

From: [Ken Eklund](#)
To: [Coffin Butte Landfill Appeals](#)
Subject: Explainer 3 of 12: DEQ's Compliance Ordeal over the Enclosed Flare
Date: Monday, October 20, 2025 4:11:01 PM
Attachments: [Explainer - DEQ gas flare compliance.pdf](#)

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Dear Chair Wyse and Commissioners Shepherd and Malone:

I've developed a set of "explainers" first for myself, to try to make sense of these complex subjects (and to get all the things learned into one place) and to pass this info along to others. And now I'm sending them along to you.

The one attached here is about an ordeal the DEQ quietly went through in the past three years, trying to get Coffin Butte Landfill to comply with a simple requirement – to test its landfill gas flares to see how efficient they are. The regulation was passed in 2021 and, well, in February of this year a neighbor of mine was driving past the flare and saw it was burning on the outside... it's not supposed to be doing that...

The story of the DEQ Ordeal over the Enclosed Flare is a cautionary tale about what happens when you put a requirement onto Republic's landfill operators that they really don't want to follow. It becomes an ordeal.

I hope you find this Explainer useful –

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#explainer

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Performance-testing the landfill gas flare: ODEQ's struggle to obtain compliance from Republic Services / Coffin Butte Landfill

A timeline and explainer (updated)

2021

October 4

**New regulation is approved
requiring performance-
testing of landfill gas flares**

On Oct. 4, 2021, the Environmental Quality Commission approved new Landfill Gas Emission rules as Oregon Administrative Rule 340 Division 239 (OAR 340-239). Division 239 includes new requirements to protect the climate by reducing methane emissions from Oregon landfills. OAR 340-239-0110(2)(f)(B) requires that emissions from existing gas control devices, including flares, be tested within 180 days of the date that the Division 239 requirement became applicable to them.

2022

October 1

**Coffin Butte Landfill's
methane generation report
is due; 180-day clock begins**

Coffin Butte Landfill (CBL, the dump) reaches the due date for its Methane Generation Report; in order to complete that report, its operators are now required to performance-test the landfill's flares by March 30, 2023. At this point, the dump has two "shrouded" flares (open, visible flame); it has no "enclosed" flares. A shrouded flare must be enclosed in order to be accurately tested per the new reporting requirements in Division 239.

2023

**January through March
Discussions between CBL
and ODEQ about how to get
the flares to comply**

Beginning in early 2023, the dump and ODEQ discuss by phone how to get the dump's flares to comply with the new regulations. Enclosing a shrouded flare to test it is a difficult process, so it's agreed that the dump will install a new enclosed flare and test it.

2023

March 30

**Coffin Butte Landfill misses
its deadline to performance-
test its flares and complete
its Methane Generation
Report**

The deadline for performance testing of the existing shrouded flares, or installation and testing of a new enclosed flare, passes by without action by the dump operators. The dump continues to use its two shrouded flares, which are less efficient at converting methane to carbon dioxide, and which pose a fire hazard.

2023
April through July
ODEQ alerts Coffin Butte
Landfill about its non-
compliant status

ODEQ and Coffin Butte Landfill go back and forth about taking action to install a new enclosed flare and test it per the Division 239 regulations. The dump begins work on a site plan for a new enclosed flare.

2023
August 1
Notice of Approval (NOA)
filed for site plans of the
new enclosed flare

Coffin Butte Landfill files a Notice of Approval (NOA) for its site plans for the new enclosed flare.

2023
August through October
ODEQ and Coffin Butte
Landfill negotiate the NOA

ODEQ and Coffin Butte Landfill go back and forth about finalizing the site plan for the new enclosed flare.

2023
November 9
ODEQ approves CBL's site
plans for the new enclosed
flare

ODEQ approves the dump's site plans for the new enclosed flare.

At this point, it's been over two years since the regulations about flare testing went into effect and over seven months past the deadline to conduct those performance tests.

2024
February 8
CBL to ODEQ: "everything
wrapped up by March"

Michael Eisele, Environmental Engineer at ODEQ, emails Ian Macnab, the dump's Environmental Manager at the time, inquiring about the status of the flares. Ian Macnab responds that they are waiting for concrete to cure but that "we should have everything wrapped up sometime in March."

2024

March 31

**Enclosed flare has arrived
but is lying in a field**

A dump neighbor takes a photo of the cylindrical enclosed flare lying in a field some distance from the flare site.

2024

April 22

**Enclosed flare has been put
into position but is non-
operational**

The dump operators continue to move slowly toward installing the new enclosed flare. By April 22, it is in position but non-operational – the shrouded flares are still visibly being used. The enclosed flare will not become operational until late August.

