

A G E N D A



METRO

MEETING: REGIONAL SOLID WASTE ADVISORY COMMITTEE

DATE: Monday, July 21, 2003

TIME: 3:15 p.m. – 4:25 p.m.

PLACE: Room 370 A&B, Metro Regional Center, 600 NE Grand Avenue, Portland

- 5 mins. I. Call to Order and Announcements** **Susan McLain**
Announcements
Responses to Issues from the May 19th Meeting
**Approval of Minutes*
- 10 mins. II. Solid Waste & Recycling Director's Update** **Mike Hogle**
- 25 mins. *III. Revising Metro's Regulatory Decision-making** **Janet Matthews**
Metro Council is considering delegating some in-region operating authorization decisions to the Chief Operating Officer, e.g., licenses, while retaining others with clear policy implications, e.g., franchises. Other changes are being contemplated for out-of-region authorizations, i.e., non-system licenses and designated facility agreements. The proposed framework for revising "who decides" will be reviewed with SWAC, issues raised in Council Work Sessions will be discussed, and SWAC will be asked for any comments on the proposed changes to Code Chapters 5.01 and 5.05.
- 25 mins. *IV. An Investment in Cleaner Air: Diesel Filters and Fuel** **Geyer/Downing**
Metro Council has approved the expenditure of \$124,000 to purchase sixteen diesel fuel filters for twelve of CSU's long-haul trucks and four shuttle vehicles at the Metro facilities. These filters are expected to yield significant reductions in particulates, carbon monoxide and hydrocarbons, and will contribute to pollution reduction in the Columbia River Gorge. In addition, Metro is working with DEQ to procure sufficient quantities of ultra-low sulfur diesel fuel to begin distribution and use of this cleaner fuel in Oregon. The details of this environmental investment, expected results, and risks will be identified for SWAC. SWAC will be asked to discuss the potential for expanding these clean air initiatives to collection/hauling fleets in the region.
- 5 mins. V. Other Business and Adjourn** **Susan McLain**

** Materials for these items are included with this agenda.*

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

Chair: Councilor Susan McLain (797-1553)

Alternate Chair: Councilor Rod Park (797-1547)

Staff: Janet Matthews (797-1826)

Committee Clerk: Michele Adams (797-1649)

Executive Summary

Solid Waste Advisory Committee May 19, 2003

I. Call to Order and Announcements

Susan McLain

- Councilor McLain introduced new SWAC members: Tom Badrick of Legacy Health Systems, is a recycling specialist, and fills the remaining business representative position on the Committee. Mark Altenhofen recently moved to the Metro region from Medford. He's the Solid Waste Manager for Washington County and will represent the County on this committee.
- Sometime in July, a SWAC primer meeting will be held for new (and somewhat new) members. Janet Matthews will contact members with the details as they are set. The meeting will include an overview of the regional solid waste system and the role of SWAC within the system.
- Approval of Minutes: Rick Winterhalter would like a change on page two, second paragraph, last sentence. He would prefer it to read, "...*the money spent on this program could probably be more effectively spent to increase recovery in other areas.*" With that change, Mr. Winterhalter moved to approve the minutes; Sarah Jo Chaplen seconded the motion, and the minutes were approved by the group.

II. Introduction of Metro's New Chief Operating Officer, Michael Jordan

Susan McLain

Councilor McLain gave the floor to the new administration's "first hired manager", Michael Jordan, who steps in as Metro's Chief Operating Officer. He was formerly President of the Metro Policy Advisory Committee (MPAC), City Manager for the City of Canby, and a Commissioner for Clackamas County.

Mr. Jordan explained where his position fits in, as a similar position to the former Executive Officer, but appointed by the Council President and confirmed by the full Council. His immediate priority is to work with Council and senior management staff to learn how everything works within the Agency since the Charter change. As he is becoming more knowledgeable about Metro, he's been aware that it's easy – and human nature – to quickly notice the problem areas, but he's also been pleased to note that 95% is good and works well.

In answer to a question from Dave White regarding how SWAC can access the Council under the new administration (he's heard testimony in the first reading, second reading, and is unsure of the "informals"), Mr. Jordan said he will put together an outline or structured presentation with the Council for the Committee's reference. Councilor McLain agreed that it's both helpful and important for people to know how the system works and the steps involved. Mr. Jordan added that there will be instances that require two hearings, but he will see to it that it's all clarified.

III. Solid Waste & Recycling Director's Update

Mike Hoglund

- Mr. Hoglund announced that the Department has now sold \$1 million of recycled latex paint since the program's inception. Over the years, Metro's hazardous waste specialists and technicians have constantly worked to improve the product, which is now commercial grade (suitable for sprayers). The current space has become too small and is difficult for the public to access. Therefore, a larger, off-site space is being sought, which would also allow for expanded out-of-region collection. A business plan is being presented to the Metro Council for approval.

Bruce Walker interjected that Paulette Rossi has been a great ambassador of the recycled paint. Because of her "endless enthusiasm" the City of Portland is including information about the paint in its next flier. Mr. Hoglund added that staff at the paint facility have been amazing at trouble-shooting and developing the whole system. Metro hopes that expanding the collection base, and therefore increasing the amount of paint available for sale, will not only cover operational costs (as it currently does), but help with some capital expenses, as well.

- Recommended changes to the RSWMP were adopted by the Council on May 1.

- Regarding the requested funding for C&D infrastructure, Mr. Hogle reported that \$100,000 was approved for deconstruction activities, but the remaining funds for C&D post-collection recovery infrastructure were not. Pending possible changes to regulatory policies (such as the System Fee Credit program, disposal bans, etc.), recovery infrastructure funding may be revisited.
- There is a Request for Proposals (RFP) out for a remedial site investigation and feasibility study at the St. Johns Landfill, the key component of which will be environmental hazard risk assessment. Questions can be directed to Jim Watkins, Dennis O'Neil, or Michele Adams.
- Regarding a couple of capital improvements, expansion of the north floor at Metro South Station has been approved. Also, a new roof will be installed at Metro Central Station using an innovative type of fiberglass that will allow more natural lighting in the facility.

IV. Fiscal Year 2003-04 Budget

Mike Hogle

Mr. Hogle directed the group's attention to a memo dated May 14, 2003, which was included in the agenda packet. The memo lists and explains changes from last fiscal year's adopted budget. One change to the memo, however, is that the stated \$72,500 budgeted for the ENACT program should read \$75,000.

Mr. White asked that SWAC be kept informed as the proposed excise tax for Parks is considered. Councilor McLain replied the Committee will certainly be updated after the Council Work Session on this topic. Council would appreciate SWAC members' perspective.

V. Landfill Legacy Mapping Project

Jim Watkins

One of the Department's goals, Mr. Watkins began, is to provide environmental leadership in new ways. Towards that goal, Metro is looking into the liability issues, need, and revenue sources regarding closed or "orphaned" disposal sites. The first step was to compile a report of as many of these sites, whether publicly or privately owned, as possible. Some of the information was sketchy because little or no documentation was available for sites prior to about 1960. Joanna Karl and Dennis O'Neal conducted research and had maps made of 56 sites within, or within ten miles of, the Metro region's boundary. The 10-mile boundary took into consideration that waste from the current Metro area was most likely included, and that the region may eventually expand to include such land. This information should prove extremely helpful, especially for anyone considering buying property formerly used as a disposal site. The initial effort focused primarily on "detecting, locating, and gathering information about closed solid waste disposal sites." The findings are available in a draft document; Mr. Watkins would like members of the Committee to look it over and offer comments and ideas.

From the audience, Easton Cross noted that at least two sites are not listed (Dunaway and where the horse track is now located). Mr. Watkins acknowledged their omission; they were both closed prior to 1960, but any information about them would be very helpful to have.

VI. Business Paper Recycling Campaign

Lee Barrett and Jan O'Dell (for Vicki Kolberg)

Mr. Barrett told the group that a goal has been set to recover 97,000 additional tons from the commercial sector. There is capacity within the region to accept this extra tonnage, and Metro hopes to strongly encourage the recycling of this waste stream. The City of Beaverton has surveyed area businesses, and got very favorable responses to the possibility of implementing desk-side recycling to increase commercially generated paper recycling.

Ms. O'Dell described the ad campaign Metro commissioned to begin the push for additional commercial waste recovery. The campaign, entitled "All paper, one box," was developed with input from several local paper processors. Ads on the box will update the business community about what can now be recycled

right beside their desks, specifically mixed paper rather than needing several boxes for different papers. Commercial Technical Assistance Program (CTAP) staff will deliver boxes to interested businesses and educate their staff.

About 44 small (12' x 25') billboards will be erected around the region, and 28 radio stations will broadcast spots during their traffic reports (125 spots per week). In addition, an e-zine will be developed, and local business associations will be contacted.

The tagline to be used is "So simple, even your boss can understand it." Metro's Recycling Information hotline number will be given for details. The initial campaign is budgeted at \$50,000; additional funding may be used in the Fall.

Response to the ads will be tracked and the campaign modified as necessary. Tracking will consist of information gleaned by CTAP, the number of calls to Metro regarding the campaign, and the number of boxes requested and delivered.

Information given to responding businesses will be individualized according to how their hauler would like the recycling gathered. Some prefer clear plastic bags, others don't, for instance. Requests will be funneled to local jurisdictions, who will coordinate the box drop-off and education. 10,000 boxes are available for the start of the campaign, and businesses will be told to expect about a two-week turn-around.

Doug DeVries commented that King City has a similar system, and the first year alone received tremendous results. Mr. Barrett reiterated that the current material recovery system has the capacity to accept a drastic increase in waste paper.

VII. Other Business and Adjourn

Susan McLain

Steve Schwab asked for an updated list of current SWAC members. Ms. Matthews replied that it will be available at or before the next meeting. Councilor McLain thanked everyone for their attendance and adjourned the meeting at 4:25 p.m.

gbc

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DRAFT

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 03-XXX
CODE CHAPTERS 5.01 AND 7.01 REGARDING)	
SOLID WASTE FACILITY REGULATION)	Introduced by David Bragdon,
)	Metro Council President

WHEREAS, the Metro Solid Waste Facility Regulation Code, codified as Metro Code Chapter 5.01, was last revised in a comprehensive way in 1998; and,

WHEREAS, the solid waste industry has continued to evolve since that time; and,

WHEREAS, Metro’s regulation of solid waste facilities has expanded over the last five years; and,

WHEREAS, the Metro Solid Waste Code requires updating to adequately address current solid waste regulatory issues; and,

WHEREAS, Metro’s day-to-day affairs are now managed and directed by the Chief Operating Officer; and,

WHEREAS, the primary objectives of this ordinance are to reserve policy-related solid waste facility operating authorization decisions for the Council; to delegate non-policy operating authorization decisions to the COO; to make agency legislative and administrative review more efficient; and to continue to protect public health and safety; and,

WHEREAS, it is necessary to amend the Solid Waste Facility Regulation Code, codified as Metro Code Chapter 5.01, and to make related amendments to Metro Code Chapter 7.01, to accomplish these objectives and to improve the clarity and flexibility of the Metro solid waste regulatory system; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 5.01.010 is amended to read:

5.01.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) “Activity” means a primary operation or function that is performed in a Solid Waste Facility or at a Disposal Site, including but not limited to Resource Recovery, Composting, Energy Recovery, and other types of Processing; Recycling; Transfer; incineration; and disposal of Solid Waste; but excluding operations or functions such as Segregation that serve to support the primary Activity.

(b) “Agronomic application rate” has the meaning provided in OAR 340-093-0030(4).

~~(e)~~ "Certificate" means the permission given by the Chief Operating Officer to operate certain solid waste Activities.

~~(d)~~ "Chief Operating Officer" means the Metro Chief Operating Officer or the Chief Operating Officer's designee.

~~(e)~~ "Cleanup Material Contaminated By Hazardous Substances" means solid waste resulting from the cleanup of releases of hazardous substances into the environment, including petroleum contaminated soils and sandbags from chemical spills. Cleanup Material Contaminated By Hazardous Substances does not mean solid waste generated by manufacturing or industrial processes.

~~(f)~~ "Code" means the Metro Code.

~~(g)~~ "Compost" means the stabilized product of composting.

~~(h)~~ "Composting" means the controlled biological decomposition of organic material.

~~(i)~~ "Composting Facility" means a site or facility which utilizes organic material to produce a useful product through the process of composting.

~~(j)~~ "Council" means the Metro Council.

~~(k)~~ "DEQ" means the Department of Environmental Quality of the State of Oregon.

