

Metro | Agenda

Meeting: Solid Waste Alternatives Advisory Committee (SWAAC)
Date: Wednesday, May 10, 2017
Time: 10:00 a.m. to Noon
Place: Metro, Council Chambers

The purpose of the Solid Waste Alternatives Advisory Committee is to develop policy options that, if implemented, would serve the public interest by reducing the amount and toxicity of waste generated and disposed, or enhancing the effectiveness and sustainability of the system through which the region's solid waste is managed.

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| 10:00 AM | 1. | CALL TO ORDER AND DECLARATION OF A QUORUM | Matt Korot, Chair |
| 10:02 AM | 2. | COMMENTS FROM THE CHAIR AND SWAAC MEMBERS | |
| 10:07 AM | 3. ** | CONSIDERATION OF SWAAC MINUTES FOR MAR. 8, 2017 | |
| 10:10 AM | 4. | METRO UPDATES <ul style="list-style-type: none">• Food scraps recovery• 2030 Regional Waste Plan development | Matt Korot, Chair |
| 10:20 AM | 5. | SOLID WASTE FEE AND TAX EXEMPTIONS
SUBCOMMITTEE: MEETING 1 UPDATE | Rick Winterhalter,
Clackamas County |
| 10:30 AM | 6. | RATE TRANSPARENCY AT TRANSFER STATIONS
<i>Purpose:</i>
To update SWAAC on the rate transparency work that resulted from the 2016 Transfer System Configuration project.

<i>Outcome:</i>
SWAAC knowledge of the status, outcomes to date and next steps of this work. | Tim Collier, Metro
Tom Chaimov, Metro |
| 10:55 AM | 7. ** | MATERIAL RECOVERY AND CONVERSION TECHNOLOGY
FACILITY REGULATORY CHANGES: PROPOSED CODE
REVISIONS

<i>Purpose:</i>
To present Metro staff's proposed changes to Code and Administrative Rules language for the MRF/CT licensing requirements.

<i>Outcomes:</i> <ul style="list-style-type: none">• Input from SWAAC members on the proposed language.• Support from SWAAC to post the proposed changes for public comment. | Dan Blue, Metro |

Continued on back...

11:25 AM 8. CITIZEN COMMUNICATIONS

11:35 AM 9. PREVIEW OF THE NEXT MEETING'S AGENDA AND FINAL COMMENTS Matt Korot, Chair

10. ADJOURN

* Material available on the Metro website.

** Material will be distributed in advance of the meeting.

Material will be distributed at the meeting.

Upcoming SWAAC Meetings:

- Wednesday, June 14, 2017 from 10 a.m. to 12 p.m. (noon) at the Metro Regional Center -- *tentative*
- Wednesday, July 12, 2017 from 10 a.m. to 12 p.m. (noon) at the Metro Regional Center

For agenda and schedule information, call Matt Korot at 503-797-1760, e-mail: matt.korot@oregonmetro.gov.

To check on closure or cancellations during inclement weather please call 503-797-1700.

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Meeting minutes

Meeting: Solid Waste Alternatives Advisory Committee (SWAAC)

Date/time: 10:00 a.m.-noon, Wednesday, March 8, 2017

Place: Metro Council Chambers

Members in Attendance:

Mike Leichner, Pride Disposal
Bruce Walker, City of Portland
Adrienne Welsh, Recycling Advocates
Theresa Koppang, Washington County
Mark Ottenad, City of Wilsonville
Peter Brandom, City of Hillsboro
Rick Winterhalter, Clackamas County
Keith Ristau, Far West Recycling
Matt Korot, Metro

Members Absent:

Paul Downey, City of Forest Grove
Alando Simpson, City of Roses Disposal & Recycling
Audrey O'Brien, Oregon DEQ
Reba Crocker, City of Milwaukie

1. Call to Order and Declaration of a Quorum

Matt Korot brought the meeting to order and declared a Quorum.

2. Comments from the Chair and SWAAC Members

Mr. Korot reviewed the meeting agenda and how citizen communications would be structured. Mr. Korot also informed the committee members that Tim Collier, Metro, would be asking them to commission the Solid Waste Fee and Tax Exemption Subcommittee.

Peter Brandom reiterated that with all the broad, wide-range, long-term projects that Metro is undertaking, it is important that the unique concerns and challenges of the west side be kept in mind.

3. Consideration of SWAAC Minutes for February 8, 2017

The minutes of the February SWAAC meeting were approved without change. Mr. Brandom said that he had noted some typographical errors in the minutes, which he would identify in a follow-up email.

4. Updates – Matt Korot

Commercial Food Scraps Recovery

Mr. Korot provided an update on the Food Scraps Recovery project. The Metro Council gave direction last October to accelerate the recovery of food scraps with four areas of focus:

- Develop draft mandatory recovery policy
- Develop options for spreading costs beyond participating businesses
- Assess how to most effectively transfer the collected food scraps
- Procure processing services

Metro staff is working to draft the policy and options for spreading the costs. The goal is to bring these items to SWAAC in July and/or August. The team working on these deliverables

Meeting minutes



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includes representatives from Washington and Clackamas counties, Gresham, Portland and Oregon DEQ.

Metro expects to release the Request for Proposal (RFP) for processing services in April [*note: since the meeting, the release date has moved to May*]. Spring and summer will include additional stakeholder engagement with those local governments with the highest concentration of food businesses and with the businesses that will be affected in the first phases of the mandatory program.

Theresa Koppang asked if the timeline had changed for any actions to go in front of Metro Council. She thought engagement with the Council was going to occur in spring. Mr. Korot responded that it made sense to push that date back until all the engagements are complete and a full report can be given to the Council. Mr. Brandom asked for a timeline for the RFP. Mr. Korot informed him that the RFP is slated to be released in the first week of April [*note: changed to May*] and anticipates a four to six week deadline for submission. The hope is for an outcome by late summer. Bruce Walker commented on the transfer aspect of this project, stating that getting Metro South geared up for commercial food scraps would greatly boost our regional efforts. The Portland residential food scraps program has benefitted from being able to use that facility. Ms. Koppang announced that the Washington County Solid Waste Advisory Committee would be discussing food scraps recovery on Thursday, March 9, 2017.

2030 Regional Waste Plan

Mr. Korot reminded the committee that Paul Slyman and Marta McGuire presented the Regional Waste Plan work plan to SWAAC at the February meeting. Both SWAAC and the Metro Policy Advisory Committee (MPAC) reviewed the work plan and provided input. Staff presented the work plan to Metro Council last week and received the go-ahead to implement it. Work on *Phase 1: Values* is set to begin in April and will incorporate engagement with Metro Council, the Equity Work Group, prioritized audiences, SWAAC and MPAC.

Diversity, Equity, and Inclusion

Mr. Korot reminded the group that Paul Slyman and staff from Metro's Diversity, Equity and Inclusion program introduced Metro's Racial Equity Strategy a little less than a year ago. He then said that the Property and Environmental Services (PES) department, in which Metro's solid waste programs are housed, developed an initial one-year plan to begin to implement the strategy. He distributed a one-page summary of this plan and said that those interested could let him know if they wanted the entire document. Later this year the department will develop a five-year plan.

Metro Transfer Station Update – Paul Ehinger

Paul Ehinger provided a recap of the significant impacts that the December and January snow events had on Metro's transfer operations. They severely affected Metro's ability to move trash out on a timely basis because of both road closures and significant increases in travel time, resulting in much greater than usual accumulations of garbage at the stations. As of today, March 8, 2017, operations are nearing normal (a little over one month after the last weather event). Mr. Ehinger stressed his appreciation for haulers who helped by diverting deliveries to the transfer stations that were able to accommodate the material.

Meeting minutes



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Mr. Ehinger identified some areas for improvement in the future:

- Implementing a stronger system for notifying haulers of transfer system conditions
- Ensuring all information for the public is on the website and current

Mr. Ehinger informed the committee that as of March 15, 2017 he will become the Director of Capital Assets for solid waste operations. His first undertaking will be improvements at Metro South. In light of the job change, Mr. Walker complimented Mr. Ehinger for his previous work gearing up South for residential organics waste handling.

Mr. Ehinger reminded the committee that April 1, 2017 will be the start of the new asbestos rules at transfer stations. Mr. Korot noted that these rules are available on the Metro website. Mr. Brandom restated his request from last month for hard-copies of the rules.

5. Solid Waste Fee and Tax Exemptions Subcommittee - Tim Collier, Metro

Tim Collier presented the proposed list of members for the Fee and Tax Exemptions Subcommittee, noting that he presented the goals and directives of this subcommittee at the February 8, 2017 SWAAC meeting. The proposed list is drawn from nominations and recommendations received after that meeting. He is asking SWAAC's approval of this proposed member list. The subcommittee will begin meeting in April and have monthly meetings to develop recommendations that will go to SWAAC in late summer. SWAAC will then develop its findings and options for Council consideration in the fall.

Mr. Walker requested that any subcommittee members who were present in the audience please identify themselves. Vern Brown and Matt Cusma were present.

Ms. Koppang asked for more information about proposed member Janice Thompson. Ms. Thompson is on the staff of the Oregon Citizens' Utility Board, which advocates on behalf of ratepayers. Mike Leichner asked for verification that those on the list have been contacted and agreed to serve. Mr. Collier confirmed that.

Mr. Korot opened the floor for audience comments and there were none. He then called for a vote to approve the subcommittee member list. The committee adopted the list as presented.

SWAAC member Rick Winterhalter is on this subcommittee and will serve as the liaison with SWAAC.

6. Preview of the Next Meeting's Agenda and Final Comments

Mr. Korot said that the April SWAAC meeting will be canceled because it conflicts with the Association of Oregon Recyclers Forum (State of Food Scraps) taking place on the same day. More information on the forum can be found at oregonrecyclers.org. The May meeting will include a discussion of the next steps for Material Recovery Facility/Conversion Technology code changes.

SOLID WASTE ADMINISTRATIVE RULES

AR – SSR—5.01

Source Separated Recyclables Material Recovery Facility Rules

DRAFT

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SSR - 5.01 - 001

Policy and Legal Authority

1. Metro Code 5.01.280 authorizes the Chief Operating Officer to adopt administrative rules governing the requirements of licensees and franchisees under Chapter 5.01.
2. Metro Code 5.01 requires a source separated recyclable material recovery facility to comply with all applicable Metro administrative rules adopted by the Chief Operating Officer. These administrative rules are in addition to all requirements set forth in Metro Code Chapter 5.01.