2024

July 10

**In a Warning Letter ODEQ
issues CBL a Class 1 (most
serious) Notice of Violation
for failing to performance-
test its flares per Division
239 regulations**

On July 10 Michael Eisele issues a Warning Letter with Opportunity to Correct to Ian Macnab. The core of the Letter is a Notice Of Violation (NOV): ODEQ cites Coffin Butte Landfill as being in violation of Oregon environmental laws, specifically, failing to test its gas control devices (flares) as required. The Letter notes this is a Class I violation, which is the most serious. The Letter generates an “out of office” reply, so Michael Eisele forwards a copy to Bret Davis, the dump’s General Manager.

The Letter gives an Opportunity to Comply: the dump can either install and operate an enclosed flare, with the necessary Construction and Operating approvals, by **July 31** or enclose its existing flares in such a way that they can be tested. Either way, the flares are to be performance-tested by **October 31, 2024**. Complying according to the Opportunity “will be taken into consideration in any civil penalty assessment” issued by ODEQ.

2024

July 24

**The shrouded flares still in
use start a grass fire at
Coffin Butte Landfill, which
is extinguished by Adair
Rural firefighters**

At around 8 pm on July 24, a grass fire starts in the area around the flares. It is after hours, so all Republic people have gone home. A passing motorist notices the fire, and calls it in locally. Adair Rural responds and the volunteer firefighters enter the flare area and extinguish the fire.

Ian Macnab notifies Michael Eisele of this fire event late the next day, “as a precaution.”

2024

July 26

Consultant confirms the new enclosed flare is still non-operational

Melissa Green is a Senior Project Director for Weaver, one consultancy that will assist with the performance-testing on the new flare. On July 26 she emails Suzanne Blackburn, Environmental Engineer and Source Test Coordinator at ODEQ, to confirm a timeline for flare testing. She mentions that the flare has not yet been started up.

2024

July 31

Deadline for starting up the flare, per the Warning Letter; CBL cites fire damage, asks for extension

At 9 pm on the day the new flare is supposed to come on line, Ian Macnab emails Michael Eisele to inform him that the grass fire last week damaged a transformer near the flare – damage which apparently had not been noticed until then. According to Ian, the transformer would have to be replaced. He asks for an extension until August 2. ODEQ grants Ian's extension request the next day.

2024

August 2

Extended deadline for starting up the flare; CBL cites more difficulties, asks for another extension

At 11 pm on the day of the deadline extension, Ian Macnab emails Michael Eisele to report that "the louvers on the new flare are not operating correctly" and as a result, he'd like to request a further extension, until August 6th.

2024

August 4

CBL tells OPB reporter that "robust fire alert system worked as designed"

OPB reporter Nathan Wilk, inquiring about the July 24 grass fire at the open flares, writes in his story:

"Republic said its operating manager arrived around 12 minutes after fire officials. 'We have robust monitoring and emergency management systems in place to protect employees, the community and the environment in the event of a fire,' Republic wrote in an email. 'That system worked as designed.'"

2024

August 6

CBL's General Manager tells Benton County Board of Commissioners "the new enclosed flare will start up by the end of today"

Republic Services presents its 2023 Annual Hauling Report and Annual Coffin Butte / Pacific Region Compost Operational Report to the Board of Commissioners. In discussions about dump compliance, the dump's general manager, Bret Davis, informs the Commissioners that a new enclosed flare will begin operations by the end of that day, to comply with regulations. He does not mention the Warning Letter or Notice of Violation.

For multiple reasons the Commissioners do not accept the Reports from Republic.

2024

August 14

A story about the July 10 Warning Letter, "Oregon warns Coffin Butte Landfill over methane emissions," is published in the Salem Statesman-Journal

Reporter Tracy Loew breaks the story about the dump's Warning Letter and Notice of Violation in her August 14 article in the Salem Statesman-Journal. Quoting her article:

Oregon environmental regulators have issued a formal warning to Coffin Butte Landfill for not complying with new requirements to reduce methane emissions from the state's landfills.

"In early 2023 during multiple phone calls, DEQ informed you that you would need to install a new enclosed flare," the warning reads. DEQ approved the company's plans to install a new, enclosed flare on Nov. 9, 2023, but that had not happened by July 10, when DEQ issued its warning.

If the company doesn't perform the corrective actions, the matter is referred to DEQ's Office of Compliance and Enforcement for formal enforcement and civil penalty assessment, [DEQ spokesman Dylan] Darling said.

2024

August 15

ODEQ receives a Notice of Construction Completion of the enclosed flare

On August 15 the dump sends ODEQ a Notice of Construction Completion for the enclosed flare, for construction approved more than 9 months previously.

