

A G E N D A



METRO

MEETING: REGIONAL SOLID WASTE ADVISORY COMMITTEE (SWAC)
DATE: Thursday, March 22, 2007
TIME: 10:00 a.m. to 11:45 a.m.
PLACE: Council Chambers, 600 NE Grand Avenue, Portland

- 10 mins. I. **Call to Order** Councilor Kathryn Harrington
*Introductions/announcements; approval of minutes**
- 10 mins. II. **Solid Waste & Recycling Director's Update**Mike Hoglund
- 10 mins. III. **DEQ's Waste Prevention Strategy**Mike Hoglund
***Action Item:** Does SWAC wish to take a position on DEQ's waste prevention strategy? A summary of Metro's comments will be offered.*
- 50 mins. IV. **Enhanced Dry Waste Recovery (EDWRP)**..... Hoglund, Barrett
***Action Item:** Since 2003, regional stakeholders including SWAC have discussed program options for increasing dry waste recovery in the region. Last month SWAC was provided updated information about EDWRP program details for final discussion. A draft ordinance to require the processing of all dry waste from the region prior to landfill disposal has been developed for Council consideration, and was sent to SWAC the week of 3/12. This month a recommendation to Metro Council on the EDWRP program is sought.*
- 20 mins. V. **RSWMP draft distribution**..... Matthews, O'Dell
***Information Item:** SWAC members will receive a copy of the RSWMP at the meeting and have 30 days to provide comments before the Plan goes out for public comment. Plan highlights and a description of the next round of public outreach will be briefly covered.*
- 5 mins. VI. **Other business and adjourn**Councilor Harrington

*Denotes material included in the meeting packet

All times listed on this agenda are approximate. Items may not be considered in the exact order listed.

Chair: Councilor Kathryn Harrington
(797-1553)

Staff: Janet Matthews
(797-1826)

Committee Clerk: Gina Cubbon
(797-1645)

Proposed SWAC Agenda Items

March – May 2007

<i>April</i>	<i>May</i>	<i>June</i>
RSWMP draft, final comments	Multi-family recycling (information and discussion)	Illegal dumping and enforcement update (information and discussion)
Business recycling standards (discussion)	Business recycling standards (final discussion)	Business recycling standards (action)
Toxics reduction strategies (information and discussion)		DEQ compost standards/organics update (information and discussion)
Annual Waste Reduction Plan (discussion and action)	Disaster debris management (information and discussion)	Data report - various subjects (information and discussion)

Key to Agenda Designations

Information item: New information provided to or exchanged among SWAC members.

Discussion item: Comments/questions/exchange of views sought from SWAC members in response to presentation. Discussion items are usually related to plans, policies, programs, or practices.

Final discussion item: Remaining comments/questions/exchange of views sought from SWAC members. A Final Discussion agenda item will usually precede a requested SWAC vote by one month.

Action item: Requested SWAC vote to recommend plan, program or policy to Council.



METRO

600 NE Grand Ave.
Portland, OR 97232-2736

MINUTES OF THE METRO SOLID WASTE AND RECYCLING COMMITTEE (SWAC) MEETING

Metro Regional Center, Council Chambers
Thursday, February 22, 2007

Members / Alternates Present:

Councilor Kathryn Harrington
Mike Hogle
Mike Leichner
Bruce Walker
Glenn Zimmerman
Lori Stole
JoAnn Herrigel
David Allaway

Janet Malloch
Andy Kahut
Ray Phelps
Dean Kampfer
Dave White
Anita Largent
Eric Merrill
Paul Edwards

Dave Garten
Mike Miller
Audrey O'Brien
Matt Korot
Theresa Koppang
Steve Schwab
Vince Gilbert
Tom Badrick

Guests and Metro staff:

Wendy Fisher
Segeni Mungai
Meg Lynch
Roy Brower
Michael Sievers

Brad Botkin
Heidi Rahn
Larry Harvey
Matt Tracy
Jim Watkins

Bryce Jacobson
Paul Ehinger
Brian Heiberg
Julie Cash
Gina Cubbon

I. Call to Order and Announcements.....Councilor Kathryn Harrington

- Councilor Harrington opened the meeting at 10:04 a.m.; the attendees introduced themselves.
- The Councilor handed out an updated timeline for the Regional Solid Waste Management Plan (RSWMP). A review cycle with SWAC has been added to the work plan. The draft will be available sometime in March, and Councilor Harrington asked that members please review the document in a timely manner and email their comments accordingly.
- Approval of minutes: Solid Waste & Recycling Director Mike Hogle announced a change to the minutes of the January 25 meeting. Agenda item IV of that meeting, paragraph 4, sentence beginning "Metro later won the dispute in court..." is amended to read "Metro later won the dispute in an administrative hearing and in front of Metro Council." WRI / Allied's Ray Phelps moved to accept the minutes as amended; Theresa Koppang of Washington County seconded the motion, which passed unanimously.

II. Solid Waste & Recycling Director's Update.....Mike Hogle

- Mr. Hogle announced that the Regulatory Affairs Division had caught their first surveilled illegal dumper, thanks to video equipment purchased earlier. He couldn't give any details because of the pending case.

- On February 5, Metro issued a notice of violation (NOV) to Waste Management’s Wastech facility for “failure to maintain a 12-month minimum cumulative compliance recovery rate of 25% in December 2006.” Wastech has stopped operating as a MRF and will operate as a dry waste reload until they’re able to meet the recovery rate.
- An NOV was issued to Greenway Recycling on February 8 for “failure to control access to the site,” which resulted to some unauthorized dumping after hours. Greenway has since installed gates.
- Metro has coordinated a group of haulers and local governments to look at the solid waste collection fleet and determine ways to phase out old engines in favor of diesel retrofits. The first workshop has taken place; the group will meet two more times before making recommendations.
- The Rate Review Committee will meet for the first time this budget season on Tuesday, February 27, Mr. Hogle told the group. Three meetings are anticipated. Council has asked the Committee to look into the Household Hazardous Waste program and whether there should be a fee to customers.

III. DEQ’s Waste Prevention StrategyDavid Allaway

Councilor Harrington introduced David Allaway of the DEQ, who announced that the Agency’s Draft Waste Prevention Strategy is now available online.

The four focus areas included in the Waste Prevention Strategy are:

1. Waste generation associated with design, remodeling, demolition of buildings;
2. Waste generation by businesses and decisions made by those businesses that contribute to waste. A short-term focus on packaging is included in this focus.
3. Consumer education.
4. Foundation research: Ongoing research and analysis into causes of waste generation increases, the environmental benefits of waste prevention, and economic impacts of waste prevention.

Comments on the Draft will be welcomed in any form (telephone, email, letters, in person, etc.), preferably by March 28.

To download a copy of DEQ's Draft Waste Prevention Strategy, or learn more about the discussion meetings and other options for providing input, please visit the Strategy’s web page at:

<http://www.deq.state.or.us/lq/sw/wasteprevention/wpstrategy.htm>.

Alternatively, feel free to contact David Allaway at allaway.david@deq.state.or.us or Jan Whitworth at whitworth.jan@deq.state.or.us.

Mr. Hogle said that Metro will develop comments in support of the Draft. Those could be brought to the next SWAC meeting, he said, and if there is interest within the group, SWAC could make it a recommendation with Metro. Mr. Phelps suggested that SWAC could comment in the context of how the DEQ document connects to the RSWMP.

