

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING) RESOLUTION NO. 10-4104
OFFICER TO ISSUE A FINAL ORDER IMPOSING) Introduced by Michael Jordan,
A CIVIL PENALTY ON DAVE WACKER) Chief Operating Officer, with the
SANITARY SERVICE FOR VIOLATION OF) concurrence of David Bragdon,
METRO CODE SECTION 5.05.025(a)) Council President

WHEREAS, on August 19, 2009, the Director of the Metro Finance and Regulatory Services Department ("Director") issued Notice of Violation No. NOV-231-09 to Dave Wacker Sanitary Service ("DWS"); and

WHEREAS, NOV-231-09 stated that the Director had found that from July 23 through August 4, 2009, DWS violated Metro Code Sections 5.01.045(a)(3) and 5.05.025(a) by operating an unauthorized yard debris reload facility and delivering yard debris to that facility; and

WHEREAS, included with NOV-231-09 was a contested case notice providing DWS with an opportunity to have a hearing regarding the NOV; and

WHEREAS, DWS submitted a timely request for a contested case hearing and such hearing was held before Metro Hearings Officer Robert Shoemaker on October 23, 2009; and

WHEREAS, on November 17, 2009, the Hearings Officer issued a proposed order requiring DWS to pay to Metro \$860 in penalties; and

WHEREAS, in accordance with Metro Code Section 2.035(a), the Chief Operating Officer mailed a copy of the proposed order to DWS and informed Metro and DWS of the deadline for filing written exceptions to the proposed order; and

WHEREAS, neither Metro nor DWS filed exceptions to the proposed order; and

WHEREAS, Metro Code 2.05.045(b) provides that the Metro Council shall (1) adopt the Hearings Officer's proposed order; (2) revise or replace the findings of fact or conclusions of law in the order; or (3) remand the matter to the Hearings Officer; and

WHEREAS, the Chief Operating Officer has reviewed the proposed order and recommends that the Council authorize the Chief Operating Officer to issue the proposed order as a final order in substantially the form as that attached as Exhibit A to this resolution; and

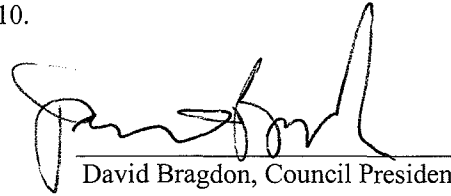
WHEREAS, in accordance with Metro Code Section 2.05.035, the Metro Council has been provided with a copy of the record in this matter for its review as it considers this resolution; and

WHEREAS, the Council has considered the proposed order, the record in this matter, and the exhibit attached to this resolution; now therefore

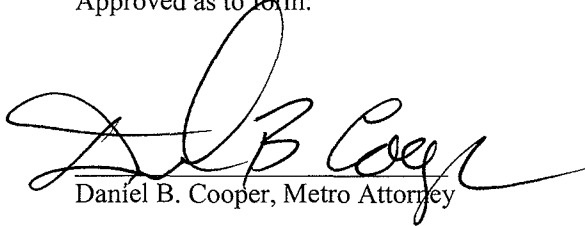
BE IT RESOLVED that the Metro Council adopts the proposed order issued by Hearings Officer Robert Shoemaker in the matter of Notice of Violation No. NOV-231-09 issued to DWS in the form of a

final order as provided in Exhibit A to this resolution, and authorizes the Chief Operating Officer to issue a final order substantially similar to Exhibit A to this resolution.

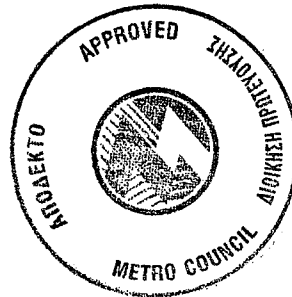
ADOPTED by the Metro Council this 4 day of February, 2010.


David Bragdon, Council President

Approved as to form:


Daniel B. Cooper, Metro Attorney

SK:bjl
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Metro | People places. Open spaces.

BEFORE THE METRO REGIONAL GOVERNMENT

In The Matter of Notice of Violations and)
Imposition of Civil Penalty NOV-231-09)
Issued to) FINAL ORDER
DAVE WACKER SANITARY SERVICE,)
Respondent)
_____)

On August 20, 2009, Metro through its Solid Waste Regulatory Division, served Notice of Violations and Imposition of Civil Penalty #NOV-231-09 on Respondent by certified mail. The Notice charged Respondent with violating Metro Code Section 5.05.025(a) by delivering yard debris to, and operating a solid waste disposal site, without a license to do so from Metro. The Notice advised Respondent of its procedural rights. Respondent requested a contested case hearing.

A hearing was held in the Metro Council Chambers on October 23, 2009, from 9:15 until 10:15 a.m. Metro was represented at the hearing by Metro Solid Waste Enforcement Coordinator, Steven Kraten. Also testifying for Metro were Warren Johnson, Solid Waste Compliance Supervisor, and Duane Altig, Solid Waste Facility Inspector. David A. Wacker, owner and authorized representative of Respondent, attended the hearing and testified on behalf of Respondent. Presiding over the hearing was Hearings Officer Robert Shoemaker.

SUBMISSION OF DOCUMENTARY EVIDENCE BY METRO

Metro submitted the following items of evidence:

Exhibit A.

1 Pages 1-2: Notice of Violations and Imposition of Civil Penalty, # NOV-231-09, dated
2 August 19, 2009.

3 Page 3: Contested Case Notice and Certificate of Service, dated August 19, 2009.

4 Pages 4 and 5: Penalty Worksheet showing a total penalty of \$860, and Invoice to
5 Respondent for that amount.

6 Page 6: Certified Mail Receipt by Respondent, signed by Sherry Wacker and dated
7 August 20, 2009.

8 Exhibit B. Facility Inspection Notes, by Inspector Will Ennis, dated August 19, 2009.
9 These notes included five photographs showing compacted yard debris awaiting reloading.

10 Exhibit C. Investigation Report by Inspector Duane Altig, dated August 4, 2009.
11 This report included 13 photographs showing compacted yard debris awaiting reloading and the
12 tipping of compacted yard debris by a Dave Wacker Sanitary Service compactor truck.

13 Exhibit D. Letter to Respondent from Warren Johnson, solid waste compliance
14 supervisor, dated August 17, 2009.

15 Exhibit E. A copy of Exhibit A with a hand written request for a contested case hearing,
16 signed by David A. Wacker.

17 18 TESTIMONY 19

20 Metro Inspector Duane Altig testified to the facts alleged in Exhibits A and C, particularly
21 as follows: On July 23, 2009, he inspected a site located at 6433 NW St Helens Road
22 in Portland and observed a number of loads of compacted yard debris apparently awaiting
23 reloading. On July 27 he spoke with David Wacker by phone and learned that Respondent
24 owned the site, and that Respondent's trucks had deposited the yard debris at the site with the
25 intention of utilizing the site as a yard debris reloading facility. In that call he informed Mr.
26 Wacker that it was illegal to use that site as a reloading facility without a license from Metro. Mr.
27 Altig further testified that in that call Mr. Wacker stated that he was under the impression that
28 yard debris was not regulated, but agreed to promptly reload the material and take it to an
29 appropriate facility, and that he would cease tipping any further loads to the site. Mr. Altig
30 further testified that on August 4, he revisited the site and observed that no yard debris had been
31 removed from the site, one additional load appeared to have been dumped, and that later that day

1 he observed a Dave Wacker Sanitary Service compactor truck tipping yard waste onto the site and
2 that the driver of the truck stated that he was employed by Respondent.

3 David A. Wacker, representing Respondent, admitted that Respondent's compactor trucks
4 tipped compacted yard debris onto Respondent's property for reloading and ultimate disposition
5 at a solid waste facility. Mr. Wacker testified that, until he talked to Mr. Altig on July 27, he did
6 not believe that a Metro license was required to tip solid waste onto your own property for
7 reloading. Mr. Wacker acknowledged receiving, and still possessing, A Solid Waste Hauler
8 Informational Bulletin on Metro Regulated Material Recovery & Reloading Activities, dated July
9 2007. Upon questioning by the hearings officer, he admitted that Respondent's activities fell
10 within the paragraph entitled "Regulated reload", which specifically apply to yard debris
11 reloading, but that until this was pointed out to him by Mr. Altig on July 27, he thought
12 Respondent's activities fell within the "Exempt" reload paragraph. When questioned by the
13 hearings officer why the site had not been cleared as promised and that additional loads had been
14 dumped there since that date despite his promise that they would not be, he acknowledged that
15 this was his mistake. Mr. Wacker also admitted that he had made a mistake in not reading the
16 Bulletin more carefully, and acknowledged that ignorance of the law is not an excuse.

17 Mr. Wacker's copy of Metro's Bulletin described above was admitted into evidence as
18 Exhibit 1.

19 Warren Johnson, Metro's solid waste compliance supervisor, advised Mr. Wacker through
20 his testimony the reasons why a license is required before any site may be used for the tipping and
21 reloading of yard debris.

22 23 **FINDINGS OF FACT** 24

25 Following up on a telephone call to Metro, on July 23, 2009, Inspector Duane Altig
26 observed approximately six compacted loads of yard debris on an unlicensed reloading site owned
27 by Respondent, located at 6433 NW St. Helens Road, in Portland, Oregon.

28 On July 27, 2009, David Wacker, was advised by Mr. Altig that it was illegal to dump
29 yard debris on any site not licensed by Metro. At that time, Mr Wacker agreed to promptly
30 remove the loads at the site and to cease any further dumping at the site without a license to do so.
31 On August 4, 2009, a further inspection of the site found one new compacted load of yard debris,
32 and the inspector observed a compactor truck owned by Respondent tip an additional load of

1 compacted yard debris at the site. On August 19, 2009, the compacted yard debris previously
2 observed remained at the site. Subsequent to that date, all yard debris was removed from the site.

3 The Penalty of \$860 as set forth on the Penalty Worksheet and charged to Respondent is
4 reasonable.

5
6 **ULTIMATE FINDINGS OF FACT,**
7 **REASONING, AND CONCLUSIONS OF LAW**
8

9 Metro Illegal Dumping Ordinance, Section 5.05.025(a) prohibits any waste hauler to
10 utilize for the disposal of solid waste any facility or disposal site without an appropriate license
11 from Metro. Solid waste includes compacted yard debris,

12 Respondent is a waste hauler. Respondent utilized a site owned by it as a reloading
13 facility for compacted yard debris, without a Metro license. Respondent's authorized
14 representative admitted, under oath, that Respondent was guilty of that illegal dumping.

15 Respondent, Dave Wacker Sanitary Service, is legally liable for violating Metro
16 Ordinance 5.05.025(a).

17
18 **ORDER**
19

20 Based upon the above findings of fact, ultimate findings of fact, reasoning, and
21 conclusions of law, Respondent Dave Wacker Sanitary Service is liable for and is required to pay
22 Metro its invoiced penalty of \$860.

23 Pursuant to ORS 34.010 to 34.102, appeal of this Final Order may be initiated by filing a
24 petition for writ of review with the Circuit Court of the State of Oregon for Multnomah County
25 within 60 days of the date of this Final Order.

26
27 **METRO REGIONAL GOVERNMENT**
28
29
30

31 Dated February 4, 2010

32

Michael Jordan
Chief Operating Officer

METRO ILLEGAL DISPOSAL ORDINANCE
BEFORE
ROBERT C. SHOEMAKER, JR., HEARINGS OFFICER

In The Matter of Notice of Violations and) PROPOSED FINAL ORDER
Imposition of Civil Penalty, # NOV-231-09)
Issued to) MET # NOV-231-09
DAVE WACKER SANITARY SERVICE)
 Respondent
_____)

On August 20, 2009, Metro through its Solid Waste Regulatory Division, served Notice of Violations and Imposition of Civil Penalty #NOV-231-09 on Respondent by certified mail. The Notice charged Respondent with violating Metro Code Section 5.05.025(a) by delivering yard debris to, and operating a solid waste disposal site, without a license to do so from Metro. The Notice advised Respondent of its procedural rights. Respondent requested a contested case hearing.

A hearing was held in the Metro Council Chambers on October 23, 2009, from 9:15 until 10:15 a.m.. Metro was represented at the hearing by Metro Solid Waste Enforcement Coordinator, Steven Kraten. Also testifying for Metro were Warren Johnson, Solid Waste Compliance Supervisor, and Duane Altig, Solid Waste Facility Inspector. David A. Wacker, owner and authorized representative of Respondent, attended the hearing and testified on behalf of Respondent.

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SUBMISSION OF DOCUMENTARY EVIDENCE BY METRO

Metro submitted the following items of evidence:

Exhibit A.

Pages 1-2: Notice of Violations and Imposition of Civil Penalty, # NOV-231-09, dated August 19, 2009.

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Pages 4 and 5: Penalty Worksheet showing a total penalty of \$860, and Invoice to Respondent for that amount.

Page 6: Certified Mail Receipt by Respondent, signed by Sherry Wacker and dated August 20, 2009.

Exhibit B. Facility Inspection Notes, by Inspector Will Ennis, dated August 19, 2009. These notes included five photographs showing compacted yard debris awaiting reloading.

Exhibit C. Investigation Report by Inspector Duane Altig, dated August 4, 2009. This report included 13 photographs showing compacted yard debris awaiting reloading and the tipping of compacted yard debris by a Dave Wacker Sanitary Service compactor truck.

Exhibit D. Letter to Respondent from Warren Johnson, solid waste compliance supervisor, dated August 17, 2009.

Exhibit E. A copy of Exhibit A with a hand written request for a contested case hearing, signed by David A. Wacker.

TESTIMONY

Metro Inspector Duane Altig testified to the facts alleged in Exhibits A and C, particularly as follows: On July 23, 2009, he inspected a site located at 6433 NW St Helens Road

/////

in Portland and observed a number of loads of compacted yard debris apparently awaiting reloading. On July 27 he spoke with David Wacker by phone and learned that Respondent owned the site, and that Respondent's trucks had deposited the yard debris at the site with the intention of utilizing the site as a yard debris reloading facility. In that call he informed Mr. Wacker that it was illegal to use that site as a reloading facility without a license from Metro. Mr. Altig further testified that in that call Mr. Wacker stated that he was under the impression that yard debris was not regulated, but agreed to promptly reload the material and take it to an appropriate facility, and that he would cease tipping any further loads to the site. Mr. Altig further testified that on August 4, he revisited the site and observed that no yard debris had been removed from the site, one additional load appeared to have been dumped, and that later that day he observed a Dave Wacker Sanitary Service compactor truck tipping yard waste onto the site and that the driver of the truck stated that he was employed by Respondent.