SSR - 5.01 - 002

Definitions

Unless otherwise specifically defined below, all applicable definitions are found in Metro Code Chapter 5.00.

1. “Source separated recyclables material recovery facility” or “SSR facility” means a facility that receives and processes solid waste that has been source separated by the waste generator for the purpose of reuse, recycling, or composting. Refer to Metro code 5.00 for a detailed definition of “source separated recyclables”.

SSR - 5.01 - 003

Applicability of Rules and Effective Date

1. These administrative rules apply to all source separated recyclables material recovery facilities subject to license requirements under Metro Code Chapter 5.01.
2. Effective Date. These rules are effective on January 1, 2018.

SSR - 5.01 - 004

Variance from Administrative Rule Requirements

1. The Chief Operating Officer (COO) may grant a variance from administrative rule requirements.
2. The COO may impose conditions on any variance as necessary to protect public health, safety and welfare.
3. A licensee or license applicant must request a variance in writing and must state in a concise manner why the COO should grant the variance. The COO may investigate the variance request as necessary.
4. If an existing licensee makes a variance request, the COO has 60 days from the date the request is received to either approve or deny it. For a new license applicant, the COO must approve or deny the variance request at the same time the COO approves or denies the license application.
5. A request for a variance is not a substitute for the license application required under Metro Code Chapter 5.01.
6. A written variance request must include, at a minimum, the following information:
 - a. the specific administrative rule or rules for which the license applicant or licensee is seeking a variance;
 - b. a concise description of how the requesting party will meet the intent of the rule or rules or why the rule is unnecessary;
 - c. the duration of the variance, if temporary; and
 - d. any other supporting documentation or information to inform the variance request.
7. If the COO denies a variance request, the COO must notify the requesting party of the right to a contested case hearing under Metro Code Chapter 2.05.
8. If the COO denies a variance request, the requesting party may not request the same or a substantially similar variance for at least six months from the date of denial.

SSR - 5.01 - 005

Facility Design Requirements

A facility must comply with the following facility design requirements:

1. Storage and Processing Areas. The facility design must have an impervious surface (such as asphalt or concrete) within a roofed building that is enclosed on three sides for processing and storage purposes.
2. Dust Control. The facility design must include elements (such as shrouding, misting or ventilation equipment) that minimize and control off-site dust. This requirement applies to all receiving, processing, and reloading areas; all processing equipment; and all conveyor transfer points where dust generation is likely.
3. Litter Control. The facility design must include elements (such as fencing, walls, or barriers) that minimize and control off-site litter. This requirement applies to all receiving, processing, and reloading areas as well as all transfer points where off-site litter generation is likely.
4. Fire Suppression. The facility design must include fire suppression systems that comply with state and local fire code regulations. Fire suppression protection must include, but is not limited to, adequate water supply and isolating potential heat sources and/or flammable materials or substances from the processing area.
5. Capacity. The facility design must include processing systems and storage areas of sufficient capacity to accommodate anticipated seasonal throughput of all materials that are delivered to and generated by the facility.
6. Prohibited Waste Storage Area. The facility design must include a secured or isolated containment area to store prohibited wastes that the licensee inadvertently receives. All containment areas must be covered and enclosed to prevent leaking and to prevent contamination of source separated recyclables.
7. Tipping/Reloading Area. The facility design must ensure that tipping and reloading areas are constructed of an impervious material (such as asphalt or concrete).
8. Access and Vehicle Accommodation. The facility design must provide access roads from the public highways or roads, to and within the facility site. The licensee must design and maintain the roads to prevent traffic congestion and traffic hazards. The facility design must provide for:
 - a. Adequate on-site area at the facility's entrance, scales, loading and unloading points and exit points 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;
 - b. A gate at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty;
 - c. Posted signs that inform customers not to queue on public roadways; and
 - d. Adequate off-street parking for vehicles, including adequate space for on-site tarping and untarping of loads.

SSR - 5.01 - 006

Facility Operating Requirements

A licensee must comply with the following facility operating requirements:

1. Prevent Contamination and Degradation. A licensee must protect source separated recyclables from contamination from other solid wastes and not allow source separated recyclables to degrade due to exposure to wind or rain.
2. Residuals. A licensee must keep all processing residual separate from source separated recyclable materials.
3. No disposal. A licensee may not transfer source-separated recyclable materials to a disposal site unless otherwise approved in writing by Oregon Department of Environmental Quality and Metro.
4. Tipping and Reloading Materials. A licensee must tip and reload source separated recyclables on an impervious surface. Tipping and reloading may occur outside on an impervious surface so long as the licensee moves the materials inside a roofed building that is enclosed on three sides. This must occur within 12 hours of tipping or by end of the business day, whichever is earlier.
5. Material Storage. A licensee must store source separated recyclable material on an impervious surface within a covered building that is enclosed on three sides except as permitted in subsection (6).
6. Outdoor Material Storage. A licensee must manage, contain and remove processed materials and solid waste at sufficient frequency to avoid material degradation, nuisance conditions, vector or bird attraction or harborage, or safety hazards. The following conditions apply to outdoor storage of source separated or recovered recyclables only:
 - a. Processed source separated recyclables may be stored outside of a roofed building if applicable fire code requirements prohibit the storage of such materials indoors. The licensee may store such materials outside of a roofed building if the storage complies with local and state fire codes and meets at least one of the following conditions:
 1. The material is stored within an enclosed shipping container, enclosed vehicle, securely covered drop box (roll off container), compactor, or other similar secure portable storage container;or
 2. The material is stored on an impervious surface and securely covered in order to be protected from wind and precipitation.
 - b. Exterior stockpiles must be positioned within, and not exceed, footprints of exterior storage areas identified on the facility site plan.

- c. Materials may not be stockpiled for longer than 180 days. Metro may grant a variance to the 180 day limit if: (i) there is a demonstrated need for an exception, and (ii) the stockpiles will not create a nuisance or a health, safety or environmental problem.
7. Vehicle Maintenance. A licensee must maintain and operate all vehicles and devices transferring or transporting source separated recyclables from the facility in a manner that prevents leaking, spilling or blowing of materials on-site or while in transit.
 8. Impervious Surface Maintenance. A licensee must maintain and operate all access roads, and all receiving, processing, storage, and reload areas in such a manner as to minimize and mitigate dust, airborne debris, and litter from being generated on-site.
 9. Facility Capacity. A licensee may not exceed its designed operational capacity. If a licensee reaches operational capacity, the licensee may not accept additional loads of source separated recyclables for processing.
 10. Controlling Dust and Litter. A licensee must minimize and mitigate dust generation, airborne debris and litter, and must prevent their migration beyond property boundaries.
 11. Covered Loads. A licensee must take reasonable steps, including providing signage, to notify and remind persons delivering source separated recyclables to the facility that all loads must be sufficiently covered to prevent any material from blowing off the load during transit.
 12. Fire prevention. The licensee must provide fire prevention, protection, and control measures. This includes, but is not limited to, providing an adequate water supply for fire suppression and isolating potential heat sources and/or flammable materials or substances from the processing area.
 13. Qualified Operator. The licensee must provide a qualified operator on-site during all hours of operation to carry out the function required by the license and the operating plan.
 - a. The licensee must maintain and make available to Metro for review all records related to licensee's training of personnel to recognize, properly handle and dispose of prohibited waste.
 - b. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of the license and the relevant procedures contained within the facility's operating plan.
 - c. A qualified operator must be an employee or contractor of the licensee with training and authority to reject prohibited loads and properly manage prohibited waste that is inadvertently received.
 14. Prohibited Waste. The licensee must not accept prohibited waste, including but not limited to non-putrescible and putrescible waste, hazardous waste and asbestos.
 15. Load Checking. The licensee must visually inspect every load it receives and reject prohibited loads upon discovery. If prohibited wastes are discovered after such time that the licensee cannot reject the load, the licensee must properly manage and dispose of the prohibited waste.
 16. Measurement of Materials. The licensee must accurately weigh all source-separated recyclable materials when they are received, transferred to market or intra-facility, and transported from the

facility. The scale used to weigh all solid waste must be licensed by the state of Oregon (Weights and Measures Act).

17. Transaction Records and Reporting. The licensee must maintain complete and accurate transaction records on the weights and types of all solid waste received, recovered, reloaded, removed or disposed from the facility.
 - a. Records must include those specified in the Metro document: “Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements” and as required in the solid waste license.
 - b. Licensee must transmit the records to Metro no later than fifteen days following the end of each month in an electronic format prescribed by Metro.

18. Access Control. The licensee must control access to the facility and prevent unauthorized pedestrian and vehicular traffic and illegal dumping.

19. Traffic Flow. The licensee must take reasonable steps to notify and remind persons delivering materials to the facility that vehicles may not park or queue on public streets or roads except under emergency conditions or as allowed by local traffic laws.

20. Water Protection. The licensee must provide pollution control measures to protect surface and ground waters from contamination. The licensee must operate consistently with an approved DEQ stormwater management plan (or equivalent), and the licensee must also:
 - a. Operate and maintain the facility to prevent contact of solid wastes or recyclables with storm water runoff and precipitation; and
 - b. Dispose of or treat water contaminated by solid waste or recyclables generated onsite consistent with local, state, and federal laws and regulations.

21. Vector Control. The licensee must operate the facility in a manner that does not attract nor is 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. If vectors are present, the licensee must implement vector control measures.

22. Response to Nuisance Complaints. The licensee must respond in a timely manner to all nuisance complaints (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and must keep a record of those complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.

23. Noise. The licensee must prevent noise that causes adverse off-site impacts, and to the extent necessary the licensee must meet applicable state and local regulatory standards and land-use regulations.

24. Odor. The licensee must prevent odors that create off-site impacts or that are detectable off-site.

25. Signage. The licensee must post signs at all public entrances to the facility that are easily and readily visible, and legible to users of the facility. The signs must conform with local government signage regulations and contain at least the following information:

- a. Name of the facility
- b. Address of the facility
- c. Emergency telephone number for the facility
- d. Operating hours during which the facility is open for the receipt of authorized waste
- e. Fees and charges if applicable
- f. Metro's name and telephone number (503) 234-3000
- g. A list of authorized and prohibited wastes
- h. Directions not to queue on public roadways
- i. Vehicle / traffic flow information or diagram
- j. Covered load requirements

SSR - 5.01 - 007

Facility Operating Plan

A licensee must compile a facility operating plan.