IV. Boneyard NWBryce Jacobson

Bryce Jacobson (of the Waste Reduction & Outreach Division) presented information about a new website being launched to help building contractors sell their reusable items. Mr. Jacobson gave an example of 200 fire doors – no residential C&D outlet could take more than a few, so contractors have been left with little option but to dispose.

The site, www.boneyardnw.com, can help match available materials with contractor's needs. Mr. Jacobson demonstrated how to use the site. In answer to various questions, he said that the site contains an email notification feature so that if a company is looking for a particular item or material, they will be notified when it's available on the site. One of the tool's goals, Councilor Harrington added, is to help ensure reuse of regional materials to help reduce waste generation.

The City of Milwaukie's JoAnn Herrigel told the group that Mr. Jacobson worked very hard with contractors to develop the website, which made the finished product a very useable tool. She thanked him for his efforts.

V. Enhanced Dry Waste Recovery: Moving Forward..... Mike Hoglund

Mr. Hoglund noted that while today's presentation was informational in nature, the Draft Enhanced Dry Waste Recovery Project (EDWRP) Ordinance will be sent to SWAC members in advance of the vote at the March SWAC meeting. He handed out a summary of the EDWRP (attached) and highlighted some background and other points from the summary prior to taking questions.

Mr. Hoglund addressed the issue of Metro facilities meeting the same standards. While not regulating itself, an "apples to apples" comparison of Metro's dry loads and those at private facilities will be conducted. Because significant differences exist between Metro's transfer stations and private facilities, most self-haul will be excluded from residual sampling.

Ensuing discussion included potential facility responses to EDWRP requirements, the DEQ's regulation of Metro's stations, how the regulatory process is expected to work prior to the program's implementation, recovery from self-haul loads, and whether facilities that fall under another state's jurisdiction would be permitted to take dry waste.

V1. State Legislative UpdateAll

Councilor Harrington asked if anyone from the group is involved in any solid waste-related legislative bills this year. Mr. Hoglund said that Metro has not written or sponsored any, but is supporting bills related to e-waste and a revised/ expanded bottle bill.

The DEQ's Audrey O'Brien said that her agency supports electronics recycling and is trying to get some legislation through. They have no formal opinion on the bottle bill, she added, but their director will supply testimony. From the City of Portland, Bruce Walker said that the City supports e-waste efforts and updating the bottle bill. Mr. White added that ORRA has discussed both, and are actively involved in the e-waste issue.

The Association of Oregon Recyclers (AOR) is sponsoring a bottle bill update, Ms. Herrigel said. She is a member of the organization and "very involved." She asked for Metro's strong support on the issue.

VII. Other Business and Adjourn..... Councilor Harrington

Councilor Harrington reminded the members to look at the RSWMP timeframe, and said that the DEQ's Waste Prevention Strategy will be discussed at the March meeting to see how SWAC may make comments. The Draft Ordinance for EDWRP will be sent out in two weeks for discussion at the March meeting, as well.

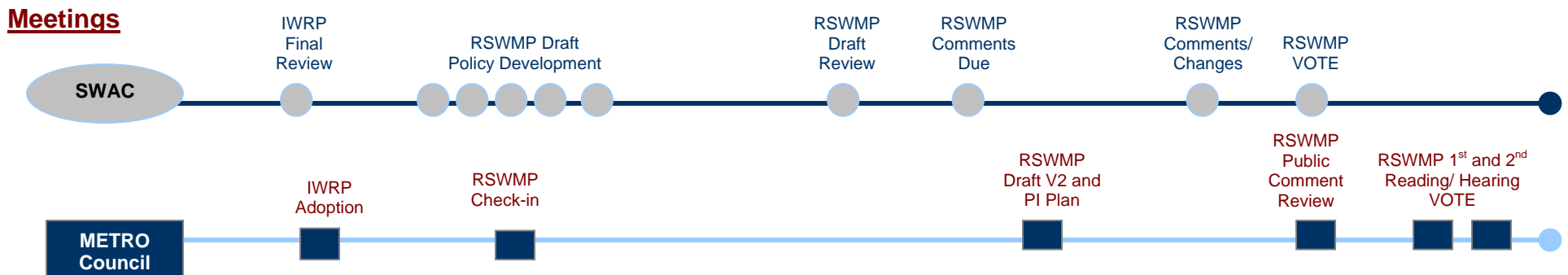
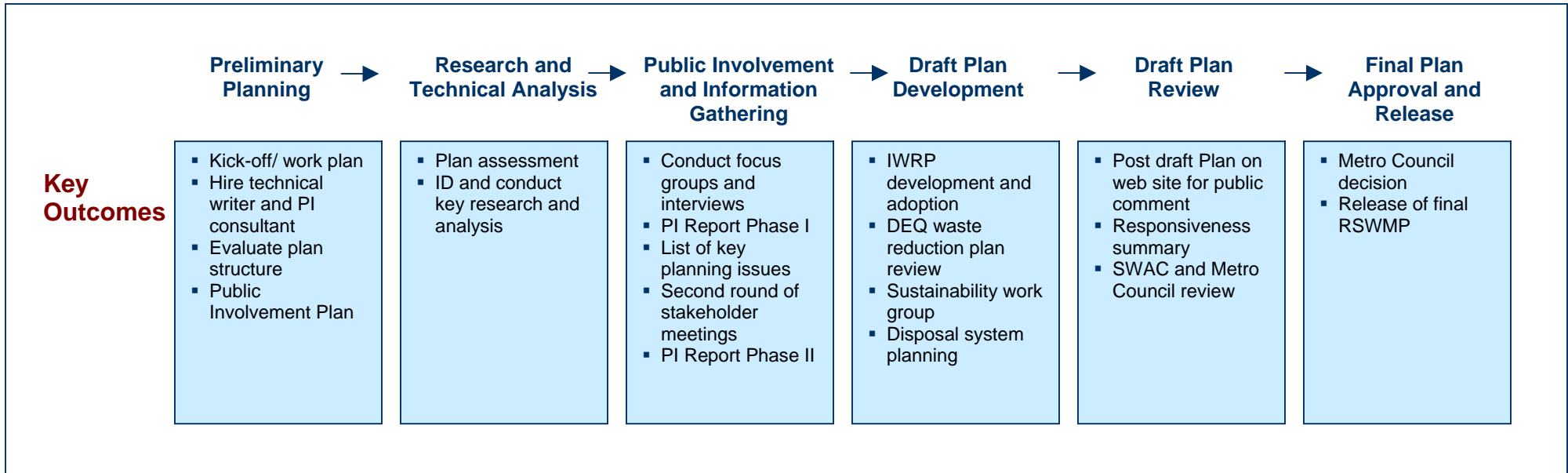
The Councilor thanked the attendees and adjourned the meeting at 11:31 a.m.

Prepared by:

Gina Cubbon
Administrative Secretary
Metro Solid Waste & Recycling Department

gbc
Attachments: RSWMP Work Plan Summary (timeline update)
EDWRP Summary
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Regional Solid Waste Management Plan Update Project Work Plan Summary (2004 to present)



ENHANCED DRY WASTE RECOVERY PROGRAM (EDWRP) SUMMARY
Regional SWAC, February 22, 2007

Need/Problem Statement

Current levels of dry waste recovery must be enhanced to help the region meet its recovery goal for 2009. Unfortunately, the low cost of disposal at two landfills in Washington County will limit any significant increases in the region's dry waste recovery unless all dry waste is required to be processed before being landfilled.