David A. Wacker, representing Respondent, admitted that Respondent's compactor trucks tipped compacted yard debris onto Respondent's property for reloading and ultimate disposition at a solid waste facility. Mr. Wacker testified that, until he talked to Mr. Altig on July 27, he did not believe that a Metro license was required to tip solid waste onto your own property for reloading. Mr. Wacker acknowledged receiving, and still possessing, A Solid Waste Hauler Informational Bulletin on Metro Regulated Material Recovery & Reloading Activities, dated July 2007. Upon questioning by the hearings officer, he admitted that Respondent's activities fell within the paragraph entitled "Regulated reload", which specifically apply to yard debris reloading, but that until this was pointed out to him by Mr. Altig on July 27, he thought Respondent's activities fell within the "Exempt" reload paragraph. When questioned by the hearings officer why the site had not been cleared as promised and that additional loads had been
/////

dumped there since that date despite his promise that they would not be, he acknowledged that this was his mistake. Mr. Wacker also admitted that he had made a mistake in not reading the Bulletin more carefully, and acknowledged that ignorance of the law is not an excuse.

Mr. Wacker's copy of Metro's Bulletin described above was admitted into evidence as Exhibit 1.

Warren Johnson, Metro's solid waste compliance supervisor, advised Mr. Wacker through his testimony the reasons why a license is required before any site may be used for the tipping and reloading of yard debris.

FINDINGS OF FACT

Following up on a telephone call to Metro, on July 23, 2009, Inspector Duane Altig observed approximately six compacted loads of yard debris on an unlicensed reloading site owned by Respondent, located at 6433 NW St. Helens Road, in Portland, Oregon.

On July 27, 2009, David Wacker, was advised by Mr. Altig that it was illegal to dump yard debris on any site not licensed by Metro. At that time, Mr Wacker agreed to promptly remove the loads at the site and to cease any further dumping at the site without a license to do so. On August 4, 2009, a further inspection of the site found one new compacted load of yard debris, and the inspector observed a compactor truck owned by Respondent tip an additional load of compacted yard debris at the site. On August 19, 2009, the compacted yard debris previously observed remained at the site. Subsequent to that date, all yard debris was removed from the site.

The Penalty of \$860 as set forth on the Penalty Worksheet and charged to Respondent is reasonable.

/////

4. FINAL ORDER

ULTIMATE FINDINGS OF FACT,
REASONING, AND CONCLUSIONS OF LAW

Metro Illegal Dumping Ordinance, Section 5.05.025(a) prohibits any waste hauler to utilize for the disposal of solid waste any facility or disposal site without an appropriate license from Metro. Solid waste includes compacted yard debris,

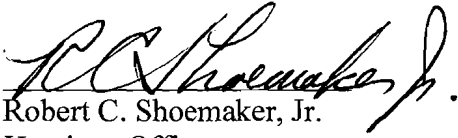
Respondent is a waste hauler. Respondent utilized a site owned by it as a reloading facility for compacted yard debris, without a Metro license. Respondent's authorized representative admitted, under oath, that Respondent was guilty of that illegal dumping.

Respondent, Dave Wacker Sanitary Service, is legally liable for violating Metro Ordinance 5.05.025(a).

ORDER

Based upon the above findings of fact, ultimate findings of fact, reasoning, and conclusions of law, Respondent Dave Wacker Sanitary Service is liable for and is required to pay Metro its invoiced penalty of \$860.

November 17, 2009.


Robert C. Shoemaker, Jr.
Hearings Officer

PROPOSED ORDER AS FINAL ORDER:

ANY MOTION TO RECONSIDER THIS ORDER MUST BE FILED WITHIN TEN DAYS OF THE ORIGINAL ORDER. IF RESPONDENT FAILS TO OBJECT OR FILE A MOTION FOR RECONSIDERATION, THEN THIS ORDER BECOMES THE FINAL ORDER. THE HEARINGS OFFICER MAY RECONSIDER THE FINAL ORDER WITH OR WITHOUT FURTHER BRIEFING OR HEARINGS. IF ALLOWED, RECONSIDERATION SHALL RESULT IN REAFFIRMANCE, MODIFICATION OR REVERSAL. FILING A MOTION FOR RECONSIDERATION DOES NOT TOLL THE PERIOD FOR FILING AN APPEAL IN COURT.

RIGHT OF APPEAL:

A PERSON MAY APPEAL A FINAL ADVERSE RULING BY WRIT OF REVIEW AS PROVIDED IN ORS 34.010 THROUGH 34.100.



Metro | *People places. Open spaces.*

September 21, 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Dave Wacker
Dave Wacker Sanitary Service
13001 SE 197th Avenue
Damascus, OR 97089

Dear Mr. Wacker:

You have been cited for violating a provision of the Metro Code, and have requested a hearing in order to explain the circumstances behind the alleged violation. A person cited with an infraction may retain an attorney to represent them provided that written notice of such representation is received by Metro legal counsel at least five working days in advance of the scheduled hearing.

Your hearing is scheduled for October 7, 2009 at 9:30 AM in the Council Chambers at Metro Center, 600 NE Grand Avenue, Portland, Oregon 97232.

Please arrive promptly. Your testimony may not be heard if you fail to arrive in time. If you require a translator, please notify Metro at least two weeks in advance of the hearing.

If an emergency prevents you from being present at the scheduled time, please call (503) 797-1835.

Notice #	NOV-231-09
Hearing Date	10/7/2009
Hearing Time	9:30 AM
Location:	Metro Center 600 NE Grand Avenue Portland, Oregon 97232 COUNCIL CHAMBERS

Enclosed with this notice are the following documents, which the Agency will rely on in your case and be offered to the Hearings Officer at the Hearing:

- (a) Copy of Notice of Violations(NOV) issued
- (b) Metro Facility Inspection Note dated August 19, 2009
- (c) Email to Warren Johnson from Duane Altig Dated August 4, 2009
- (d) Email to dswac2009@yahoo.com dated August 17, 2009
- (e) Request for hearing received 9/17/2009

5.09.100 Representation at Hearing

(a) A cited person may be represented by a retained attorney provided that written notice of such representation is received by the Metro Attorney five working days in advance of the hearing. The hearings officer may waive this notice requirement in individual cases or reset the hearing for a later date.

(b) When a cited person is not represented by legal counsel at the hearing, then Metro shall not be represented by legal counsel at the hearing. In such case, Metro legal counsel may advise Metro staff in preparation of the case and may be present at the hearing for the purpose of consulting with and advising Metro staff.

(Ordinance No. 94-557. Amended by Ordinance No. 06-1107.)



Metro | *People places. Open spaces.*

EXHIBIT A

NOTICE OF VIOLATIONS and IMPOSITION OF CIVIL PENALTY No. NOV-231-09

To: Dave Wacker, Authorized Representative
Dave Wacker Sanitary Service ("DWS")
13001 SE 197th Ave.
Damascus, OR 97089

Location of Unauthorized Facility: 6433 NW St. Helens Road
Portland, OR 97210

Operating Instrument: None

Dates of Violations: July 23, 2009 through August 4, 2009

Code Violations - Chapter 5.01: Metro Code Section 5.01.045(a)(3) stipulates that a Metro solid waste license shall be required of the person owning or controlling a facility where yard debris reloading is performed.

On July 23, 2009, Metro conducted an inspection of a facility located at 6433 NW St. Helens Road. The facility consisted of a rock-surfaced lot on which the inspector found a stockpile of approximately six loads of compacted yard debris from curbside collection. The inspector spoke with Dave Wacker by phone on July 27, 2009 and determined that the facility was under the control of DWS and that one or more DWS trucks had deposited the yard debris at the location with the intention of utilizing the lot as a yard debris reloading facility. DWS is therefore operating an unauthorized yard debris facility without an appropriate license from Metro in violation of Code Section 5.01.045(a)(3). Each day that yard debris remains on the site constitutes a separate violation, potentially subject to a penalty of \$500 per day.

Code Violations - Chapter 5.05: Metro Code Section 5.05.025(a) stipulates that: *Except as otherwise provided in this chapter, it shall be unlawful for any waste hauler or other person to 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 the District, any solid waste*

facility or disposal site without an appropriate license from Metro.

DWS delivered yard debris to an unauthorized facility without an appropriate license from Metro in violation of Code Section 5.05.025(a). Each load of yard debris delivered to the facility constitutes a separate violation.

Additional Information:

On July 27, 2009, Solid Waste inspector Duane Altig informed Dave Wacker by phone that DWS must discontinue tipping yard debris at the site and must remove the yard debris that was currently on site. Mr. Wacker stated that he would remove the yard debris by July 31. On August 4, 2009, Metro staff re-inspected the facility. DWS had failed to remove the yard debris previously deposited there. In addition the inspector observed a DWS packer truck dumping additional yard debris at the site.

Civil Penalties:

Civil penalties totaling EIGHT HUNDRED SIXTY- AND 00/100 DOLLARS (\$860.00) are imposed for the violations described in this Notice (see attached Penalty Worksheet). Subsequent violations shall make DWS subject to additional penalties of up to \$500 for each additional load. An invoice for the penalties is enclosed with this Notice.

Actions required to abate the violations:

DWS must immediately cease accepting yard debris at the site and remove all of the yard debris currently on site by August 31, 2009. The site will be re-inspected for compliance on or after September 1, 2009. Failure to cure the violations shall make DWS subject to penalties of up to \$500 for each day that yard debris remains on site and an additional \$500 for each additional load that DWS delivers to the site.

8/19/09
Date

Margo Norton
Margo Norton
Finance and Regulatory Services Director

CONTESTED CASE NOTICE

Under Metro Code Chapter 2.05, you have the right to request a contested case hearing regarding this Notice of Violation. You must make this request in writing and ensure that Metro receives the request within 30 days of the date this Notice was mailed. You may retain legal counsel to represent you at the hearing. Article IX, Section 14 of the Oregon Constitution, the Metro Charter, ORS Chapter 268, and Metro Code Chapters 2.05, 5.01, and 5.05 provide Metro's authority and jurisdiction for the hearing.

cc: Roy Brower, Solid Waste Compliance and Cleanup Manager
Steve Kraten, Solid Waste Enforcement Coordinator
Warren Johnson, Solid Waste Compliance Supervisor
Will Ennis, Solid Waste Facility Inspector
Michelle Bellia, Senior Metro Attorney
Stephanie Rawson, DEQ
Bruce Walker, City of Portland

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing NOTICE OF VIOLATION including CONTESTED CASE NOTICE on the following:

Dave Wacker, Authorized Representative
Dave Wacker Sanitary Service
13001 SE 197th Ave.
Damascus, OR 97089

On August 19th, 2009, said individuals were served with a complete and correct copy thereof via regular mail and certified mail, return receipt requested, contained in a sealed envelope, with postage prepaid, and deposited in the U.S. Post Office at Portland, Oregon.



Roy W. Brower

Solid Waste Compliance and Cleanup Manager



Metro

Penalty Worksheet

Licensee/Hauler Name

License Number

Dave Wacker Sanitary Service

None

Brief Description

Hauler delivered compactor truck loads of curbside yard debris to a vacant lot that is not authorized as a solid waste facility. After being verbally warned by Metro to cease such deliveries and to remove the yard debris from the site, the hauler failed to remove the material and delivered an additional load to the site. Metro estimates that DWS delivered a total of 6-7 loads to the site as of the dates indicated.

NOV Number
NOV-231-09Date(s) of Violation(s)
July 23 - Aug. 4, 2009Violations
6Incidences*
1Units involved
6.00**Direct Cost/Revenue Loss**

1 Administrative cost

\$500.00

2 Unpaid Regional System Fees:

NA tons at \$0.00

\$0.00

3 Unpaid Excise Taxes:

NA tons at \$0.00

\$0.00

4 Metro disposal costs (disposal contract)

\$0.00

5 Yard debris reload facility license application fee

\$300.00

6 Specify other direct cost/revenue loss

7 Add lines 1 through 6.....Equals Direct Recovery \$800.00

Indirect Cost/Revenue Loss

1 Specify indirect cost/revenue loss

2 Specify other indirect cost/revenue loss

3 Specify other indirect cost/revenue loss

4 Specify other indirect cost/revenue loss

5 Add lines 1 through 4.....Equals Indirect Recovery \$0.00

Compliance Component

1 Base penalty per load delivered to unauthorized facility

\$10.00

2 Additional penalty at \$1 per violation per repeat incident

\$0.00

3 Add lines 1 and 2

\$10.00

4 25% penalty on unpaid Regional System Fees

\$0.00

5 25% penalty on unpaid Excise Taxes

\$0.00

6 Specify other aggravating/mitigating compliance factors

7 Specify other aggravating/mitigating compliance factors

8 Sum lines 3 through 7

\$10.00

9 Total tons involved in current incident

6.00

10 Multiply lines 8 and 9.....Equals Compliance Component \$60.00

Total Penalty**\$860.00**

Worksheet prepared by

Date

Steve Kraten

August 18, 2009

* Incidences within the last three years including current incident

Code check: total penalty per violation \$143.33.