1. Plan Compliance. The licensee must operate the facility in accordance with a facility operating plan approved by the COO. The operating plan must include sufficient detail to demonstrate that the licensee will comply with the Design and Operating Requirements contained in these Administrative Rules (SSR 5.01-001 through SSR 5.01-010). The licensee may amend the operating plan subject to approval by the COO.
2. Plan Maintenance. The licensee must revise the facility operating plan as necessary to keep it current with the facility conditions, procedures, and operating practices. The licensee must submit revisions of the operating plan to the COO.
3. Plan Access. The licensee must maintain a copy of the facility operating plan on the facility premises and in a location where facility personnel and Metro representatives will have easy access to it.
4. Emergency Procedures. The facility operating plan must include procedures that the licensee will follow in case of a fire or other emergency.

SSR - 5.01 - 008

Facility Pre Operating Conditions

1. When construction is complete or nearly complete, the licensee must notify the COO to schedule an inspection before the facility may accept any solid waste (including source separated recyclables). Prior to the required construction inspection, the licensee must submit to the COO "as constructed" facility plans that note any changes from the original plans submitted to Metro.
2. A licensee may not accept any solid waste (including source separated recyclables) until facility construction is complete and the licensee demonstrates that it can comply with these administrative rules and its license conditions.
3. The licensee may not accept any solid waste (including source separated recyclables) until the COO has approved in writing that:
 - a. The facility construction is complete according to plans submitted by the licensee and approved by Metro. The COO must approve any amendments or alterations to the plans.
 - b. The stormwater management system must be in proper working order in accordance with the plans submitted to Metro and approved by the DEQ. The COO must approve any amendments or alterations to the plans.
4. The licensee may not accept solid waste until the COO has approved an adequate operating plan.
5. The COO will base written approval upon the licensee's compliance with license provisions, including the COO's inspection of the facility and the documents submitted by the licensee.

SSR - 5.01 - 009

General Recordkeeping and Reporting

1. DEQ Submittals. Licensee must 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 that information to DEQ.
2. Enforcement Actions Submitted to Metro. Licensee must 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.
3. Unusual Occurrences. Licensee must 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. The licensee must report any facility fire, accident,

emergency, or other significant incidents to Metro at (503) 234-3000 within 24 hours of its discovery. 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 must notify Metro within 24 hours.

4. Nuisance Complaint Recordkeeping. For every nuisance complaint received (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), the licensee must 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).

The licensee must maintain records of this information on-site and make them available to Metro upon request. The licensee must retain each complaint record for a period not less than one year.

5. Changes in Ownership. As set forth in Metro Code Section 5.01.120, the licensee must notify Metro within 10 days if the licensee leases, assigns, mortgages, sells, or otherwise transfers control of the license to another person.

SSR - 5.01 - 010

General Administrative and Legal Obligations for Operating

The licensee shall adhere to standard administrative and legal obligations, required by Metro Code, for all solid waste facility licenses.

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.
2. 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.
3. Modification. At any time during the term of the license, either the COO or the licensee may propose amendments or modifications to this license. The COO 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 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 COO.

- a. The COO 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:
 - a. Violation of the terms or conditions of this license, Metro Code, or any applicable statute, rule, or standard;
 - b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this license;
 - c. Failure to disclose fully all relevant facts;
 - d. Significant change in the character of solid waste received or in the operation of the facility;
 - e. Any change in ownership or control, excluding transfers among subsidiaries of the licensee or licensee's parent corporation;
 - f. A request from the local government stemming from impacts resulting from facility operations; and,
 - g. Compliance history of the licensee.
4. Inspection and Audit. Authorized representatives of Metro may take photographs, collect samples of materials, and perform such inspection or audit as the COO 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.
5. Insurance. The licensee shall carry insurance the following types of insurance:
 - a. 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.
 - b. Automobile. The licensee shall carry automobile bodily injury and property damage liability insurance.
 - c. 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.
 - d. Additional Insureds. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS.
 - e. 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.

- f. Notification. The licensee shall give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements

Purpose and Effective Date

This document specifies the form, format, and schedule for submitting transaction data that must be reported to Metro. The effective date of this document is November 1, 2013, and will remain in effect until superseded.

Background

Reporting Entity. For the purpose of this document a “reporting entity” means a solid waste facility (including landfills) that maintains a solid waste regulatory or contractual relationship with Metro and which requires monthly reporting of transaction level data. These relationships with Metro may include facility licenses, non-system licenses, facility franchises, or designated facility agreements.

Reporting Method. Reporting entities submit monthly reports through SWIS (Solid Waste Information System) eFile, an online portal for filing reports and remitting payments on solid waste activities. More information on SWIS eFile, instructional videos, and a user guide can be found on Metro’s web site www.oregonmetro.gov/SWIS

Data Form. Transaction data can be uploaded to Metro by copying and pasting the data from a Microsoft Excel file into an upload window in SWIS eFile.

Data Standard. The SWIS eFile Data Standard sets forth the technical specifications for transaction data that all Reporting Entities must use to submit data in a uniform manner to Metro.

Reporting Requirements

The Reporting Entity shall submit the data required by its regulatory instrument or designated facility agreement to Metro in the form, format, and schedule set forth in this document.

All monthly reporting of transaction data and payment of any applicable Metro fees and taxes are due from the Reporting Entity by the 15th of the following month (i.e. January transactions are due by February 15) or on the next business day if the 15th falls on a weekend or holiday.

The Reporting Entity must report on (1) each inbound transaction that originates in Clackamas, Multnomah, or Washington counties and accepted by the facility; and (2) (if applicable) on all transactions outbound from the facility, regardless of the destination.

Each record (or row in a spreadsheet file) must contain the data for one and only one transaction.

For each transaction, the following data fields (or columns in a spreadsheet file) must conform to the Data Standard, as shown in the next section of this document.

- **Required data** The following data fields are required for each transaction.
 1. Reporting Entity identifier (RPTENTITY_ID) is a unique number assigned to a Reporting Entity by Metro
 2. Ticket number (TNUM) is the transaction or identifying number as printed on the scale ticket
 3. Load direction (DIRECTION) is a numeric code indicating whether the transaction was inbound to, or outbound from, the Reporting Entity.
 4. Customer or Destination name or code (CUSTDEST) is a name, code, or description identifying either: (1) for inbound transactions, the customer delivering waste to the Reporting Entity, or (2) for outbound transactions, the destination of waste sent from the Reporting Entity.
 5. Material (MATERIAL) is a name, code, or description identifying the type of material.
 6. Date (DATE) is the date of the transaction, as printed on the scale ticket.
 7. Time (TIME) is the time of the transaction, as printed on the scale ticket.
 8. Tons (TONS) is the net weight of the transaction to the nearest one-hundredth of a ton, as printed on the scale ticket.
 9. Origin of the waste (ORIGINTYPE) is code indicating whether the load was generated in the Metro district, outside the Metro district but inside the tri-county (Clackamas, Multnomah, & Washington) region, or outside of the tri-county region.
 10. Tip fee (TIPFEE) is the fee charged the generator of the waste.

- **Conditional data** The following data fields are required on all transactions that are voided, duplicated, or otherwise flagged. The Reporting Entity may use the Transaction Comment field to insert optional comments on any type of transaction.
 11. Ignore (IGNORE) is an indicator to exclude the transaction record. Used for voided, duplicate, and other transactions that should be ignored by SWIS eFile when calculating tonnage quantities.
 12. Transaction Comment (COMMENT) is supplemental information regarding the transaction. This field is required for all transactions on which the Ignore field is set to “yes,” and is optional for other transactions.

- **Additional data** The following data fields must be supplied when required by the Reporting Entity’s regulatory instrument or designated facility agreement with Metro.
 13. Special Waste Permit Number (SPWASTE_PRMT) is the permit number used by landfills to identify special waste received.
 14. Generator Address (GENADDRESS) is the address where the waste was generated.

SWIS eFile Data Standard

The technical details of the SWIS eFile Data Standard are set forth in the following table. This standard may also be found on page 12 of the SWIS eFile User Guide, available at www.oregonmetro.gov/SWIS

Field Name	Field Type	Allow Blank (Y/N)	Field Description / Notes	Allowable Values
RPTENTITY_ID	Number	N	Reporting entity identifier. Uniquely identifies each transaction as being reported by a particular solid waste facility or hauler/generator in the SWIS system. This value is set to be constant for all records being reported.	{Metro will specify constant for each reporting entity}
TNUM	Number	N	Numerical value representing the ticket number assigned by reporting entity's scale or internal control system.	any >= zero (0)
DIRECTION	Number	N	Numerical code indicating that the transaction was inbound to or outbound from the reporting entity facility. (Example: 1 or 2)	1 = inbound 2 = outbound
CUSTDEST	Text	N	Code or description for the name of the customer hauling the transaction inbound to the reporting entity OR the name of the destination for which the transaction outbound from the reporting entity is heading.	any
MATERIAL	Text	N	Code or description for the material type being delivered inbound to or outbound from the reporting entity. Can be a numerical or text description of the material.	any
DATE	Date (mm/dd/yyyy)	N	Date of transaction	any
TIME	Time (hh:mm:ss)	N	Time of transaction	any
TONS	Number	N	Net weight of transaction in tons	any >= zero (0)
ORIGINTYPE	Number	N	Numerical code indicating whether the inbound transaction was generated in the metro district, outside the metro district but inside the tri-county region, or outside the tri-county region. For outbound transactions, the ORIGINTYPE should be based on the location of the reporting entity. For example, if the reporting entity is cited inside the metro jurisdictional boundary, the value should be 1	1 = inside metro 2 = outside metro, inside tri-county 3 = outside tri-county
TIPFEE	Currency (\$)	N	A currency (\$) value indicating the reporting entity's tipfee charged for the transaction. For outbound transactions, default value to zero (0) dollars	any >= zero (0)
IGNORE	Text	Y	Indicator to eFile to ignore the transaction record. Use for voided, duplicates, tests or other transactions that should be ignored by Metro	"y" = ignore blank = not ignore
COMMENT	Text	Y	Transaction comments. If IGNORE = "y", this field cannot be null and should contain a reason for ignoring the transaction.	any
SPWASTE_PRMT	Text	Y	Special waste permit identifier (for landfills only)	any
GENADDRESS	Text	Y	Generator address (for landfills only)	any

Memo



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Date: Monday May 1, 2017
To: SWAAC & Interested Parties
From: Dan Blue, Solid Waste Compliance Policy Specialist
Subject: MRF/CT Project Draft Documents

SWAAC Members and Interested Parties,

Following the conclusion of the MRF/CT Subcommittee process, and utilizing the recommendations made by that committee and endorsed by SWAAC and Metro Council, Metro staff have drafted changes to Metro Code 5.00 and 5.01, and have drafted Administrative Rules for the regulation of Source Separated Recyclables Material Recovery Facilities (SSR MRFs) and Conversion Technology facilities (CTs). Attached to this memo are the following four draft documents:

1. Draft Code Changes Chapter 5.00
2. Draft Code Changes Chapter 5.01
3. Draft SSR MRF Administrative Rules
4. Draft CT Facility Administrative Rules

The draft administrative rules reference the following document which is attached as well:

1. Reporting Requirements and Data Standards for Solid Waste Licensees

Staff will provide a review of the draft documents at your upcoming SWAAC meeting on May 10th and seek your feedback on the language as well as your support for launching a 60 day public review period. During the public review period, staff will conduct a stakeholder workshop which will include a thorough review of all draft code changes and the draft administrative rules and allow for stakeholder input. The stakeholder workshop is tentatively scheduled for May 31st.