Council Direction

In the Fall of 2003, the RSWMP Contingency Plan Work Group came up with two recommendations to increase dry waste recovery:

1. Process all C&D loads before landfilling OR
2. Require that all dry waste be processed before landfilling.

After receiving the work group's recommendations, Council directed staff to develop program details and a strategy to implement the requirement that all dry waste be processed before being landfilled. Towards that end, staff convened two separate work groups comprised of local governments, businesses, construction industry representatives, haulers, dry waste recovery facilities and landfill operators to discuss and provide comment on the details of the program that has become known as "EDWRP."

Goals of the EDWRP Ordinance

- Divert 125,000 tons per year (TPY) of highly recoverable, unprocessed mixed dry waste from landfill disposal into dry waste processing facilities, with the goal of recovering wood, cardboard and metal.
- Increase dry waste recovery by at least 30,000 tons per year.
- Motivate generators to source-separate C&D and/or practice deconstruction and salvage of building materials.

Costs to Facilities and Generators

EDWRP is likely to increase posted tip fees for dry waste at private facilities throughout the region. The policy is to allow more operating costs to be covered by gate revenue (especially the cost of processing more material with potentially lower recovery content), and to replace revenue lost from the planned elimination of the Metro fee and tax credit programs.

Dry Waste Facilities:

Assuming generators in Washington County make no changes in the flow of material to Lakeside and Hillsboro, Metro staff estimate that the tip fee at these facilities could increase by as much as \$18 per ton under EDWRP. Other generators who already take their materials to a dry waste recovery facility could see increases up to \$14 per ton.

Generators:

Metro staff studied six types of “typical” construction projects to estimate the likely disposal cost increases for generators as a result of EDWRP:

- Residential kitchen remodel with small addition
- New single family house
- Complete demolition of a single family house
- Residential re-roofing job
- Commercial remodeling project
- New “big-box” commercial retail space.

Cost increases in the residential sector construction projects should be well under \$100 per project; as a function of total project cost they were well under ½ of one percent increase. Residential single family demolition costs increased more than any other project type. Total disposal costs there should increase from \$100 to over \$700 or less than 1 percent to almost 5 percent of the total job cost. Commercial construction project costs for an office remodel should increase from \$20 to over \$200. A large “big-box” retail store should increase between \$200 and \$1,800. Because of the higher overall costs for these commercial projects, the cost increases as a percent of total project cost were small, mostly under .05 percent.

Environmental Benefits of EDWRP

The 30,000 tons of new dry waste recovery each year will serve as manufacturing feedstock in some instances, alternative fuel sources in others. In each case, the material recovered reduces the need to extract raw materials, eliminating attendant energy use and pollution associated with virgin material extraction.

As shown in the figure below, the dry waste diverted from landfill disposal and recovered in some fashion will result in a reduction in greenhouse gases, energy consumption and airborne wastes.

Environmental Benefits of EDWRP*

ACTION	QUANTITY	EQUIVALENT TO...
Reduce greenhouse gases by	25,931 MTCE (Metric tons of carbon equivalent)	keeping 19,567 cars off the road for a year
Reduce energy consumption by	733,971 Million BTU (British thermal units)	the energy used by 6,977 average households during a year
Reduce airborne wastes by	35,000 tons	21.8 million miles of heavy truck travel

* These benefits are projected by the National Recycling Coalition Environmental Benefits Calculator.

Facility Recovery Standards

EDWRP would replace the current “front door” 25 percent recovery requirement for dry waste facilities, and implement a new “residual assay” standard that would measure how effective a facility is at recovering wood, corrugated cardboard and metal. No more than 15 percent (by weight) of wood, cardboard and metal pieces (size specified) could be in the sampled residual.

Field research to determine the viability of the 15 percent standard was conducted from 19 dry waste residual pile sorts at seven dry waste sorting facilities in the Fall of 2006. Residual levels of wood, metal and cardboard ranged from 2.8 percent to 63.4 percent with the majority of facilities demonstrating the ability to meet the proposed 15 percent standard.

The residual sort results are summarized in the table below:

Dry Waste Residual Sampling Results

Facility, Number of samples	Percent recoverable wood, cardboard and metal (cumulative average)
1. East County Recycling, 2	5.3%
2. Metro South, 3	16%
3. Metro Central, 4	14.8%
4. Pride Disposal, 2	3.2%
5. Troutdale Transfer Station, 3	15.4%
6. Wastech, 3	52.5%
7. Willamette Resources, 2	14.8%

Implementation Timeline/Next Steps

SWAC recommendation on EDWRP	March 2007
Metro Council first reading of EDWRP	April 2007
Metro Council consideration of EDWRP	April 2007
Phase-in of EDWRP	July 2007-Dec. 2008
Full implementation of EDWRP, end of Credit Program	January 2009

BJ:gbc

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Summary of Draft Ordinance

- Section 1: Clarifies which solid wastes and facilities are covered by the ordinance.
- Section 2: Moves the definition of Special Waste from 5.02 to 5.01 for ease of reference.
- Section 3: Clarifies which Reload facilities are eligible to be exempt from obtaining a Metro license.
- Section 4: Establishes recovery and reporting requirements for facilities processing dry waste.
- Section 5: Clarifies Metro authority to conduct sampling and to coordinate sampling with DEQ or local jurisdictions to prevent imposition of redundant requirements.
- Section 6: Removes definition of Special Waste from 5.02.
- Sections 7, 8: Repeals Regional System Fee Credits at end of 2008.
- Section 9: Modifies Special Waste definition in 5.05 to reference the definition now in 5.01.
- Section 10: Modifies several definitions referenced in 5.05 to terms already defined in 5.01.
- Section 11: Requires a notification from facilities outside the region to Metro by July 1, 2008 if an out-of-region facility wishes to take unprocessed dry waste after January 1, 2009.
- Clarifies how new MRF standards will apply to facilities outside the Metro boundary that wish to receive unprocessed dry waste from Metro region.
- Section 12: Requires non-system licensee to demonstrate compliance with mandatory recovery requirements.
- Section 13: Repeals excise tax credit schedule at end of 2008.
- Section 14: Amends language regarding the use of excess excise tax revenue at end of 2008.
- Section 15: Repeals unneeded excise tax sections 90 days after adoption.
- Section 16: Repeals excise tax credit provisions at end of 2008.
- Section 17: Specifies when sections are effective and when they are repealed.