INVOICE

Please Remit To:

Metro
Accounts Receivable
600 NE Grand Avenue
Portland OR 97232-2736



Page: 1
Invoice No: REM-01070
Invoice Date: 08/19/2009
Customer Number: REM1431
Payment Terms: Net 30
Due Date: 09/18/2009

Bill To:

Dave Wacker Sanitary Service
13001 SE 197th Avenue
Damascus OR 97089

AMOUNT DUE: 860.00 USD

Amount Remitted



For billing questions, please call 503-797-1620

Line	Adj	Identifier	Description	Quantity	Unit Amt	Net Amount
Violation NOV-231-09						
1			Violation NOV-231-09	1.00	860.00	860.00
SUBTOTAL:						860.00
TOTAL AMOUNT DUE :						860.00

STANDARD

Original

**Inspection Information**

Facility Name:	Wacker Sanitary Service	Date of Inspection:	August 19, 2009	
	6433 NW St. Helens Road	Time of Inspection:	11:45-12:05	
	Portland, OR 97210	Weather:	87° F, clear	
		Site Photographs:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Inspector(s)	Will Ennis	Samples Collected:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
		If yes, material type:		

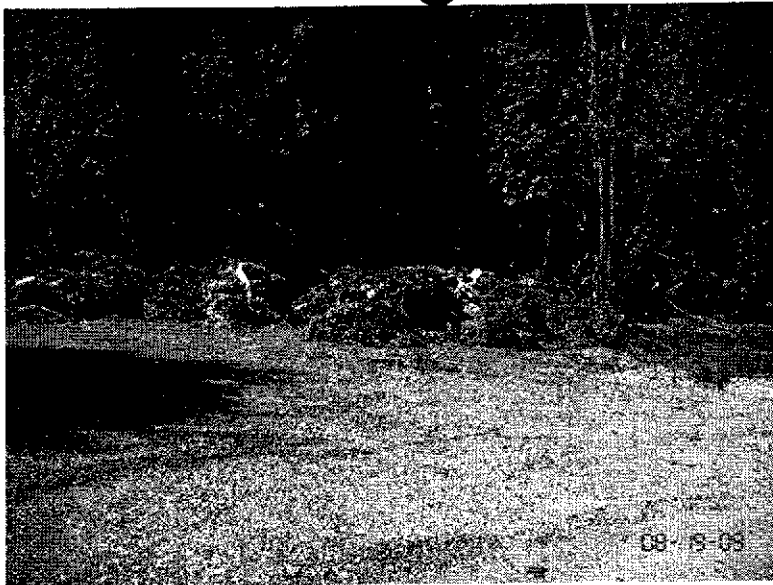
This inspection of 6433 NW St. Helens Road was conducted to observe conditions of unauthorized yard debris reload. Yard debris is deposited at the subject site by Dave Wacker Sanitary Service.

I entered the site at 11:45 and remained for 20 minutes. I did not observe anyone deposit yard debris at the site during this time. Yard debris already present on the site did not appear to have been recently deposited. I did not observe drop boxes or other containers on the site. I took several pictures of yard debris staged at the site before leaving (see photographs #1- #5).

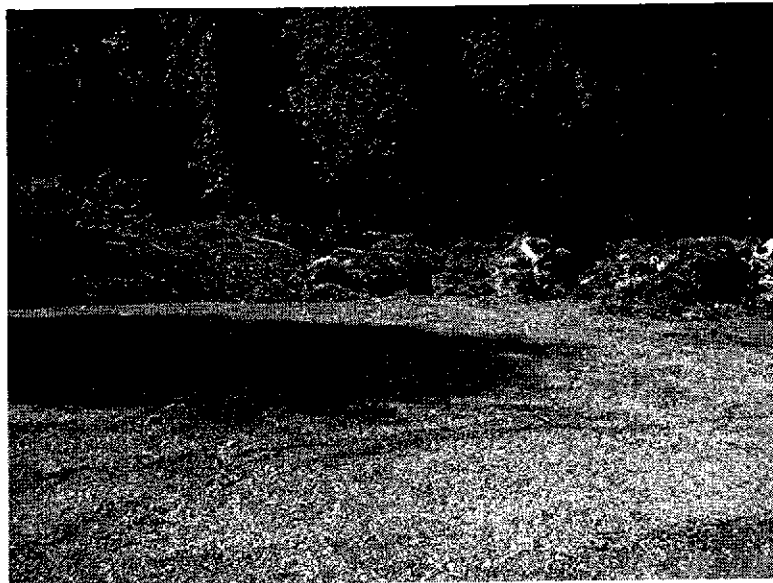
End of notes by Will Ennis

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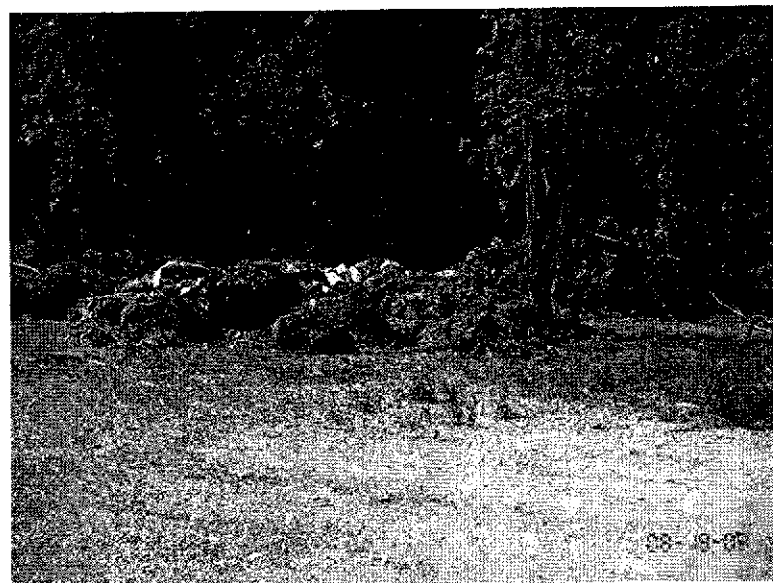
1. Wacker Sanitary: Unauthorized yard
debris reload. (WE)



2. Wacker Sanitary: Unauthorized yard
debris reload. (WE)



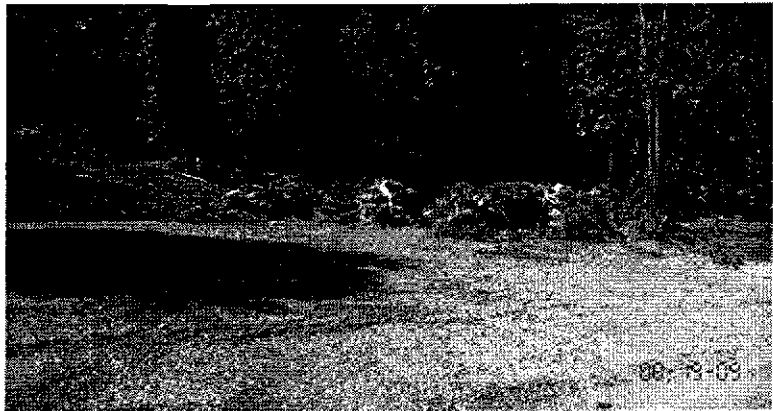
3. Wacker Sanitary: Unauthorized yard
debris reload. (WE)



4. Wacker Sanitary: Unauthorized yard debris reload. (WE)



5. Wacker Sanitary: Unauthorized yard debris reload. (WE)



Duane Altig

From: Duane Altig
Sent: Tuesday, August 04, 2009 2:54 PM
To: Warren Johnson; Steve Kraten
Subject: Update on Wacker Site
Attachments: Wacker.04AUG09.dka.pdf

04AUG09: I visited the Dave Wacker site, located at **6433 NW St. Helens Rd.**, on two different times during this day. The first visit was at **9:40 AM until 10:30 AM**. During this visit I had hoped to document that the site had been cleaned up of all the yard debris wastes tipped during the previous week. I instead observed and photographed what appeared to have been a recently tipped load of compacted yard debris. This recent load was noticeably greener and fresher than the surrounding wastes (see photographs). I did not observe any activity during this visit. I waited for a total of **50 minutes** and then I left the site.

12:30: I returned to the Wacker site after receiving a phone tip that a Wacker Compactor truck may be arriving within the hour. Upon arrival to the site I took up a position located just NW of the site. I waited for approximately 40 minutes at which time I observed a Wacker Compactor truck arrive from the south on St. Helens Road and pull onto the vacant lot. I pulled onto the site a few moments later and observed the driver of the Wacker truck preparing to dump the contents of the compactor truck onto the lot. I introduced myself and asked if he was Mr. Wacker. He answered that he was not but was an employee of his (no name was given). I informed him that dumping waste on this site was not allowed to which he stated "why not Dave owns this property" I stated that this activity still needs to be licensed by Metro and that this was all explained to Mr. Wacker early last week. I stated that all this material was suppose to have been reloaded and hauled off this site by last Friday. The driver did not know about any of this. I retrieved my business card and gave it to the driver and informed him to tell Mr. Wacker that Metro will be in contact with him soon. I told him to continue with what he was doing and I photographed him dumping the contents of the compactor truck next to the recently tipped load of yard debris.

I called Steve Kraten from the site and informed him of what I had observed and about the brief encounter with the driver and I if there was anything else he wished me to do. He did not require anything else so I left the site.

Duane Altig

Metro

Solid Waste Facility Inspector
Solid Waste Compliance & Cleanup
503 797-1694
Fax: 503 813-7544
duane.altig@oregonmetro.gov

www.oregonmetro.gov

Metro | People places. Open Spaces.

From: Duane Altig
Sent: Monday, July 27, 2009 3:26 PM
To: Warren Johnson; Steve Kraten
Subject: Update

27JULY09 at 2:30 I called and spoke to David Wacker owner operator of Wacker Sanitary and the current owner of the piece of property located at 6433 NW St. Helens Rd. I asked Mr. Wacker about the yard debris that had recently been tipped on this property. He stated that he was tipping it there temporarily and then was going to reload it to either Wood Waste Management, Quick Stop Recycling or McFarlane's Bark. He added that he was under the impression that yard debris was not regulated by anyone. I informed him that Metro regulated all solid waste facilities within the region and that included yard debris reloads. I asked if his intention was to open a yard debris reload facility at this location and he stated that it was and maybe even a MRF. I informed him that he would first need to obtain a license to operate any solid waste facility from Metro. I gave him Warren Johnson's phone number and informed him that he was the person he needed to speak with if he wished to operate a solid waste facility within the Metro region.

I informed him that he was to discontinue any further tipping of yard debris at this location and that he was to also reload the material currently on site and take it to an appropriate facility. He stated that he would haul it to McFarlane's before the end of the week. He added that he would cease any further loads to the site.

He normally hauls yard debris on Tuesday, Wednesday and Thursdays only and stated that they would not be hauling YD this week. He estimated that there was approximately 40 to 50 cubic yards of yard debris on site.

I thanked him for his time and ended the call.

Duane Altig

Metro

Solid Waste Facility Inspector
Solid Waste Compliance & Cleanup
503 797-1694

Fax: 503 813-7544

duane.altig@oregonmetro.gov

www.oregonmetro.gov

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From: Duane Altig
Sent: Monday, July 27, 2009 11:28 AM

To: Warren Johnson; Steve Kraten

Subject: RE: Possible unregulated yard debris facility

Update for this site. Saturday (July 25th) I arrived at the site at approximately 9:40 AM and took up a position just north of the site with an unimpeded view of the subject site. I observed the site until 11:15 AM. During that time I did NOT observe any activity at the site. I also did NOT observe any additional waste loads tipped since the previous visit.

Monday July 27th at 8:40 AM I received a call from Steve Hilgedick, listed property owner, at which time he informed me that he no longer owns the property and that the new owner was David Wacker of Wacker Sanitary Services.

Shortly after receiving this call I drove to the site arriving at 9:15 and observed the site for 30 minutes. No activity was observed at this time.

Wacker Sanitary Service home office is located at 13105 SE 197th Ave Boring, OR 97089, Phone is 503-658-3347 or 503-820-1125. Wacker is currently franchised to the area east and across the Willamette from this particular site location. As suggested by Steve and the fact that a witness observed a packer truck tipping a load on a Thursday, I think I should revisit the site this Thursday morning (July 30th). The hope would be to actually witness this violation and document the parties involved.

Any suggestions would be appreciated.

I have not made contact with the Wacker company

Duane Altig

Metro

Solid Waste Facility Inspector

Solid Waste Compliance & Cleanup

503 797-1694

Fax: 503 813-7544

duane.altig@oregonmetro.gov

www.oregonmetro.gov

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From: Warren Johnson

Sent: Thursday, July 23, 2009 2:46 PM

To: Duane Altig

Subject: FW: Possible unregulated yard debris facility

FYI. Roy also received a complaint from the city of Portland regarding this site.

Please check out this site as soon as possible. Let me know what you find. Thanks.

Warren Johnson

Metro

503-797-1836

From: Steve Kraten
Sent: Thursday, July 23, 2009 11:04 AM
To: Warren Johnson
Cc: Roy Brower
Subject: Possible unregulated yard debris facility

Terrell just called. He says that there is an unfenced, unpaved (rock only) yard on Hwy 30 near Metro Central and next to A Bear Box where someone has dumped a number of loads of curbside compacted residential yard debris. We should probably have an inspector check it out.

Steve Kraten, Solid Waste Enforcement Coordinator
METRO
(503) 797-1678
steve.kraten@oregonmetro.gov

www.oregonmetro.gov
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Wacker.04AUG09.dka.p01
Photo of recently tipped yard
debris load. Circled in yellow.



Wacker.04AUG09.dka.p02
Photo of recently tipped yard
debris load.



Wacker.04AUG09.dka.p03
Approaching driver of
compactor truck getting
prepared to tip yard debris



Wacker.04AUG09.dka.p04
Compactor truck tipping
yard debris.



Wacker.04AUG09.dka.p05
Compactor truck tipping
yard debris. Note Dave Wacker
name on truck



Wacker.04AUG09.dka.p06
Front view of compactor
truck and License Plate



YardDebris.23JULY09.dka.p01
Site facing NW.



YardDebris.23JULY09.dka.p02
Recently tipped yard debris
on back portion of site. Facing
north.



YardDebris.23JULY09.dka.p03
Recently tipped yard debris
on back portion of site. Facing
SW. Back of debris pile.



YardDebris.23JULY09.dka.p04
Recently tipped yard debris
on back portion of site.



YardDebris.23JULY09.dka.p05
Recently tipped yard debris
on back portion of site.



YardDebris.23JULY09.dka.p06
View of Metro Central from debris
site.



YardDebris.23JULY09.dka.p07
View of site facing south. A Bear
Box Company in background.



EXHIBIT D

Warren Johnson

From: Warren Johnson
Sent: Monday, August 17, 2009 11:44 AM
To: dswac2009@yahoo.com
Cc: Steve Kraten; Duane Altig; Roy Brower; Warren Johnson
Subject: Solid Waste Facility Requirements
Attachments: MRF Standards.ADM PROC.SHORT.pdf; YD Reload appform.pdf; MRF_Application_2008.pdf

Hello David. As we discussed on August 10, 2009, Metro regulates material recovery facilities and yard debris reload operations located within the Metro region. You are currently operating an unauthorized solid waste facility at your property located at 6433 NW St. Helens Rd in Portland. Therefore, you must immediately cease all deliveries of yard debris to that site and deliver all the debris currently stockpiled there to an authorized yard debris reload or composting facility. In order to operate a solid waste facility at the above referenced property, you must first apply for and obtain a Metro Solid Waste Facility License (a DEQ permit may also be required). Metro Code Chapter 5.01 governs the regulation of solid waste facilities within the Metro region. Chapter 5.01 can be found online at the following link:

http://library.oregonmetro.gov/files/chap501.effective_122408.pdf

In addition to the above web link, I have attached electronic copies of Metro's material recovery facility standards and its application forms for yard debris reload and material recovery facilities. Please let me know if you have any questions or require additional information. Thank you.