If you have any questions or concerns, please do not hesitate to contact Dan Blue at 503-797-1863 or by email at dan.blue@oregonmetro.gov.

SOLID WASTE ADMINISTRATIVE RULES

AR - CTF - 5.01

Conversion Technology Facility Administrative Rules

DRAFT

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CTF - 5.01 - 001

Policy and Legal Authority

1. Metro Code 5.01.280 authorizes the Chief Operating Officer to adopt administrative rules governing the requirements of licensees and franchisees under Chapter 5.01.
2. Metro Code 5.01 requires a conversion technology facility operating under the terms of a solid waste license to comply with all applicable Metro administrative rules adopted by the Chief Operating Officer. These administrative rules are in addition to all requirements set forth in Metro Code Chapter 5.01.

CTF - 5.01 - 002

Definitions

Unless otherwise specifically defined below, all applicable definitions are found in Metro Code Chapter 5.00.

CTF - 5.01 - 003

Applicability of Rules and Effective Date

1. These administrative rules apply to all new and existing conversion technology facilities accepting non-putrescible waste subject to license requirements under Metro Code Chapter 5.01.
2. Conversion technology facilities accepting putrescible waste are subject to the franchise provisions established in Metro Code 5.01.
3. Effective Date. These rules are effective on January 1, 2018.

CTF - 5.01 - 004

Variance from Administrative Rule Requirements

1. The Chief Operating Officer (COO) may grant a variance from administrative rule requirements.
2. The COO may impose conditions on any variance as necessary to protect public health, safety and welfare.
3. A licensee or license applicant must request a variance in writing and must state in a concise manner why the COO should grant the variance. The COO may investigate the variance request as necessary.
4. If an existing licensee makes a variance request, the COO has 60 days from the date the request is received to either approve or deny it. For a new license applicant, the COO must approve or deny the variance request at the same time the COO approves or denies the license application.
5. A request for a variance is not a substitute for the license application required under Metro Code Chapter 5.01.
6. A written variance request must include, at a minimum, the following information:
 - a. the specific administrative rule or rules for which the license applicant or licensee is seeking a variance;
 - b. a concise description of how the requesting party will meet the intent of the rule or rules or why the rule is unnecessary;
 - c. the duration of the variance, if temporary; and
 - d. any other supporting documentation or information to inform the variance request.
7. If the COO denies a variance request, the COO must notify the requesting party of the right to a contested case hearing under Metro Code Chapter 2.05.
8. If the COO denies a variance request, the requesting party may not request the same or a substantially similar variance for at least six months from the date of denial.

CTF - 5.01 - 005

Facility Design Requirements

A facility must comply with the following facility design requirements:

1. Storage and Processing Areas. The facility design must have an impervious surface (such as asphalt or concrete) within a roofed building that is enclosed on three sides for processing and storage purposes.
2. Dust Control. The facility design must include elements (such as shrouding, misting or ventilation equipment) that minimize and control off-site dust. This requirement applies to all receiving, processing, and reloading areas; all processing equipment; and all conveyor transfer points where dust generation is likely.
3. Litter Control. The facility design must include elements (such as fencing, walls, or barriers) that minimize and control off-site litter. This requirement applies to all receiving, processing, and reloading areas as well as all transfer points where off-site litter generation is likely.
4. Fire Suppression. The facility design must include fire suppression systems that comply with state and local fire code regulations. Fire suppression protection must include, but is not limited to, adequate water supply and isolating potential heat sources and/or flammable materials or substances from the processing area.
5. Capacity. The facility design must include processing systems and storage areas of sufficient capacity to accommodate anticipated seasonal throughput of all materials that are delivered to and generated by the facility.
6. Prohibited Waste Storage Area. The facility design must include a secured or isolated containment area to store prohibited wastes that the licensee inadvertently receives. All containment areas must be covered and enclosed to prevent leaking and to prevent contamination of source separated recyclables destined for secondary markets.
7. Tipping/Reloading Area. The facility design must ensure that tipping and reloading areas are constructed of an impervious material (such as asphalt or concrete).
8. Access and Vehicle Accommodation. The facility design must provide access roads from the public highways or roads, to and within the facility site. The licensee must design and maintain the roads to prevent traffic congestion and traffic hazards. The facility design must provide for:
 - a. Adequate on-site area at the facility's entrance, scales, loading and unloading points and exit points 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;
 - b. A gate at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty;
 - c. Posted signs that inform customers not to queue on public roadways; and
 - d. Adequate off-street parking for vehicles, including adequate space for on-site tarping and untarping of loads.

CTF - 5.01 - 006

Facility Operating Requirements

A licensee must comply with the following facility operating requirements:

1. Prevent Degradation. If a licensee receives and processes source separated recyclables at their facility, the licensee must not allow those materials to degrade due to exposure to wind or rain.
2. No Mixing. If a licensee receives and processes source separated recyclables at their facility the licensee must ensure that those materials are not mixed with any other solid waste.
3. Highest and Best Use. The licensee must manage recovered recyclables and any source separated recyclables it receives in a manner that leads to the highest and best use of those materials.
4. Residuals. A licensee must keep all **non-putrescible waste** and processing residual separate from source separated or recovered recyclable materials.
5. No disposal. A licensee may not transfer source-separated recyclable materials to a disposal site unless otherwise approved in writing by Oregon Department of Environmental Quality and Metro.
6. Tipping and Reloading Materials. A licensee must tip and reload **all solid waste** on an impervious surface. Tipping and reloading may occur outside on an impervious surface so long as the licensee moves the materials inside a roofed building that is enclosed on three sides. This must occur within 12 hours of tipping or by end of the business day, whichever is earlier.
7. Material Storage. A licensee must store **all solid wastes** on an impervious surface within a roofed building that is enclosed on three sides except as permitted in subsection (8).
8. Outdoor Material Storage. A licensee must manage, contain and remove processed materials and solid waste at sufficient frequency to avoid material degradation, nuisance conditions, vector or bird attraction or harborage, or safety hazards. The following conditions apply to outdoor storage of source separated or recovered recyclables only (**outdoor storage of non-putrescible waste is prohibited**):
 - a. Processed source separated or recovered recyclables may be stored outside of a roofed building if applicable fire code requirements prohibit the storage of such materials indoors. The licensee may store such materials outside of a roofed building if the storage complies with local and state fire codes and meets at least one of the following conditions:
 1. The material is stored within an enclosed shipping container, enclosed vehicle, securely covered drop box (roll off container), compactor, or other similar secure portable storage container;
 - or
 2. The material is stored on an impervious surface and securely covered in order to be protected from wind and precipitation.

- b. Exterior stockpiles must be positioned within, and not exceed, footprints of exterior storage areas identified on the facility site plan.
 - c. Materials may not be stockpiled for longer than 180 days. Metro may grant a variance to the 180 day limit if: (i) there is a demonstrated need for an exception, and (ii) the stockpiles will not create a nuisance or a health, safety or environmental problem.
9. Vehicle Maintenance. A licensee must maintain and operate all vehicles and devices transferring or transporting solid waste from the facility in a manner that prevents leaking, spilling or blowing of materials on-site or while in transit.
 10. Impervious Surface Maintenance. A licensee must maintain and operate all access roads, and all receiving, processing, storage, and reload areas in such a manner as to minimize and mitigate dust, airborne debris, and litter from being generated on-site.
 11. Facility Capacity. A licensee may not exceed its designed operational capacity. If a licensee reaches operational capacity, the licensee may not accept additional loads of **solid waste** for processing.
 12. Controlling Dust and Litter. A licensee must minimize and mitigate dust generation, airborne debris and litter, and must prevent their migration beyond property boundaries.
 13. Covered Loads. A licensee must take reasonable steps, including providing signage, to notify and remind persons delivering solid wastes to the facility that all loads must be sufficiently covered to prevent any material from blowing off the load during transit.
 14. Fire prevention. The licensee must provide fire prevention, protection, and control measures. This includes, but is not limited to, providing an adequate water supply for fire suppression and isolating potential heat sources and/or flammable materials or substances from the processing area.
 15. Qualified Operator. The licensee must provide a qualified operator on-site during all hours of operation to carry out the function required by the license and the operating plan.
 - a. The licensee must maintain and make available to Metro for review all records related to licensee's training of personnel to recognize, properly handle and dispose of prohibited waste.
 - b. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of the license and the relevant procedures contained within the facility's operating plan.
 - c. A qualified operator must be an employee or contractor of the licensee with training and authority to reject prohibited loads and properly manage prohibited waste that is inadvertently received.
 16. Prohibited Waste. **The licensee must not accept prohibited waste, including but not limited to putrescible waste, hazardous waste and asbestos.**
 17. Load Checking. The licensee must visually inspect every load it receives and reject prohibited loads upon discovery. If prohibited wastes are discovered after such time that the licensee cannot reject the load, the licensee must properly manage and dispose of the prohibited waste.