~~(l)~~ "Direct haul" means the delivery of Putrescible Waste from a Solid Waste Facility directly to Metro's contract operator for disposal of Putrescible Waste. Direct Haul is an Activity under this chapter.

~~(m)~~ "Disposal site" means the land and facilities used for the disposal of Solid Wastes whether or not open to the public, but does not include transfer stations or processing facilities.

~~(n)~~ "District" has the same meaning as in Code Section 1.01.040.

~~(o)~~ "Energy recovery" means a type of Resource Recovery that is limited to methods in which all or a part of Solid Waste materials are processed to use the heat content, or other forms of energy, of or from the material.

~~(p)~~ "Franchise" means the grant of authority or privilege given by the Council to operate a Disposal Site, ~~a~~ Transfer Station, or an Resource-Energy Recovery facility, or to conduct any activity specified in ~~s~~Section 5.01.045(b) of this chapter.

~~(q)~~ "Franchisee" means the person to whom a Franchise is granted by the Council under this chapter.

~~(r)~~ "Franchise fee" means the fee charged by Metro to the Franchisee for the administration of the Franchise.

~~(s)~~ "Hazardous waste" has the meaning provided in ORS 466.005.

(~~fs~~) “Household hazardous waste” means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households and is generated by the household. “Household hazardous waste” may include but is not limited to some cleaners, solvents, pesticides, and automotive and paint products.

(~~ft~~) “Inert” means containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the state or public health.

(~~fu~~) “License” means the permission given by the Council or Chief Operating Officer to operate a Solid Waste Facility not exempted or requiring a ~~Certificate or~~ Franchise under this chapter that Transfers, and Processes Solid Waste, and may perform other authorized Activities.

(~~wy~~) "Licensee" means the person to whom a License is granted by the Council or Chief Operating Officer under this chapter.

(~~xw~~) “Local Transfer Station” means a Transfer Station that serves the demand for disposal of Putrescible Waste that is generated within a single Service Area, and may provide fewer disposal services than are provided by a Regional Transfer Station.

(~~yx~~) “Material recovery” means a type of Resource Recovery that is limited to mechanical methods of obtaining from Solid Waste materials which still have useful physical or chemical properties and can be reused, recycled, or composted for some purpose. Material Recovery includes obtaining from Solid Waste materials used in the preparation of fuel, but excludes the extraction of heat content or other forms of energy from the material.

(~~zy~~) “Metro Designated Facility” means a facility in the system of transfer stations, Metro Franchised facilities and landfills authorized under Chapter 5.05 of this Title to accept waste generated in the area within the jurisdiction of Metro.

(~~az~~) "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, demolition debris, and land clearing debris; but excludes Cleanup Materials Contaminated by Hazardous Substances and Source-Separated Recyclable Material whether or not sorted into individual material categories by the generator.

(~~baa~~) "Person" has the same meaning as in Code Section 1.01.040.

(~~ebb~~) "Petroleum contaminated soil" means soil into which hydrocarbons, including gasoline, diesel fuel, bunker oil or other petroleum products have been released. Soil that is contaminated with petroleum products but also contaminated with a hazardous waste as defined in ORS 466.005, or a radioactive waste as defined in ORS 469.300, is not included in the term.

(~~dcc~~) "Process," "Processing" or "Processed" means a method or system of altering the form, condition or content of Wastes, including but not limited to composting, vermiprocessing and other controlled methods of biological decomposition; classifying; separating; shredding, milling, pulverizing, or hydropulping; but excluding incineration or mechanical volume reduction techniques such as baling and compaction.

(eedd) "Processing facility" means a place or piece of equipment where or by which Solid Wastes are processed. This definition does not include commercial and home garbage disposal units, which are used to process food wastes and are part of the sewage system, hospital incinerators, crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.

(fee) "Processing residual" means the Solid Waste destined for disposal which remains after Resource Recovery has taken place.

(egff) "Putrescible" means rapidly decomposable by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(hgg) "Putrescible waste" means Waste containing Putrescible material.

(hh) "Rate" means the amount approved by Metro and charged by the Franchisee, excluding the Regional System Fee as established in Chapter 5.02 of this Title and franchise fee.

(jii) "Recyclable material" means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and that can be reused, recycled, or composted for the same or other purpose(s).

(kkj) "Recycle" or "Recycling" means any process by which Waste materials are transformed into new products in such a manner that the original products may lose their identity.

(kkk) "Recycling drop center" means a facility that receives and temporarily stores multiple source separated recyclable materials, including but not limited to glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil, which materials will be transported or sold to third parties for reuse or resale.

(mll) "Regional Solid Waste Management Plan" means the Regional Solid Waste Management Plan adopted as a functional plan by Council and approved by DEQ.

(mmm) "Regional Transfer Station" means a Transfer Station that may serve the disposal needs of more than one Service Area and is required to accept solid waste from any person who delivers authorized solid waste to the Regional Transfer Station.

(enn) "Reload" or "Reload facility" means a facility that performs only Transfer 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 a Solid Waste facility or a disposal site.

(ppo) "Resource recovery " means a process by which useful material or energy resources are obtained from Solid Waste.

(qpp) "Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(rqq) "Segregation" means the removal of prohibited wastes, unauthorized wastes, bulky material (such as but not limited to white goods and metals) incidental to the Transfer of Solid Waste. Segregation does not include Resource Recovery or other Processing of Solid Waste. The sole intent of

segregation is not to separate Useful Material from the Solid Waste but to remove prohibited, unauthorized waste or bulky materials that could be hard to handle by either the facility personnel or operation equipment.

(~~ssr~~) "Service Area" means the geographic locale around a solid waste facility that is defined by the characteristic that every point within such area is closer in distance to the solid waste facility contained in such area than to any other solid waste facility or disposal site. As used in this definition, "distance" shall be measured over improved roads in public rights-of-way.

(~~sss~~) "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 wastes; 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.

(~~stt~~) "Solid waste facility" means the land and buildings at which Solid Waste is received for Transfer, Resource Recovery, and/or Processing but excludes disposal.

(~~vuu~~) "Source Separate" or "Source Separated" or "Source Separation" means that the person who last uses recyclable material separates the recyclable material from Solid Waste.

(~~wvv~~) "Source-separated recyclable material" or "Source-separated recyclables" means material that has been Source Separated for the purpose of Reuse, Recycling, or Composting. This term includes Recyclable Materials that are Source Separated by material type (i.e., source-sorted) and Recyclable Materials that are mixed together in one container (i.e., commingled).

~~(xx) "System cost" means the sum of the dollar amounts expended for collection, hauling, processing, transfer and disposal of all Solid Waste generated within Metro.~~

(~~yww~~) "Transfer" means the Activity of receiving Solid Waste for purposes of transferring the Solid Waste from one vehicle or container to another vehicle or container for transport. Transfer may include segregation, temporary storage, consolidation of Solid Waste from more than one vehicle, and compaction, but does not include Resource Recovery or other Processing of Solid Waste.

(~~zxx~~) "Transfer station" means a Solid Waste Facility whose primary Activities include, but are not limited to, the Transfer of Solid Waste.

(aaayy) "Useful material" means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and which, when separated from Solid Waste, is suitable for use in the same or other purpose(s). Types of Useful Materials are: material that can be Reused; Recyclable Material; organic material(s) suitable for controlled biological decomposition such as for making Compost; material used in the preparation of fuel; material intended to be used, and which is in fact used, for construction or land reclamation such as Inert material for fill; and material intended to be used, and which is in fact used, productively in the operation of landfills such as roadbeds or alternative daily cover. For purposes of this Code, Cleanup Material Contaminated By Hazardous Substances are not Useful Materials.

(bbbzz) "Vermiprocessing" means a controlled method or system of biological Processing that utilizes worms to consume and digest organic materials, and that produces worm castings for productive uses.

(eeeaaz) "Waste" means any material considered to be useless, unwanted or discarded by the person who last used the material for its intended and original purpose.

(dddbbb) "Waste hauler" means any person who is franchised, licensed or permitted by a local government unit pursuant to state law to collect and haul Solid Waste.

(eeeccc) "Yard debris" means vegetative and woody material generated from residential property or from commercial landscaping activities. "Yard debris" includes landscape waste, grass clippings, leaves, hedge trimmings, stumps and other vegetative waste having similar properties, but does not include demolition debris, painted or treated wood.

(fffdde) "Yard debris facility" means a yard debris processing facility or a yard debris reload facility.

(gggeee) "Yard debris reload facility" means an operation or facility that receives yard debris for temporary storage, awaiting transport to a processing facility.

SECTION 2. Metro Code Section 5.01.030 is amended to read:

5.01.030 Prohibited Activities

Except as otherwise provided in this chapter, or in Metro Code Chapter 5.05, it shall be unlawful:

(a) For any person to establish, operate, maintain or expand a Solid Waste Facility or Disposal Site within Metro without an appropriate ~~Certificate~~, License or Franchise from Metro.

(b) For a recipient of a ~~Certificate~~, License or Franchise to receive, process or dispose of any Solid Waste not authorized under the recipient's ~~Certificate~~, License or Franchise.

(c) For any person to deliver or transport any Solid Waste to or to dispose of any Solid Waste at any place other than a Solid Waste Facility or Disposal Site that is operated by a holder of a ~~Certificate~~, License, or Franchise; or is exempt under Section 5.01.040 of this chapter.

(d) For a holder of a ~~Certificate~~, License, or Franchise to fail to comply with the administrative procedures or fail to meet the performance standards adopted pursuant to Section 5.01.132 of this chapter.

(e) For any person to treat or dispose of petroleum contaminated soil by ventilation or aeration except at the site of origin.

SECTION 3. Metro Code Section 5.01.040 is amended to read:

5.01.040 Exemptions

(a) In furtherance of the purposes set forth in this chapter, 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:
 - (1) such chipped or ground wood wastes are processed for composting; or
 - (2) 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 franchise granted by a local government unit, or from multiple franchises so long as the area encompassed by the franchises is geographically contiguous; and
 - (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 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 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)(2) of this chapter, Metro shall comply with Section 5.01.150 ~~of this chapter, User Fees.~~

~~(c) 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 5.01.045 is amended to read:

5.01.045 ~~Certificate, License and Franchise Requirements~~

~~(a) A Metro Solid Waste Certificate shall be required of the Person owning or controlling a facility which:~~

~~(1) Processes Non Putrescible Waste if such processing results in Processing Residual of less than ten percent; or~~

~~(2) Processes Petroleum Contaminated Soil by thermal destruction, distillation, bioremediation, or by any other methods that either destroys or removes and contains such petroleum contamination from the soil.~~

~~(ba) A Metro Solid Waste License shall be required of the Person owning or controlling a facility at which any of the following Activities are performed:~~

~~(1) Processing of Non-Putrescible Waste that results in Processing Residual of more than ten percent.~~

~~(2) Processing of Petroleum Contaminated Soil by thermal destruction, distillation, bioremediation, or by any other methods that destroys or removes such petroleum contamination from the soil.~~

(23) Processing or Reloading of Yard Debris. A local government that owns or operates a ~~y~~Yard ~~d~~Debris ~~f~~Facility may enter into an intergovernmental agreement with Metro under which the local government will administer and enforce yard debris standards at the facility in lieu of compliance with this chapter.

~~(3) Operation of a Local Transfer Station.~~

(4) ~~Operation of~~Operating a Reload ~~unless exempt under Section 5.01.040(a)(7) of this chapter.~~

(5) ~~Operations or facilities that chip or grind~~Chipping or grinding wood waste for use as an industrial fuel if such facility is otherwise regulated under this Section 5.01.045 ~~of this chapter.~~

(eb) A Metro Solid Waste Franchise shall be required for the Person owning or controlling a facility at which any of the following Activities are performed:

(1) Processing of Putrescible Waste other than Yard Debris.

~~(2) Operat~~ing on of a ~~Regional~~ Transfer Station.

~~(23) Operation of~~Operating a Disposal Site or ~~of~~ an Energy Recovery Facility.

~~(34)~~ Any process using chemical or biological methods whose primary purpose is reduction of Solid Waste weight or volumes.

~~(4) Delivery of Putrescible Waste directly from the facility to any Disposal Site.~~

(5) Any other Activity not listed in this section, or exempted by Metro Code Section 5.01.040 or Section 5 of this ordinance.

SECTION 5. Metro Code Section 5.01.060 is amended to read:

5.01.060 Applications for ~~Certificates,~~ Licenses or Franchises

(a) Applications for a ~~Certificate,~~ Franchise or License or for renewal of an existing ~~Certificate,~~ Franchise or License shall be filed on forms or in the format provided by the Chief Operating Officer.

(b) In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted.