Warren Johnson, compliance supervisor
Solid waste compliance & cleanup
Metro
600 NE Grand Avenue
Portland, OR 97232
503-797-1836
503-813-7544 (fax)
warren.johnson@oregonmetro.gov

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600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1797



METRO

www.oregonmetro.gov

SOLID WASTE LICENSE APPLICATION

YARD DEBRIS RELOAD FACILITY



METRO SOLID WASTE FACILITY APPLICATION PACKET

METRO (FOR A SOLID WASTE LICENSE)

Issued:
June 2008

This packet contains an application for a Metro Solid Waste Facility License. You may also want to review a copy of the relevant sections of the Metro Code. The Metro Code can be accessed via the Metro web site at www.oregonmetro.gov. Solid waste facilities within the Metro boundary generally may operate only under the authorization of a License or Franchise.

Application for a new Solid Waste Facility License

Those wishing to apply for a new Metro Solid Waste Facility License must schedule a pre-application conference prior to submitting a final application form. Applicants should prepare for the pre-application conference by reviewing the application forms and drafting answers prior to the conference with Metro. To schedule the pre-application conference, contact Metro's Solid Waste & Recycling Department at (503) 797-1835. The purpose of the pre-application conference is to determine what parts of the Metro Solid Waste Facility Application you will need to submit, and to identify any potential issues specific to your proposal. Applications for new Licenses are generally granted or denied within 120 days of the filing of a complete application. (See Metro Code section 5.01.060.) The fee for filing a license application is \$300.

Renewal of an Existing License

Those wishing to renew an existing authorization without substantive changes to the current authorization must submit a completed *Renewal Application Form*, unless otherwise directed by Metro staff. License renewal applications must be submitted not less than 60 days prior to expiration of the existing license. Failure to submit applications in a timely fashion may result in a lapse of authority to operate. (See Metro Code section 5.01.087.) The fee for filing a license renewal application is \$300.

Change of Authorization to an Existing License

A change in authorization of an existing License requires an application for a formal License amendment. The applicant cannot implement the change of authorization until it has been approved by Metro. (See Metro Code section 5.01.095.) The fee for filing an application for a change of authorization or limits is \$100.

Change of Ownership or Control of an Existing License

To transfer ownership or control of an existing License an application for a formal License amendment is required. The applicant cannot transfer ownership or control of an existing License until it has been approved by Metro. (See Metro Code section 5.01.090.)



METRO

MAIL THIS APPLICATION TO:

DATE RECEIVED BY METRO:

Metro Finance and Administrative Services
Solid Waste Compliance and Cleanup
600 NE Grand Avenue
Portland, OR 97232-2736
(503) 797-1835

Date of Pre-Application Conference: _____

YARD DEBRIS RELOAD FACILITY
METRO SOLID WASTE LICENSE APPLICATION FORM

PART 1 – Standard License Application Information

Applicants applying to receive yard debris for reloading (other than composting) must provide the following information:

1. Applicant (Proposed Licensee)	
Facility Name:	
Company Name:	
Street Address:	
Mailing Address:	
City/State/Zip:	
Contact Person:	
Phone Number:	
Fax Number:	
E-mail Address:	

2. Proposed Licensee's Owner or Parent Company (provide information for all owners)	
Company Name:	
Address:	
City/State/Zip:	
Phone Number:	
Fax Number:	
E-mail Address:	

3. Site Operator (if different from Proposed Licensee)

Company Name:	
Contact Person:	
Street Address:	
Mailing Address:	
City/State/Zip:	
Phone Number:	
Fax Number:	
E-mail Address:	

4. Site Description

Tax Lot(s):	Section:	Township:	Range:
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5. Land Use

Present Land Use Zone:	
Is proposed use permitted outright?	
<input type="checkbox"/> If yes, attach a copy of the Land Use Compatibility Statement.	
Is a conditional use permit (CUP) necessary for the facility?	
<input type="checkbox"/> If yes, attach a copy of the CUP.	
Are there any land use issues presently pending?	
If yes, explain:	
Are any DEQ permits required?	
<input type="checkbox"/> If yes, list them and attach copies with this application. (See also, Attachment D requirements.)	
Are any other local permits required? If yes, list them and attach copies:	

6. Land Owner

Is the applicant the sole owner of the property on which the facility is located?	<input type="checkbox"/> YES	<input type="checkbox"/> NO (If you answer "NO", complete the rest of the information requested in this section and attach a copy of the Property Use Consent Form, signed by the owner(s) of the property.)
Name:		
Mailing Address:		
City/State/Zip:		
Phone Number:		

7. Public/Commercial Operations			
Will the facility be open to the public?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
Will the facility be open to non-affiliated commercial solid waste collectors?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
Will the facility be open to solid waste collection companies that collect waste from outside the boundary of Metro?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
Operating Hours and Traffic Volume:	PUBLIC	COMMERCIAL AFFILIATED	COMMERCIAL NON-AFFILIATED
Operating Hours			
Estimated Vehicles Per Day			

8. Solid Waste To Be Accepted and Activities Conducted		
For each material type accepted at the facility, list the expected posted tip fee: (attach additional pages if necessary)		
WASTES / MATERIALS TO BE ACCEPTED	EXPECTED TIP FEE	
Describe the purpose (activities to be performed and waste types to be received) of the proposed facility, include an estimate of the quantity of waste to be received annually.		
WASTE TYPE	PURPOSE	QUANTITY
Solid Waste, and/or Solid Waste Residual from processing of Solid Waste, delivered to this facility will be reloaded for transport to the following facility or facilities: (Please list all facilities and include additional pages if necessary.)		
FACILITY NAME	WASTE TYPE	WASTE QUANTITY

* For example: Disposal, Inert Fill, or Useful Material

PART 2 - Reload Process Management (License application form continued)

Applicants proposing to conduct yard debris reloading must provide the following information:

1. Reloading practices. (Attach additional pages as necessary)

a) A detailed description of how the materials will be managed and the type of equipment that will be used (from delivery to reload and transport to a processing facility):

b) Methods of measuring and keeping records of incoming loads of yard debris and other materials:

2. Storm water management. A description of how storm water is managed at the facility, including:

a) A description of how precipitation run-on is diverted around the yard debris storage area:

b) A description of how run-off from the facility is controlled:

3. Anticipated quantity of yard debris and other materials to be accepted monthly and annually.

BY WASTE TYPE:		Monthly Cubic Yards or Tons	Annually Cubic Yards or Tons
• Yard Debris:	Compost:		
	Hogged fuel:		
• Clean Wood Waste:	Compost:		
	Hogged fuel:		
• Painted or Treated Wood Waste:	Hogged fuel:		
• Other:			

4. Odor Minimization Plan. The applicant must provide an odor minimization plan that describes how odors will be minimized, managed and monitored at the facility. The plan must include:

a) Methods for minimizing and controlling odors from loads received and any chipping or grinding activities at the facility (including rotting grass that is generating odors upon delivery).

b) Procedures for receiving, recording, replying to, and remedying odor complaints or odor problems at the facility.

c) Procedures for avoiding delay in processing and managing yard debris during severe weather conditions.

5. Operating Plan. The applicant is required to develop and maintain an operating plan for Metro review and approval prior to approval of the application. This section lists the procedures that must be included in the required facility operating plan, and submitted with the completed license application, subject to any additional elements as required in the license, if one is approved and issued. The operating plan shall describe:

a) Procedures for inspecting loads.

- Inspecting incoming loads for the presence of prohibited wastes.
- A set of objective criteria for accepting and rejecting loads.

b) Procedures for processing loads.

- Processing authorized solid wastes, including any chipping or grinding, and a description of how painted or treated wood waste will be kept separate from yard debris compost feedstocks.
- Minimizing storage times, avoiding delay in processing and managing yard debris and landscape waste during all weather conditions.
- Storing authorized solid wastes. Describe the maximum length time for retaining yard debris and grass clippings on-site.

c) Procedures for managing prohibited wastes. Describe procedures for managing and transporting to appropriate facilities any prohibited wastes discovered at the facility. The plan shall include procedures for managing:

- Hazardous wastes.
- Other prohibited solid wastes (i.e. food waste, putrescible waste).

d) Procedures for emergencies. Describe procedures to be followed in case of fire or other emergency.

e) Procedures for preventing and controlling nuisances, including noise, vectors, dust, and litter. Include a description of how you will encourage delivery of waste in covered loads.

f) Procedures for fire prevention, protection, and control measures used at the facility.

6. Applicant qualifications and experience. Provide a description of the relevant experience and qualifications of the yard debris reload facility owner and operator. (Attach additional pages as needed.)

PART 3 - Standard Attachments (License application form continued)

Applicants that have previously submitted copies of permits, site plans, facility design plans, or other attachments required herein, are not required to re-submit such documents if the documents on file at Metro are current.

Submit the following attachments:

ATTACHMENT A: SITE PLAN

Scaled maps, drawings or diagrams showing the location of the facility at a scale no smaller than one inch equals 100 feet. The following information must be provided:

- Boundaries of the facility.
- Property boundaries, if different.
- Boundaries of the sorting, processing or reload area.
- Location of all buildings on the property and other pertinent information with respect to the operation of the facility (e.g. scale locations, water supply, fencing, access roads, paved areas, etc.).
- Location of receiving, processing, and storage areas for solid waste, source-separated recyclable materials, recovered materials, waste residuals, hazardous waste, and other materials.

ATTACHMENT B: GENERAL FACILITY DESIGN PLAN

The following information must be provided:

- A description of any barriers that the facility has (or will have) to prevent unauthorized entry and dumping (fencing, gates, locks).
- A description of the facility signage to include: name of facility, address of facility, emergency number, operating hours, fees and charges, Metro's name and telephone number (503) 797-1650, and a list of authorized and prohibited wastes.
- The estimated capacity (cubic yards) of the facility storage area(s) for incoming solid waste waiting to be processed.
- The estimated capacity (cubic yards) for storage of recovered materials.
- On-site traffic flow patterns, including user type designation.

ATTACHMENT C: INSURANCE

Include proof of the following types of insurance, covering the applicant, its employees, and agents:

- Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage.
- Automobile bodily injury and property damage liability insurance.
- Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- Metro, its elected officials, departments, employees, and agents must be named as ADDITIONAL INSURED.

ATTACHMENT D: DEQ PERMIT APPLICATIONS AND INFORMATION

The following information must be provided:

- A duplicate copy of all permits or applications for necessary DEQ permits and any other information required by or submitted to DEQ, including closure plans, financial assurance for the costs of closure of the facility, and conditional use permit or land use compatibility statement, if applicable.

ATTACHMENT E: OTHER REQUIRED PERMITS

The following information must be provided:

- A copy of any required federal, state, county, city or other permits, licenses, or franchises that have been granted or issued, not including materials required by Attachment D, or a copy of any applications for such other permits, licenses, or franchises. Copies of correspondence pertaining to such permits, licenses or franchises may be requested.

ATTACHMENT F: CLOSURE PLAN AND FINANCIAL ASSURANCE

- If a closure plan and financial assurance are required by DEQ, copies of these documents should be included with the application per Attachment D.
- If DEQ did **not** require a closure plan for the facility, attach a closure document describing closure protocol.
- If DEQ did **not** require any financial assurance for the costs of closure of the facility, attach proof of financial assurance for the costs of closure of the facility.

ATTACHMENT G: LAND USE COMPATIBILITY STATEMENT (LUCS)

- If required by Section 5 of Part 1 of this application.

ATTACHMENT H: PROPERTY USE CONSENT FORM

- If required by Section 6 of Part 1 of this application.

Applicant Certification

This form cannot be processed without a signature

I certify under penalty of law that the information contained in this application is true and correct to the best of my knowledge. I agree to notify Metro within 10 days of any change in the information submitted as a part of this application.

Signature and title of person completing this application:

SIGNATURE _____ TITLE _____

PRINT NAME _____

DATE _____ PHONE _____

BM:bjl

M:\ram\vegaff\projects\Forms\Application Forms\Solid Waste Facility\Solid Waste License Forms\YD Reload appform.doc

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1797



METRO

www.metro-region.org

SOLID WASTE LICENSE APPLICATION

NON-PUTRESCIBLE WASTE MATERIAL RECOVERY FACILITY



METRO SOLID WASTE FACILITY LICENSE APPLICATION PACKET (FOR A SOLID WASTE LICENSE)

**Issued:
June 2008**

This packet contains an application for a Metro Solid Waste Facility License. You may also want to review the relevant sections of the Metro Code. The Metro Code can be accessed via the Metro web site at www.oregonmetro.gov. Solid waste facilities within the Metro boundary generally may operate only under the authorization of a License or Franchise.

Application for a new Solid Waste Facility License

Those wishing to apply for a new Metro Solid Waste Facility License must schedule a pre-application conference prior to submitting a final application form. Applicants should prepare for the pre-application conference by reviewing the application forms and drafting answers prior to the conference with Metro. To schedule the pre-application conference, contact Metro's Solid Waste & Recycling Department at (503) 797-1835. The purpose of the pre-application conference is to determine what parts of the Metro Solid Waste Facility License Application you will need to submit, and to identify any potential issues specific to your proposal. Applications for new licenses are generally granted or denied within 120 days of the filing of a complete application. (See Metro Code section 5.01.060.) The fee for filing a license application is \$300.

Renewal of an Existing License

Those wishing to renew an existing authorization without substantive changes to the current authorization must submit a completed *Renewal Application Form*, unless otherwise directed by Metro staff. License renewal applications must be submitted not less than 60 days prior to expiration of the existing license. Failure to submit applications in a timely fashion may result in a lapse of authority to operate. (See Metro Code section 5.01.087.) The fee for filing a license renewal application is \$300.

Change of Authorization to an Existing License

A change in authorization of an existing license requires an application for a formal license amendment. The applicant cannot implement the change of authorization until it has been approved by Metro. (See Metro Code section 5.01.095.) The fee for filing an application for a change of authorization is \$100.