18. Measurement of Materials. The licensee must accurately weigh all solid wastes when they are received, transferred to market or intra-facility, and transported from the facility. The scale used to weigh all solid waste must be licensed by the state of Oregon (Weights and Measures Act).
19. Transaction Records and Reporting. The licensee must maintain complete and accurate transaction records on the weights and types of all solid waste received, recovered, reloaded, removed or disposed from the facility.
 - a. Records must include those specified in the Metro document: "Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements" and as required in the solid waste license.
 - b. Licensee must transmit the records to Metro no later than fifteen days following the end of each month in an electronic format prescribed by Metro.
 - c. 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.
 - d. The scale used to weigh all solid waste shall be licensed by the state of Oregon (Weights and Measures Act).
 - e. 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.
20. Access Control. The licensee must control access to the facility and prevent unauthorized pedestrian and vehicular traffic and illegal dumping.
21. Traffic Flow. The licensee must take reasonable steps to notify and remind persons delivering materials to the facility that vehicles may not park or queue on public streets or roads except under emergency conditions or as allowed by local traffic laws.
22. Water Protection. The licensee must provide pollution control measures to protect surface and ground waters from contamination. The licensee must operate consistently with an approved DEQ stormwater management plan (or equivalent), and the licensee must also:
 - a. Operate and maintain the facility to prevent contact of solid wastes or recyclables with storm water runoff and precipitation; and
 - b. Dispose of or treat water contaminated by solid waste or recyclables generated onsite consistent with local, state, and federal laws and regulations.
23. Vector Control. The licensee must operate the facility in a manner that does not attract nor is 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. If vectors are present, the licensee must implement vector control measures.
24. Response to Nuisance Complaints. The licensee must respond in a timely manner to all nuisance complaints (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and must keep a record of those complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.

25. Noise. The licensee must prevent noise that causes adverse off-site impacts, and to the extent necessary the licensee must meet applicable state and local regulatory standards and land-use regulations.
26. Odor. The licensee must prevent odors that create off-site impacts or that are detectable off-site.
27. Signage. The licensee must post signs at all public entrances to the facility that are easily and readily visible, and legible to users of the facility. The signs must conform with local government signage regulations and contain at least the following information:
 - a. Name of the facility
 - b. Address of the facility
 - c. Emergency telephone number for the facility
 - d. Operating hours during which the facility is open for the receipt of authorized waste
 - e. Fees and charges if applicable
 - f. Metro's name and telephone number (503) 234-3000
 - g. A list of authorized and prohibited wastes
 - h. Directions not to queue on public roadways
 - i. Vehicle / traffic flow information or diagram
 - j. Covered load requirements

CTF - 5.01 - 007

Facility Operating Plan

A licensee must compile a facility operating plan.

1. Plan Compliance. The licensee must operate the facility in accordance with a facility operating plan approved by the COO. The operating plan must include sufficient detail to demonstrate that the licensee will comply with the Design and Operating Requirements contained in these Administrative Rules (SSR 5.01-001 through SSR 5.01-010). The licensee may amend the operating plan subject to approval by the COO.
2. Plan Maintenance. The licensee must revise the facility operating plan as necessary to keep it current with the facility conditions, procedures, and operating practices. The licensee must submit revisions of the operating plan to the COO.
3. Plan Access. The licensee must maintain a copy of the facility operating plan on the facility premises and in a location where facility personnel and Metro representatives will have easy access to it.
4. Emergency Procedures. The facility operating plan must include procedures that the licensee will follow in case of a fire or other emergency.

CTF - 5.01 - 008

Facility Pre Operating Conditions

1. When construction is complete or nearly complete, the licensee must notify the COO to schedule an inspection before the facility may accept any solid waste (including source separated recyclables). Prior to the required construction inspection, the licensee must submit to the COO "as constructed" facility plans that note any changes from the original plans submitted to Metro.
2. A licensee may not accept any solid waste (including source separated recyclables) until facility construction is complete and the licensee demonstrates that it can comply with these administrative rules and its license conditions.
3. The licensee may not accept any solid waste (including source separated recyclables) until the COO has approved in writing that:
 - a. The facility construction is complete according to plans submitted by the licensee and approved by Metro. The COO must approve any amendments or alterations to the plans.
 - b. The stormwater management system must be in proper working order in accordance with the plans submitted to Metro and approved by the DEQ. The COO must approve any amendments or alterations to the plans.
4. The licensee may not accept solid waste until the COO has approved an adequate operating plan.
5. The COO will base written approval upon the licensee's compliance with license provisions, including the COO's inspection of the facility and the documents submitted by the licensee.

General Recordkeeping and Reporting

1. DEQ Submittals. Licensee must 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 that information to DEQ.
2. Enforcement Actions Submitted to Metro. Licensee must 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.
3. Unusual Occurrences. Licensee must 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. The licensee must report any facility fire, accident, emergency, or other significant incidents to Metro at (503) 234-3000 within 24 hours of its discovery. 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 must notify Metro within 24 hours.
4. Nuisance Complaint Recordkeeping. For every nuisance complaint received (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), the licensee must 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).The licensee must maintain records of this information on-site and make them available to Metro upon request. The licensee must retain each complaint record for a period not less than one year.
5. Changes in Ownership. As set forth in Metro Code Section 5.01.120, the licensee must notify Metro within 10 days if the licensee leases, assigns, mortgages, sells, or otherwise transfers control of the license to another person.

CTF - 5.01 - 010

General Administrative and Legal Obligations for Operating

The licensee shall adhere to standard administrative and legal obligations, required by Metro Code, for all solid waste facility licenses.

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.
2. 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.
3. Modification. At any time during the term of the license, either the COO or the licensee may propose amendments or modifications to this license. The COO 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 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 COO.

- a. The COO 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:
 - a. Violation of the terms or conditions of this license, Metro Code, or any applicable statute, rule, or standard;
 - b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this license;
 - c. Failure to disclose fully all relevant facts;
 - d. Significant change in the character of solid waste received or in the operation of the facility;
 - e. Any change in ownership or control, excluding transfers among subsidiaries of the licensee or licensee's parent corporation;
 - f. A request from the local government stemming from impacts resulting from facility operations; and,
 - g. Compliance history of the licensee.
4. Inspection and Audit. Authorized representatives of Metro may take photographs, collect samples of materials, and perform such inspection or audit as the COO 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.
5. Insurance. The licensee shall carry insurance the following types of insurance:
 - a. 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.
 - b. Automobile. The licensee shall carry automobile bodily injury and property damage liability insurance.
 - c. 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.
 - d. Additional Insureds. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS.
 - e. 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.

- f. Notification. The licensee shall give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

CHAPTER 5.01

SOLID WASTE FACILITY REGULATION

DRAFT CHANGES FOR MRF/CT

SECTION TITLE

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GENERAL PROVISIONS

5.01.010 Purpose

(a) This chapter governs the regulation of solid waste disposal sites and solid waste facilities within Metro. The purposes of this chapter are to:

- (1) Protect and preserve the health, safety and welfare of Metro's residents;
- (2) Implement the Regional Solid Waste Management Plan cooperatively with federal, state and local agencies;
- (3) Provide a coordinated regional disposal and resource recovery program and a solid waste management plan to benefit all citizens of Metro; and
- (4) Reduce the volume of solid waste disposal through source reduction, recycling, reuse and resource recovery.

(b) The provisions of this chapter shall be liberally construed to accomplish these purposes.

(Ordinance No. 81111, Sec. 3; Ordinance No. 95621A, Sec. 2. Repealed by Ordinance No. 98762C, Sec. 2; replaced by Ordinance No. 98762C, Sec. 3; and Ordinance No. 02974, Sec. 1.)

5.01.020 Authority and Jurisdiction

(a) Metro's solid waste regulatory authority is derived from the Oregon Constitution, ORS Chapter 268 for solid waste and the Metro Charter. It includes authority to regulate solid waste generated or disposed within Metro and all solid waste facilities located within Metro.

(b) All solid waste regulation is subject to the authority of all other applicable laws, regulations or requirements in addition to those contained in this chapter. Nothing in this chapter is intended to abridge or alter the rights of action by the State or by a person which exist in equity, common law, or other statutes to abate pollution or to abate a nuisance.

(Ordinance No. 98762C, Secs. 4-5; and Ordinance No. 02974, Sec. 1.)

5.01.030 Prohibited Activities

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

(a) Any person to establish, operate, maintain or expand a solid waste facility or disposal site within Metro without an appropriate license or franchise from Metro.

(b) Any person or solid waste facility to either (1) mix source-separated recyclable material with other solid waste in any vehicle, box, container or receptacle used in solid waste collection or disposal, or (2) to dispose of source-separated recyclable material by any method other than reuse or recycling. As used in this subsection, "reuse or recycling" includes the transfer, transport or delivery of such materials to a person or facility that will reuse or recycle them.

(c) A licensee or franchisee to receive, process or dispose of any solid waste unless authorized by the license or franchise.

(d) Any person to transport any solid waste to or to dispose of any solid waste at any place other than a solid waste facility or disposal site that is operated by a licensee or franchisee or is otherwise exempt under Section 5.01.040.

(e) A licensee or franchisee to violate or fail to meet the rules, performance standards, procedures, and forms adopted pursuant to Section 5.01.280.

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

(g) Any person to store electronic device waste uncovered and outside of a roofed structure.

(Ordinance No. 81111, Sec. 4; Ordinance No. 87217, Sec. 1; Ordinance No. 95-621A, Sec. 3; Ordinance No. 98762C, Sec. 6; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec. 2; and Ordinance No. 06-1102, Sec. 1.)

5.01.040 Exemptions to Prohibited Activities

(a) The provisions of this chapter do not apply to:

- (1) Municipal or industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge.
- (2) Disposal sites, transfer stations, or solid waste facilities owned or operated by Metro, except that Metro must pay regional system fees per Section 5.01.300.
- ~~(3) Facilities that (A) exclusively receive non-putrescible source-separated recyclable materials, and (B) reuse or recycle those materials, or transfer, transport or deliver those materials to a person or facility that will reuse or recycle them.~~
- (4) Facilities that exclusively receive, process, transfer or dispose of inert waste.

(1) Conversion technology facilities that exclusively receive non-putrescible waste for use as feedstock that has been (A) extracted from other solid waste and (B) processed to meet prescribed specifications for direct introduction into a conversion technology process.

(2) Specific material recyclers that receive and process a single type of non-putrescible recyclable material that holds intrinsic value in established reuse and recycling markets such as scrap metal, plastic, paper, or other similar commodities.

(5) Persons who generate and maintain residential compost piles for residential garden or landscaping purposes.

(6) Residences, parks, community gardens and homeowner associations.

(7) Universities, schools, hospitals, golf courses, industrial parks, and other similar facilities, if the landscape waste or yard debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.

(8) An operation or facility that processes wood wastes, unless:

(i) The wood wastes are processed for composting; or

(ii) The operation or facility is other-wise regulated under this chapter.