(c) In addition to the information required on the forms or in the format provided by the Chief Operating Officer, applications for a License or Franchise shall include the following information to the Chief Operating Officer:

(1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the Franchise or License;

- (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;
- (3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the Solid Waste Facility at any point in its active life;
- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents, proof of financial assurance for the costs of closure of the facility;
- (5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Licensee or Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;
- (6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission; and
- (7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application, and any permit that has been granted shall be provided.

(d) An application for a ~~Franchise~~Transfer Station or Disposal Site shall be accompanied by an analysis of the factors described in Section 5.01.070(f) of this chapter showing that the proposed facility is consistent with the Regional Solid Waste Management Plan.

~~———— (e) ——— A person holding or making application for a Solid Waste Facility License or Franchise from Metro authorizing receipt of Putrescible Waste may make application to deliver Putrescible Waste directly to Metro’s contract operator for disposal of Putrescible Waste. Said application must be accompanied by: (A) a showing that the proposed Direct Haul authorization is consistent with the Regional Solid Waste Management Plan, and (B) an analysis of the System Costs with and without the authorization for Direct Haul from the Solid Waste Facility.~~

SECTION 6. Metro Code Section 5.01.062 is amended to read:

5.01.062 Application Fees

(a) Upon the filing of an application, every applicant for a ~~Certificate~~Certificate, License or Franchise, or for renewal of an existing License or Franchise, shall submit an application fee as provided in this section.

(b) Application fees shall be as follows:

~~(1) For a Solid Waste Facility Certificate, one hundred dollars (\$100).~~

~~(2) For a Solid Waste Facility License, three hundred dollars (\$300).~~

~~(3) For a Solid Waste Facility Franchise, five hundred dollars (\$500).~~

SECTION 7. Metro Code Section 5.01.065 is hereby repealed.

SECTION 8. Metro Code Section 5.01.067 is amended to read:

5.01.067 Issuance and Contents of Licenses

(a) Applications for Licenses filed in accordance with Section 5.01.060 shall be ~~reviewed by the Chief Operating Officer and are subject to approval or denial by Metro Council~~ subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed site.

(c) Prior to determining whether to approve or deny each License application, the Chief Operating Officer shall provide public notice and the opportunity for the public to comment on the License application.

~~(d) On the basis of the application submitted, and the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall formulate recommendations regarding~~ determine whether the proposed License meets the requirements of Section 5.01.060 and whether to approve or deny the application.

~~(d) The Chief Operating Officer shall provide the recommendations required by subsection (c) of this section to the Council together with the Chief Operating Officer's recommendation regarding whether the application should be granted or denied. If the Chief Operating Officer recommends that the application be granted, the Chief Operating Officer shall recommend to the Council specific conditions of the License~~

~~(e) Subsequent to receiving the recommendation of the Chief Operating Officer, the Council shall issue an order granting, or denying the application. The Council may attach conditions to the order. If the Council issues an order to deny the application, such order shall be effective immediately.~~

~~(f) If the Council~~ Chief Operating Officer does not act to grant, or deny, a License application within 120 days after the filing of a complete application, the License shall be deemed granted for the Solid Waste Facility or Activity requested in the application, and the Chief Operating Officer shall issue a License containing the standard terms and conditions included in other comparable licenses issued by Metro.

(f) If the applicant substantially modifies the application during the course of the review, the review period for the decision shall be restarted. The review period can be extended by mutual agreement of the applicant and the Chief Operating Officer. An applicant may withdraw its application at any time prior to the Chief Operating Officer's decision and may submit a new application at any time thereafter.

(g) If a request for a License is denied, no new application for this same or substantially similar License shall be filed by the applicant for at least six months from the date of denial.

(h) Licenses shall specify the Activities authorized to be performed, the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility, and any other limitations or conditions attached by the ~~Council~~ Chief Operating Officer.

(i) ~~Licenses shall be for a term of five years~~ The term of a new or renewed License shall be not more than five years.

SECTION 9. Metro Code Section 5.01.070 is amended to read:

5.01.070 Issuance of Franchise

(a) Applications for Franchises filed in accordance with Section 5.01.060 shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed Franchise site.

(c) Upon the basis of the application, evidence submitted and results of the investigation, the Chief Operating Officer shall formulate recommendations regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of Section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements.

(d) The Chief Operating Officer shall provide the recommendations required by subsection (c) of this section to the Council together with the Chief Operating Officer's recommendation regarding whether the application should be granted or denied. If the Chief Operating Officer recommends that the application be granted, the Chief Operating Officer shall recommend to the Council specific conditions of the Franchise.

(e) Subsequent to receiving the recommendation of the Chief Operating Officer, the Council shall issue an order granting or denying the application. The Council may attach conditions to the order or limit the number of franchises granted. If the Council issues an order to deny the application, such order shall be effective immediately.

(f) In determining whether to authorize the issuance of a Franchise, the Council shall consider, but not be limited by, whether the following factors:

- (1) Whether ~~T~~he applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan;

- ~~(2)~~ The applicant has demonstrated that the proposed Activity will result in lower net System Costs, if such a showing is required by Section 5.01.060. The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;
- (3) Whether Ggranting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;
- (4) Whether Ggranting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood;
- (5) Whether Fthe applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise.

(g) The Council shall act to grant or deny a Franchise application within 120 days after the filing of a complete application. The deadline for the Council to act to grant or deny an application may be extended as provided in this Section. If the Council does not act to grant, or deny, an Franchise application by the deadline for such action within 120 days after the filing of a complete application, the Franchise shall be deemed granted for the Solid Waste Facility or Disposal Site requested in the application, and the Chief Operating Officer shall issue a Franchise containing the standard terms and conditions included in other comparable franchises issued by Metro.

(h) At any time after the filing of a complete Franchise application the deadline for the Council to act to grant or deny the application shall be extended if:

- (1) The Council acts to extend the deadline for up to an additional 60 days, which the Council may do one time for any single application;
- (2) The applicant substantially modifies the application during the course of the review, in which case the 120 day review period for the Council to act shall be restarted as of the date Metro receives the applicant's modifications; or
- (3) The applicant and the Chief Operating Officer agree to extend the deadline for the Council to act for a specified period of time.

(i) An applicant may withdraw its application at any time prior to the Council's decision and may submit a new application at any time thereafter

~~(h)~~ If a request for a Franchise is denied, no new application for this same or substantially similar Franchise shall be filed by the applicant for at least six months from the date of denial.

~~(k)~~ The term of a new or renewed Franchise shall be not more than five years.

SECTION 10. Metro Code Section 5.01.075 is amended to read:

5.01.075 Contents of Franchise

(a) The Franchise shall constitute a grant of authority from the Council to accept the Waste(s) and perform the Activity(s) described therein, the conditions under which these Activities may take place and the conditions under which the authority may be revoked.

(b) Franchises approved by the Council shall be in writing and shall include the following:

- (1) The term of the Franchise;
- (2) ~~Franchises approved by the Council shall specify the~~ The specific Activities authorized to be performed and the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility;
- (3) Such other conditions as the Council deems necessary to insure that the intent and purpose of this chapter will in all respects be observed; and
- (4) Indemnification of Metro in a form acceptable to the Metro Attorney.

SECTION 11. Metro Code Section 5.01.087 is amended to read:

5.01.087 Renewal of Licenses and Franchises

(a) ~~The Chief Operating Officer shall renew a~~ Solid Waste Facility Licenses ~~shall be renewed~~ unless the Chief Operating Officer determines that the proposed renewal is not in the public interest, provided that the Licensee files a completed application for renewal accompanied by payment of an application fee of three hundred dollars (\$300) not less than ~~60~~120 days prior to the expiration of the License term, together with a statement of proposed material changes from its initial application for the License and any other information required by the Chief Operating Officer. The Chief Operating Officer may attach conditions or limitations to any renewed License.

(b) ~~The Council shall approve or deny renewals of~~ Solid Waste Facility Franchises, ~~shall be renewed unless the Chief Operating Officer determines that the proposed renewal does not meet the criteria contained in Section 5.01.070 of this chapter, provided that the~~ A Franchisee seeking renewal of a Franchise shall files a completed application for renewal accompanied by payment of an application fee of five hundred dollars (\$500) not less than 120 days prior to the expiration of the Franchise term, together with a statement of proposed material changes from its initial application for the Franchise and any other information required by the Chief Operating Officer or by the Council. The Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.070 of this chapter. The Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. ~~The Chief Operating Officer~~Council may attach conditions or limitations to the renewed Franchise.

SECTION 12. Metro Code Section 5.01.090 is amended to read:

5.01.090 Transfer of Ownership or Control

~~(a) The Chief Operating Officer shall transfer a Certificate upon receipt in writing of any transfer of ownership or change in control, provided that the Persons seeking to be certified are not requesting authorization to accept additional Wastes or to perform additional Activities at the Solid Waste Facility.~~

~~(b) A new License application shall be submitted when a Licensee proposes to transfer Control or ownership of the Solid Waste Facility to any other Person.~~

(ea) ~~(1)~~ Any Person in control of a License or Franchise may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, control of the License or Franchise to another person unless an application therefor has been filed in accordance with Section 5.01.060 and has been granted. The proposed transferee of a License or Franchise must meet the requirements of this chapter.

~~(2b)~~ The Council shall not unreasonably deny an application for transfer of a Franchise ~~or Franchisee~~. If the Council does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.

~~(c) The Chief Operating Officer shall not unreasonably deny an application for transfer of a License. If the Chief Operating Officer does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.~~

~~(3d)~~ The term for any transferred Franchise shall be for the remainder of the original term unless the Council establishes a different term based on the facts and circumstances at the time of transfer.

~~(e) The term for any transferred License shall be for the remainder of the original term unless the Chief Operating Officer establishes a different term based on the facts and circumstances at the time of transfer.~~

SECTION 13. Metro Code Section 5.01.095 is amended to read:

5.01.095 Change of Authorizations

(a) A Person holding a ~~Certificate~~, License or Franchise shall submit an application pursuant to Section 5.01.060 when said Person seeks authorization to:

- (1) Accept Wastes other than those authorized by the applicant's ~~Certificate~~, License or Franchise, or
- (2) Perform Activities other than those authorized by the applicant's ~~Certificate~~, License or Franchise, or
- (3) Modify other limiting conditions of the applicant's ~~Certificate~~, License or Franchise.

(b) Applications for a change in authorization or limits shall be filed on forms or in the format provided by the Chief Operating Officer.

(c) An application for a change in authorizations or limits to the applicant's ~~Certificate~~, License or Franchise shall not substitute for an application that would otherwise be required under Section 5.01.045 of this chapter.

(d) A Person holding a ~~Certificate~~, License or Franchise shall notify Metro in writing when said Person proposes to cease accepting authorized Wastes or cease performing authorized Activities at the Solid Waste Facility or Disposal Site.

(e) The fee for applications for changes of authorizations or limits shall be one hundred dollars (\$100).

SECTION 14. Metro Code Section 5.01.100 is amended to read:

5.01.100 Appeals

Any applicant, Franchisee or Licensee is entitled to a contested case hearing pursuant to Code Chapter 2.05 upon the suspension, modification, revocation or refusal by the Council or Chief Operating Officer, as appropriate, to issue, renew, ~~modify~~ or transfer a Franchise or License or to grant a variance, as follows:

(a) Except as provided in subsection (c) of this section, refusal to renew a Franchise or License by the Council or Chief Operating Officer, as appropriate, shall not become effective until the Franchisee or Licensee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.

(b) The refusal by the Council or Chief Operating Officer, as appropriate, to grant a variance, or to issue, ~~modify~~ or transfer a Franchise or License shall be effective immediately. The Franchisee, Licensee or applicant may request a hearing on such refusal within 30 days of notice of such refusal.

(c) Upon a finding of serious danger to the public health or safety, the Chief Operating Officer may suspend a Franchise or License or the Council or Chief Operating Officer, as appropriate, may refuse to renew a Franchise or License and such action shall be effective immediately. If a Franchise or License renewal is refused effective immediately, the Franchisee or Licensee shall have 30 days from the date of such action to request a contested case hearing.

SECTION 15. Metro Code Section 5.01.120 is amended to read:

5.01.120 General Obligations of All Regulated Parties

All Persons regulated by this chapter shall:

(a) Allow the Chief Operating Officer to have reasonable access to the premises for purposes of inspection and audit to determine compliance with this chapter, the Code, the ~~Certificate~~, License or Franchise ~~agreement~~, and the performance standards and administrative procedures adopted pursuant to Section 5.01.132 of this chapter.