BEFORE THE METRO COUNCIL

AMENDING METRO CODE CHAPTERS)	ORDINANCE NO. 06-XXXX
5.01, 5.02, 5.05, AND 7.01 TO ENSURE)	
THAT ALL OF THE REGION’S NON-)	Introduced by Michael Jordan, Chief
PUTRESCIBLE WASTE UNDERGOES)	Operating Officer, with the concurrence of
MATERIAL RECOVERY PRIOR TO)	David Bragdon, Council President
DISPOSAL, TO ELIMINATE THE)	
REGIONAL SYSTEM FEE AND EXCISE)	
TAX CREDIT PROGRAM, AND TO MAKE)	
RELATED CHANGES)	

WHEREAS, Metro is accountable for meeting state-mandated waste reduction goals for the tri-county region and the recovery of additional “dry waste” material generated by the building industry is a key component of meeting the 2009 waste reduction goal of 64%; and,

WHEREAS, dry waste consists primarily of wood, metal, corrugated cardboard, concrete, drywall and roofing; and

WHEREAS, over 90% of this material is reusable or recoverable with current technology and markets; and

WHEREAS, a minimum of 33,000 additional tons of dry waste could be recovered by a regional program to require the processing of all dry waste before disposal; and

WHEREAS, such a program was recommended by a stakeholder group in 2003 as the option most likely to help the region attain its recovery goal for the building industry sector; and,

WHEREAS, this recommendation was subsequently incorporated in the region’s interim waste reduction plan approved by Council in 2006; and

WHEREAS, the Chief Operating Officer recommends approval of this ordinance, now therefore

BE IT RESOLVED, that in order to divert recoverable resources from landfill disposal Metro will require all dry waste generated in the Metro region to undergo processing for material recovery prior to disposal.

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. The definitions of “Non-Putrescible Waste,” “Reload,” “Solid Waste,” and “Source-Separated Recyclable Material” in Metro Code section 5.01.010 are amended as follows:

(aa) "Non-putrescible waste" means any Waste that contains no more than trivial amounts of Putrescible materials or minor amounts of Putrescible materials contained in such a way that they can be easily separated from the remainder of the load without causing contamination of the load. This category includes construction ~~waste, and demolition waste debris, and land clearing debris~~; but excludes Cleanup Materials Contaminated by Hazardous Substances, ~~and SS~~Source-Separated Recyclable Material, ~~whether or not sorted into individual material categories by the generator~~ special waste, land clearing debris and yard debris.

(oo) "Reload" or "Reload facility" means a facility that performs only Transfer and delivers all solid waste received at the facility to by means of a fixed or mobile facilities including but not limited to drop boxes and gondola cars, but excluding solid waste collection vehicles, normally used as an adjunct of a solid waste collection and disposal system, between a collection route and another Solid Waste facility or a disposal site after it receives such solid waste, generally within 24 hours of receipt.

(tt) "Solid waste" means all Putrescible and Non-Putrescible Wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard; discarded or abandoned vehicles or parts thereof; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; discarded home and industrial appliances; asphalt, broken concrete and bricks; manure, vegetable or animal solid and semi-Solid Wastes, dead animals; ~~infectious waste as defined in ORS 459.386;~~ petroleum contaminated soils and other such wastes, including without limitation, cleanup materials contaminated with hazardous substances, commingled recyclable material, petroleum contaminated soil, special waste, source-separated recyclable material, land clearing debris and yard debris; but the term does not include:

- (1) Hazardous wastes as defined in ORS 466.005;
- (2) Radioactive wastes as defined in ORS 469.300;
- (3) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates; or
- (4) Explosives.

(ww) "Source-separated recyclable material" or "Source-separated recyclables" means material solid waste that has been Source Separated by the waste generator for the purpose of Reuse, Recycling, or Composting. This term includes (1) all homogenous loads of Recyclable Materials that are has been Source Separated by material type for the purpose of recycling (i.e., source-sorted) and (2) Residential commingled Recyclable Materials, which includes only those recyclable material types that the local jurisdiction, where the materials were collected, permits to be mixed together in a single container as part of its residential curbside recyclable material

collection program. This term does not include any other commingled recyclable materials. ~~that are mixed together in one container (i.e., commingled).~~

SECTION 2. The following definition for the term “Special waste” shall be added to Metro Code Section 5.01.010, and all other subsection numbers and references to those subsection numbers in the Code shall be amended accordingly:

"Special waste" means any waste (even though it may be part of a delivered load of waste) which one or more of the following categories describes:

- (1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 and 11 of this definition below.
- (2) Waste transported in a bulk tanker.
- (3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid (Method 9095, SW-846) test or includes 25 or more gallons of free liquid per load, whichever is more restrictive.
- (4) Containers (or drums) which once held commercial products or chemicals, unless the containers (or drums) are empty. A container is empty when:
 - (A) All wastes have been removed that can be removed using the practices commonly employed to remove materials from the type of container, e.g., pouring, pumping, crushing, or aspirating.
 - (B) One end has been removed (for containers in excess of 25 gallons); and
 - (i) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or
 - (ii) No more than 1 percent by weight of the total capacity of the container remains in the container (for containers up to 110 gallons); or
 - (iii) No more than 0.3 percent by weight of the total capacity of the container remains in the container for containers larger than 110 gallons.
 - (C) Containers that once held acutely hazardous wastes must be triple-rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers that once held substances regulated under the Federal Insecticide, Fungicide, and Rodenticide Act must be empty according to label instructions or triple-rinsed with an appropriate solvent or cleaned by an equivalent method. Plastic containers larger than five gallons that hold any regulated waste

must be cut in half or punctured, and be dry and free of contamination to be accepted as refuse.

- (5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, Laundromats or car washes.
- (6) Waste from an industrial process.
- (7) Waste from a pollution control process.
- (8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition.
- (9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition.
- (10) Chemical-containing equipment removed from service (for example: filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical containing equipment).
- (11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4, but not empty containers so marked.
- (12) Any waste that requires extraordinary management or special handling.

Examples of special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or by-products.
- (13) Radioactive waste.
- (14) Medical waste.

SECTION 3. Metro Code section 5.01.040 is amended as follows:

5.01.040 Exemptions

(a) In furtherance of the purposes set forth in this chapter, except as provided in Sections 5.01.040(b) through (d) below, the Metro Council declares the provisions of this chapter shall not apply to:

- (1) Municipal or industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge.
- (2) Disposal Sites, Transfer Stations, or Solid Waste Facilities owned or operated by Metro.
- (3) Facilities that (A) exclusively receive non-Putrescible Source-Separated Recyclable Materials, and (B) reuse or recycle such materials, or transfer, transport or deliver such materials to a person or facility that will reuse or recycle them.
- (4) Facilities that exclusively receive, process, transfer or dispose of Inert Wastes.
- (5) The following operations, which do not constitute Yard Debris Facilities:
 - (A) Persons who generate and maintain residential compost piles for residential garden or landscaping purposes.
 - (B) Residences, parks, community gardens and homeowner associations.
 - (C) Universities, schools, hospitals, golf courses, industrial parks, and other similar facilities, if the landscape waste or yard debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.
 - (D) Operations or facilities that chip or grind wood wastes, unless:
 - (i) such chipped or ground wood wastes are processed for composting; or
 - (ii) such operations or facilities are otherwise regulated under Metro Code Section 5.01.045.
- (6) Temporary transfer stations or processing centers established and operated by a government for 60 days or less to temporarily receive, store or process Solid Waste if Metro finds an emergency situation exists.
- (7) Any Reload facility that:
 - (A) Accepts Solid Waste collected under the authority of a single [solid waste collection](#) franchise granted by a local government unit, or from multiple [solid waste collection](#) franchises so long as the area encompassed by the franchises is

- (B) Is owned or controlled by the same person granted franchise authority ascribed in subsection (A); and
 - (C) Delivers any Putrescible Waste accepted at the operation or facility to a Transfer Station owned, operated, Licensed or Franchised by Metro; and
 - (D) Delivers all other Solid Waste accepted at the facility except Inert Wastes to a Metro Designated Facility authorized to accept said Solid Waste, or to another solid waste facility ~~or Disposal Site~~ under authority of a Metro Non-System License issued pursuant to Chapter 5.05.
- (8) Persons who own or operate a mobile facility that processes Petroleum Contaminated Soil at the site of origin and retains any treated Petroleum Contaminated Soil on the site of origin.