(9) Temporary transfer stations or processing centers established and operated by a government for 60 days or less to temporarily receive, store or process solid waste, provided that Metro finds an emergency situation exists.

(10) Persons who own or operate a mobile facility that processes petroleum contaminated soil at the site of origin and retains any treated petroleum contaminated soil on the site of origin.

(b) Notwithstanding Section 5.01.040(a), all persons must comply with Sections 5.01.030(a), (b), (d) and (f). (c) The provisions of Section 5.01.290 apply to the activities and facilities described in Sections 5.01.040(a)(3) through 5.01.040(a)(10).

(Ordinance No. 81111, Sec. 5; Ordinance No. 82136, Sec. 1; Ordinance No. 91-422B, Sec. 2; Ordinance No. 95-621A, Sec. 4; Ordinance No. 98762C, Sec. 7; Ordinance No. 00866, Sec. 2; Ordinance No. 02933, Sec. 1; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec.3; Ordinance No. 06-1102, Sec. 2; and Ordinance No. 07-1147B, Sec. 2.)

APPLICATIONS FOR SOLID WASTE FACILITY LICENSES

5.01.050 License Requirements and Fees

(a) A Metro solid waste license is required of any person owning or controlling a facility at which the person performs any of the following activities:

- (1) Processing non-putrescible waste.
- (2) Processing petroleum contaminated soil by thermal destruction, distillation, bioremediation, or by any other methods that destroy or remove such petroleum contamination from the soil.
- (3) Processing of yard debris or yard debris mixed with residential food waste.
- (4) Reloading solid waste.
- (5) Processing wood waste for use as an industrial fuel if such facility is otherwise regulated under this chapter.

(b) The annual fee for a solid waste license may not exceed \$300.00.

(c) The application fee for a new or renewal license is \$300.00. The application fee is due at the time of filing.

(d) The annual solid waste license fee is in addition to any other fee, tax or charge imposed upon a licensee.

(e) The licensee must pay the license fee in the manner and at the time required by the Chief Operating Officer.

(Ordinance No. 81111, Sec. 15; Ordinance No. 98762C, Sec. 40; Ordinance No. 98767, Sec. 5; and Ordinance No. 02974, Sec. 1.)

(Ordinance No. 98762C, Secs. 8-9; Ordinance No. 00866, Sec. 3; Ordinance No. 02933, Sec. 2; Ordinance No. 031018A, Sec. 4; and Ordinance No. 14-1332, Sec. 1.)

5.01.060 Pre-Application Conference for Licenses

(a) An applicant for a new license must attend a pre-application conference. The purpose of the conference is to provide the applicant with information regarding the requirements

for the proposed facility and to have the applicant describe the proposed facility's location, site conditions and operations.

(b) If an applicant for a new license does not file an application for a license within one year from the date of the pre-application conference, the applicant must attend a subsequent pre-application conference before filing another application.

(Ordinance No. 98762C, Secs. 11-12; Ordinance No. 02974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.070 Applications for Licenses

(a) An applicant for a new or renewal license must file the application on forms or in the format required by the Chief Operating Officer.

(b) The applicant must include a description of the activities the applicant proposes to conduct and a description of the waste it seeks to accept.

(c) A license application must also include the following information:

- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the license term;
- (2) A copy of all applications for necessary DEQ permits, any other information required by or submitted to DEQ, and a copy of any DEQ permits;
- (3) A copy of any closure plan that DEQ requires, including documents demonstrating financial assurance for the costs of closure. If DEQ does not require a closure plan, the applicant must provide a closure document describing closure protocol for the solid waste facility at any point in its active life;
- (4) Signed consent by the property owner(s) agreeing to the proposed property use. The consent must also disclose the applicant's property interest and the duration of that interest. The consent must include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.320(f) if Metro revokes the license or refuses any license renewal;
- (5) Proof that the applicant has received proper land use approval; or, if the applicant has not obtained land use approval, then a written recommendation of the planning director of the local governmental

unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. The recommendation may include, but is not limited to, a statement of compatibility of the site, the solid waste disposal facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the statewide planning goals of the Land Conservation and Development Commission; and

- (6) Any current permit and a list of anticipated permits that a governmental agency may require. If the applicant has previously applied for a permit, the applicant must provide a copy of that permit application and any permit that any other government agency granted.

(Ordinance No. 81111, Sec. 7; Ordinance No. 82136, Sec. 2; Ordinance No. 91-422B, Sec. 3; Ordinance No. 95-621A, Sec. 5; Ordinance No. 98762C, Sec. 13; Ordinance No. 00866, Sec. 4; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec. 5; Ordinance No. 041056, Sec. 1; Ordinance No. 05-1093, Sec. 1; Ordinance No. 06-1098B, Sec. 1; Ordinance No. 06-1101; Ordinance No. 07-1139, Sec. 1; Ordinance No. 07-1161, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.080 License Issuance

(a) The Chief Operating Officer may approve or deny license applications and impose conditions on any approved license as the Chief Operating Officer considers appropriate.

(b) The Chief Operating Officer may make any investigation regarding the application information as the Chief Operating Officers considers appropriate. This includes the right of entry onto the applicant's proposed site.

(c) Before approving or denying a license application, the Chief Operating Officer must provide public notice and an opportunity for public comment on the license application.

(d) The Chief Operating Officer will determine if the proposed license meets the requirements of Section 5.01.070 based on the:

- (1) Submitted application,
- (2) Chief Operating Officer's investigation regarding the application information, and

(3) Public comments..

(e) If the Chief Operating Officer does not approve or deny a new license application within 180 days after the applicant files a complete application, the license is deemed granted for the solid waste facility or activity requested in the application. The deadline for the Chief Operating Officer to approve or deny an application may be extended as provided in this section. If a license is issued pursuant to the subsection, then the license will contain the standard terms and conditions included in other comparable licenses issued by Metro.

(f) At any time after an applicant files a complete license application, the deadline for the Chief Operating Officer to approve or deny the application is extended if:

- (1) The applicant substantially modifies the application during the review period, in which case the 180 days review period for the Chief Operating Officer to act is restarted as of the date Metro receives the applicant's modifications; or
- (2) The applicant and Chief Operating Officer mutually agree to extend the deadline for a specified time period.

(g) An applicant may withdraw its application at any time before the Chief Operating Officer's decision and may submit a new application at any time thereafter.

(h) If the Chief Operating Officer denies a license request, the applicant may not file a new application for the same or substantially similar license for at least six months from the denial date.

5.01.090 License Contents

(a) A license will specify authorized activities, the types and amounts of wastes the solid waste facility may accept, and any other conditions the Chief Operating Officer imposes.

(b) In addition to this section's requirements, if a license authorizes the licensee to accept mixed non-putrescible waste for the purpose of conducting material recovery or reloading, the license is subject to the administrative rules, ~~procedures, applicable and performance standards, design requirements, and operating requirements~~ adopted pursuant to Section 5.01.280.

(c) The license must require that the facility operate in a manner that meets the following ~~general performance~~ goals:

- (1) Environment. It is designed and operated to avoid undue threats to the environment including, but not

limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.

- (2) Health and Safety. It is designed and operated to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.
- (3) Nuisances. It is designed and operated to avoid nuisance conditions including, but not limited to, litter, dust, odors, and noise.
- (4) Material Recovery. Facilities that conduct material recovery on non-putrescible waste must be designed and operated to recover materials in a timely manner, to meet standards in Section 5.01.260 ~~if applicable~~, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.
- (5) Reloading. Facilities that reload non-putrescible waste must be designed and operated to rapidly and efficiently reload and transfer that waste to a Metro authorized processing facility while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
- (6) Record-keeping. A licensee must maintain complete and accurate records of the amount of all solid waste and recyclable materials that it receives, recycles, reloads or disposes.

(h) A license term may not exceed five years, except that the Chief Operating Officer may extend the license term for up to one year.

(Ordinance No. 98762C, Secs. 16-17; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec.8; Ordinance No. 061098B, Sec. 2; Ordinance No. 07-1138, Sec. 1; Ordinance No. 07-1139, Sec. 2; and Ordinance No. 14-1332, Sec. 1.)

5.01.100 Record-keeping and Reporting for Licenses

(a) A licensee must maintain accurate records of the information that the Chief Operating Officer requires. A licensee must report the required information on the forms, in the format and within the reporting periods and deadlines that the Chief Operating Officer establishes. The licensee or its authorized representative must sign the report and certify it as accurate.

(b) A licensee must provide copies of any correspondence with any federal, state or local government agency related to the regulation of a solid waste facility within five days of the correspondence.

(c) A licensee must maintain records of any written complaints received from the public or a customer and retain them for not less than one year. This includes, but is not limited to, information regarding the nature of the complaint, the complainant's name, address and phone number, the date the licensee received the complaint, and any response by the licensee to the complaint.

(d) A licensee must retain all records required by this chapter for three years (except for the complaint records in subsection (c)) and make them available for inspection by the Chief Operating Officer.

(e) Any information the licensee submits to Metro is public record and subject to disclosure pursuant to the Oregon Public Records Act, except that portion of the information that the licensee requests exception from disclosure consistent with Oregon Law.

(Ordinance No. 98762C, Secs. 38-39; Ordinance No. 02974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.110 License Renewal

(a) The Chief Operating Officer is responsible for approving or denying a solid waste facility license renewal. The Chief Operating Officer will approve or deny a license renewal consistent with this section.

(b) A licensee must request a renewal license not less than 120 days before the license's expiration date. The Chief Operating Officer is not obligated to renew a license earlier than the expiration date of the existing license even if the renewal request is filed more than 120 days before the existing license expires.

(c) A licensee requesting a license renewal must:

- (1) File a completed application for renewal;
- (2) Pay a \$300.00 application fee; and
- (3) Provide a statement of proposed material changes from the previous license application, along with any other information the Chief Operating Officer requires.

(d) The Chief Operating Officer must approve a solid waste facility license renewal unless the Chief Operating Officer determines that the proposed renewal is not in the public interest. The Chief Operating Officer may attach conditions to any renewed license.

(Ordinance No. 98762C, Secs. 22-23; Ordinance No. 98767, Sec. 3; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec.11; and Ordinance No. 14-1332, Sec. 1.)

5.01.120 Transfer of Ownership or Control of Licenses

(a) A licensee must notify Metro within 10 days if the licensee leases, assigns, mortgages, sells or otherwise transfers control of the license to another person, whether whole or in part. The transferee of a license must meet the requirements of this chapter.