Change of Ownership or Control of an Existing License

To transfer ownership or control of an existing license, an application for a formal license amendment is required. The applicant cannot transfer ownership or control of an existing license until it has been approved by Metro. (See Metro Code section 5.01.090.)



METRO

MAIL THIS APPLICATION TO:

DATE RECEIVED BY METRO:

Metro Finance and Administrative Services
Solid Waste Compliance and Cleanup
600 NE Grand Avenue
Portland, OR 97232-2736
(503) 797-1835

Date of Pre-Application Conference: _____

MATERIAL RECOVERY FACILITY
METRO SOLID WASTE LICENSE APPLICATION FORM

PART 1 – Standard License Application Information

Applicants applying to conduct material recovery must provide the following information:

1. Applicant (Proposed Licensee)	
Facility Name:	
Company Name:	
Street Address:	
Mailing Address:	
City/State/Zip:	
Registered Agent	
Contact Person:	
Phone Number:	
Fax Number:	
E-mail Address:	

2. Proposed Licensee's Owner or Parent Company (provide information for all owners)	
Name:	
Address:	
City/State/Zip:	
Phone Number:	
Fax Number:	
E-mail Address:	

3. Site Operator (if different from Proposed Licensee)

Company Name:	
Contact Person:	
Street Address:	
Mailing Address:	
City/State/Zip:	
Phone Number:	
Fax Number and E-mail Address:	

4. Site Description

Tax Lot(s):	Section:	Township:	Range:
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5. Land Use

Present Land Use Zone:	
Is proposed use permitted outright?	
<input type="checkbox"/> If yes, attach a copy of a completed Metro or DEQ Land Use Compatibility Statement. (See also, Attachment F requirements)	
Is a conditional use permit (CUP) necessary for the facility?	
<input type="checkbox"/> If yes, attach a copy of the CUP.	
Are there any land use issues presently pending?	
If yes, explain:	
Are any DEQ permits required?	
<input type="checkbox"/> If yes, list them and attach copies with this application. (See also, Attachment G requirements)	
Are any other local permits required? If yes, list them (see Attachment H requirements).	

6. Land Owner

Is the applicant the sole owner of the property on which the facility is located?	<input type="checkbox"/> YES	<input type="checkbox"/> NO (If you answer "NO", complete the rest of the information requested in this section and attach a copy of the Property Use Consent Form, signed by the owner(s) of the property. See Attachment J)
Name of Property Owner:		
Mailing Address:		
City/State/Zip:		
Phone Number:		

7. Public/Commercial Operations			
Will the facility be open to the public?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
Will the facility be open to non-affiliated commercial solid waste collectors?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
Will the facility be open to solid waste collection companies that collect waste from outside the boundary of Metro?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
Operating Hours and Traffic Volume:	PUBLIC	COMMERCIAL AFFILIATED	COMMERCIAL NON-AFFILIATED
Operating Hours			
Estimated Vehicles Per Day			

8. Solid Waste To Be Accepted and Activities Conducted		
For each material type accepted at the facility, list the expected posted public tip fee: (attach additional pages if necessary)		
WASTES / MATERIALS TO BE ACCEPTED	EXPECTED PUBLIC TIP FEE	
Describe the purpose (activities to be performed and waste types to be received) of the proposed facility, include an estimate of the quantity of waste to be received annually.		
WASTE TYPE	PURPOSE	QUANTITY
Solid Waste, and/or Solid Waste Residual from processing of Solid Waste, delivered to this facility will be reloaded for transport to the following facility or facilities: (Please list <u>all</u> facilities and include additional pages if necessary.)		
FACILITY NAME	WASTE TYPE	WASTE QUANTITY
* For example: Disposal, Inert Fill, or Useful Material		

a) Provide the name, address and function of all subcontractors involved in the facility operations:

NAME	ADDRESS	FUNCTION

b) List the anticipated quantity of wastes to be accepted annually.

BY GENERATOR TYPE:

	Tons Received	Tons Recovered	Tons Residual
• Commercial:			
• Industrial:			
• Residential:			
TOTAL			

BY WASTE TYPE:

Will you recover materials
from this waste?

	Tons	YES	NO	Estimate of the maximum and typical lengths of time required to process each day's receipt of each waste / material type:
• Non-Putrescible Wastes:				
• Source-Separated Recyclables:				
• Source-Separated Yard Debris:				
• Special Wastes:				
• Inerts:				
• Petroleum Contaminated Soil:				
• Other:				

PART 2 – Standard Attachments to License Application (License application form continued)

- ❑ All of the following attachments (Attachments A – J) are required and must be submitted in order for a license application to be considered complete. Each attachment must be clearly labeled.
- ❑ Application submittals such as facility design, building plans, site plans and specifications must be prepared, as appropriate, by persons licensed in engineering, architecture, landscape design, traffic engineering, air quality control, and design of structures.
- ❑ Applicants who have previously submitted copies of permits, site plans, facility design plans, or other attachments required herein, are not required to re-submit such documents if the documents on file at Metro are current.

ATTACHMENT A: SITE PLAN

The applicant must submit a facility site plan that includes scaled maps and drawings showing the location of the facility at an appropriate scale, and no smaller than one inch equals 30 feet. The following information must be provided:

- | | |
|-----|---|
| (1) | Boundaries of the facility. |
| (2) | Property boundaries, if different. |
| (3) | Location of all buildings on the property (existing and proposed) and other pertinent information with respect to the operation of the facility, to include: <ul style="list-style-type: none">a) scale locationb) scale housec) sorting line and other major materials recovery equipmentd) fencing and gatese) access roadsf) paved areas. |
| (4) | Location of receiving, processing, reload and storage areas, as applicable, for solid waste, source-separated recyclable materials, recovered materials, waste residuals, exterior stockpiles, hazardous waste, and other materials. |
| (5) | Identify any exterior stockpile footprints, the type of materials and the maximum height of each exterior material stockpile. |
| (6) | Identify water sources for fire suppression. |
| (7) | Designate the load checking areas on the facility site plan. |
| (8) | Designate the location for the storage of prohibited wastes removed during the load checking process that is separately secured or isolated. Containment areas shall be covered and enclosed and constructed to prevent leaking and contamination |
| (9) | Designate on-site traffic flow patterns. |

(10) Identify where the sign(s) will be located on the facility site plan.

Signs must be posted at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, and legible from off-site during all hours and shall contain at least the following information:

- General facility information
 - Name of the facility
 - Address of the facility;
 - Emergency telephone number for the facility;
 - Operating hours during which the facility is open for the receipt of authorized waste;
 - Fees and charges for public customers;
 - Metro's name and telephone number (503) 234-3000; and
 - A list of authorized and prohibited wastes.
- Vehicle / traffic flow information or diagram.
- Covered load requirements.

ATTACHMENT B: FACILITY DESIGN PLAN AND REPORT

The applicant shall submit a facility design plan and report that address the following:

(1) Dust, airborne debris and litter.

- a) Submit a proposed design providing a roofed structure enclosed on at least three sides and an impervious surface (e.g. asphalt, concrete) for the tipping floor, processing (sorting) areas, storage areas and reloading areas.
- b) Describe control measures to prevent fugitive dust, airborne debris and litter. Describe how the facility design will provide for shrouding and dust prevention for the receiving area, processing area, storage area, reload area, and all dry waste processing equipment and all conveyor transfer points where dust is generated.
- c) Describe any additional facility design measures and procedures for the control of dust, windblown materials, airborne debris, litter and for the handling of the waste in the case of major processing facility breakdown.

(2) Facility capacity.

- a) Provide engineering plans, reports and specifications to document that the size and configuration of the facility grounds, building and equipment, including the facility layout, drainage structures, building design, and major facility equipment, processing systems and storage areas are of sufficient capacity to accommodate seasonal throughput of all materials that will be delivered to and generated by the facility.
- b) Provide the estimated capacity (cubic yards) of the facility storage area(s) for incoming solid waste waiting to be processed, the estimated capacity (cubic yards) for storage of recovered materials, and the estimated capacity (cubic yards) for storage of processing residual.

(3) Fire prevention.

Submit proof of compliance with local and state fire codes.

(4) Adequate vehicle accommodation.

Provide documentation to demonstrate that adequate on-site area at the facility's entrance, scales, loading and unloading points and exit points shall be provided to allow the number and types of vehicles expected to use the facility during peak times to safely queue off the public roads and right-of-way.

(5) Water contaminated by solid waste and solid waste leachate.

Submit a DEQ (or equivalent) approved plan with pollution control measures to protect surface and ground waters, including runoff collection and discharge and equipment cleaning and washdown water.

ATTACHMENT C – MATERIAL RECOVERY PRACTICES Describe how material recovery will be conducted at the facility. Attach as many additional pages as necessary to address each of the following:

- (1) A detailed description of how the proposed facility will further recycling or materials recovery processing within the Metro region.
- (2) A detailed description of the methods you will use for measuring and keeping records of incoming solid waste.
- (3) A detailed description of the methods you will use to distinguish loads of incoming source-separated recyclables from other materials.
- (4) A detailed description of the steps you will take to recover materials from solid waste. Include the material recovery methods and equipment to be used on site (e.g., sorting lines, hand picking, magnets, etc.)
- (5) The general markets for the materials recovered at the facility.
- (6) A detailed description of the methods you will use for measuring and keeping records of materials received, recovered from processing, and solid waste disposed - consistent with Metro's reporting requirements.

ATTACHMENT D: OPERATING PLAN

The applicant is required to develop and submit an operating plan for review and approval by the Manager of the Metro Solid Waste Regulatory Affairs Division. This section lists the procedures that must be included in the required facility operating plan. A proposed facility operating plan must be submitted with the completed license application subject to any additional elements as required in the license - if one is approved and issued. The operating plan shall describe at a minimum:

- (1) The types of solid wastes to be accepted and handled at the facility.
- (2) A detailed description of how you will distinguish and manage loads of incoming source-separated recyclables from other materials.

- (3) Procedures for inspecting loads. The operating plan shall establish:
 - a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes.
 - b) A set of objective criteria for accepting and rejecting loads.
 - c) An asbestos testing protocol for all material that appears as if it may contain asbestos.
- (4) Procedures for processing and storage of loads. The operating plan shall establish procedures for:
 - a) Processing of all authorized solid wastes.
 - b) Reloading and transfer of authorized solid wastes.
 - c) Managing stockpiles.
 - d) Storing authorized solid wastes
 - e) Minimizing storage times, and avoiding delay in processing and managing of all authorized solid wastes and recovered materials.
- (5) Procedures for rejecting or managing prohibited wastes. The operating plan shall describe procedures for rejecting, managing reloading and transporting to appropriate facilities or disposal sites any prohibited or unauthorized wastes discovered at the facility. The plan shall include procedures for managing:
 - a) Hazardous wastes.
 - b) Other prohibited solid wastes (e.g., putrescible waste, special waste).
 - c) Procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
- (6) Procedures for odor prevention. The operating plan shall establish procedures for preventing all objectionable odors for being detected off the premises of the facility. The plan must include:
 - a) A management plan that will be used to monitor and manage all objectionable odors of any derivation including malodorous loads delivered to the facility.
 - b) Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility.
- (7) Procedures for emergencies. The operating plan shall describe procedures to be followed in case of fire or other emergency.
- (8) Procedures for preventing and controlling nuisances, including noise, vectors, dust, litter, and odors. Include a description of how you will encourage delivery of waste in covered loads.
- (9) Procedures for fire prevention, protection, and control measures used at the facility.

ATTACHMENT E: INSURANCE

Include proof of the following types of insurance, covering the applicant, its employees, and agents:

- (1) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage.
- (2) Automobile bodily injury and property damage liability insurance.
- (3) Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- (4) Metro, its elected officials, departments, employees, and agents must be named as ADDITIONAL INSURED.

ATTACHMENT F: LAND USE COMPATIBILITY STATEMENT (LUCS)

The following information must be provided:

A copy of a completed Metro LUCS or DEQ LUCS.

ATTACHMENT G: DEQ PERMIT APPLICATIONS AND INFORMATION

The following information must be provided:

A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ, including closure plans, financial assurance for the costs of closure of the facility, and conditional use permit or land use compatibility statement, if applicable.

ATTACHMENT H: OTHER REQUIRED PERMITS

The following information must be provided:

A copy of any required federal, state, county, city or other permits, licenses, or franchises that have been granted or issued, not including materials required by Attachment G, or a copy of any applications for such other permits, licenses, or franchises. Copies of correspondence pertaining to such permits, licenses or franchises may be requested.

ATTACHMENT I: CLOSURE PLAN AND FINANCIAL ASSURANCE

The following information must be provided

- (1) If a closure plan and financial assurance are required by DEQ, copies of these documents should be included with the application per Attachment G.

- (2) If DEQ does **not** require a closure plan for the facility, attach a closure document describing closure protocol and associated costs. Closure means those activities associated with restoring the site to its condition prior to engaging in the licensable activity. Closure may include, but is not limited to removal of all on-site solid waste stockpiles accumulated after being issued a Metro Solid Waste Facility License. The Closure protocol is the written protocol that specifies the activities required to properly close the facility and cease further solid waste activities.
- (3) If DEQ does **not** require any financial assurance for the costs of closure of the facility, attach proof of financial assurance for the costs of closure of the facility. Cost of closure means the costs associated with restoring the site to its condition prior to engaging in the licensable activity.
- These costs may include but are not limited to:
- a) the cost to load and transport accumulated solid waste stockpiles to an authorized disposal site or recycling facility;
 - b) the cost to "tip" the waste at an authorized landfill or recycling facility; and
 - c) other related costs such as site grading or additional disposal costs associated with restoring the site.
- Examples of acceptable forms of financial assurance include, but are not limited to the following: surety bond, irrevocable letter of credit, closure insurance, escrow account.
- If the DEQ does not issue a permit or require financial assurance, then the COO may waive the requirement for financial assurance if the applicant provides written documentation demonstrating that the cost to implement the closure plan will be less than \$10,000.

ATTACHMENT J: PROPERTY USE CONSENT FORM

If required by Section 6 of Part 1 of this application.

Applicant Certification

**This form cannot be processed without a
signature**

I certify under penalty of law that the information contained in this application is true and correct to the best of my knowledge. I agree to notify Metro within 10 days of any change in the information submitted as a part of this application.