(b) Notwithstanding Section 5.01.040(a), all persons shall comply with Sections 5.01.030(a), (b), (d) and (f).

(c) Notwithstanding Section 5.01.040(a)(2) of this chapter, Metro shall comply with Section 5.01.150 of this chapter.

(d) Notwithstanding Sections 5.01.040(a)(3) through 5.01.040(a)(8) of this chapter, the provisions of Section 5.01.135 of this chapter shall apply to operations and facilities described in Sections 5.01.040(a)(3) through 5.01.040(a)(8) of this chapter.

SECTION 4. Metro Code section 5.01.125 is amended as follows:

5.01.125 Obligations and Limits for Selected Types of Activities

(a) A holder of a License or Franchise for a Material Recovery facility, ~~Reload~~ or ~~Local Transfer Station~~, ~~or a holder of a Franchise~~ issued after July 1, 2000, ~~for a Regional Transfer Station~~ shall perform Material Recovery from Non-Putrescible Waste accepted at the facility as specified in this section or as otherwise specified in its license or franchise, or shall deliver such Non-Putrescible Waste to a Solid Waste facility ~~whose primary purpose is authorized by Metro~~ to recover useful materials from Solid Waste.

(b) ~~A holder of a License or Franchise for a Material Recovery facility or Local Transfer Station, or a holder of a Franchise issued after July 1, 2000 for a Regional Transfer Station,~~ A licensee or franchisee subject to subsection (a) of this section shall recover at least 25% by weight of Non-Putrescible waste accepted at the facility and waste delivered by public customers. For the purposes of calculating the amount of recovery required by this subsection, recovered waste shall exclude both waste from industrial processes and ash, inert rock, concrete, concrete block, foundry brick, asphalt, dirt, and sand. Failure to maintain the minimum recovery rate specified in this section shall constitute a violation enforceable under Metro Code Sections

5.01.180 and 5.01.200. After January 1, 2009, the requirements of this subsection will not be applicable to licensees or franchisees unless Metro Council determines that this standard should be reinstated to replace the processing residual standard established in 5.01.125(c).

(c) ~~(e)~~—Effective January 1, 2009, a licensee or franchisee subject to subsection (a) of this section shall:

- (1) At a minimum, process non-putrescible waste accepted at the facility to recover cardboard, wood, and metals (including aluminum). Processing residual from such a facility shall not contain more than 15 percent, by total combined weight, of cardboard or wood pieces of greater than 12 inches in size in any dimension and metal pieces greater than eight inches in size in any dimension.
- (2) Take quarterly samples of processing residual that are statistically valid and representative of the facility's residual (not less than a 300-pound sample) and provide results of such sampling to Metro in the monthly report due the month following the end of that quarter.
- (3) Based on observation, audits, inspections and reports, Metro inspectors shall conduct or require additional analysis of waste residual at the facility in accordance with section 5.01.135(c). Failure to maintain the recovery level specified in subsection (c)(1) of this section shall constitute a violation enforceable under Metro Code. The first two violations of this subsection by a single licensee or franchisee shall not result in the imposition of a civil penalty.
- (4) Failure to meet the reporting requirements in subsection (c)(2) of this section shall constitute a violation enforceable under Metro Code after July 1, 2009.

(d) In addition to the requirements of (a) and (b) in this section, A holders of a Franchise for a Local Transfer Station:

- (1) Shall accept Putrescible Waste originating within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul Putrescible Waste.
- (2) Shall not accept hazardous waste.
- (3) Shall be limited in accepting Putrescible Waste during any fiscal year to an amount of Putrescible Waste equal to the demand for disposal of Putrescible Waste generated within a Service Area as specified in accordance with this chapter.

- (4) Shall accept Solid Waste from any Waste Hauler who operates to serve a substantial portion of the demand for disposal of Solid Waste within the Service Area of the Local Transfer Station.

(d)(e) In addition to the requirements of (a) and (b) in this section, A holders of a Franchise for a Regional Transfer Station, in accordance with its franchise issued after July 1, 2000:

- (1) Shall accept authorized Solid Waste originating within the Metro boundary from any person who delivers authorized waste to the facility, on the days and at the times established by Metro in approving the Franchise application.
- (2) Shall provide an area for collecting Household Hazardous Waste from residential generators at the Franchised Solid Waste Facility, or at another location more convenient to the population being served by the franchised Solid Waste Facility, on the days and at the times established by Metro in approving the Franchise application.
- (3) Shall provide an area for collecting source separated recyclable materials without charge at the Franchised Solid Waste Facility, or at another location more convenient to the population being served by the franchised Solid Waste Facility, on the days and at the times established by Metro in approving the Franchise application.

(f) A holder of a license for a reload facility shall deliver all non-putrescible waste received at the facility to a solid waste facility authorized by Metro to recover useful materials from solid waste.

(g) A hold of a license or franchise for a solid waste facility shall not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and such size reduction is described and approved by Metro in an operating plan.

(Ordinance No. 98-762C, Secs. 30-31. Amended by Ordinance No. 00-866, Sec. 5; Ordinance No. 01-916C, Sec. 4; Ordinance No. 02-952A, Sec. 1; Ordinance No. 03-1018A, Sec 16.)

SECTION 5 Metro Code section is amended as follows:

5.01.135 Inspections and Audits of Solid Waste Facilities

(a) The Chief Operating Officer shall be authorized to make such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of a licensed or franchised facility, and all other Solid Waste Facilities, at all reasonable times

during business hours with or without notice or at such other times with 24 hours notice after the Franchise or License is granted to assure compliance with this chapter, the Code, the Franchise or License, and administrative procedures and performance standards adopted pursuant to Section 5.01.132 of this chapter.

(b) Inspections or audits authorized under subsection (a) of this section shall occur regularly and as determined necessary by the Chief Operating Officer. Results of each inspection shall be reported on a standard form specified by the Chief Operating Officer.

(c) The Chief Operating Officer shall have access to and may examine during such inspections or audits any records pertinent in the opinion of the Chief Operating Officer to the License or Franchise, or to the provisions of this chapter, including but not limited to the books, papers, records, equipment, blueprints, operation and maintenance records and logs and operating rules and procedures of the Licensee, Franchisee or Solid Waste Facility operator. Such inspections or audits may include taking samples and conducting analysis of any waste or other material, including storm water runoff, water treatment or holding facilities, leachate, soil and solid waste. The Chief Operating Officer shall coordinate any sampling or follow-up activities with DEQ or local jurisdictions as necessary to prevent the imposition of redundant requirements on operations.

(d) Any violations discovered by the inspection or audit shall be subject to the penalties provided in Section 5.01.200.