(b) Ensure that Solid Waste transferred from the facility goes to the appropriate destination under Section 5.01.132(a) of this chapter, under Metro Code Chapter 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.

(c) Maintain during the term of the License or Franchise the types of insurance in the amounts specified in the License or Franchise ~~Agreement~~ or such other amounts as may be required by state law for public contracts and shall give 30 days written notice to the Chief Operating Officer of any lapse or proposed cancellation of insurance coverage or performance bond.

(d) Shall indemnify Metro, the Council, the Chief Operating Officer, and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the ~~Certificate holder's~~, Licensee's or Franchisee's performance of or failure to perform any of its obligations under the ~~Certificate~~, License, or Franchise or this chapter.

(e) Shall have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of the ~~Certificate~~, License or Franchise or because of the enforcement of the ~~Certificate~~, License or Franchise or in the event the ~~Certificate~~, License or Franchise or any part thereof is determined to be invalid.

SECTION 16. Metro Code Section 5.01.125 is amended to read:

5.01.125 Obligations and Limits for Selected Types of Activities

(a) A holder of a ~~Certificate~~, 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, or shall deliver Non-Putrescible Waste to a Solid Waste facility whose primary purpose is to recover useful materials from Solid Waste.

(b) A holder of a ~~Certificate~~, 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, 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.

(c) In addition to the requirements of (a) and (b) in this section, holders of a ~~License or~~ 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) In addition to the requirements of (a) and (b) in this section, holders of a Franchise for a Regional Transfer Station 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.

SECTION 17. Metro Code Section 5.01.131 is amended to read:

5.01.131 Designation and Review of Service Areas and of Demand

(a) The Chief Operating Officer shall designate Service Areas and shall calculate demand for disposal of Putrescible Waste generated within each Service Area. Demand shall be determined by calculating the approximate tonnage of putrescible waste for each service area.

(b) By March 15 of each even-numbered year, the ~~Director of the Regional Environmental Management Department~~ Chief Operating Officer shall provide a written report to the Metro Council that includes:

- (1) A quantitative review of the demand for disposal of Putrescible Waste within all Service Areas;
- (2) A review of the performance of the obligations and limits authorized pursuant to Section 5.01.125(c) of this chapter in achieving the policies stated by Council in adopting this chapter; and
- (3) A recommendation on any revisions of Service Area boundaries, change in the need for disposal capacity within any Service Area, or changes of obligations or limits imposed on any Local Transfer Station.
- (4) The Chief Operating Officer shall consider the relationship between demand and disposal capacity located within each Service Area to insure that all Service Areas are treated equally and equitably concerning the availability of disposal capacity to meet the calculated demand.

(c) Notwithstanding subsection (b), the Chief Operating Officer may authorize an increase in a tonnage authorization established pursuant to subsection 5.01.125(c)(3) of this chapter upon the Chief Operating Officer's finding that growth or other conditions affecting demand for disposal of Putrescible Waste within the Service Area cannot be served by said tonnage authorization. Any such increase in tonnage authorized pursuant to this subsection shall be limited to a maximum of five percent (5%) of any tonnage authorization or disposal limit approved by the Council, and shall be valid for a period not exceeding 24 months.

SECTION 18. Metro Code Section 5.01.135 is amended to read:

5.01.135 ~~Chief Operating Officer's~~ 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 ~~L~~icensed or ~~F~~ranchised 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 ~~agreement~~, 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, ~~or~~ Franchisee or Solid Waste Facility operator.

~~————(d)———— Nothing in this section precludes Metro from inspecting a certified or an exempted operation to verify that the operation is being conducted in a manner that qualifies as a certified or an exempted Activity or from taking any appropriate enforcement action.~~

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

SECTION 19. Metro Code Section 5.01.150 is amended to read:

5.01.150 User Fees

(a) Notwithstanding Section 5.01.040(a)(2) of this chapter, the Council shall set user fees annually, and more frequently if necessary, which fees shall apply to Solid Waste Facilities ~~or and~~ Disposal Sites which are owned, operated, ~~Certified, L~~icensed, or ~~F~~ranchised by Metro or which are liable for payment of user fees pursuant to a special agreement with Metro.

(b) User fees shall not apply to:

- (1) Solid waste received at facilities that are ~~certified~~, licensed, franchised or exempt from regulation under this Chapter, other than any Disposal Sites or Transfer Stations that are not subject to the requirements of Section 5.01.125(a);
- (2) Cleanup Material Contaminated By Hazardous Substances accepted at facilities that treat said Cleanup Material Contaminated By Hazardous Substances to applicable DEQ standards;
- ~~(3) Source separated yard debris accepted at Licensed yard debris processing facilities or yard debris reload facilities;~~
- (43) Useful Material that is accepted at a Disposal Site that is listed as a Metro Designated Facility in Chapter 5.05 or accepted at a Disposal Site under authority of a Metro Non-System License issued pursuant to Chapter 5.05, provided that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of the Disposal Site such as for roadbeds or alternative daily cover; and (B) is accepted at the Disposal Site at no charge; or
- (54) Processing Residual produced by any tire processor that is regulated pursuant to this chapter and that sorts, classifies or processes used tires into fuel or other products, provided said Processing Residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro ~~certificate~~, license or franchise.

(c) Notwithstanding any other provisions of this Code, user fees shall apply to 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. Such Cleanup Materials Contaminated By Hazardous Substances may be subject to credits against user fees pursuant to Section 5.02.047 ~~of this Title(e) and (d) of this Code~~.

(d) User fees shall be in addition to any other fee, tax or charge imposed upon a Solid Waste Facility or Disposal Site.

(e) User fees shall be separately stated upon records of the Solid Waste Facility or Disposal Site.

(f) User fees and finance charges on user fees shall be paid as specified in ~~Metro Code~~ Section 5.02.055 ~~of this Title~~.

(g) There is no liability for user fees on charge accounts that are worthless and charged off as uncollectible, provided that an affidavit is filed with Metro stating the name and amount of each uncollectible charge account and documenting good faith efforts that have been made to collect the accounts. User fees may not be deemed uncollectible unless the underlying account is also uncollectible. If the fees have previously been paid, a deduction may be taken from the next payment due to Metro for the amount found worthless and charged off. If any such account is thereafter collected, in whole or in part, the amount so collected shall be included in the first return filed after such collection, and the fees shall be paid with the return.

(h) All user fees shall be paid in the form of a remittance payable to Metro. All user fees received by Metro shall be deposited in the solid waste operating fund and used only for the

administration, implementation, operation and enforcement of the Regional Solid Waste Management Plan.

(i) ~~Certificate~~, License or Franchise holders are eligible to apply for and receive Regional System Fee Credits pursuant to Section 5.02.047 of ~~this Title~~~~the Metro Code~~.

SECTION 20. Metro Code Section 5.01.170 is amended to read:

5.01.170 Determination of Rates

(a) The ~~Metro~~ Council may establish facility Rates upon finding that setting such rates is in the public interest as a matter of metropolitan concern.

(b) Notwithstanding any other provision of this section,

- (1) ~~Holders of Certificates or~~ Licensees shall be exempt from all rate setting; and
- (2) Franchisees shall be exempt from rate setting unless rate setting is required as a condition of their Franchise.

SECTION 21. Metro Code Section 5.01.180 is amended to read:

5.01.180 Enforcement of Franchise or License Provisions

(a) The Chief Operating Officer may, at any time, make an investigation to determine if there is sufficient reason and cause to suspend, modify or revoke a ~~Certificate~~, Franchise or License as provided in this section. If, in the opinion of the Chief Operating Officer, there is sufficient evidence to suspend, modify, or to revoke a ~~Certificate~~, Franchise or License, the Chief Operating Officer shall notify the ~~Certificate holder~~, Franchisee or Licensee in writing of the alleged violation, and the steps necessary to be taken to cure the violation. Upon a finding that violation exists and that the ~~Certificate holder~~, Franchisee or Licensee is unable to or refuses to cure the violation within a reasonable time after receiving written notice thereof, the Chief Operating Officer may provide notice to the ~~Certificate holder~~, Franchisee or Licensee that penalties pursuant to Section 5.01.200 of this chapter shall be imposed or that the ~~Certificate~~, Franchise or License is suspended, modified or revoked.

(b) The notice authorized by this subsection shall be based upon the Chief Operating Officer's finding that the ~~Certificate holder~~, Franchisee or Licensee has:

- (1) Violated the ~~Certificate~~, Franchise or License agreement, the administrative procedures or performance standards issued by the Chief Operating Officer, this chapter, the Code, state law, local ordinance or the rules promulgated thereunder or any other applicable law or regulation; or
- (2) Misrepresented material facts or information in the ~~Certificate~~, Franchise or License application, or other information required to be submitted to Metro;
- (3) Refused to provide adequate service at a Licensed or Franchised site, facility or station, after written notification and reasonable opportunity to do so;

- (4) Misrepresented the gross receipts from the operation of the Licensed or Franchised site, facility or station;
- (5) Failed to pay when due the fees required to be paid under this chapter; or
- (6) Been found to be in violation of a city or county ordinance if such ordinances require Licensees or Franchisees to comply with the Metro solid waste facility regulation code.

(c) Except as provided in subsection (d) of this section, the Chief Operating Officer's revocation, modification or suspension of a Franchise shall not become effective until the Franchisee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.

(d) Upon a finding of serious danger to the public health or safety as a result of the actions or inactions of a Franchisee or Licensee under this chapter, the Chief Operating Officer may in accordance with Code Chapter 2.05 immediately suspend the Franchise or License and may take whatever steps may be necessary to abate the danger. In addition, in the case of a Franchise, the Chief Operating Officer may authorize another Franchisee or another person to provide service or to use and operate the site, station, facilities and equipment of an affected Franchisee for reasonable compensation in order to provide service or abate the danger for so long as the danger continues. If a Franchise is immediately suspended, the Franchisee shall have 90 days from the date of such action to request a contested case hearing in accordance with Code Chapter 2.05.

(e) Upon revocation or refusal to renew the Franchise or License, all rights of the Franchisee or Licensee in the Franchise or License shall immediately be divested.

SECTION 22. Metro Code Section 5.01.200 is amended to read:

5.01.200 Penalties

(a) Each violation of this chapter shall be punishable by a fine of not more than \$500. Each day a violation continues constitutes a separate violation. Separate offenses may be joined in one indictment or complaint or information in several counts.

(b) Upon a finding that a ~~Certificate holder~~, Licensee or Franchisee is in violation of this chapter, the Code, the ~~Certificate~~, License or Franchise agreement, or the administrative procedures or performance standards adopted pursuant to Section 5.01.132 of this chapter during an inspection or audit conducted pursuant to Section 5.01.135 of this chapter, the Chief Operating Officer shall provide written notice to the ~~Certificate holder~~, Licensee or Franchisee describing the violation at the time of the inspection, and requiring the Licensee or Franchisee to correct the violation within the time specified on the notice.

(c) Upon a finding that the ~~Certificate holder~~, Licensee or Franchisee has failed to abate the violation within the specified time period, the Chief Operating Officer shall issue a citation, indicating the continuing violation, the date of reinspection and imposing a fine as specified in subsection (a) of this section on Licensees or Franchisees.

(d) If after re-inspection, the Chief Operating Officer finds the Licensee or Franchisee has failed to abate the violation, such violation shall be punishable by a fine of \$1,000.00. Notice of a final deadline for abating the violation shall be given at the time of re-inspection.

(e) Upon a finding that the ~~Certificate holder~~, Licensee or Franchisee has failed to abate the violation after the final deadline, the Licensee or Franchisee shall be required to cease performing the Activity resulting in the violation.

(f) Further inspections shall be conducted to ensure suspension of the offending Activity. If the ~~Certificate holder~~, Licensee or Franchisee has failed to suspend the offending Activity, the Chief Operating Officer shall conduct an investigation which may result in the:

- (1) Imposition of a remedy suitable to Metro to be implemented by and at the expense of the ~~Certificate holder~~, Licensee or Franchisee;
- (2) Suspension of all solid waste Activities on site;
- (3) Imposition of a lien on the property for the amount of the fines; or
- (4) Suspension, modification or revocation of the ~~Certificate~~, License or Franchise pursuant to Section 5.01.180 [of this chapter](#).

(g) In addition to subsection (a) of this section, any violation of this chapter may be enjoined by Metro upon suit in a court of competent jurisdiction and shall also be subject to a civil penalty not to exceed \$500 per day for each day of violation.

SECTION 23. Metro Code Section 5.01.400 is hereby repealed.