Signature and title of person completing this application:

SIGNATURE _____ TITLE _____

PRINT NAME _____

DATE _____ PHONE _____

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**SOLID WASTE
ADMINISTRATIVE PROCEDURE
(AND PERFORMANCE STANDARDS)**

**AP NO. 501
Section 7**

**Standards for
Non-Putrescible Mixed Waste Material Recovery Facilities and
Non-Putrescible Mixed Waste Reload Facilities**

7.1 Policy and Legal Authority

- 7.1.1 Ordinance No. 07-1138 adopted by the Metro Council on February 22, 2007 amended the Metro Code Chapters 5.01 and 5.05 to ensure that mixed non-putrescible waste material recovery facilities and reload facilities are operated in accordance with Metro administrative procedures and performance standards issued by the Chief Operating Officer
- 7.1.2 These administrative procedures and performance standards are published under the authority of Metro Code section 5.01.132, which directs the Chief Operating Officer to issue administrative procedures and performance standards governing the obligations of licensees and franchisees under Chapter 5.01 and are in addition to all requirements and provisions in Metro Code Chapter 5.01.
- 7.1.3 These administrative procedures and performance standards are organized into the following parts:

General Administration

Definitions.
Applicability.
Variances.

Specific Performance Goals, Performance Standards and Operating Conditions

Issue Specific Performance Goals.
Facility Design Requirements.
Performance Standards and Standard Operating Conditions (license or franchise requirements)

General Administrative and Legal Obligations for Operating

Standard administrative and legal obligations included in a license

Attachment A – Standard Operating Condition Templates

Material recovery facility license or franchise requirements.
Reload facility license or franchise requirements.

Attachment B – Standard Application Form Templates

Material recovery facility application form.
Reload facility application form.

7.2 General Administration

7.2.1 Definitions

See Metro Code Chapter 5.01.010 for all applicable definitions.

7.2.2 Applicability

7.2.2.A New facilities. These administrative procedures and performance standards shall apply to all new non-putrescible mixed waste material recovery facilities and non-putrescible mixed waste reload facilities

7.2.2.B Existing facility phase-in and license/franchise renewal requirements. Upon adoption of the standards, existing facilities will have two years (until April, 2009) to demonstrate compliance with the requirement that all mixed non-putrescible waste tipping, sorting and reloading activities must occur on an asphalt or concrete surface and inside a roofed building that is enclosed on at least three sides. Other than that requirement, no additional design requirements will be required for existing facilities. However, any new or revised operating requirements will become part of a facility replacement license or franchise upon renewal for all facilities

7.2.3 Variances

7.2.3.A The Chief Operating Officer, upon recommendation of the Solid Waste and Recycling Department Director, may grant specific variances from particular requirements of the performance standards to applicants for licenses or to licensees upon such conditions as the Chief Operating Officer may deem necessary to protect public health, safety and welfare, if the Chief Operating Officer finds that the purpose and intent of the particular requirement can be achieved without compliance and that compliance with the particular requirement:

7.2.3.A.1 Is inappropriate because of conditions beyond the control of the applicant, or licensee requesting the variance; or

7.2.3.A.2 Due to special physical conditions or causes, will be rendered extremely burdensome or highly impractical.

7.2.3.B A variance must be requested by a license applicant, or a licensee, in writing and state in a concise manner facts to show cause why such variance should be granted. The Director of the Solid Waste and Recycling Department may make such investigation as the Director deems necessary and shall make a recommendation to the Chief Operating Officer to approve or deny the variance coincident with any recommendation made on approval or denial of any license application; or, upon a request for variance from an existing licensee, within 60 days after receipt of the variance request.

7.2.3.C A request for a variance shall not substitute for an application that would otherwise be required under Section 5.01.045 of the Metro Code.

7.2.3.D If the Chief Operating Officer denies a variance request, the Director of the Solid Waste and Recycling Department shall notify the person requesting the variance of the right to a contested case hearing pursuant to Code Chapter 2.05.

7.2.3.E If a request for a variance is denied, no new application for this same or substantially similar variance shall be filed for at least six months from the date of denial.

7.3 Specific Performance Goals, Performance Standards and Operating Conditions

This section identifies issue specific facility performance goals and the corresponding performance standards and operating conditions (license or franchise requirements).

7.3.1 Material Recovery

7.3.1.A Specific Performance Goal

7.3.1.A.1 Facilities that perform material recovery must be designed and operated to achieve the level of material recovery from mixed non-putrescible waste as specified in Metro Code.

7.3.1.A.2 Facility design and operations shall ensure that unprocessed mixed non-putrescible wastes and recyclables are protected from contamination from other solid wastes or degradation from wind and precipitation.

7.3.1.B Design requirement (to be addressed in application)

7.3.1.B.1 Describe how material recovery will be conducted at the facility. For example:

7.3.1.B.1.a waste sources (e.g. commercial, residential), expected incoming tonnage, and characteristics, and expected tons recovered, including commodities, and tons of waste to be disposed;

7.3.1.B.1.b the material recovery methods and equipment to be used on site (e.g., sorting lines, hand picking, magnets, etc.) ; and

7.3.1.B.1.c the general markets for the materials recovered at the facility (subject to confidential information provisions in Section 2 X).

7.3.1.B.2 Submit a proposed facility design providing asphalt or concrete surfaces and a roofed building that is enclosed on at least three sides for the tipping floor, processing (sorting) areas, storage and reloading areas.

7.3.1.C Performance Standards and Operating Requirements

7.3.1.C.1 The facility shall perform material recovery on mixed non-putrescible wastes. Recovery must be performed at no less than the minimum level stipulated in Metro Code Chapter 5.01 (at least 25% by weight of non-putrescible waste accepted at the facility).

7.3.1.C.2 Source-separated recyclable materials, including source-separated yard debris or wood wastes brought to the facility shall not be mixed with any other solid wastes.

7.3.1.C.3 Source-separated recyclable materials may not be disposed of by incineration or landfilling.

7.3.1.C.4 All mixed non-putrescible waste tipping, storage, sorting and reloading activities must occur on an impervious surface (e.g. asphalt or concrete) and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles (i.e., 30-foot tippers) may tip wastes outside, provided the tipped wastes are

moved under cover prior to processing, or reloading within 12 hours of receipt, or by the end of the business day, whichever is earlier.

- 7.3.1.C.5 Mixed non-putrescible solid waste shall at all times be kept physically separated from, and shall not be mixed or allowed to commingle at any time with source-separated recyclable materials, including wood waste, yard debris and other recyclables.

7.3.2 Reloading non-putrescible waste

7.3.2.A Specific Performance Goal

- 7.3.2.A.1 Non-putrescible waste reload facilities shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to a Metro authorized processing facility is conducted rapidly and efficiently.
- 7.3.2.A.2 Facility design and operations shall ensure that unprocessed non-putrescible wastes and recyclables are protected from contamination from other solid wastes or degradation from wind and precipitation.

7.3.2.B Design requirement (to be addressed in application)

- 7.3.2.B.1 Submit a facility design that supports the rapid and efficient reloading of solid waste. Describe the equipment and methods that will be used.
- 7.3.2.B.2 Submit a proposed design providing asphalt or concrete surfaces and a roofed structure, that is enclosed on at least three sides for the tipping floor, storage and reloading areas.

7.3.2.C Performance Standards and Operating Requirements

- 7.3.2.C.1 All mixed non-putrescible waste must be reloaded and transferred to a Metro authorized facility that conducts material recovery.
- 7.3.2.C.2 All unprocessed mixed non-putrescible waste must be removed from the site within 48 hours after it has been received.
- 7.3.2.C.3 All mixed non-putrescible waste tipping, storage and reloading activities must occur on an impervious surface (e.g. asphalt or concrete) and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles (i.e., 30-foot tippers) may tip wastes outside, provided the tipped wastes are moved under cover prior to reloading, within 12-hours of receipt, or by the end of the business day, whichever is earlier.

7.3.3 Dust, airborne debris and litter

7.3.3.A Specific Performance Goal

- 7.3.3.A.1 Minimize and mitigate the generation of dust, airborne debris and litter on-site and prevent its migration beyond property boundaries.

7.3.3.B Design requirement (to be addressed in application)

- 7.3.3.B.1 Submit a proposed design providing a roofed structure enclosed on at least three sides for the tipping floor, processing (sorting)

areas, and reloading areas. Unusually large vehicles (i.e., 30-foot tippers) may tip wastes outside, provided the tipped wastes are moved under cover for processing within 12-hours of receipt or the end of the business day whichever is earlier.

7.3.3.B.2 Describe control measures to prevent fugitive dust, airborne debris and litter. The design shall provide for shrouding and dust prevention for the receiving area, processing area, reload area, and all dry processing equipment and all conveyor transfer points where dust is generated.

7.3.3.B.3 Provide a discussion of any additional facility design measures and procedures for the control of dust, windblown materials, airborne debris, litter and for the handling of the waste in the case of major processing facility breakdown.

7.3.3.C Performance Standards and Operating Requirements

7.3.3.C.1 The facility shall be operated in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and shall prevent its migration beyond property boundaries. The facility shall:

Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit.

7.3.3.C.2 Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit.

Maintain, and operate all access roads, receiving, processing (including grinding), storage, and reload areas in such a manner as to minimize and mitigate dust and debris from being generated on-site and prevent such dust and debris from blowing or settling off-site.

7.3.3.C.3 Keep all areas within the site and all vehicle access roads within 1/4 mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation.

7.3.3.C.4 All mixed non-putrescible waste tipping, storage, sorting and reloading activities must occur on an impervious surface (e.g. asphalt or concrete) and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles (i.e., 30-foot tippers) may tip wastes outside, provided the tipped wastes are moved under cover prior to processing within 12-hours of receipt.

7.3.3.C.5 Mixed non-putrescible waste and processing residual may not be stored unless it is on an impervious surface (e.g. asphalt or concrete) within a covered building or alternatively, inside water tight covered or tarped containers or within covered or tarped transport trailers.

7.3.3.C.6 On-site facility access roads shall be maintained to prevent or control dust and to prevent or control the tracking of mud off-site.

7.3.4 Facility capacity

7.3.4.A Specific Performance Goal

- 7.3.4.A.1 The operational capacity of the facility or site shall not be exceeded.

7.3.4.B Design requirement (to be addressed in application)

- 7.3.4.B.1 Provide engineering plans/reports and specifications to document that the size and configuration of the facility grounds, building and equipment, including the facility layout, drainage structures, building design, and major facility equipment, processing systems and storage areas are of sufficient capacity to accommodate seasonal throughput of all materials that will be delivered to and generated by the facility.

7.3.4.C Performance Standards and Operating Requirements

- 7.3.4.C.1 Applicable standards are addressed in other sections.

7.3.5 Storage and exterior stockpiles

7.3.5.A Specific Performance Goal

- 7.3.5.A.1 Stored materials and solid wastes shall be suitably managed, contained and removed at sufficient frequency to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards.

7.3.5.B Design requirement (to be addressed in application)

- 7.3.5.B.1 The facility site plan shall identify stockpile footprints, the type of materials and the maximum height of each material stockpile.
- 7.3.5.B.2 The facility design must include processing systems and storage areas of sufficient capacity to accommodate seasonal throughput of all materials that are delivered to and generated by the facility.

7.3.5.C Performance Standards and Operating Requirements

- 7.3.5.C.1 Exterior stockpiles shall be positioned within footprints identified on the facility site plan. Stored materials and solid wastes shall be suitably managed, contained and removed at sufficient frequency to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter.
- 7.3.5.C.2 Materials may not be stockpiled for longer than 180 days (6 months). Exceptions may be granted provided the facility has received written authority to store materials for longer periods of time based on a demonstrated need and the materials will be used productively and provided that such stockpiles will not create nuisances, health, safety or environmental problems.
- 7.3.5.C.3 Mixed non-putrescible waste or processing residual may not be stored on-site unless it is on an impervious surface (e.g. asphalt or concrete) within a covered building or alternatively, inside water tight covered or tarped containers or within covered or tarped

transport trailers.

- 7.3.5.C.4 All non-putrescible waste processing residual shall at all times be kept physically separated from, and shall not be mixed or allowed to commingle at any time with, other source-separated recyclable or recovered materials, including wood waste, yard debris and other recyclables.

7.3.6 Fire prevention

7.3.6.A Specific Performance Goal

- 7.3.6.A.1 Provide adequate fire prevention, protection, and control measures.

7.3.6.B Design requirement (to be addressed in application)

- 7.3.6.B.1 Submit proof of compliance with local and state fire codes. Stockpiles shall be located, sized and configured as required by local fire authorities.
- 7.3.6.B.2 Identify water sources for fire suppression and layout that allows for isolation of potential heat sources.

7.3.6.C Performance Standards and Operating Requirements

- 7.3.6.C.1 The operator shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the processing area.

7.3.7 Qualified operator

7.3.7.A Specific Performance Goal

- 7.3.7.A.1 Provide a qualified operator on-site during all hours of operation to carry out the functions required by the license and operating plan.

7.3.7.B Design requirement (to be addressed in application)

- 7.3.7.B.1 Not applicable.

7.3.7.C Performance Standards and Operating Requirements

- 7.3.7.C.1 The facility shall, during all hours of operation, provide a qualified and competent operating staff.
- 7.3.7.C.2 Facility personnel, as relevant to their job duties and responsibilities, shall be familiar with the relevant provisions of the license and the relevant procedures contained within the facility's operating plan.
- 7.3.7.C.3 A qualified operator must be an employee of the facility with training and authority to reject prohibited loads and properly manage prohibited waste that is inadvertently received.

7.3.8 Prohibited waste

7.3.8.A Specific Performance Goal

- 7.3.8.A.1 Prevent the acceptance of prohibited waste, including but not

- limited to putrescible waste, hazardous waste and asbestos.
 - 7.3.8.A.2 Prohibited waste shall be properly managed and disposed when inadvertently received.
- 7.3.8.B Design requirement (to be addressed in application)
 - 7.3.8.B.1 Designate a load checking area on the facility site plan and a location for the storage of prohibited wastes removed during the load checking process that is separately secured or isolated.
 - 7.3.8.B.2 Containment areas shall be covered and enclosed and constructed to prevent leaking and contamination.
- 7.3.8.C Performance Standards and Operating Requirements
 - 7.3.8.C.1 The facility shall provide qualified operators on-site during all hours of operation.
 - 7.3.8.C.2 The facility shall not accept prohibited waste, including but not limited to putrescible waste, hazardous waste and asbestos. Prohibited loads must be rejected upon discovery. Prohibited waste shall be properly managed and disposed when inadvertently received.
 - 7.3.8.C.3 The facility shall implement a load checking program to prevent the acceptance of waste which is prohibited by the license. This program must include at a minimum:
 - 7.3.8.C.3.a Visual inspection. Ensure that as each load is tipped, it is visually inspected by a qualified operator to prevent the acceptance of waste that is prohibited by the license; and
 - 7.3.8.C.3.b A secured or isolated containment area for the storage of prohibited wastes that are inadvertently received. Containment areas shall be covered and enclosed to prevent leaking and contamination.
 - 7.3.8.C.4 Records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste shall be maintained in the operating record and be available for review by Metro.