(b) The term for any transferred license is for the remainder of the original term unless the Chief Operating Officer establishes a different term.

(Ordinance No. 81111, Sec. 10; Ordinance No. 98762C, Sec. 24; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec. 12; and Ordinance No. 14-1332, Sec. 1.)

5.01.130 Change of Authorizations for Licenses

(a) A licensee must submit an application pursuant to Section 5.01.070 when the licensee requests authority to:

- (1) Accept wastes other than those the license authorizes, or
- (2) Perform activities other than those the license authorizes, or
- (3) Modify other limiting conditions of the applicant's license.

(b) The licensee must file an application for a change in authorization or limits on forms or in the format provided by the Chief Operating Officer.

(c) An application for a change in authorizations or limits to the applicant's license does not substitute for an application that Metro would otherwise require under Section 5.01.050.

(d) A licensee must notify Metro in writing when the licensee proposes to cease accepting authorized wastes or cease performing authorized activities at the solid waste facility or disposal site.

(e) The application fee for changes of authorizations or limits is \$100.00.

(Ordinance No. 98762C, Secs. 25-26; Ordinance No. 98767, Sec. 4; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec. 13; and Ordinance No. 14-1332, Sec. 1.)

5.01.140 Variances for Licenses

(a) The Chief Operating Officer may grant specific variances from particular requirements of this chapter to applicants for licenses or to licensees to protect public health, safety and welfare.

(b) In order to grant a variance, the Chief Operating Officer must find that the licensee or applicant can achieve the purpose and intent of the particular license requirement without compliance and that compliance with the particular requirement:

- (1) Is inappropriate because of conditions beyond the applicant's or licensee's control; or
- (2) Would be rendered extremely burdensome or highly impractical due to special physical conditions or causes.

(c) A licensee or applicant must request a variance in writing and must concisely state why the Chief Operating Officer should grant the variance. The Chief Operating Officer may investigate the request as the Chief Operating Officer considers necessary.

(d) The Chief Operating Officer must approve or deny the variance request within 60 days.

(e) A request for a variance does not substitute for an application that Metro would otherwise require under Section 5.01.050.

(f) If the Chief Operating Officer denies a variance request, the Chief Operating Officer must notify the person requesting the variance of the right to a contested case hearing pursuant to Code Chapter 2.05.

(g) If the Chief Operating Officer denies a request for a variance, the requesting party may not file a new application for the same or substantially similar variance for at least six months from the date of denial.

(Ordinance No. 81111, Sec. 12; Ordinance No. 98762C, Sec. 27; Ordinance No. 02974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

APPLICATIONS FOR SOLID WASTE FACILITY FRANCHISES

5.01.150 Franchise Requirements and Fees

(a) A Metro solid waste franchise is required of any person owning or controlling a facility at which the person performs any of the following activities:

- (1) Processing putrescible waste other than yard debris and yard debris mixed with residential food waste.
- (2) Operating a transfer station.
- (3) Operating a disposal site or an energy recovery facility.
- (4) Any process using chemical or biological methods whose primary purpose is reduction of solid waste weight or volumes.
- (5) Any other activity not listed in this section or exempted by Metro Code Section 5.01.040.

(b) The annual fee for a solid waste franchise is \$500.00.

(c) The franchise fee is in addition to any other fee, tax or charge imposed upon a franchisee.

(d) The franchisee must pay the franchise fee in the manner and at the time required by the Chief Operating Officer.

(e) The application fee for a new or renewal franchise is \$500.00. The application fee is due at the time of filing.

(Ordinance No. 98762C, Secs. 8-9. Ordinance No. 00866, Sec. 3; Ordinance No. 02933, Sec. 2; Ordinance No. 031018A, Sec.4; and Ordinance No. 14-1332, Sec. 1.)

5.01.160 Pre-Application Conference for Franchises

(a) An applicant for a new franchise must attend a pre-application conference. The purpose of the conference is to provide the applicant with information regarding the requirements for the proposed facility and to have the applicant describe the proposed facility's location, site conditions and operations.

(b) If an applicant for a new franchise does not file an application for a franchise within one year from the date of the pre-application conference, the applicant must attend a subsequent pre-application conference before filing any application.

(Ordinance No. 98762C, Secs. 11-12; Ordinance No. 02974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.170 Applications for Franchises

(a) An applicant for a new or renewal franchise must file the application on forms or in the format required by the Chief Operating Officer.

(b) The applicant must include a description of the activities the applicant proposes to conduct and a description of the waste it seeks to accept.

(c) An application for a franchise must include the following information:

- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the franchise term;
- (2) A copy of all applications for necessary DEQ permits, any other information required by or submitted to DEQ, and a copy of any DEQ permits;
- (3) A copy of any closure plan that DEQ requires, including documents demonstrating financial assurance for the cost of closure. If DEQ does not require a closure plan, the applicant must provide a closure document describing closure protocol for the solid waste facility at any point in its active life;
- (4) Signed consent by the property owner(s) agreeing to the property's proposed use. The consent must also disclose the applicant's property interest and the duration of that interest. The consent must include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.320(f) if Metro revokes the franchise or refuses any franchise renewal;
- (5) Proof that the applicant has received proper land use approval; or, if the applicant has not obtained land use approval, then a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. The recommendation may include, but is not limited to, a statement of compatibility of the site, the solid waste disposal facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the statewide planning goals

of the Land Conservation and Development Commission; and

- (6) Any current permit and a list of anticipated permits that any other governmental agency may require. If the applicant has previously applied for other permits, the applicant must provide a copy of the permit application and any permit that another governmental agency granted as a result.

(d) An analysis of the factors described in Section 5.01.180(f) must accompany an application for a franchise.

(Ordinance No. 81111, Sec. 7; Ordinance No. 82136, Sec. 2; Ordinance No. 91-422B, Sec. 3; Ordinance No. 95-621A, Sec. 5; Ordinance No. 98762C, Sec. 13; Ordinance No. 00866, Sec. 4; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec.5; Ordinance No. 041056, Sec. 1; Ordinance No. 05-1093, Sec. 1; Ordinance No. 06-1098B, Sec. 1; Ordinance No. 06-1101; Ordinance No. 07-1139, Sec. 1; Ordinance No. 07-1161, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.180 Franchise Issuance

(a) The Chief Operating Officer will review franchise applications filed under Section 5.01.170. Council may approve or deny the franchise application.

(b) The Chief Operating Officer may make any investigation regarding the application information as the Chief Operating Officer considers appropriate. This includes the right of entry onto the applicant's proposed site.

(c) Upon the basis of the application, evidence submitted and results of the investigation, the Chief Operating Officer will make a recommendation regarding whether the:

- (1) Applicant is qualified,
- (2) Proposed franchise complies with the Regional Solid Waste Management Plan,
- (3) Proposed franchise meets the requirements of Section 5.01.170, and
- (4) Applicant has complied or can comply with all other applicable regulatory requirements.

(d) The Chief Operating Officer will provide the recommendations required by subsection (c) to the Council, together with the Chief Operating Officer's recommendation regarding whether Council should grant or deny the application. If the Chief Operating Officer recommends that Council grant the

application, the Chief Operating Officer may also recommend specific conditions of the franchise.

(e) After Council receives the Chief Operating Officer's recommendation, the Council will issue an order granting or denying the application. The Council may attach conditions to the order or limit the number of franchises granted. If the Council issues an order to deny the application, the order is effective immediately.

(f) The Council will consider the following factors when determining whether to issue a franchise:

- (1) Whether the applicant has demonstrated that the proposed solid waste facility and authorized activities will be consistent with the Regional Solid Waste Management Plan;
- (2) The effect that granting a franchise will have on the cost of solid waste disposal and recycling services for the citizens of the region;
- (3) Whether granting a franchise is likely to adversely affect the health, safety and welfare of Metro's residents in an unreasonable manner;
- (4) Whether granting a franchise is likely to adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood in an unreasonable manner;
- (5) Whether the applicant has demonstrated the strong likelihood that it will comply with all requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.280 and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed franchise.

(g) If the Council does not approve or deny a new franchise application within 180 days after the applicant files a complete application the franchise is deemed granted for the solid waste facility or disposal site requested in the application. The deadline for the Council to approve or deny an application may be extended as provided in this section. If a franchise is issued pursuant to the subsection, then the franchise will contain the standard terms and conditions included in other comparable franchises issued by Metro. (h) At any time after an applicant files a complete franchise application, the deadline for the Council to approve or deny the application is extended if:

- (1) The Council extends the deadline for up to an additional 60 days, which the Council may do only once for any single application;
- (2) The applicant substantially modifies the application during the review period, in which case the 180 days review period for the Council to act is restarted as of the date Metro receives the applicant's modifications; or
- (3) The applicant and Chief Operating Officer mutually agree to extend the deadline for a specified time period.

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

(j) If the Council denies a franchise request, the applicant may not file a new application for the same or substantially similar franchise for at least six months from the denial date.

(k) A franchise term may not exceed five years, except that the Chief Operating Officer may extend the term of a franchise for up to one year.

5.01.190 Franchise Contents

(a) The franchise is the Council's grant of authority to accept the waste and perform the activity or activities described in the franchise, the conditions under which these activities may take place and the conditions under which Metro may revoke the authority.

(b) Franchises must be in writing and include:

- (1) The term of the franchise;
- (2) The specific activities the franchisee may perform and the types and amounts of waste the franchisee may accept at the solid waste facility;
- (3) Any other conditions the Council considers necessary to ensure the franchisee complies with the intent and purpose of this chapter; and
- (4) Indemnification of Metro in a form acceptable to the Metro Attorney.

(c) A franchise that authorizes a franchisee to accept mixed non-putrescible waste for the purpose of conducting material recovery or reloading is subject to the administrative rules, procedures, and performance standards, ~~design requirements, and operating requirements~~ adopted pursuant to Section 5.01.280. The

franchise must require that the facility operate in a manner that meets the following ~~general performance~~ goals:

- (1) Environment. It is designed and operated to avoid undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.
- (2) Health and Safety. It is designed and operated to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.
- (3) Nuisances. It is designed and operated to avoid nuisance conditions including, but not limited to, litter, dust, odors, and noise.
- (4) Material Recovery. Facilities that conduct material recovery on non-putrescible waste must be designed and operated to recover materials in a timely manner, to meet standards in Section 5.01.260, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.
- (5) Reloading. Facilities that reload non-putrescible waste must be designed and operated to rapidly and efficiently reload and transfer that waste to a Metro authorized processing facility while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
- (6) Record-keeping. A franchisee must maintain complete and accurate records of the amount of all solid waste and recyclable materials that it receives, recycles, reloads or disposes.

