WESTERN WASHINGTON COUNTY

October 1, 1991

My name is Delyn Kies. I am the Solid Waste Management Coordinator for Washington County and am here this evening on behalf of the Washington County Solid Waste Systems Design Steering Committee.

On July 1 the Steering Committee reviewed and recommended approval of the Metro West Transfer and Material Recovery System Chapter to METRO's Regional Solid Waste Management Plan. The Steering Committee also reviewed and recommends approval of the amendments made by the Policy Committee this summer, and the subsequent amendments made by staff. The Steering Committee believes that the Plan Chapter is consistent with the Washington County System Plan, the Resolution passed by the Council in June, and the policies and operational requirements of METRO's regional system. We urge your approval of the Chapter.

At its meeting yesterday, September 30, the Steering Committee reviewed the Request for Franchise Applications for the Provision of Transfer and Material Recovery Services for Western Washington County. The Committee unanimously supports this document and urges your approval of it. We specifically addressed the issue of the modified service areas and are supportive of staff's proposed changes so long as the economic viability of the second transfer station is not negatively affected and the timeline for procuring the second transfer station remains unchanged. We believe it is important to begin procurement of the second transfer station as early in 1992 as possible.

The Steering Committee appreciates the opportunity to comment. I would be happy to answer any questions you may have.

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE 91-406A, FOR THE PURPOSE OF AMENDING ORDINANCE NO. 88-266B ADOPTING THE REGIONAL SOLID WASTE MANAGEMENT PLAN TO INCORPORATE THE ILLEGAL DUMPING CHAPTER

Date: October 2, 1991

Presented by: Councilor Wyers

Committee Recommendation: At the October 1 meeting, the committee voted unanimously to recommend Council adoption of Ordinance No. 91-406A. Voting in favor: Councilors Gardner, McFarland, and Wyers.

Committee Issues/Discussion: The proposed Illegal Dumping Chapter was initially considered by the Solid Waste Committee at its July 2, 1991 meeting. Committee members and Council staff requested that the Solid Waste Planning staff revise the chapter to address several issues. These included: 1) changing the proposed language in Policy 4.0 in the Regional Solid Waste Management Plan (RSWMP) to indicate that there is no clear correlation between increased tip fees and increased illegal dumping, 2) updating language concerning new Metro policies related to uncovered loads, 3) including a discussion of new applicable state legislation, 4) proposing a work plan including how the proposed regional administrative hearings officer approach would work, 5) discussing the costs of illegal dumping, and 6) streamlining the organization of the chapter.

Representatives of Clackamas and Multnomah Counties appeared in support of the proposed chapter and letters of support from the city of Portland and the Port of Portland were submitted.

In a joint memo from Council and Planning staff it was noted that the issues raised earlier by the committee had been addressed in the revised chapter. In addition, it was noted that the chapter should be viewed as a "living document" capable of being amended as the region learns more about how to effectively combat illegal dumping.

The committee concurred that its earlier concerns had been addressed. Councilor Wyers noted that she will work to seek funding for anti-illegal dumping education programs in the next fiscal year budget.



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

DATE: October 14, 1991

TO: Rena Cusma, Executive Officer

FROM: Paulette Allen, Clerk of the Council *PA*

RE: TRANSMITTAL OF ORDINANCE NOS. 91-427, 91-428, 91-429B, 91-422B, 91-406A AND 91-416

Attached for your consideration are true copies of the ordinances referenced above adopted by the Council on October 10, 1991.

If you wish to veto any of the ordinances referenced above, I must receive a signed and dated written veto message from you no later than 5:00 p.m., Thursday, October 17, 1991. The veto message, if submitted, will become part of the permanent record. If no veto message is received by the time and date stated above, these ordinances will be considered finally adopted.

I, *Lisa St. Helier*, received this memo and true copies of Ordinance Nos. 91-427, 91-428, 91-429B, 91-422B, 91-406A and 91-416 from the Clerk of the Council on 10-14-91.

ORD.MEM