At this point, the relevant regulations have been in place for over three and a half years, and the performance tests of this enclosed flare are overdue by over 16 months.

2024

August 19

Another Republic consultant submits a Source Test Plan for the enclosed flare; test day is September 18

Anne Richardson of Blue Sky Environmental sends Suzanne Blackburn of ODEQ a proposed Source Test Plan for conducting the required environmental performance test on the enclosed flare. The proposal sets a test day of September 18.

2024

September 11

ODEQ approves the Source Test Plan, with modifications

Suzanne Blackburn of ODEQ approves the test plan with some modifications; she announces her intention to be present at the testing.

2024

September 11-16

**Performance test
preparation**

By email Suzanne Blackburn asks Ian Macnab a series of technical questions in preparation for the test procedure on September 18.

2024

September 17

**Ian Macnab requests
an extension for the
performance test
the next day**

The day before the test, the dump's Environmental Manager Ian Macnab emails Suzanne Blackburn: there are "unexpected programming issues" and the test will need to be rescheduled.

The next day, Ian reschedules the test for October 22, which is within the "Opportunity to Comply" window specified in the Warning Letter (that window closes on October 31).

2024

October 22

**Republic tests the enclosed
flare for environmental
performance**

Republic conducts the environmental performance test on the enclosed flare.

Suzanne Blackburn is not able to be present; by email the next day, she inquires how the test went. There is no immediate reply.

2024

October 28

**Republic's Area
Environmental Manager
informs ODEQ that there
were "challenges" with
the environmental
performance test**

Republic's Area Environmental Manager, Brent Learch, responds to Suzanne Blackburn's email:

We encountered some challenges when performing the source test on the enclosed flare. The challenges centered around the control panel and wiring. Our team is working with the flare manufacturer to develop solutions. We do not have the source test results yet but believe that an additional source test may be required. We will keep you informed about our progress on developing solutions and whether we need to perform the test again.

Suzanne Blackburn immediately informs Michael Eisele, Permit Writer and author of the Warning Letter, of this latest delay.

2024

October

**Ian Macnab announces
his resignation**

The dump's Environmental Manager, Ian Macnab, announces his resignation in October and departs in December.

2024

October 30

Republic's test consultant informs ODEQ that the flare failed its test; she schedules a new one for November 7

On October 30 Melissa Green writes Suzanne Blackburn to let ODEQ know that the flare failed its first test and a second environmental performance test is going to be necessary. Green schedules it for November 7, 2024.

2024

November 7

Republic and their consultants perform a second test on the dump's enclosed flare

Republic and its consultants conduct a second environmental performance test on the enclosed flare, with DEQ observing.

Republic's test data is sent to ODEQ on December 18.

2025

February 12

A passerby sees the enclosed flare is on fire and smoking and reports it to Republic



2025

March 3

ODEQ reports completion of a successful performance test on CBL's enclosed flare

Republic will need to performance-test the flare again by December 22, 2025

Suzanne Blackburn emails Michael Eisele to inform him of her findings regarding the two tests:

Overall Evaluation

The test methods conducted, and the data provided for testing conducted on October 22, 2024 were not sufficient to evaluate the emissions from the enclosed flare. The test methods conducted, and the data provided for testing conducted on November 7, 2024 were sufficient to evaluate the emissions from the enclosed flare. A full test report review was performed with all emissions calculated from raw data...

The new enclosed flare emissions showed compliance with OAR 340-239-0110 (2)(b) by meeting the methane destruction efficiency of 99% by weight.

The new enclosed flare emissions showed compliance with the Non-Methane Organic Compound (NMOC) emissions from the flare to show compliance with NESHAP AAAA - reduce the outlet NMOC concentration to less than 20 ppmvd as hexane @ 3% O₂.

The next source test is due no later than 45 days after the anniversary date of the initial performance test (12/22/2025).

**Summary and conclusion:
an extraordinary effort
was required to compel
Republic to comply with an
ordinary regulation**

The original deadline for the dump to test its flares for their environmental performance was March 30, 2023, as specified in regulations that took effect in October of 2021. A successful test was finally certified almost 2 years past that deadline. ODEQ was required to mount an extraordinary effort – which included an official Notice of Violation – to compel the dump to comply with regulations designed to protect the environment and the surrounding area and its residents.

**The Ordeal of the Enclosed Flare
and the land use criteria**

Commissioners, your citation for this is BCC 53.215(1) and (2): This is SERIOUS INTERFERENCE with adjacent land uses and with the character of the area, and also AN UNDUE BURDEN on services available to the area – specifically, environmental monitoring and enforcement services by the EPA and Oregon DEQ.