7.3.9 Measurement of waste

- 7.3.9.A Specific Performance Goal
 - 7.3.9.A.1 All non-putrescible waste and source-separated recyclable materials shall be accurately weighed when they are received, transferred to market or intra-facility, and transported from the facility.
- 7.3.9.B Design requirement (to be addressed in application)
 - 7.3.9.B.1 The location of scales shall be designated on the facility site plan.
- 7.3.9.C Performance Standards and Operating Requirements
 - 7.3.9.C.1 The facility operator shall weigh all non-putrescible waste and source-separated recyclable material when it is received, transferred to market or intra-facility, and transported from the facility.

- 7.3.9.C.2 The scale used to weigh all solid waste shall be licensed by the state of Oregon (Weights and Measures Act).

7.3.10 Transaction records and reporting

7.3.10.A Specific Performance Goal

- 7.3.10.A.1 Maintain complete and accurate transaction records on the weights and types of all solid wastes and recyclable materials received, recovered, reloaded, removed or disposed from the facility.

7.3.10.B Design requirement (to be addressed in application)

- 7.3.10.B.1 Not applicable.

7.3.10.C Performance Standards and Operating Requirements

- 7.3.10.C.1 Record transmittals. Records required shall be transmitted to Metro no later than fifteen days following the end of each month in electronic format prescribed by Metro.
- 7.3.10.C.2 Hauler account number listing. Within 5 business days of Metro's request, licensee shall provide Metro with a computer listing that cross references the incoming hauler account number with the hauling company's name and address.
- 7.3.10.C.3 Transactions to be based on scale weights. Except for minimum fee transactions for small, light-weight loads, the licensee shall record each transaction electronically based on actual and accurate scale weights using the licensee's on-site scales.
- 7.3.10.C.4 For all solid waste the licensee is authorized to receive, including all non-putrescible waste, source-separated recyclables, inert materials, and yard debris, the licensee shall keep and maintain accurate records of the amount of such materials the licensee receives, recovers, recycles, reloads, and disposes.
- 7.3.10.C.5 The licensee shall keep and maintain complete and accurate records of the following for all transactions:
- 7.3.10.C.5.a Ticket Number (should be the same as the ticket number on the weight slips);
- 7.3.10.C.5.b Account Number or Business Name: Incoming hauler account number on all incoming transactions and outgoing destination account number on all outgoing transactions. For incoming cash commercial customers, incoming hauler business name for all incoming commercial cash transactions;
- 7.3.10.C.5.c Material category: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated recyclable materials by type; (2) incoming mixed dry waste; (3) outgoing recyclable materials by type; (4) outgoing mixed dry waste;

- 7.3.10.C.5.d Origin: Code designating the following origin of material: (1) from inside Metro boundaries; (2) from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (3) from out-of-state;
- Any load containing any amount of waste from within the Metro region shall be reported as if the entire load was generated from inside the Metro region.
- If the Licensee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Licensee is not required to designate the origin of loads in (d)(2) and (3) above.
- 7.3.10.C.5.e Date the load was received at, transferred within, or transmitted from the facility;
- 7.3.10.C.5.f Time the load was received at, transferred within, or transmitted from the facility;
- 7.3.10.C.5.g Indicate whether Licensee or Franchisee accepted or rejected the load;
- 7.3.10.C.5.h Net weight of the load;
- 7.3.10.C.5.i The fee charged to the generator of the load.

7.3.11 Access control

7.3.11.A Specific Performance Goal

- 7.3.11.A.1 Control access and prevent unauthorized pedestrian and vehicular traffic and illegal dumping.

7.3.11.B Design requirement (to be addressed in application)

- 7.3.11.B.1 Control pedestrian and vehicular access to the proposed facility by means of fencing, gates which may be locked, natural barriers or security guards.

7.3.11.C Performance Standards and Operating Requirements

- 7.3.11.C.1 Access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.
- 7.3.11.C.2 A gate or other suitable barrier shall be maintained at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.

7.3.12 Adequate vehicle accommodation

7.3.12.A Specific Performance Goal

- 7.3.12.A.1 Provide and maintain access roads to allow the orderly egress and ingress of vehicular traffic.

7.3.12.B Design requirement (to be addressed in application)

- 7.3.12.B.1 Access roads shall be provided from the public highways or roads,

to and within the facility site and shall be designed and maintained to prevent traffic congestion and traffic hazards.

- 7.3.12.B.2 Adequate on-site area at the facility's entrance, scales, loading and unloading points and exit points shall be provided to allow the number and types of vehicles expected to use the facility during peak times to safely queue off the public roads and right-of-way.

7.3.12.C Performance Standards and Operating Requirements

- 7.3.12.C.1 Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. Access roads shall be maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.
- 7.3.12.C.2 Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles shall not park or queue on public streets or roads except under emergency conditions or in accordance with local traffic ordinances.
- 7.3.12.C.3 Signs shall be posted to inform customers not to queue on public roadways.
- 7.3.12.C.4 Adequate off-street parking and queuing for vehicles shall be provided, including adequate space for on-site tarping and untarpping of loads.

7.3.13 Water contaminated by solid waste and solid waste leachate

7.3.13.A Specific Performance Goal

- 7.3.13.A.1 Provide pollution control measures to protect surface and ground waters from contamination from solid waste.

7.3.13.B Design requirement (to be addressed in application)

- 7.3.13.B.1 Submit a DEQ approved stormwater management plan (or equivalent) with pollution control measures to protect surface and ground waters, including runoff collection and discharge and equipment cleaning and washdown water.

7.3.13.C Performance Standards and Operating Requirements

- 7.3.13.C.1 The facility shall be operated consistent with an approved DEQ stormwater management plan (or equivalent), and shall:
Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and
- 7.3.13.C.2 Dispose of or treat water contaminated by solid waste generated onsite in a manner complying with local, state, and federal laws and regulations.
- 7.3.13.C.3 All mixed non-putrescible waste tipping, storing, sorting and reloading activities must occur on an asphalt or concrete surface and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles (i.e., 30-foot tippers) may tip wastes outside, provided the tipped wastes are moved under cover for processing within 12-hours of receipt or by the end of the business

day whichever is earlier.

7.3.14 Vectors (e.g.: birds, rodents, insects)

7.3.14.A Specific Performance Goal

7.3.14.A.1 Prevent the attraction or harborage of rodents, birds, insects and other vectors.

7.3.14.B Design requirement (to be addressed in application)

7.3.14.B.1 Describe facility design features that will prevent vectors.

7.3.14.C Performance Standards and Operating Requirements

7.3.14.C.1 The facility shall be operated in a manner that is not conducive to the harborage of rodents, birds, insects or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.

7.3.14.C.2 If vectors are present or detected at the facility, vector control measures shall be implemented.

7.3.15 Nuisance complaints

7.3.15.A Specific Performance Goal

7.3.15.A.1 Respond to all nuisance complaints in a timely manner, and keep a record of such complaints, and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.

7.3.15.B Design requirement (to be addressed in application)

7.3.15.B.1 Not applicable.

7.3.15.C Performance Standards and Operating Requirements

7.3.15.C.1 The facility operator shall respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and shall keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.

7.3.15.C.2 If the facility receives a complaint, the operator shall:

Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and log all such complaints as provided by the recordkeeping and reporting standards. Each log entry shall be retained for one year and shall be available for inspection by Metro.

7.3.16 Noise

7.3.16.A Specific Performance Goal

7.3.16.A.1 Prevent excessive noise that creates adverse off-site impacts.

7.3.16.B Design requirement (to be addressed in application)

- 7.3.16.B.1 Identify noise abatement design features on the facility site plan, if proposed.
 - 7.3.16.C Performance Standards and Operating Requirements
 - 7.3.16.C.1 The facility shall be operated in a manner that prevents the creation of noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.
- 7.3.17 Odor**
 - 7.3.17.A Specific Performance Goal
 - 7.3.17.A.1 Prevent odors that create off-site impacts.
 - 7.3.17.B Design requirement (to be addressed in application)
 - 7.3.17.B.1 Identify odor abatement design features on the facility site plan, if proposed
 - 7.3.17.C Performance Standards and Operating Requirements
 - 7.3.17.C.1 The facility shall be operated in a manner that prevents the generation of odors that create off-site impacts. Odors from the facility shall not be detectable off-site.
 - 7.3.17.C.2 The Licensee shall establish and follow procedures in the operating plan for minimizing odor at the facility.
- 7.3.18 Signage**
 - 7.3.18.A Specific Performance Goal
 - 7.3.18.A.1 Have signage that identifies the facility, shows the required information, and is posted in locations as required.
 - 7.3.18.B Design requirement (to be addressed in application)
 - 7.3.18.B.1 Identify where the sign(s) will be located on the facility site plan.
 - 7.3.18.C Performance Standards and Operating Requirements
 - 7.3.18.C.1 The Licensee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, and legible from off-site during all hours and shall contain at least the following information:
 - 7.3.18.C.1.a General facility information to include:
 - Name of the facility
 - Address of the facility;
 - Emergency telephone number for the facility;
 - Operating hours during which the facility is open for the receipt of authorized waste;
 - Fees and charges;
 - Metro's name and telephone number (503) 234-3000;
 - A list of authorized and prohibited wastes;

- 7.3.18.C.1.b Directions not to queue on public roadways.
- 7.3.18.C.1.b Vehicle / traffic flow information or diagram.
- 7.3.18.C.1.c Covered load requirements.

7.3.19 Operating plan

- 7.3.19.A Specific Performance Goal
 - 7.3.19.A.1 Develop, keep and abide by a Metro approved operating plan.
- 7.3.19.B Design requirement (to be addressed in application)
 - 7.3.19.B.1 Not applicable.
- 7.3.19.C Performance Standards and Operating Requirements
 - 7.3.19.C.1 Plan compliance-The Licensee must operate the facility in accordance with an operating plan approved by the Manager of the Metro Solid Waste Regulatory Affairs Division. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this license. The operating plan may be amended from time to time, subject to approval by the Manager of the Metro Solid Waste Regulatory Affairs Division.
 - 7.3.19.C.2 Plan maintenance-The Licensee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The Licensee must submit revisions of the operating plan to the Manager of the Metro Solid Waste Regulatory Affairs Division for written approval prior to implementation.
 - 7.3.19.C.3 Access to operating plan-The Licensee shall maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
 - 7.3.19.C.4 The operating plan shall establish:
 - 7.3.19.C.4.a Procedures for inspecting loads
Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes;
A set of objective criteria for accepting and rejecting loads; and
An asbestos testing protocol for all material that appears as if it may contain friable asbestos.
 - 7.3.19.C.4.b Procedures for processing and storage of loads
Processing authorized solid wastes,
Reloading and transfer of authorized solid wastes,
Managing stockpiles.
Storing authorized solid wastes; and
Minimizing storage times and avoiding delay in processing of authorized solid wastes.
 - 7.3.19.C.5 Procedures for managing prohibited wastes
 - 7.3.19.C.5.a The operating plan shall establish procedures

for managing, reloading, and transporting to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.

7.3.19.C.6 Procedures for odor prevention

The operating plan shall establish procedures for preventing all objectionable odors from being detected off the premises of the facility. The plan must include:

7.3.19.C.6.a A management plan that will be used to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; and

7.3.19.C.6.b Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility.

7.3.19.C.7 Procedures for dust prevention

The operating plan shall establish procedures for preventing the production of dust from blowing or falling off the premises of the facility. The plan must include:

7.3.19.C.7.a A management plan that will be used to monitor and manage dust of any derivation; and

7.3.19.C.7.b Procedures for receiving and recording dust complaints, immediately investigating any dust complaints to determine the cause of dust emissions, and remedying promptly any dust problem at the facility.

7.3.19.C.8 Procedures for emergencies

The operating plan shall establish procedures to be followed in case of fire or other emergency.

7.3.19.C.9 Procedures for nuisance complaints

For every nuisance complaint (e.g. odor, dust, vibrations, litter) received, the Licensee shall record:

7.3.19.C.9.a The nature of the complaint;

7.3.19.C.9.b The date the complaint was received;

7.3.19.C.9.c The name, address and telephone number of the person or persons making the complaint; and

7.3.19.C.9.d Any actions taken by the operator in response to the complaint (whether successful or

unsuccessful).

- 7.3.19.C.9.e Records of such information shall be made available to Metro upon request. The Licensee shall retain each complaint record for a period of not less than two years.

7.3.20 Pre-Operating conditions (for new construction or new authorizations)

7.3.20.A Specific Performance Goal

- 7.3.20.A.1 The facility shall not be permitted to accept solid waste until it has demonstrated that construction is complete and the facility will likely be able to comply with all license conditions.

7.3.20.B Performance Standards and Operating Requirements

- 7.3.20.B.1 The facility may not accept any solid waste until the Director of the Solid Waste and Recycling Department has approved in writing that:

- 7.3.20.B.1.a The facility construction is complete according to plans submitted by the facility and approved by Metro. Any amendments or alterations to such plans must be approved by the Director of the Solid Waste and Recycling Department.
- 7.3.20.B.1.b The storm water management system must be constructed and in proper working order in accordance with the plans submitted to Metro and approved by the DEQ. Any amendments or alterations to such plans must be approved by the Director of the Solid Waste and Recycling Department.
- 7.3.20.B.1.c An adequate operating plan has been submitted and approved by the Director of the Solid Waste and Recycling Department.

- 7.3.20.B.2 Such written approval shall be based upon the Licensee's compliance with license provisions, including the Director's inspection of the facility and the documents submitted to the Director by the Licensee. Prior to the required construction inspection, the Licensee shall submit to the Director of the Solid Waste and Recycling Department "as constructed" facility plans which note any changes from the original plans submitted to Metro.

- 7.3.20.B.3 When construction is complete or nearly complete, the Licensee shall notify the Director of the Solid Waste and Recycling Department so that an inspection can be made before acceptance of any solid waste.