SECTION 24. Metro Code Section 5.01.410 is amended to read:

5.01.410 Miscellaneous Provisions

(a) The Chief Operating Officer shall be responsible for the administration and enforcement of this chapter.

(b) The granting of a ~~Certificate~~, License or Franchise shall not vest any right or privilege in the Licensee or Franchisee to receive specific quantities of Solid Waste during the term of the License or Franchise.

(c) The power and right to regulate, in the public interest, the exercise of the privileges granted by a License or Franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against holders of ~~Certificates~~, Licenses or Franchises.

(d) To be effective, a waiver of any term or condition of a ~~Certificate~~, License or Franchise must be in writing, signed by the Chief Operating Officer. Waiver of a term or conditions of a ~~Certificate~~, License or Franchise shall not waive nor prejudice Metro's right of Metro otherwise to require performance of the same term or conditions or any other term or condition.

(e) A ~~Certificate~~, License or Franchise shall be construed, applied and enforced in accordance with the laws of the State of Oregon.

(f) If any provision of a ~~Certificate~~, License or Franchise is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in the ~~Certificate~~, License or Franchise shall not be affected.

(g) Nothing in this chapter is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to any Solid Waste Facility or Disposal Site that it is authorized or required to enforce or administer.

(h) Nothing in this chapter shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies, including but not limited to, local health departments, regional water quality control boards, local land use authorities, and fire authorities.

(i) Nothing in this chapter is intended to establish standards or other regulatory requirements for inadvertent composting resulting from the storage of organic materials.

SECTION 25. Metro Code Section 7.01.020 is amended to read:

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, ~~certified~~, 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 sub-section (d) by the amount of solid waste tonnage which the Chief Operating Officer reports to the Council under sub-section (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.
- (2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.

(f) By December 1, 2000, and by March 1st of each year thereafter, 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
1999	43%
2000	46%
2001	48%
2002	50%
2003	52%
2004	54%
2005	56%

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 ~~certified~~, 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 six (6) 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 equal to the amount resulting from reducing the Excise Tax due by the amount corresponding with the Facility Recovery Rates 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.

SECTION 26. Metro Code Section 7.01.050 is amended to read:

7.01.050 Exemptions

- (a) The following persons, users and operators are exempt from the requirements of this chapter:
- (1) Persons, users and operators whom Metro is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the State of Oregon.
 - (2) Persons who are users and operators of the Portland Civic Stadium or the Portland Center for the Performing Arts.
 - (3) Persons whose payments to Metro or to an operator constitute a donation, gift or bequest for the receipt of which neither Metro nor any operator is under any contractual obligation related thereto.
 - (4) Any persons making payment to Metro for a business license pursuant to ORS 701.015.

- (5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to Metro for any purpose other than solid waste disposal, use of a Metro ERC facility, or use of the Oregon Zoo.
- (6) Users of the following facilities:
 - (A) Facilities that are ~~certified~~, licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a) ~~as amended by Metro Ord. 00-866~~;
 - (B) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances;
 - ~~(C) Licensed yard debris processing facilities or yard debris reload facilities;~~
 - ~~(DC)~~ Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.
- (7) Persons making payments to Metro on behalf of the Oregon Zoo for the following purposes:
 - (A) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon Zoo Parents program;
 - (B) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects conducted at the Oregon Zoo;
 - (C) Payments that entitle a person to admission to a fund-raising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo;
 - (D) Payments that entitle a person to admission to a special fund-raising event held at the Oregon Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support the Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo;
 - (E) Notwithstanding the provisions of subsection (A) through (D) above, all payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups

including but not limited to employee and family member picnics, corporate or family parties, or similar events.

- (8) Users and operators paying compensation to any person who is operating and lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.
- (9) A tire processor which is regulated pursuant to Metro Code Chapter 5.01 and which sorts, classifies or processes used tires into fuel or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process, provided said residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro certificate, license or franchise.
- (10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

(b) Any person, user or operator that is exempt for the payment of an excise tax pursuant to this section shall nonetheless be liable for compliance with this chapter and the payment of all taxes due pursuant to any activity engaged in by such person which is subject to this chapter and not specifically exempted from the requirements hereof. Any operator whose entire compensation from others for use of a Metro facility is exempt from the provisions of this chapter shall be deemed to be a user and not an operator.

ADOPTED by the Metro Council this _____ day of _____, 2003.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

DRAFT

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 03-XXX
CODE CHAPTER 5.05 RELATING TO SOLID)	
WASTE FLOW CONTROL)	Introduced by David Bragdon, Metro Council
)	President

WHEREAS, the Metro Solid Waste Flow Control Code is set forth in Chapter 5.05 of the Metro Code; and,

WHEREAS, the Metro Solid Waste Flow Control Code requires updating to adequately address current solid waste regulatory issues; and,

WHEREAS, Metro’s day-to-day affairs are now managed and directed by the Chief Operating Officer; and,

WHEREAS, it is necessary to amend the Solid Waste Flow Control Code, codified as Metro Code Chapter 5.05, to accomplish these objectives; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 5.05.010 is amended to read:

5.05.010 Definitions

Notwithstanding anything expressed or implied in the Metro Code to the contrary, as used in this chapter 5.05, the following terms shall have the respective meanings set forth below unless the context requires otherwise:

(a) “Act” shall mean Oregon Revised Statutes Chapter 268, as amended, and other applicable provisions of the laws of the State of Oregon.

(b) “Cleanup Material Contaminated By Hazardous Substances” shall have the meaning assigned thereto in Metro Code Section 5.01.010.

~~(b)~~ “Council” shall have the meaning assigned thereto in Metro Code Section 1.01.040.

~~(c)~~ “Designated facility” means one of the facilities constituting a part of the system designated from time to time pursuant to Section 5.05.030.

~~(d)~~ “Director” means the Director of the Metro Regional Environmental Management Department or the Director’s designee.

~~(e)~~ “Disposal site” means the land and facilities determined from time to time by Metro as constituting part of the system, whether owned by Metro or another person and whether or not open to the public, used for the disposal of solid wastes, but does not include transfer stations or processing facilities.

(fg) “District” shall have the meaning assigned thereto in Metro Code Section 1.01.040.

(gh) “Metro Code” means the Code of Metro.

(i) “Non-putrescible waste” shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(hj) “Non-system facility” means any solid waste disposal site, transfer station, processing facility, recycling drop center, resource recovery facility or other facility for the disposal, recycling or other processing of solid waste which does not constitute part of the system.

(ik) “Non-system license” means a license issued pursuant to and in accordance with Metro Code Section 5.05.035.

(jl) “Person” shall have the meaning assigned thereto in Metro Code Section 1.01.040.

(km) “Processing facility” shall mean a facility described in Metro Code Section 5.01.010 which has been designated by Metro as constituting part of the system.

(n) “Putrescible” shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(o) “Putrescible waste” shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(lp) “Regional Solid Waste Management Plan” means the Metro regional solid waste management plan adopted by Ordinance No. 95-624 on November 30, 1995, and as subsequently amended by the Metro Council.

(mq) “Regional system fee” shall have the meaning assigned thereto in Metro Code Section 5.02.015.

(nr) “Required use order” means a written order issued pursuant to Metro Code Section 5.05.040 requiring a waste hauler or other person to use a designated facility pursuant to the terms of the order.

(os) “Resource recovery facility” shall mean a facility described in Metro Code Section 5.01.010 which has been designated by Metro as constituting part of the system.

(pt) “Solid waste” shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(qu) “Source separated recyclable material” shall have the meaning assigned thereto in ~~ORS 459.005~~ Metro Code Section 5.01.010.

(v) “Special waste” shall have the meaning assigned thereto in Metro Code Section 5.02.015.

(rw) “State” shall have the meaning assigned thereto in Metro Code Section 1.01.040.

(sx) “System” shall mean any and all facilities now or hereafter designated by Metro as part of its system for the management and disposal of solid and liquid waste, including, but not limited to recycling and other volume reduction facilities, sanitary landfills, or other disposal means, resource

recovery facilities (including steam production and electrical generating facilities using solid waste as fuel), recycling and transfer stations, roads, water lines, wastewater lines and treatment facilities to the extent provided or operated to carry out the provisions of the Act, and all buildings, fixtures, equipment and all property, real and personal now or hereafter owned, leased, operated or used by Metro, all for the purpose of providing for solid and liquid waste disposal; said system consists of the designated facilities described in Section 5.05.030(a) of this chapter.

(ty) “Transfer station” shall mean a facility described in Metro Code Section 5.01.010 which has been designated by Metro as constituting part of the system.

(tz) “Waste hauler” means any person engaged, in whole or part, in the collection, transportation, delivery, or disposal of solid waste generated within Metro, including any person engaged in such activities with respect to solid waste generated by such person as well as any person engaged in such activities with respect to solid waste generated by others.

SECTION 2. Metro Code Section 5.05.020 is amended to read:

5.05.020 Authority, Jurisdiction, and Application

(a) Metro’s Solid Waste flow control authority is established under ORS Chapter 268 for Solid Waste and the Metro Charter and includes authority to regulate Solid Waste generated within Metro.

(b) This chapter shall govern the transportation, transfer, disposal and other processing of all solid waste generated within Metro as authorized by state law, and shall govern all waste haulers and other persons who generate solid waste within Metro or who transport, transfer, dispose or otherwise deal with or process solid waste generated within Metro; provided that notwithstanding the foregoing, this chapter does not apply to or govern the transportation, transfer or processing of, or other dealing with, non-putrescible source separated recyclable materials that are reused or recycled, or are transferred, transported or delivered to a person or facility that will reuse or recycle them.

(c) All Solid Waste regulation shall be subject to the authority of all other applicable laws, regulations or requirements in addition to those contained in this chapter. Nothing in this chapter is intended to abridge or alter the rights of action by the State or by a person which exist in equity, common law, or other statutes to abate pollution or to abate a nuisance. The provisions of this chapter shall be liberally construed to accomplish these purposes.

SECTION 3. Metro Code Section 5.05.030 is amended to read:

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) 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.
- (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.
- (6) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Oregon Waste Systems, Inc. subject to the terms of the agreements in existence on November 14, 1989 between Metro and Oregon Waste Systems and between Metro and Jack Gray Transport, Inc. In addition, Columbia Ridge Landfill may accept special waste generated within Metro:
 - (A) As specified in an agreement entered into between Metro and Oregon Waste Systems authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the facility 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 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 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 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 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 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 special 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. 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.

SECTION 4. Metro Code Section 5.05.035 is amended to read:

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; and
- (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.
- (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.

(b) Every application shall be accompanied by payment of a non-refundable application fee, and an issuance fee which shall be refunded to the applicant in the event that the application is denied. Until such time as Council acts on the Chief Operating Officer's recommendation pursuant to Section 5.05.035(g) of this chapter, the following fees shall apply:

- (1) For a limited duration non-system license, the application fee shall be fifty dollars (\$50) and the issuance fee shall be fifty dollars (\$50) for each 30 days (or part thereof) that the license is valid;
- (2) For all other non-system licenses, the application fee shall be five hundred dollars (\$500) and the issuance fee shall be five hundred dollars (\$500).

- (3) Notwithstanding any other requirement of this section, the Chief Operating Officer may waive the application fee for an application for a non-system license seeking authority to deliver a de minimis amount of solid waste per year to a non-system facility.

(c) Determination Whether to Issue Non-System License. Within 60 days after receipt of a completed application for a non-system license for Non-putrescible waste, Special waste and Cleanup Material Contaminated By Hazardous Substances and any additional information required by the Chief Operating Officer in connection therewith, the Chief Operating Officer shall determine whether or not to issue the non-system license and shall inform the applicant in writing of such determination. Within 60 days after receipt of a completed application for a non-system license for Putrescible waste and any additional information required in connection therewith, the Chief Operating Officer shall formulate and provide to the Council recommendations regarding whether the proposed non-system license meets the requirements of section 5.05.035 of this chapter and whether the application should be granted or denied. If the Chief Operating Officer recommends that the application be granted, the Chief Operating Officer shall recommend to the Council specific conditions of the non-system license. Within 120 days after receipt of a completed application for a non-system license for Putrescible waste and any additional information required in connection therewith, the Council shall determine whether or not to issue the non-system license and shall direct the Chief Operating Officer to inform the applicant in writing of such determination. In making such determinations, the Chief Operating Officer or Metro Council, as applicable, shall consider the following factors to the extent relevant to such determination:

- (1) The degree to which prior users of the non-system facility and waste types accepted at the non-system 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 non-system 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 non-system 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 applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations.
- (7) Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.