SECTION 6. The definition of “special waste” in Metro Code section 5.02.015(hh) shall be amended as follows:

(hh) "Special waste" ~~means any waste (even though it may be part of a delivered load of waste) which one or more of the following categories describes:~~shall have the meaning assigned thereto in Metro Code section 5.01.010.

~~(1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 and 11 of this definition below.~~

~~(2) Waste transported in a bulk tanker.~~

~~(3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid (Method 9095, SW-846) test or includes 25 or more gallons of free liquid per load, whichever is more restrictive.~~

~~(4) Containers (or drums) which once held commercial products or chemicals, unless the containers (or drums) are empty. A container is empty when:~~

~~(A) All wastes have been removed that can be removed using the practices commonly employed to remove materials from the type of container, e.g., pouring, pumping, crushing, or aspirating.~~

- ~~(B) One end has been removed (for containers in excess of 25 gallons); and~~
- ~~(i) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or~~
- ~~(ii) No more than 1 percent by weight of the total capacity of the container remains in the container (for containers up to 110 gallons); or~~
- ~~(iii) No more than 0.3 percent by weight of the total capacity of the container remains in the container for containers larger than 110 gallons.~~
- ~~(C) Containers that once held acutely hazardous wastes must be triple-rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers that once held substances regulated under the Federal Insecticide, Fungicide, and Rodenticide Act must be empty according to label instructions or triple-rinsed with an appropriate solvent or cleaned by an equivalent method. Plastic containers larger than five gallons that hold any regulated waste must be cut in half or punctured, and be dry and free of contamination to be accepted as refuse.~~
- ~~(5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, Laundromats or car washes.~~
- ~~(6) Waste from an industrial process.~~
- ~~(7) Waste from a pollution control process.~~
- ~~(8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition.~~
- ~~(9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition.~~
- ~~(10) Chemical-containing equipment removed from service (for example: filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical-containing equipment).~~

~~(11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4, but not empty containers so marked.~~

~~(12) Any waste that requires extraordinary management or special handling.~~

~~Examples of special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or by products.~~

~~(13) Radioactive waste.~~

~~(14) Medical waste.~~

SECTION 7. Metro Code Section 5.02.046 is repealed.

SECTION 8. Metro Code Section 5.02.047 is amended as follows:

5.02.047 Regional System Fee Credits

~~(a) — A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 or a Designated Facility regulated by Metro under the terms of an intergovernmental agreement shall be allowed a credit against the Regional System Fee otherwise due each month under Section 5.02.045 for disposal of Processing Residuals from the facility. The Facility Recovery Rate shall be calculated for each twelve-month period before the month in which the credit is claimed. The amount of such credit shall be in accordance with and no greater than as provided on the following table:~~

System Fee Credit Schedule

<u>Facility Recovery Rate</u>		
<u>From Above</u>	<u>Up To & Including</u>	<u>System Fee Credit of no more than</u>
<u>0%</u>	<u>30%</u>	<u>0.00</u>
<u>30%</u>	<u>35%</u>	<u>9.92</u>
<u>35%</u>	<u>40%</u>	<u>11.46</u>
<u>40%</u>	<u>45%</u>	<u>13.28</u>
<u>45%</u>	<u>100%</u>	<u>14.00</u>

~~(b) — The Chief Operating Officer:~~

~~(1) — Shall establish administrative procedures to implement subsections (b) and (c) of Metro Code Section 5.02.046; and~~

~~(2) May establish additional administrative procedures regarding the Regional System Fee Credits, including, but not limited to establishing eligibility requirements for such credits and establishing incremental System Fee Credits associated with Recovery Rates which fall between the ranges set forth in paragraph (a) of this section.~~

~~(e) Any person delivering Cleanup Material Contaminated By Hazardous Substances that is derived from an environmental cleanup of a nonrecurring event, and delivered to any Solid Waste System Facility authorized to accept such substances shall be allowed a credit in the amount of \$11.07 against the Regional System Fee otherwise due under Section 5.02.045(a) of this Chapter.~~

~~(d) During any Fiscal Year, the total aggregate amount of credits granted under the Regional System Fee credit program shall not exceed the dollar amount budget without the prior review and authorization of the Metro Council.~~

~~(e) The Director of the Solid Waste and Recycling Department shall make a semi-annual report to the Council on the status of the credit program. The report shall include that aggregate amount of all credits paid during the preceding six months and the amount paid to each facility eligible for the credit program. The report shall also project whether the appropriation for the credit program will be sufficient to meet anticipated credit payment requests and maintain existing contingency funding.~~

SECTION 9. The definition of “Special waste” in Metro Code section 5.05.010 shall be amended as follows:

(v) “Special waste” shall have the meaning assigned thereto in Metro Code Section ~~5.02.0155.01.010.~~

SECTION 10. The following definitions of “Material Recovery,” “Processing Residual,” and “Recyclable Material,” shall be added to Metro Code section 5.05.010, other Code subsections in that section shall be renumbered accordingly, and other Code references to such subsection shall be amended accordingly:

“Material recovery “ shall have the meaning assigned thereto in Metro Code section 5.01.010.

“Processing residual” shall have the meaning assigned thereto in Metro Code section 5.01.010.

“Recyclable material” shall have the meaning assigned thereto in Metro Code section 5.01.010.

SECTION 11. Metro Code section 5.05.030 shall be amended as follows:

5.05.030 Designated Facilities of the System

(a) Designated Facilities. The following described facilities constitute the designated facilities of the system, the Metro Council having found that said facilities meet the criteria set forth in Metro Code Section 5.05.030(b):

- (1) Metro South Station. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.
- (2) Metro Central Station. The Metro Central Station located at 6161 N.W. 61st Avenue, Portland, Oregon 97210.
- (3) Facilities Subject to Metro Regulatory Authority. All disposal sites and solid waste facilities within Metro which are subject to Metro regulatory authority under Chapter 5.01 of the Metro Code.
- (4) ~~_____~~ ~~(4)~~ Lakeside Reclamation (limited purpose landfill). The Lakeside Reclamation limited purpose landfill, Route 1, Box 849, Beaverton, Oregon 97005, subject to the terms of an agreement between Metro and the owner of Lakeside Reclamation authorizing receipt of solid waste generated within Metro only as follows:
 - (A) As specified in an agreement entered into between Metro and the owner of the Lakeside Reclamation Landfill authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the facility solid waste not specified in the agreement.
- (5) ~~_____~~ (5) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 S.E. Minter Bridge Road, Hillsboro, Oregon 97123, subject to the terms of an agreement between Metro and the owner of Hillsboro Landfill authorizing receipt of solid waste generated within Metro only as follows:
 - (C) As specified in an agreement entered into between Metro and the owner of the Lakeside Reclamation Landfill authorizing receipt of such waste; or
 - (D) Subject to a non-system license issued to a person transporting to the facility solid waste not specified in the agreement.-
- (6) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Waste Management Disposal Services of Oregon, Inc. (dba

Oregon Waste Systems, Inc.) subject to the terms of the agreements in existence on November 14, 1989, between Metro and Oregon Waste Systems, Inc. and between Metro and Jack Gray Transport, Inc., including any subsequent amendments thereto. In addition, Columbia Ridge Landfill may accept solid special waste generated within Metro:

(A) As specified in an agreement entered into between Metro and Waste Management Disposal Services of Oregon, Inc. Waste Systems authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility solid special waste not specified in the agreement.