7.3.21 General Recordkeeping and Reporting

7.3.21.A Specific Performance Goal

- 7.3.21.A.1 Maintain complete and accurate records and report such information to Metro.

7.3.21.B Performance Standards and Operating Requirements

- 7.3.21.B.1 DEQ submittals. Licensee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this license within two business days of providing such information.
- 7.3.21.B.2 Copies of enforcement actions provided to Metro. Licensee shall send to Metro, upon receipt, copies of any notice of violation or non-compliance, citation, or any other similar enforcement actions issued to licensee by any federal, state, or local government other than Metro, and related to the operation of the facility.
- 7.3.21.B.3 Unusual occurrences. Licensee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. If a breakdown of the operator's equipment occurs that will substantially impact the ability of the facility to remain in compliance, or create off-site impacts, the operator shall notify Metro within 24-hours. The licensee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro at (503) 234-3000 within 12 hours of the discovery of their occurrence.
- 7.3.21.B.4 Nuisance complaints. For every nuisance complaint (e.g. odor, noise, dust, vibrations, litter) received, the licensee shall record: a) the nature of the complaint, b) the date the complaint was received, c) the name, address and telephone number of the person or persons making the complaint; and d) any actions taken by the operator in response to the complaint (whether successful or unsuccessful). Records of such information shall be maintained on-site and made available to Metro upon request. The licensee shall retain each complaint record for a period not less than one year.
- 7.3.21.B.5 Changes in ownership. The licensee must, in accordance with Metro Code Section 5.01.090, submit a new license application to Metro if the licensee proposes to transfer ownership or control of (1) the license, (2) the facility property, or (3) the name and address of the operator.

7.4 General Administrative and Legal Obligations for Operating

This section identifies standard administrative and legal obligations, required by the Metro Code, for all solid waste facility licenses and franchises. These requirements are not unique to a mixed non-putrescible waste material recovery facility or to a mixed non-putrescible waste reload facility.

7.4.1 Compliance by agents

7.4.1.A Operating Requirement (license / franchise provision)

- 7.4.1.A.1 Compliance by agents. The Licensee shall be responsible for ensuring that its agents and contractors operate in compliance with this license.

7.4.2 Compliance with law

7.4.2.A Operating Requirement (license / franchise provision)

- 7.4.2.A.1 Compliance with law. The Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this license as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the license document, as well as any existing at the time of the issuance of the license but not cited or attached, and permits or conditions issued or modified during the term of the license.

7.4.3 Confidential information

7.4.3.A Operating Requirement (license / franchise provision)

- 7.4.3.A.1 Confidential information. The Licensee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the Licensee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. Licensee shall prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt of a request for disclosure of information identified by Licensee as confidential, Metro shall provide Licensee written notice of the request. Licensee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. Licensee shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. Nothing in this Section 13.0 shall limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith

efforts not to disclose such information.

7.4.4 Deliver waste to appropriate destinations

7.4.4.A Operating Requirement (license / franchise provision)

- 7.4.4.A.1 Deliver waste to appropriate destinations. The Licensee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.

7.4.5 Enforcement

7.4.5.A Operating Requirement (license / franchise provision)

- 7.4.5.A.1 Generally. Enforcement of the license shall be as specified in Metro Code.
- 7.4.5.A.2 Authority vested in Metro. The power and right to regulate, in the public interest, the exercise of the privileges granted by this license 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 Licensee.
- 7.4.5.A.3 No Enforcement Limitations. Nothing in this license shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this license be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this license or the Licensee's operation of the facility.

7.4.6 Indemnification

7.4.6.A Operating Requirement (license / franchise provision)

- 7.4.6.A.1 Indemnification. The Licensee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney's fees, or liability related to or arising out of or in any way connected with the Licensee's performance or failure to perform under this license, including patent infringement and any claims or disputes involving subcontractors.

7.4.7 Modifications

7.4.7.A Operating Requirement (license / franchise provision)

- 7.4.7.A.1 Modification. At any time during the term of the license, either the Chief Operating Officer or the Licensee may propose amendments or modifications to this license. The Chief Operating Officer has the authority to approve or deny any such amendments or modifications provided that the activities authorized in the amended or modified license do not require a Metro Solid Waste

Facility Franchise under Metro Code Chapter 5.01. No amendment or modification pursuant to this section shall be effective unless in writing and executed by the Chief Operating Officer.

7.4.7.A.2 Modification, suspension or revocation by Metro. The Chief Operating Officer may, at any time before the expiration date, modify, suspend, or revoke this license in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:

- 7.4.7.A.2.a Violation of the terms or conditions of this license, Metro Code, or any applicable statute, rule, or standard;
- 7.4.7.A.2.b Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this license;
- 7.4.7.A.2.c Failure to disclose fully all relevant facts;
- 7.4.7.A.2.d A significant release into the environment from the facility;
- 7.4.7.A.2.e Significant change in the character of solid waste received or in the operation of the facility;
- 7.4.7.A.2.f Any change in ownership or control, excluding transfers among subsidiaries of the Licensee or Licensee's parent corporation;
- 7.4.7.A.2.g A request from the local government stemming from impacts resulting from facility operations.
- 7.4.7.A.2.h Compliance history of the Licensee.

7.4.8 Right of inspection and audit

7.4.8.A Operating Requirement (license / franchise provision)

7.4.8.A.1 Right of inspection and audit. Authorized representatives of Metro may take photographs, collect samples of materials, and perform such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 13.5 of this license, Metro's right to inspect shall include the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of Licensee that are directly related to the operation of the Facility.

7.4.9 Insurance

7.4.9.A Operating Requirement (license / franchise provision)

- 7.4.9.A.1 General liability. The Licensee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.
- 7.4.9.A.2 Automobile. The Licensee shall carry automobile bodily injury and property damage liability insurance.
- 7.4.9.A.3 Coverage Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- 7.4.9.A.4 Additional insureds. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED.
- 7.4.9.A.5 Worker's Compensation Insurance. The Licensee, its subcontractors, if any, and all employers working under this license, are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Licensee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Licensee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
- 7.4.9.A.6 Notification. The Licensee shall give at least 30 days written notice to the Director of the Solid Waste and Recycling Department of any lapse or proposed cancellation of insurance coverage.

7.4.10 Financial assurance

7.4.10.A Operating Requirement (license / franchise provision)

- 7.4.10.A.1 Financial assurance The Licensee shall maintain financial assurance in an amount adequate for the cost of the facility's closure and in a form approved by Metro for the term of the license, as provided in Metro Code section 5.01.060(c)(4).

BMbjl
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EXHIBIT E

600 NE Grand Ave.
Portland, OR 97232-2736
TEL (503) 797-1835
FAX (503) 813-7544

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DUE 9-18-09

SEP 17 09 PM 03:25 ACCT

NOTICE OF VIOLATIONS and IMPOSITION OF CIVIL PENALTY No. NOV-231-09

To: Dave Wacker, Authorized Representative
Dave Wacker Sanitary Service ("DWS")
13001 SE 197th Ave.
Damascus, OR 97089

Location of Unauthorized Facility: 6433 NW St. Helens Road
Portland, OR 97210

Operating Instrument: None

Dates of Violations: July 23, 2009 through August 4, 2009

Code Violations - Chapter 5.01: Metro Code Section 5.01.045(a)(3) stipulates that a Metro solid waste license shall be required of the person owning or controlling a facility where yard debris reloading is performed.

On July 23, 2009, Metro conducted an inspection of a facility located at 6433 NW St. Helens Road. The facility consisted of a rock-surfaced lot on which the inspector found a stockpile of approximately six loads of compacted yard debris from curbside collection. The inspector spoke with Dave Wacker by phone on July 27, 2009 and determined that the facility was under the control of DWS and that one or more DWS trucks had deposited the yard debris at the location with the intention of utilizing the lot as a yard debris reloading facility. DWS is therefore operating an unauthorized yard debris facility without an appropriate license from Metro in violation of Code Section 5.01.045(a)(3). Each day that yard debris remains on the site constitutes a separate violation, potentially subject to a penalty of \$500 per day.

Code Violations - Chapter 5.05: Metro Code Section 5.05.025(a) stipulates that: *Except as otherwise provided in this chapter, it shall be unlawful for any waste hauler or other person to 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 the District, any solid waste*

facility or disposal site without an appropriate license from Metro.

DWS delivered yard debris to an unauthorized facility without an appropriate license from Metro in violation of Code Section 5.05.025(a). Each load of yard debris delivered to the facility constitutes a separate violation.

Additional Information:

On July 27, 2009, Solid Waste inspector Duane Altig informed Dave Wacker by phone that DWS must discontinue tipping yard debris at the site and must remove the yard debris that was currently on site. Mr. Wacker stated that he would remove the yard debris by July 31. On August 4, 2009, Metro staff re-inspected the facility. DWS had failed to remove the yard debris previously deposited there. In addition the inspector observed a DWS packer truck dumping additional yard debris at the site.

Civil Penalties:

Civil penalties totaling EIGHT HUNDRED SIXTY- AND 00/100 DOLLARS (\$860.00) are imposed for the violations described in this Notice (see attached Penalty Worksheet). Subsequent violations shall make DWS subject to additional penalties of up to \$500 for each additional load. An invoice for the penalties is enclosed with this Notice.

Actions required to abate the violations:

DWS must immediately cease accepting yard debris at the site and remove all of the yard debris currently on site by August 31, 2009. The site will be re-inspected for compliance on or after September 1, 2009. Failure to cure the violations shall make DWS subject to penalties of up to \$500 for each day that yard debris remains on site and an additional \$500 for each additional load that DWS delivers to the site.

8/19/09
Date

Margo Norton
Margo Norton
Finance and Regulatory Services Director

DEAR SIRs;

I REQUEST a CONTESTED CASE HEARINGS. SO I CAN EXPLAIN
my side OF THE STORY. Thank YOU

David A. Wacker

DAVE WACKER

CONTESTED CASE NOTICE

Under Metro Code Chapter 2.05, you have the right to request a contested case hearing regarding this Notice of Violation. You must make this request in writing and ensure that Metro receives the request within 30 days of the date this Notice was mailed. You may retain legal counsel to represent you at the hearing. Article IX, Section 14 of the Oregon Constitution, the Metro Charter, ORS Chapter 268, and Metro Code Chapters 2.05, 5.01, and 5.05 provide Metro's authority and jurisdiction for the hearing.

cc: Roy Brower, Solid Waste Compliance and Cleanup Manager
Steve Kraten, Solid Waste Enforcement Coordinator
Warren Johnson, Solid Waste Compliance Supervisor
Will Ennis, Solid Waste Facility Inspector
Michelle Bellia, Senior Metro Attorney
Stephanie Rawson, DEQ
Bruce Walker, City of Portland

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing NOTICE OF VIOLATION including
CONTESTED CASE NOTICE on the following:

Dave Wacker, Authorized Representative
Dave Wacker Sanitary Service
13001 SE 197th Ave.
Damascus, OR 97089

On August 19th, 2009, said individuals were served with a complete and correct copy thereof via regular mail and certified mail, return receipt requested, contained in a sealed envelope, with postage prepaid, and deposited in the U.S. Post Office at Portland, Oregon.

Roy W. Brower

Roy W. Brower
Solid Waste Compliance and Cleanup Manager



Metro

Penalty Worksheet

Licensee/Hauler Name

License Number

Dave Wacker Sanitary Service

None

Brief Description

Hauler delivered compactor truck loads of curbside yard debris to a vacant lot that is not authorized as a solid waste facility. After being verbally warned by Metro to cease such deliveries and to remove the yard debris from the site, the hauler failed to remove the material and delivered an additional load to the site. Metro estimates that DWS delivered a total of 6-7 loads to the site as of the dates indicated.

NOV Number	Date(s) of Violation(s)	Violations	Incidences*	Units involved
NOV-231-09	July 23 - Aug. 4, 2009	6	1	6.00

Direct Cost/Revenue Loss

1 Administrative cost		\$500.00
2 Unpaid Regional System Fees:	NA tons at \$0.00	\$0.00
3 Unpaid Excise Taxes:	NA tons at \$0.00	\$0.00
4 Metro disposal costs (disposal contract)		\$0.00
5 Yard debris reload facility license application fee		\$300.00
6 Specify other direct cost/revenue loss		
7 Add lines 1 through 6.....	Equals Direct Recovery	\$800.00

Indirect Cost/Revenue Loss

1 Specify indirect cost/revenue loss	
2 Specify other indirect cost/revenue loss	
3 Specify other indirect cost/revenue loss	
4 Specify other indirect cost/revenue loss	
5 Add lines 1 through 4.....	Equals Indirect Recovery \$0.00

Compliance Component

1 Base penalty per load delivered to unauthorized facility	\$10.00
2 Additional penalty at \$1 per violation per repeat incident	\$0.00
3 Add lines 1 and 2	\$10.00
4 25% penalty on unpaid Regional System Fees	\$0.00
5 25% penalty on unpaid Excise Taxes	\$0.00
6 Specify other aggravating/mitigating compliance factors	
7 Specify other aggravating/mitigating compliance factors	
8 Sum lines 3 through 7	\$10.00
9 Total tons involved in current incident	6.00
10 Multiply lines 8 and 9.....	Equals Compliance Component \$60.00

Total Penalty

\$860.00

Worksheet prepared by

Date

Steve Kraten

August 18, 2009

* Incidences within the last three years including current incident

Code check: total penalty per violation \$143.33.

INVOICE

Please Remit To:

Metro
Accounts Receivable
600 NE Grand Avenue
Portland OR 97232-2736



Page: 1
Invoice No: REM-01070
Invoice Date: 08/19/2009
Customer Number: REM1431
Payment Terms: Net 30
Due Date: 09/18/2009

Bill To:

Dave Wacker Sanitary Service
13001 SE 197th Avenue
Damascus OR 97089

AMOUNT DUE: 860.00 USD

Amount Remitted



For billing questions, please call 503-797-1620

Line	Adj	Identifier	Description	Quantity	Unit Amt	Net Amount
Violation NOV-231-09						
1			Violation NOV-231-09	1.00	860.00	860.00
SUBTOTAL:						860.00
TOTAL AMOUNT DUE :						860.00

DEAR SIRs:

I request a contested case hearing, so I can
Explain my side of the story. Thank You

Dave Wacker

DAVE WACKER

STANDARD

Original