At the discretion of the Chief Operating Officer or the Council, the Chief Operating Officer or Council may impose such conditions on the issuance of a non-system license as ~~the Chief Operating Officer determines are deemed~~ necessary or appropriate under the circumstances.

(d) Issuance of Non-System License; Contents. ~~In the event the Chief Operating Officer determines to issue a non-system license, then such non-system license shall be issued by the Chief Operating Officer.~~ Each non-system license shall be in writing and shall set forth the following:

- (1) The name and address of the waste hauler or other person to whom such non-system license is issued;
- (2) The nature of the solid waste to be covered by the non-system license;
- (3) The maximum total, weekly, monthly or annual quantity of solid waste to be covered by the non-system license;
- (4) The non-system facility or facilities at which or to which the solid waste covered by the non-system license is to be transported or otherwise processed;
- (5) The expiration date of the non-system license, which date shall be not more than 120 days from the date of issuance for limited-duration non-system licenses, and two years from the date of issuance for all other non-system licenses; and
- (6) Any conditions imposed by the Chief Operating Officer as provided above which must be complied with by the licensee during the term of such non-system license, including but not limited to conditions that address the factors in Section 5.05.035(c).

(e) Requirements to be met by License Holder. Each waste hauler or other person to whom a non-system license is issued shall be required to:

- (1) Maintain complete and accurate records regarding all solid waste transported, disposed of or otherwise processed pursuant to the non-system license, and make such records available to Metro or its duly designated agents for inspection, auditing and copying upon not less than three days written notice from Metro;
- (2) Report in writing to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, the number of tons of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month;
- (3) Pay to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, a fee equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month.

(f) Failure to Comply with Non-System License. In the event that any waste hauler or other person to whom a non-system license is issued fails to fully and promptly comply with the requirements set forth in Section 5.05.035(e) above or any conditions of such non-system license imposed pursuant to Section 5.05.035(c), then, upon discovery of such non-compliance, the Chief Operating Officer shall issue

to such licensee a written notice of non-compliance briefly describing such failure. If, within 20 days following the date of such notice of non-compliance or such longer period as the Chief Operating Officer may determine to grant as provided below, the licensee fails to:

- (1) Demonstrate to the satisfaction of the Chief Operating Officer either that the licensee has at all times fully and promptly complied with the foregoing requirements and the conditions of such non-system license or that the licensee has fully corrected such non-compliance; and
- (2) Paid in full, or made arrangements satisfactory to the Chief Operating Officer for the payment in full of, all fines owing as a result of such non-compliance;

Then, and in such event such non-system license shall automatically terminate, effective as of 5:00 p.m. (local time) on such 20th day or on the last day of such longer period as the Chief Operating Officer may determine to grant as provided below. If, in the judgment of the Chief Operating Officer, such non-compliance cannot be corrected within such 20-day period but the licensee is capable of correcting it and within such 20-day period diligently commences such appropriate corrective action as shall be approved by the Chief Operating Officer, then and in such event such 20-day period shall be extended for such additional number of days as shall be specified by the Chief Operating Officer in writing, but in no event shall such the local period as so extended be more than 60 days from the date of the notice of non-compliance.

~~(g) Chief Operating Officer to Recommend License Application and Issuance Fee Schedules. Prior to March 15, 2002, the Chief Operating Officer shall recommend to council non system license application and issuance fee schedules which vary for each applicant and licensee based on the type and quantity of solid waste subject to the non-system license and other appropriate factors.~~

ADOPTED by the Metro Council this _____ day of _____, 2003.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

DRAFT STAFF REPORT

IN CONSIDERATION OF ORDINANCE NOS. 03-XXX AND 03-XXX FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.01, 7.01 AND 5.05 REGARDING SOLID WASTE FACILITY REGULATION

Date: June 24, 2003

Presented by: Janet Matthews

BACKGROUND

As the region's solid waste system has grown in size and complexity over the past 10 years, Metro's regulatory and enforcement capabilities have evolved in response – ensuring that existing and proposed private solid waste facilities and transporters comply with Metro Code, administrative procedures, and performance standards.

There are currently 47 Metro regulated facilities and haulers operating in and out of the region; approximately 20 new applications for operating authorization are, or soon will be, in the pipeline. Decisions on license and franchise renewals will have to be made this year, and several of these have important implications for the solid waste system.

Most operating authorization decisions that continue to come before the Metro Council, however, are not about policy-setting or system impacts. These are administrative in nature, and are more appropriately administered by the Chief Operating Officer (COO). In addition, several regulatory decisions currently reserved for the COO are policy-related, have system impacts, and more appropriately belong in the jurisdiction of the Council.

Current operating authorization responsibilities in Code were developed during the era when the Executive Officer (EO) was an independently-elected official, not responsible to the Council. During this time, the agency staff worked for the EO, and the only way for the Council to influence regulatory decisions such as operating authorizations was by mandating in the Code that such decisions were reserved for the Council. Since January 2003, however, there has been a new institutional arrangement. Agency staff now work for the Council through a COO, who is responsible to the Council, and can be assumed to be more responsive to Council direction than under the previous structure. It is, therefore, now appropriate to update Chapters 5.01 and 5.05 of the Code, to reflect a new division of responsibilities.

The proposed code amendments are intended to:

1. reserve policy-related operating authorization decisions for Council;
2. delegate non-policy operating authorization decisions to the COO;
3. produce efficiencies for agency legislative and administrative review; and
4. continue to protect public health and safety.

In order to accomplish these objectives, a decision factors framework has been developed for consideration by the Council and COO.

Decision Factors Framework

The proposed amendments are intended to streamline the decision-making process for operating authorization through Metro Code Chapter 5.01 (facilities inside the region) and Chapter 5.05 (waste taken outside the region). Under this proposal, issuing a license would become an administrative action, while issuing a franchise would continue to be subject to Council action.

Council. A legislative review and decision process would continue to be employed when any facility processing putrescible (i.e., “wet”) waste seeks authority to operate by applying for a franchise. Wet waste involves policy decisions regarding market entry due to the potential for impacts on the solid waste system (e.g., contracts, rates, public investment). It is proposed that the following factors be considered for Council operating authorization decisions:

- ❑ Whether all standards have been met, including local land use approval.
- ❑ Potential impact on major Metro contracts (transfer, transportation and disposal).
- ❑ Potential impact on existing infrastructure, rates or operating efficiency of Metro facilities.

Examples: local transfer stations, regional transfer stations, landfills, hauling or disposing of wet waste outside the region, and food waste composting and reloading facilities.

Chief Operating Officer. A COO review and decision process is proposed for facilities processing yard debris or non-putrescible (i.e., “dry”) waste. Under current Code, dry waste and yard debris have a lower barrier to market entry due to their lower risk for potential impact on the solid waste system. Therefore, operating authorization should be an administrative decision. It is proposed that the following factors be considered for COO operating authorization decisions:

- ❑ Whether local land use approval has been granted, and DEQ permits have been obtained.
- ❑ Whether entry standards can be met (e.g., can applicant operate safely and responsibly, ability to pay fees and taxes, obtain financial assurance, liability insurance).
- ❑ Whether standards or conditions specific to an activity or facility can be met (e.g., effective odor minimization plan, appropriate operating plan, meet material recovery requirements).

Examples: reload facilities, material recovery facilities, yard debris composting facilities, and hauling or disposing of dry waste outside the region.

In summary, the Council would continue to have authority over policy-related operating authorization decisions that include franchise applications and wet waste Designated Facility Agreements (DFAs). In addition, the Council would assume authority over wet waste Non-System Licenses (NSLs) – which are currently an administrative action. The responsibility for approving or denying licenses would shift from the Council to the COO. This would help accomplish the intended goals for producing efficiencies for both legislative and administrative functions in the agency, improve the efficiency of the solid waste authorization process, and continue to protect public health and safety.

For a more detailed comparison of the current Code and proposed changes to solid waste operating authorizations, see Table 1 on the next page.

Table 1 - Solid Waste Operating Authorizations: Existing and Proposed Framework

Existing	Certificate	License	Franchise	Non-System License¹	Designated Facility Agreement
COO Action					
(1) Processing petroleum contaminated soil	X				
(2) Material recovery <10% residual	X				
(3) Hauling <u>dry</u> waste <i>outside the region</i> .				X	
(4) Hauling <u>wet</u> waste <i>outside the region</i> .				X	
Council Action					
(5) Reload (solid waste, yard debris, soil, food)		X			
(6) Yard debris composting		X			
(7) Food waste composting			X		
(8) Material recovery >10% residual		X			
(9) Local Transfer Station ²		X	X		
(10) Regional Transfer Station			X		
(11) Landfill or energy recovery (in-region)			X		
(12) A facility <i>located outside region</i> that takes <u>dry</u> or special waste from the region					X
(13) A facility <i>outside the region</i> accepting <u>wet</u> waste from the region.					X

¹ Hauling to a facility without a Designated Facility Agreement with Metro.

² A Local Transfer Station is franchised only if direct hauling putrescible waste to Columbia Ridge, otherwise Licensed.

Proposed	License³	Franchise	Non-System License	Designated Facility Agreement
COO Action				
(1) Processing petroleum contaminated soil	X			
(2) (8) Material recovery	X			
(3) Hauling <u>dry</u> waste <i>outside the region</i>			X	
(5) Reload (solid waste, yard debris, soil)	X			
(6) Yard Debris Composting	X			
(12) A facility <i>located outside region</i> that takes <u>dry</u> or special waste from the region				X
Council Action				
(4) Hauling <u>wet</u> waste <i>outside the region</i> .			X	
(7) Putrescible waste processing (e.g., food waste composting)		X		
(9) Local Transfer Station		X		
(10) Regional Transfer Station		X		
(11) Landfill or energy recovery (in-region)		X		
(13) A facility <i>outside the region</i> accepting <u>wet</u> waste from the region.				X

³ The proposal combines Certificates with Licenses and eliminates the Certificate as a regulatory category.

Overview of Changes to Metro Code Chapters 5.01, 7.01 and 5.05

Key amendments are outlined below. The first section addresses Chapter 5.01, the second addresses Chapter 7.01 and the third discusses Chapter 5.05.

Metro Code Chapter 5.01 – Solid Waste Facilities Inside the Metro Region

1. **Adds COO Authority.**

- Allows new facility license applications and existing facility license renewals to be reviewed and approved through an administrative action by the COO (Section 5.01.067(a)).

Purpose: Streamlines the decision-making process and increases efficiency through an administrative review and approval process for license applications and renewals. This gives the COO authority to approve or deny licenses based on whether the application meets the requirements of the Metro Code Section 5.01.060, 5.01.067, and 5.01.087 (i.e., the same criteria that the COO currently uses to recommend to Council whether to grant or deny a license application or renewal). This would free the Council to focus on critical policy issues and system decisions.

2. **Eliminates Certificates as a Regulatory Category.**

- Certificates are eliminated as a regulatory category (primarily Sections 5.01.045 and 5.01.065).

Purpose: Consolidates similar regulatory categories, makes certificates a licensable activity. Currently, the COO may approve or deny an application for a certificate through an administrative process. Since the proposed Code amendments would now provide the COO with the authority to approve or deny licenses through an administrative process, there is no longer any need for the certificate category. Currently there are two types of facilities that must get a Metro certificate to operate: (1) facilities that process non-putrescible waste with less than ten percent processing residual, and (2) petroleum contaminated soil processors. These amendments would make both of those activities licensable.

3. **Simplifies Material Recovery Facility Classifications.**

- There are currently two separate categories of material recovery facilities (i.e., facilities that recover non-putrescible waste). As noted in #2 above, a certificate is required with less than ten percent processing residual and a license is required with more than ten percent processing residual. Because the certificate is eliminated as a regulatory category, both activities would be merged into a single category that requires a license (Section 5.01.045(a)(1)).

Purpose: Simplifies regulation for material recovery facilities. Currently, a certificate is required for the activity of processing non-putrescible waste if the processing results in residual of less than ten percent. However, a license is required for processing non-putrescible waste if the processing results in residual of more than ten percent. The proposed Code amendment removes the distinction for processing residual, eliminates the certificate requirement, and maintains the license requirement for processing non-putrescible waste.

4. Clarifies Which Activities Require a Franchise.

- ❑ Local Transfer Stations. A franchise would be required to operate a Local Transfer Station (currently a licensable activity, but all existing Local Transfer Stations have franchises because they all have “direct haul” authority, which requires a franchise - Section 5.01.045(b)(2)).

Purpose: Ensures Council review and approval of all transfer stations (Local Transfer Stations and Regional Transfer Stations) - consistent with the decision factors for streamlining the regulatory review process.