(7) Roosevelt Regional Landfill. The Roosevelt Regional Landfill, located in Klickitat County, Washington. Roosevelt Regional Landfill may accept special solid waste generated within Metro only as follows:

(A) As specified in an agreement entered into between Metro and Regional Disposal Company authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility special solid waste not specified in the agreement.

(8) Finley Buttes Regional Landfill. The Finley Buttes Regional Landfill, located in Morrow County, Oregon. Finley Buttes Regional Landfill may accept special solid waste generated within Metro only as follows:

(A) As specified in an agreement entered into between Metro and Finley Buttes Landfill Company authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility special solid waste not specified in the agreement.

(9) Coffin Butte Landfill. The Coffin Butte Landfill, located in Benton County, Oregon, which may accept solid waste generated within ~~the District~~ Metro only as follows:

(A) As specified in an agreement entered into between Metro and the owner of the Coffin Butte Landfill authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility solid special wastes not specified in the agreement.

(10) Wasco County Landfill. The Wasco County Landfill, located in The Dalles, Oregon, which may accept solid waste generated within ~~the District~~Metro only as follows:

(A) As specified in an agreement entered into between Metro and the owner of the Wasco County Landfill authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility solid wastes not specified in the agreement.

(11) Cedar Grove Composting, Inc. The Cedar Grove Composting, Inc., facilities located in Maple Valley, Washington, and Everett, Washington. Cedar Grove Composting, Inc., may accept solid waste generated within ~~the District~~Metro only as follows:

(A) As specified in an agreement entered into between Metro and Cedar Grove composting, Inc., authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to Cedar Grove Composting, Inc., solid wastes not specified in the agreement.

(12) Weyerhaeuser Regional Landfill. The Weyerhaeuser Regional Landfill, located in Castle Rock, Washington, and the Weyerhaeuser Material Recovery Facility, located in Longview, Washington. The Weyerhaeuser Material Recovery Facility is hereby designated only for the purpose of accepting solid waste for transfer to the Weyerhaeuser Regional Landfill. The Weyerhaeuser Regional Landfill and the Weyerhaeuser Material Recovery Facility may accept solid waste generated within ~~the District~~Metro only as follows:

(A) As specified in an agreement entered into between Metro and Weyerhaeuser, Inc., authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the Weyerhaeuser Regional Landfill or the Weyerhaeuser Material Recovery Facility solid wastes not specified in the agreement.

(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting pursuant to a duly enacted ordinance, may remove from the list of designated facilities any one or more of the facilities described in Metro Code Section 5.05.030(a). In addition, from time to time, the Council, acting pursuant to a duly enacted ordinance, may add to or delete a facility from the list of designated facilities. In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider:

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;
- (3) The adequacy of operational practices and management controls at the facility;
- (4) The expected impact on the region's recycling and waste reduction efforts;
- (5) The consistency of the designation with Metro's existing contractual arrangements;
- (6) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement; and
- (7) Other benefits or detriments accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation.

(c) The Chief Operating Officer is authorized to execute an agreement, or an amendment to an agreement, between Metro and a designated facility for Non-putrescible waste. Effective, July 1, 2008, if an agreement between Metro and a designated facility for non-putrescible waste does not substantially ~~comply~~ comply with subsections (e) or (f) of this section, the Chief Operating Officer shall modify such agreement to assure substantial compliance with such sections as quickly as permitted by such agreement. If the Chief Operating Officer modifies such agreement and the designated facility refuses to acknowledge such modification within the time period provided in such agreement, then the Chief Operating Officer shall terminate the agreement following the termination procedures described in such agreement. An agreement, or amendment to an agreement between Metro and a designated facility for Putrescible waste shall be subject to approval by the Metro Council prior to execution by the Chief Operating Officer.

(d) An agreement between Metro and a designated facility shall specify the types of wastes from within Metro boundaries that may be delivered to, or accepted at, the facility.

~~(e) ———(e) ———~~ An agreement between Metro and a designated facility ~~that authorizes the facility to accept non-putrescible waste that has not yet undergone material recovery, is not processing residual, and originated or was generated within Metro boundaries shall demonstrate substantial compliance with facility performance standards, design requirements and operating requirements adopted pursuant to Metro Code Chapter 5.01.132 for non-putrescible waste material recovery facilities.~~ shall not authorize the facility to accept non-putrescible waste

originating or generated within Metro boundaries after December 31, 2008, unless:

(1) Such non-putrescible waste is received from a facility that has been issued a license or franchise pursuant to Chapter 5.01 authorizing such facility to perform material recovery on non-putrescible waste;

(2) Such non-putrescible waste is received from a designated facility that has entered into an agreement with Metro, in accordance with subsection (f) of this section, authorizing such designated facility to perform material recovery on non-putrescible waste; or

(3) The facility has entered into an agreement with Metro, in accordance with subsection (f) of this section, authorizing the facility to perform material recovery on non-putrescible waste that has not yet undergone material recovery.

(f) An agreement between Metro and a designated facility that, after December 31, 2008, authorizes the facility to accept non-putrescible waste that has not yet undergone material recovery, is not comprised of processing residual, and originated or was generated within Metro boundaries shall:

(1) Require such designated facility to perform material recovery on such waste; and

(2) Demonstrate, in a manner that can be verified and audited, that such processing achieves material recovery substantially comparable to that required of in-region material recovery facilities by Metro Code subsections 5.01.125(a) and (b) by either:

(A) Meeting such material recovery requirements for all non-putrescible waste received at the facility, whether or not from within Metro boundaries; or

(B) Keeping all non-putrescible waste received from within Metro boundaries segregated from other waste throughout processing, keeping processing residual from such processing segregated from other solid waste after processing, and meeting such material recovery requirements for all such non-putrescible waste.

(3) Demonstrate, in a manner that can be verified and audited, that such facility substantially complies with (A) the performance

[goals described in Metro Code sections 5.01.067\(i\) \(as amended by Section 1 of Metro Ordinance No. 07-1138\) and 5.01.075\(c\) \(as amended by Section 2 of Metro Ordinance No. 07-1138\), and \(B\) the performance standards, design requirements, and operating requirements applicable to licensed and franchised material recovery facilities operating within the Metro region and adopted by Metro as administrative procedures pursuant to Metro Code section 5.01.132 \(as amended by Section 3 of Metro Ordinance No. 07-1138\).](#)

SECTION 12. Metro Code section 5.05.035(a) as amended by Ordinance No. 07-1138 shall be further amended as follows:

5.05.035 License to Use Non-System Facility

A waste hauler or other person may transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within Metro, any non-system facility only by obtaining a non-system license in the manner provided for in this Section 5.05.035. Applications for non-system licenses for Non-putrescible waste, Special waste and Cleanup Material Contaminated By Hazardous Substances shall be subject to approval or denial by the Chief Operating Officer. Applications for non-system licenses for Putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(a) Application for License. Any waste hauler or other person desiring to obtain a non-system license shall make application to the Chief Operating Officer, which application shall be filed on forms or in the format provided by the Chief Operating Officer. Applicants may apply for a limited-duration non-system license which has a term of not more than 120 days and is not renewable. An application for any non-system license shall set forth the following information:

- (1) The name and address of the waste hauler or person making such application;
- (2) The location of the site or sites at which the solid waste proposed to be covered by the non-system license is to be generated;
- (3) The nature of the solid waste proposed to be covered by the non-system license;
- (4) The expected tonnage of the solid waste proposed to be covered by the non-system license:
 - (A) The total tonnage if the application is for a limited duration non-system license; or

- (B) The annual tonnage if the application is for any other non-system license;
- (5) A statement of the facts and circumstances which, in the opinion of the applicant, warrant the issuance of the proposed non-system license;
- (6) The non-system facility at which the solid waste proposed to be covered by the non-system license is proposed to be transported, disposed of or otherwise processed; and
- (7) The date the non-system license is to commence; and, for limited duration non-system licenses, the period of time the license is to remain valid not to exceed 120 days.