The Applicant has already allowed that Benton County would have to impose Conditions on the Applicant to prevent the impacts of its expanded operations from interfering seriously with the land uses of neighbors. The evidence I present here seriously calls into question whether any such Conditions would be effective, or even heeded. The Applicant was subject to an ordinary air quality regulation, but did not comply with it until DEQ issued a Notice of Violation which came with the threat of fines and other enforcement measures. Benton County has no such enforcement powers and therefore would be helpless in such a case to ever obtain compliance on any Condition of Approval.

It's established by common sense, and confirmed in LUBA findings, that a landfill's current operations are a good indicator of its operations going forward into the future. The Planning Commission determined in its Findings that the Applicant has a history of non-compliance with past Conditions of Approval, and indeed the Applicant has not produced any example of a case when Benton County successfully enforced a Condition of Approval. What does happen is that Conditions are created, the Applicant ignores them, the County does nothing further, and the Condition is quietly dropped when the next Agreement is negotiated.

Expanded landfilling would impose an undue burden on Oregon DEQ and on the EPA, by adding what is an entirely new landfill that they must monitor, regulate and enforce. Both organizations are already burdened with investigations into operations at the current dump. An expansion would sharply increase their monitoring and enforcement responsibilities in every dimension, including being on the receiving end of complaints from an aggrieved public.

The Ordeal of the Enclosed Flare is not new evidence: it has been brought up before the Planning Commission in both written and oral testimony. It has NOT BEEN ADDRESSED in the staff report, and of course it CANNOT BE MITIGATED by a Condition of Approval. The Applicant is under a Burden of Proof to show that its claim that it would comply with the Conditions is true; that Burden includes both a burden to present evidence and a burden to present a clear, convincing narrative; the Applicant has failed to present either.

Commissioners, this Explainer shows what it actually takes to get Republic to comply with a requirement, when for whatever reason Republic decides it does not want to comply with that requirement. In this case, DEQ actually has enforcement authority, which Benton County does not for its Conditions of Approval. Also, DEQ actually has monitoring and enforcement experience, which Benton County does not. With LU-24-027, Benton County is considering whether or not it wants to get into the environmental monitoring and enforcement business. That is a key part of the decision before you – whether County government wants to, and whether it can succeed.

For the many reasons listed above – you must deny LU-24-027. The very existence of the Conditions of Approval is testimony to the admitted serious interference and harmful impacts that expanded landfilling will have on neighbors' land uses and on the character of the area. These impacts are already a burden on governmental environmental monitoring and enforcement, which will only grow if the landfill does. And now that burden will extend to Benton County government, which will have assigned itself the responsibility but not the power to succeed.

Thank you for your kind attention ~

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October 16, 2025

Read all the Explainers! Because I'm doing my best to pass on what I've learned in a clear, concise, readable narrative form.

Performance-testing the landfill gas flare: ODEQ's struggle to obtain compliance from Republic

DEQ made a rule in late 2021 and Coffin Butte Landfill complied with it in late 2024. Why did it take so long, and what about that Class 1 Notice of Violation from DEQ?

Explainer - DEQ gas flare compliance.pdf



Carbon Mapper and landfill gas: an explainer

An award-winning, innovative third-party source sharing data with us about the landfill's performance.

Explainer - Carbon Mapper and methane detection.pdf



EPA Enforcement: a timeline and explainer

The EPA is investigating Coffin Butte Landfill – why? Is it serious? How did that start and what's happening with it?

Explainer - Coffin Butte and EPA Enforcement.pdf



Climate Damage and the Land Use Criteria

Evidence shows that Coffin Butte Landfill is large-scale producer of greenhouse gas emissions. How do the impacts from that relate to the land use criteria for LU-24-027?

Explainer - Climate Damage and land use criteria.pdf



Gas Wells At Coffin Butte: Why So Many?

Republic asserts that all those gas wells are a sign of environmental commitment. What's the true reason?

Explainer - Why so many landfill gas wells at Coffin Butte.pdf



Elevated Temperatures, Subsurface Landfill Fires

The way Coffin Butte Landfill is operated creates more risk of a dire event.

Explainer - elevated temperatures at Coffin Butte.pdf



Avoiding Compliance: six narratives

How Republic avoids monitoring at Coffin Butte Landfill: the paper trails.

Explainer - avoiding compliance at Coffin Butte 1.pdf



How to Find Things in the LU-24-027 Public Record

It's not easy, but here are some tips that may help.

Explainer - How to find things in Public Record.pdf