- ❑ Putrescible Waste Processing (e.g., food waste composting) Specifies that a franchise would be required to operate a putrescible waste processing facility. This would include food waste composting (Section 5.01.045(b)(1)).

Purpose: Identifies that processing of putrescible waste (other than yard debris) would be a franchised activity, clearly distinct from yard debris composting, which is a licensable activity.

5. Clarifies Exempt Facilities.

- ❑ Clarify the exemptions for specified activities (Section 5.01.040).

Purpose: To ensure consistency with existing Code provisions in Section 5.01.135(d) that allows Metro to inspect an exempt operation to verify that it is conducted in a manner that qualifies it as exempt.

- ❑ Clarify what types of non-putrescible source-separated recyclable materials are exempt from regulation: 5.01.040(a)(3)

Purpose: Currently, facilities that exclusively receive non-putrescible source-separated recyclable materials are exempt from obtaining Metro operating authorization. The proposed amendment would clarify that the exemption applies to operations that receive and reuse or recycle the source-separated recyclable material. This ensures that the regulatory exemption for traditional source-separated recyclable materials is not unintentionally extended to other waste streams that could be received for a tip fee, and then stockpiled indefinitely creating a health and safety hazard (e.g., drywall, tires, carpet, roofing).

6. Adds Flexibility to Application Review.

- ❑ Improves the flexibility of the application review period for licenses and franchises (Sections 5.01.060, 5.01.067 and 5.01.070).

Purpose: The amendments would permit: (1) the license and franchise review period to be extended by mutual agreement of the applicant and the COO; (2) license and franchise applicants to withdraw an application at any time prior to a decision and to resubmit a new application at any time thereafter; (3) the application review period to be restarted if the applicant substantially modifies its application after submission; and (4) the Council to extend their review period for franchises for up to 60 days.

7. Adds Flexibility to Duration of Licenses and Franchises.

- ❑ Permits licenses and franchises to be issued for periods of less than five years (current Code permits only five-year terms)

Purpose: There may be a few instances where it is in the public interest to issue a license or franchise for a period less than five years, based on operator experience, nature of materials, markets and proposed operations.

8. Clarifies Cost as a Factor in Franchise Applications.

- ❑ Makes clear that a Franchise application must include consideration of the likely effect of the proposed operation on the cost of solid waste disposal and recycling services for the citizens of the region - Section 5.01.060(d). In addition, this amendment identifies such costs as a factor for Council in determining issuance of a Franchise – Section 5.01.070(f).

Purpose: These provisions would replace the outdated “System Cost” analysis that is only required for direct haul (revised Sections 5.01.045(b)(4) and 5.01.060(e)). The replacement text makes clear that Council will still consider cost as a factor in making decisions about Franchises.

Metro Code Chapter 7.01 – Excise Taxes

- ❑ Metro Code Chapter 7.01 is amended to delete references to Certificates in several locations. This is consistent with the proposed amendments to Chapter 5.01 that would consolidate Certificates and Licenses and delete the Certificate as a regulatory category.

Metro Code Chapter 5.05 – Solid Waste Leaving the Metro Region

1. Clarifies Source-Separated Recyclable Material Exemption.

- ❑ The existing regulatory exemption for “source-separated recyclable material” is amended to read “non-putrescible source separated recyclable materials that are reused or recycled or are transferred, transported or delivered to a person or facility that will reuse or recycle them” consistent with the amended exemptions in Chapter 5.01.

Purpose: The exemption for source-separated recyclable material is updated so that the exemption is not unintentionally extended to “food waste”, which is putrescible and may pose health and safety issues if not handled and processed appropriately. The current exemption was written at a time when food waste recovery was not contemplated and source-separated recyclable materials consisted of items such as paper, cardboard, metal and glass – all non-putrescible with existing markets and proven processing technologies.

2. Defines Who Authorizes Designated Facilities.

- ❑ Maintains Council authority to approve or deny designated facilities that accept *putrescible* waste.

- ❑ Establishes new authority for the Chief Operating Officer to approve or deny designated facilities that accept *non-putrescible* waste, special waste, and cleanup material contaminated by hazardous substances.

Purpose: Provides consistency with the decision factors framework that determines administrative or legislative action. Ensures that Council is involved in matters where there is a policy decision due to the potential for impacts on the solid waste system by an individual facility.

3. **Defines Who Authorizes Non-System Licenses.**

- ❑ Establishes authority for the Council to approve or deny non-system licenses for *putrescible* waste (currently all Non-System Licenses are approved by the COO).
- ❑ Maintains authority of the Chief Operating Officer to approve or deny non-system licenses for *non-putrescible* waste.

Purpose: Provides consistency with the decision factors framework that determines administrative or legislative action. Ensures that Council is involved in matters where there is a policy decision due to the potential for impacts on the solid waste system.

ANALYSIS / INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

Current provisions of Metro Code Chapters 5.01, 7.01 and 5.05.

3. Anticipated Effects

Adoption of Ordinance Nos. 03-XXX and 03-XXX would revise Chapters 5.01, 7.01 and 5.05 of the Metro Code to accomplish the following: 1) help produce efficiencies for both legislative and administrative functions in the agency, 2) ensure that all policy related operating authorization decisions are in the Council's hands, 3) delegate non-policy operating authorization decisions to the COO, 4) continue to protect public health and safety.

4. Budget Impacts

There may be savings as a result of fewer operating authorizations going through the legislative process.

RECOMMENDATION

The Chief Operating Officer recommends adoption of Ordinances No. 03-XXX and 03-XXX.

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3343 FOR THE PURPOSE OF AUTHORIZING EXECUTION OF CHANGE ORDER NO. 29 TO THE CONTRACT FOR WASTE TRANSPORT SERVICES FOR THE INSTALLATION OF PARTICULATE FILTERS

May 21, 2003

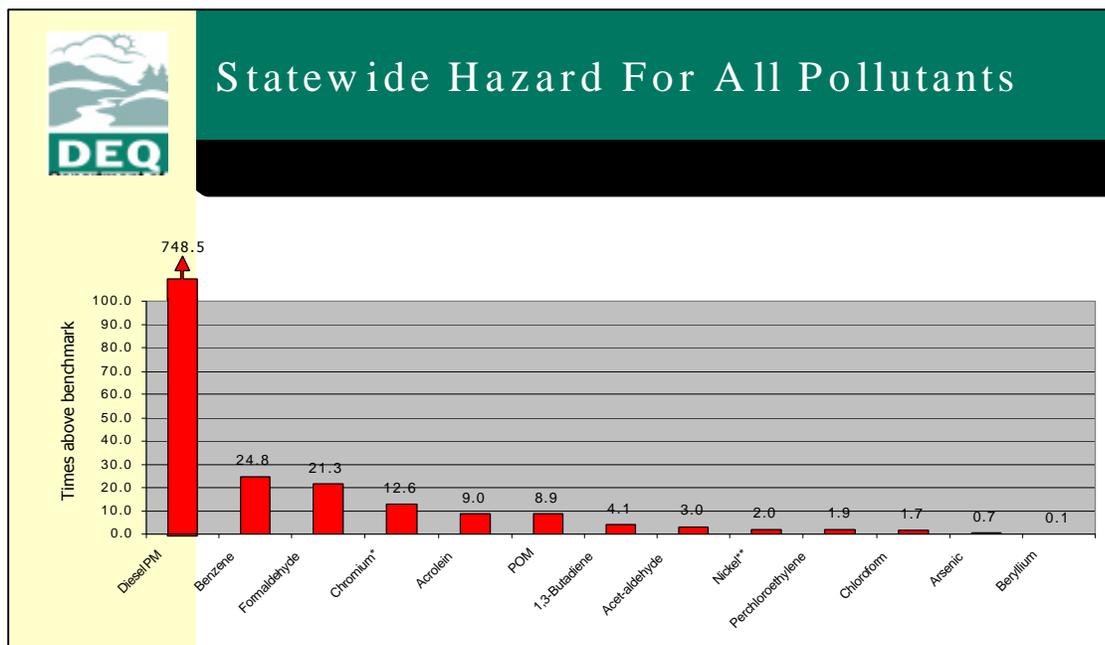
Drafted by: Chuck Geyer

BACKGROUND

In 1991, Metro began transporting solid waste from its transfer stations to the Columbia Ridge Landfill approximately 150 miles east of Portland. Waste is transported by a diesel powered semi-tractor trailer combination that carries a payload of 31 tons and gets approximately 6 miles per gallon. For calendar year 2002, Metro's Waste Transport Services Contractor (CSU, Inc.) traveled 5.5 million miles and consumed approximately one million gallons of fuel. The majority of each trip is within the Columbia River Gorge National Scenic Area.

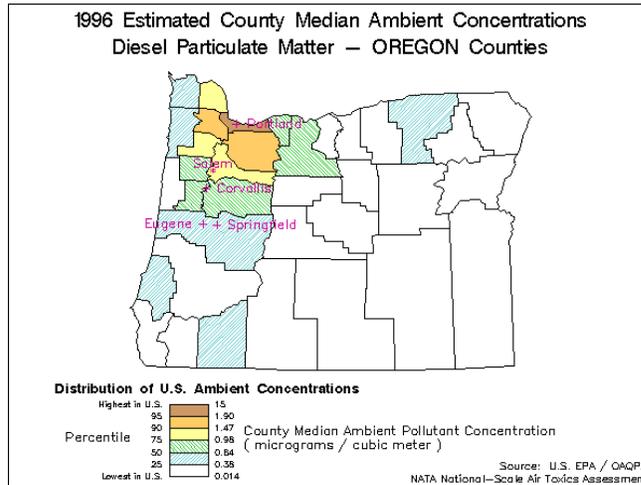
Diesel engines are used to transport the majority of freight in the United States because of their well-founded reputation for reliability, durability, power and fuel efficiency. Diesels are also known for their smoky and odorous exhaust. Increasing scientific evidence, however, indicates that diesel exhaust is more than just a nuisance. Diesel exhaust contains microscopic soot, about 200 times smaller than the period at the end of this sentence. These fine particles can be easily inhaled into the lungs and are a potent carcinogen, more even than gasoline exhaust. Scientists have also identified the soot (particulates) in diesel exhaust as a significant factor in visibility impairments (a particular concern in the Columbia Gorge Scenic Area) and global warming.¹ California research indicates diesel particulate matter (PM) is responsible for 70% of the cancer risks from ambient air toxics.²

In Oregon, PM has been estimated to be the largest toxic pollutant (as measured by cancer risk) by a large margin as shown in the following graph.





What Is The Concern in Oregon?



As can be seen in the graph, diesel particulate pollution in Oregon is concentrated in the Metro region. Multnomah County in particular has one of the highest concentrations of PM in the country, ranking in the 95th percentile nationwide. The largest consumer of diesel in the Metro area is TriMet at over 6 million gallons annually. Other large users include the barging and other transportation industries. Metro itself consumes over 1 million gallons annually for the transportation of waste.

The other major pollutants released during the combustion of diesel fuel include carbon monoxide (CO), hydrocarbons (HC) and oxides of nitrogen (NOx). CO reduces the delivery of oxygen to the body's organs and tissues and is a health threat for those with cardiovascular disease. HC contributes to the formation of ozone that is responsible for choking, coughing, and stinging eyes associated with smog. NOx can irritate the lungs, cause bronchitis and pneumonia, and lower resistance to respiratory infections. NOx are an important precursor both to ozone and acid rain.³

Acting in response to state law, the California Office of Environmental Health Hazard Assessment listed diesel exhaust among the five most hazardous substances to children because of its potent contribution to asthma and other respiratory illnesses among children.

Working with staff from the DEQ Air Quality Division, Solid Waste & Recycling staff has been investigating methods to reduce emissions from transporting waste for disposal. Initial efforts focused on implementing EPA's Voluntary Diesel Retrofit Program. This program combines the use of verified technologies such as diesel particulate filters with the use of ultra-low sulfur diesel fuel to achieve emission reductions of particulates, CO and HC of up to 90%.

³ EPA: Voluntary Diesel Retrofit Program web page.

However, we found that ultra-low sulfur diesel (ULSD) was not available in Oregon, nor could it be brought in from out-of-state sources in a cost-effective manner⁴. Staff then began investigating the technologies available to reduce emissions without burning ultra-low fuel.

EPA has not verified any technologies as being effective with regular low-sulfur diesel fuel used by CSU. It appears this is primarily due to the fact that neither manufacturers nor EPA have actively sought to verify technologies with this fuel. We then contacted manufacturers directly and found that certain particulate filter traps (DPF) were effective in reducing particulates by about 75%, and CO and HC by up to 50%, from the combustion of regular low sulfur diesel. These traps require that exhaust reach high temperatures for a long enough time to combust the trapped particulates. The vehicles transporting waste from the transfer stations to the landfill would be suitable candidates for this technology.