In addition, the Chief Operating Officer may require the applicant to provide, in writing, such additional information concerning the proposed non-system license as the Chief Operating Officer deems necessary or appropriate in order to determine whether or not to issue the proposed non-system license.

An applicant for a non-system license that authorizes the licensee to transport non-putrescible waste that has not yet undergone material recovery, is not processing residual, and originated or was generated within Metro boundaries shall provide documentation that the non-system facility is in substantial compliance with the facility performance standards, design requirements and operating requirements adopted pursuant to Metro Code Chapter 5.01.132 for non-putrescible waste material recovery facilities. [Any applicant or licensee that is authorized or seeks to deliver non-putrescible waste to a non-system facility after January 1, 2009, must demonstrate that the non-system facility will be in substantial compliance with the material recovery requirements in Metro Code section 5.01.125.](#)

SECTION 13. Metro Code section 7.01.020 shall be amended as follows:

7.01.020 Tax Imposed

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by Metro, each user except users of solid waste system facilities shall pay a tax of 7.5 percent of the payment charged by the operator or Metro for such use unless a lower rate has been established as provided in subsection 7.01.020(b). The tax constitutes a debt owed by the user to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The user shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The Council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an ordinance adopted by Metro. If the Council so establishes a lower rate of tax, the Chief Operating Officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the Council as provided for herein.

(c) For the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, licensed, franchised, or provided by Metro, each user of solid waste system facilities and each solid waste facility licensed or franchised under Chapter 5.01 of this Code to deliver putrescible waste directly to Metro's contractor for disposal of putrescible waste shall pay a tax in the amount calculated under subsection (e)(1) for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. In addition, each user of solid waste system facilities and each solid waste facility licensed or franchised under Chapter 5.01 of this Code to deliver putrescible waste directly to Metro's contractor for disposal of putrescible waste shall also pay the additional tax in the amount set forth under Section 7.01.023 for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. The tax constitutes a debt owed by the user to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The user shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(d) For the Metro fiscal year beginning July 1, 2002, the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue of \$6,050,000 after allowing for any tax credit or tax rebate for which provision is made in this chapter. For each Metro fiscal year thereafter the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue equal to the net excise tax revenue authorization in the previous fiscal year as adjusted in accordance with Section 7.01.022.

(e) (1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, (iii) Cleanup Materials Contaminated by Hazardous Substances, and (iv) compostable organic waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in subsection (d) by the amount of solid waste tonnage which the Chief Operating Officer reports to the Council under subsection (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be Metro's excise tax

rate on solid waste during the subsequent Metro fiscal year. Commencing with Metro fiscal year 2006-07, and each fiscal year thereafter, the rate determined by this subsection shall be effective as of September 1st unless another effective date is adopted by the Metro Council.

- (2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.

(f) By March 1st of each year, the Chief Operating Officer shall provide a written report to the Metro Council stating the following:

- (1) For the twelve (12) month period ending the previous December 31; the amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to Section 7.01.050(a) of this chapter, and
- (2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if the Regional Recovery Rates corresponding to each calendar year set forth on the following schedule had been achieved:

Year	Regional Recovery Rate
2005	56%
2006	56.5%
2007	57%
2008	57.5%
2009	58%

The result of such calculation by the Chief Operating Officer shall be used to determine the excise tax rate under sub-section (e)(1).

~~(g) (1) A solid waste facility which is licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(e)(1) for disposal of Processing Residuals from such facility. The Facility Recovery Rate shall be calculated for each twelve (12) month period before the month in which the credit is claimed. Such credit shall be dependent upon the Facility Recovery Rate achieved by such facility and shall be no greater than as provided on the following table:~~

Excise Tax Credit Schedule		
Facility Recovery Rate		Excise Tax
From Above	Up To & Including	Credit of no more than
0%	30%	0.00
30%	35%	1.92
35%	40%	2.75
40%	100%	3.51

- (2) ~~During any Fiscal Year, the total aggregate amount of excise tax credits granted under the provisions of this subsection shall not exceed the dollar amount budgeted for such purpose without the prior review and authorization of the Metro Council.~~
- (3) ~~The Chief Operating Officer may establish procedures for administering the Excise Tax Credits set forth in subsection (g)(1), including, but not limited to, establishing eligibility requirements for such credits and establishing incremental Excise Tax Credits associated with Recovery Rates which fall between the ranges set forth in paragraph (g)(1).~~

SECTION 14. Metro Code section 7.01.028 shall be amended as follows:

7.01.028 Budgeting of Excess Revenue

Commencing with the Metro fiscal year beginning July 1, 2000, and each year thereafter, if the tax revenues collected under the tax rate imposed by Section 7.01.020(e) exceed the net excise tax revenue amount set forth in Section 7.01.020(d) as adjusted by Section 7.01.022, such ~~additional revenue shall be apportioned as follows:~~

(a) ~~Such~~ excess net excise tax revenue shall ~~first~~ be placed in a Recovery Rate Stabilization Reserve established in the Metro General fund. ~~The amount of excess net excise tax revenues in such account shall not exceed an amount equal to 10 percent of the total amount of excise tax collected under Metro Code Chapter 7.01 during the period of the two (2) most recent Metro fiscal years.~~ The budgeting or expenditure of all such funds within this account shall be subject to review and approval by the Metro Council.

(b) ~~If at the end of any fiscal year the maximum permitted balance for the Recovery Rate Stabilization Account has been reached, during the following fiscal year any additional excess net excise tax revenues shall be used to increase the tax credit provided under Metro Code Section 7.01.020(g) for any solid waste facility that has achieved a Facility Recovery Rate greater than 45%. Such excess revenue shall be used on a dollar for dollar basis to reduce the tax liability of all such qualifying facilities. The amount of the additional tax credit shall not exceed the total excise tax otherwise due from the facility under this chapter.~~

(c) ~~Any remaining excess revenue over the amounts apportioned in subsections (a) and (b) of this section shall be placed in the account established in subsection(a).~~

SECTION 15. Metro Code sections 7.01.160 and 7.01.170, and Section 4 of Metro Ordinance No. 07-1138 (Metro Code section 5.05.030(e)) are repealed.

SECTION 16. Metro Code sections 7.01.180 and 7.01.190 are repealed.

SECTION 17. Sections 1, 2, 3, 4, 5, 6, 9, 10, 11, 12 and 15 of this ordinance shall be effective 90 days after the adoption of this ordinance. Sections 7, 8, 13, 14 and 16 of this ordinance shall be effective on January 1, 2008.

ADOPTED by the Metro Council this _____ day of _____, 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

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