CSU tractors are typically retired from service after approximately 1,000,000 miles of service. Replacement tractors will be required to come equipped with newer pollution control technology as new EPA rules are phased in.⁵ To determine the number of over-the-road tractors to install with a DPF, staff chose vehicles that would be in service a minimum of three years (the warranty period for a DPF, although the filters should last at least twice that length.) There will be twelve such vehicles appropriate for retrofitting with filters out of a total of thirty CSU tractors.

In addition to over-the-road tractors, “shuttle vehicles” are located at each transfer station to move containers to and from the compactors to receive a load of waste. These vehicles are also diesel-powered. It is unclear whether a DPF or a diesel oxidation catalyst (DOC) is appropriate for these four vehicles. A DOC achieves the same level of reduction for CO and HC, but only minimally reduces particulates. A DOC is approximately half the cost of a DPF. Both devices fit into the muffler space of the vehicle’s exhaust system. The use of the DPF or DOC will be determined during the procurement process.

According to Kevin Downing of DEQ’s Air Quality Division, assuming a seven-year lifetime (the remaining years of the transport contract) and a cost of \$6,000 per unit, the overall cost per ton of reduced emissions is \$900. This compares favorably to other control technologies that average \$3,000 to \$5,000 per ton. Even if the filter were used for only three years, the cost per ton of reduced emissions would still be below other control technologies.

The proposed change order would require CSU to purchase and install particulate filters in all its over-the-road tractor-trailers that would be used for at least three years after installation of filters, and require the installation of a DPF or DOC for the four primary shuttle vehicles. These costs would be passed through to Metro per the force account procedures of the Waste Transport Services contract. CSU would be responsible for all maintenance costs.

ANALYSIS/INFORMATION

1. Known Opposition

Staff knows of no opposition to this change order.

⁴ DEQ has applied for an EPA grant to subsidize ULSD and bring it to Oregon. If DEQ is successful, staff will investigate purchasing ULSD for use in the transport of waste, and has written a letter of interest to DEQ for its grant application.

⁵ The EPA has adopted rules for over-the-road vehicles that require the use of ULSD by July 1, 2006, and the installation of after treatment technologies in vehicles manufactured after this date.

2. Legal Antecedents

Metro Code 2.04.058(b) requires that contracts designated as having a significant impact on Metro cannot be amended without the express approval of the Metro Council. Contract No. 900848 was originally designated as having a significant impact on Metro.

3. Anticipated Effects

This resolution would approve Change Order No. 29 to Contract No. 900848 between Metro and CSU Transport, Inc. This should result in over a 50% reduction of emissions for particulates, CO and HC.

4. Budget Impacts

The cost to Metro should be approximately \$124,000. Adequate funds are available for the work.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3343.

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Solid Waste Advisory Committee

Revised July 2003

Members and Alternates	Affiliation and address	Date Appt.	Phone	Fax and e-mail
Committee Chair				
Susan McLain, Chair	Metro Councilor, District 4	1/01	503-797-1553	503-797-1793 mclains@metro.dst.or.us
Rod Park, Vice-Chair	Metro Councilor, District 1	01/03	503-797-1547	797-1793 parkr@metro.dst.or.us

Recycling Industry Representatives (3)

FACILITIES

Jeff Murray, Member	Far West Fibers PO Box 1139 Hillsboro, OR 97123-1139	11/02	503-643-9944	503-646-2975 jmurray@farwestfibers.com
Andy Kahut, Alternate	KB Recycling, Inc. PO Box 550 Canby, OR 97013-0550	11/02	503-659-7004 503-266-7903	503-659-2107 kbrec@aol.com

COMPOSTERS

Glenn Zimmerman, Member	Wood Waste Reclamation PO Box 1136 Aumsville, OR 97325-1136	11/02	503-749-3117	503-749-3943 gmzimmerman@hotmail.com
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Alternate, Vacant

END-USERS

John Lucini, Member	SP Newsprint Company 15350 SW Sequoia Pkwy Ste 150 Portland, OR 97224	02/00	503-431-6100	503-431-6112 john.lucini@spnewsprint.com
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Alternate, Vacant

Hauling Industry Representatives (4)

CLACKAMAS COUNTY

Steve Schwab, Member	Sunset Garbage Collection 9035 SE Henderson Portland, OR 97266	11/02	503-774-4122	503-788-0170 sgesteve@qwest.net
Mike Borg, Alternate	Oak Grove Disposal PO Box 22214 Milwaukie, OR 97269-2214	11/02	503-654-6118	503-786-2837 carolynflint@hotmail.com

MULTNOMAH COUNTY

Mike Miller, Member	Gresham Sanitary Service PO Box 1560 Gresham, OR 97030	11/02	503-665-2424	503-666-0917 mike@greshamsanitary.com
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Members and Alternates	Affiliation and address	Date Appt.	Phone	Fax and e-mail
Bryan Engleson, Alternate	Eastside Recycling 14041-A NE Sandy Blvd. Portland, OR 97230	11/02	503-261-7300	503-255-7731
WASHINGTON COUNTY				
Mike Leichner, Member	Pride Disposal PO Box 820 Sherwood, OR 97140	11/02	503-625-6177	503-625-6179 mike@pridedisposal.com
Charles Marshall, Alternate	Executive Director WA County Haulers Assoc. 15135 NW Perimeter Dr. Beaverton, OR 97006-5413	11/02	503-645-2366	503-531-8763 CRMgt@aol.com
AT-LARGE				
David White, Member	OR Refuse & Recycling, Assn 1739 NW 156 th Beaverton, OR 97006	11/02	503-690-3143	503-690-3143 orra@ix.netcom.com
Brian Heiberg, Alternative	Heiberg Garbage PO Box 22069 Portland, OR 97269-2069	11/02	503-794-8212	503-794-2697

Disposal Site Representatives (3)

Dean Kampfner, Member	District Manager/Washington County Operations Waste Management PO Box 6217 Beaverton, OR 97076	11/02	503-493-7831	503-643-3462 dkampfner@wm.com
Vacant, Alternate				
Ralph Gilbert, Member	East County Recycling PO Box 20096 Portland, OR 97294	11/02	503-253-0867	503-253-1902 ecr@hevanet.com
Vince Gilbert, Alternate	East County Recycling PO Box 20096 Portland, OR 97294	11/02	503-253-0867	503-253-1902 ecr@hevanet.com
Merle Irvine, Member	Allied Waste Industries, Inc. PO Box 807 Corvallis, OR 97339	11/02	541-757-0011	m Irvine@awin.com
Mike Huycke, Alternate	Waste Control Systems 10295 SW Ridder Rd. Wilsonville, OR 97070		503-570-0626	503-570-0523 mike.huycke@awin.com

Members and Alternates	Affiliation and address	Date Appt.	Phone	Fax and e-mail
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Citizens / Rate-payer Representatives (6)

CLACKAMAS COUNTY

CITIZENS

Mike Misovetz, Member	The Halton Company 4421 NE Columbia Blvd Portland, OR 97218 -or- PO Box 3377 Portland, OR 97208	11/02	503-288-6411	503-280-1842 mmisovetz@aol.com
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MULTNOMAH COUNTY

CITIZENS

Tanya Schaefer, Member	7745 SE 18 th Portland, OR 97202	11/02	503-238-6887	tk@hevanet.com
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WASHINGTON COUNTY CITIZENS

Eileen Newman, Member	5300 Baseline Rd, #349 Hillsboro, OR 97123	5/03	503-693-6154	eileen14800@yahoo.com
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BUSINESSES

Dr. Pam Pavilonis, Member	13825 SE Beech Street Milwaukie, OR 97222	05/03	503-659-2249	pavilonis@hotmail.com
Wade Lange, Member	Ashforth Pacific 3808 NE 135 th Avenue Portland, OR 97230	05/03	503-233-4048	wlange@ashforthpacific.com
Tom Badrick, Member	Legacy Health System 4216 SE Madison Street Portland, OR	05/03	503-236-6318	tbadrick@aol.com

Government Representatives (6)

CLACKAMAS COUNTY

Rick Winterhalter, Member	Clackamas County Dept. of Transportation & Development 9101 Sunnybrook Blvd. Clackamas, OR 97015	04/98	503-353-4466	503-353-4453 Rickw@co.clackamas.or.us
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Susan Ziolk, Alternate	Clackamas County Dept. of Transportation & Development 9101 Sunnybrook Blvd. Clackamas, OR 97015		503-353-4455	503-353-4453 susanzi@co.clackamas.or.us
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CLACKAMAS COUNTY CITIES

Nancy Kraushaar, Member	City of Oregon City PO Box 3040 Oregon City, OR 97045		503-657-0891	503-657-7892 nancy-k@ci.oregon-city.or.us
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Members and Alternates	Affiliation and address	Date Appt.	Phone	Fax and e-mail
Vacant, Alternate				
<u>EAST MULTNOMAH COUNTY AND CITIES</u>				
Matt Korot, Member	City of Gresham 1333 NW Eastman Pkwy Gresham, OR 97030-3813		503-618-2624	503-661-5927
Alternate, Vacant				
<u>CITY OF PORTLAND</u>				
Bruce Walker, Member	City of Portland Office of Sustainable Development 721 NW 9 th Ave Portland, OR 97204		503-823-7772	503-823-4562 bwalker@ci.portland.or.us
Susan Anderson, Alternate	City of Portland Office of Sustainable Development 721 NW 9 th Ave Portland, OR 97204		503-823-6800	503-823-5370 susananderson@ci.portland.or.us
<u>WASHINGTON COUNTY</u>				
Mark Altenhofen, Member	Washington County Solid Waste & Recycling 155 N. First Ave., MS-4 Hillsboro, OR 97124		503-846-8609	503-846-4928 mark_altenhofen@co.washington.or.us
Wendy Fisher, Alternate	Washington County Solid Waste & Recycling 155 N. First Ave., MS-4 Hillsboro, OR 97124		503-846-3661	Wendy_Fisher@co.washington.or.us
<u>WASHINGTON COUNTY CITIES</u>				
Sarah Jo Chaplen, Member	City of Hillsboro 123 W Main St. Hillsboro, OR 97123	04/99	503-681-6447	503-681-6232 sarahc@ci.hillsboro.or.us
Tom Imdieke, Alternate	City of Tigard 13125 SW Hall Blvd. Tigard, OR 97223	04/99	503-639-4171	503-639-6795 tomi@ci.tigard.or.us

Non-voting Members

<u>DEQ</u>				
Sally Puent, Member	DEQ Northwest Region 2020 SW 4 th Av. #400 Portland, OR 97201	10/01	503-229-5072	503-229-6945 puent.sally@deq.state.or.us

Members and Alternates	Affiliation and address	Date Appt.	Phone	Fax and e-mail
Mary Sue Gilliland, Alternate	DEQ 811 SW 6 th Av. Portland, OR 97204		503-229-5808	Gilliland.mary.sue@deq.state. or.us
<u>CLARK COUNTY</u>				
Anita Largent, Member	Clark County PO Box 9810 Vancouver, WA 98666-9810	03/03	360-397-6118 ext. 4830	360-397-2062 anita.largent@co.clark.wa.us
Rob Guttridge, Alternate	Clark County PO Box 9810 Vancouver, WA 98666-9810	04/02	360-397-6118 ext. 4344	360-397-2062 rob.guttridge@co.clark.wa.us
<u>CLARK COUNTY HAULERS</u>				
Eric Merrill	Waste Connections, Inc. PO Box 61726 Vancouver, WA 98666	11/02	360-695-4858 503-288-7844	360-695-5091 ericme@wasteconnection s.com
<u>METRO</u>				
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<u>CSU</u>				
Doug DeVries, Member	NW General Manager CSU 32234 11 th Av. SW Federal Way, WA 98023	07/98	253-874-1558	253-874-9820 devriesdh@aol.com
Dennis Gronquist, Alternate	Terminal Manager CSU PO Box 40 Arlington, OR 978112	07/98	541-454-2797	541-454-2185

Staff

Janet Matthews	Metro Solid Waste and Recycling Department 600 NE Grand Av. Portland, OR 97232-2736		503-797-1826	503-797-1795 matthewsj@metro.dst.or.us
Michele Adams	Metro Solid Waste and Recycling Department 600 NE Grand Av. Portland, OR 97232-2736		503-797-1649	503-797-1795 adamsm@metro.dst.or.us