(Ordinance No. 98762C, Secs. 19-20; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec.10; Ordinance No. 071138, Sec. 2; and Ordinance No. 14-1332, Sec. 1.)

5.01.200 Record-keeping and Reporting for Franchises

(a) A franchisee must maintain accurate records of the information the Chief Operating Officer requires and report that information on the forms or in the format and within the reporting periods and deadlines that the Chief Operating Officer establishes. A franchisee's authorized representative must sign the report and certify it as accurate.

(b) A franchisee must provide copies of any correspondence with any federal, state or local government agency related to the regulation of a solid waste facility within five days of the correspondence.

(c) A franchisee must maintain records of any written complaints received from the public or a customer and retain them for not less than one year. This includes, but is not limited to, information regarding the nature of the complaint, the complainant's name, address and phone number, the date the franchisee received the complaint, and any response by the franchisee to the complaint.

(d) A franchisee must retain all records required by this chapter (except for the complaint records in subsection (c)) for three years and allow the Chief Operating Officer to inspect them.

(e) All information that the franchisee submits to Metro is public record and subject to disclosure pursuant to the Oregon Public Records Act, except that portion of the information that the franchisee requests exception from disclosure consistent with Oregon Law.

(Ordinance No. 14-1332, Sec. 1.)

5.01.210 Franchise Renewal

(a) The Council approves or denies solid waste facility franchise renewals. A franchisee seeking renewal of a franchise must:

- (1) File a completed application for renewal;
- (2) Pay a \$500.00 application fee not less than 120 days before the franchise term expires; and
- (3) Provide a statement of proposed material changes from its initial application for the franchise, along with any other information the Chief Operating Officer or the Council requires.

(b) The Chief Operating Officer will make a recommendation regarding whether the renewal meets the criteria in Section 5.01.180. The Council must approve renewal of a solid waste facility franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria outlined in Section 5.01.180. The Council may attach conditions or limitations to the renewed franchise.

(c) The Council is not obligated to renew a franchise earlier than the franchise's expiration date even if the

franchisee files a renewal request more than 120 days before the existing franchise expires.

(Ordinance No. 98762C, Secs. 22-23. Ordinance No. 98767, Sec. 3; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec. 11; and Ordinance No. 14-1332, Sec. 1.)

5.01.220 Transfer of Ownership or Control of Franchises

(a) A franchisee must notify Metro within 10 days if the franchisee leases, assigns, mortgages, sells or otherwise transfers control of the franchise to another person, whether whole or in part. The transferee of a franchise must meet the requirements of this chapter.

(b) The term for any transferred franchise is for the remainder of the original term unless the Council establishes a different term.

(Ordinance No. 81111, Sec. 10; Ordinance No. 98762C, Sec. 24; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec. 12; and Ordinance No. 14-1332, Sec. 1.)

5.01.230 Change of Authorizations for Franchises

(a) A franchisee must submit an application pursuant to Section 5.01.170 when the franchisee requests authority to:

- (1) Accept wastes other than those the franchise authorizes, or
- (2) Perform activities other than those the franchise authorizes, or
- (3) Modify other limiting conditions of the applicant's franchise.

(b) The franchisee must file an application for a change in authorization or limits on forms or in the format provided by the Chief Operating Officer.

(c) An application for a change in authorization or limits to the applicant's franchise does not substitute for an application that Metro would otherwise require under Section 5.01.150.

(d) A franchisee must notify Metro in writing when the franchisee proposes to cease accepting authorized wastes or cease performing authorized activities at the solid waste facility or disposal site.

(e) The application fee for changes of authorizations or limits is \$100.00.

(Ordinance No. 98762C, Secs. 25-26; Ordinance No. 98767, Sec. 4; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec. 13; and Ordinance No. 14-1332, Sec. 1.)

5.01.240 Variances for Franchises

(a) Upon the Chief Operating Officer's recommendation, the Council may grant specific variances from particular requirements of this chapter to applicants for franchises or to franchisees upon conditions the Council considers necessary to protect public health, safety and welfare.

(b) In order to grant a variance, the Council must find that the franchisee can achieve the purpose and intent of the particular franchise requirement without compliance and that compliance with the particular requirement:

- (1) Is inappropriate because of conditions beyond the applicant's or franchisee's control; or
- (2) Would be rendered extremely burdensome or highly impractical due to special physical conditions or causes.

(c) A franchisee or applicant must request a variance in writing and must concisely state why Council should grant the variance. The Chief Operating Officer may make an investigation as the Chief Operating Officer considers necessary.

(d) The Chief Operating Officer must recommend to the Council whether to approve or deny the variance within 120 days after Metro receives the variance request.

(c) A request for a variance does not substitute for an application that Metro would otherwise require under Section 5.01.150.

(d) If the Council denies a variance request, the Chief Operating Officer must notify the person requesting the variance of the right to a contested case hearing pursuant to Code Chapter 2.05.

(e) If the Council denies a request for a variance, the requesting party may not file a new application for the same or substantially similar variance for at least six months from the denial date.

(Ordinance No. 81111, Sec. 12; Ordinance No. 98762C, Sec. 27; Ordinance No. 02974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

OBLIGATIONS AND LIMITATIONS FOR SOLID WASTE FACILITIES

5.01.250 General Obligations of All Regulated Parties

All persons regulated by this chapter must:

(a) Allow the Chief Operating Officer reasonable access to the premises for purposes of inspection and audit to determine compliance with this chapter, the Code, the license or franchise, and administrative ~~the any applicable rules and performance standards~~ and administrative rules adopted pursuant to Section 5.01.280.

(b) Ensure that solid waste transferred from the facility goes to the appropriate destination as required under Section 5.01.280, ~~under~~ Metro Code Chapter 5.05, and ~~under~~ all other applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.

(c) Maintain insurance during the license or franchise term in the amounts specified in the license or franchise or any other amounts as state law may require for public contracts, and to give 30 days' written notice to the Chief Operating Officer of any lapse or proposed cancellation of insurance coverage or performance bond.

(d) Indemnify and save harmless Metro, the Council, the Chief Operating Officer, Metro employees and Metro agents from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the licensee's or franchisee's performance of or failure to perform any of its obligations under the license or franchise or this chapter.

(e) Agree to no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of:

- (1) Any provision or requirement of the license or franchise;
- (2) Metro's enforcement of the license or franchise; or
- (3) Any determination that a license or franchise or any part thereof is invalid.

(Ordinance No. 81111, Sec. 13; Ordinance No. 98762C, Sec. 28; Ordinance No. 02974, Sec. 1; and Ordinance No. 031018A, Sec. 15.)

5.01.260 Obligations and Limits for Selected Types of Activities

~~(a) A material recovery solid waste facility that receives non-putrescible waste and is subject to licensing or franchising under this chapter in Chapter 5.01.050 licensee or transfer station franchisee (excluding source-separated recyclable material recovery facilities) must:~~

~~(1) pPerform material recovery from non-putrescible waste that it accepts at the facility as specified in this section or as otherwise specified in its license or franchise, or~~

~~(2) it must dDeliver the non-putrescible waste to a solid waste facility authorized by Metro to recover useful materials from solid waste.~~

~~(b) Notwithstanding subsection (a) above, a facility that exclusively receives non-putrescible source-separated recyclable material is not subject to the requirements of this section).~~

~~(c) A licensee or franchisee subject to subsection (a) must recover at least 25 percent by weight of non-putrescible waste accepted at the facility and waste delivered by public customers. For the purposes of calculating the amount of recovery required by this subsection, recovered waste excludes both waste from industrial processes and ash, inert rock, concrete, concrete block, foundry brick, asphalt, dirt, and sand. Failure to maintain the minimum recovery rate specified in this section is a violation enforceable under Metro Code Sections 5.01.320 and 5.01.330. After December 31, 2008, the requirements of this subsection are not applicable to licensees or franchisees unless the Council determines that this standard should be reinstated to replace the processing residual standard established in 5.01.260(e).~~

~~(c) Effective January 1, 2009, a A licensee or franchisee subject to subsection (a) must:~~

~~(1) Process non-putrescible waste accepted at the facility and delivered in drop boxes and self-tipping trucks to recover cardboard, wood, and metals, including aluminum. The processing residual may not contain more than 15 percent, by total combined weight, of cardboard or wood pieces of greater than 12 inches in size in any dimension and metal pieces greater than eight inches in size in any dimension.~~

~~(2) Take quarterly samples of processing residual that are statistically valid and representative of the~~

facility's residual (not less than a 300-pound sample) and provide results of the sampling to Metro in the monthly report due the month following the end of that quarter.

(d) Based on observation, audits, inspections and reports, Metro inspectors will conduct or require additional analysis of waste residual at the facility in accordance with Section 5.01.290(c). Failure to maintain the recovery level specified in Section 5.01.260(c)(1) is a violation enforceable under Metro Code. Metro will not impose a civil penalty on the first two violations of this subsection by a single licensee or franchisee.

(e) Failure to meet the reporting requirements in subsection (c)(2) is a violation enforceable under Metro Code.

(f) A transfer station franchisee:

- (1) Must accept putrescible waste originating within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
- (2) Must not accept hazardous waste unless the franchisee provides written authorization from the DEQ or evidence of exemption from such requirement.
- (3) Is limited in accepting putrescible waste during any year to an amount of putrescible waste as established by the Council in approving the transfer station franchise application.
- (4) Must provide an area for collecting source-separated recyclable materials without charge at the franchised solid waste facility, or at another location more convenient to the population being served by the franchised solid waste facility.

(g) A reload facility licensee must deliver all non-putrescible waste received at the facility to a solid waste facility authorized by Metro to recover useful materials from solid waste.

(h) A solid waste facility licensee or franchisee cannot crush, grind or otherwise reduce the size of non-putrescible waste unless the:

- (1) Size reduction is a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and

- (2) Licensee or franchisee described the size reduction in a Metro-approved operating plan.

(Ordinance No. 98762C, Secs. 30-31; Ordinance No. 00866, Sec. 5; Ordinance No. 01916C, Sec. 4; Ordinance No. 02952A, Sec. 1; Ordinance No. 031018A, Sec. 16; Ordinance No. 07-1147B, Sec. 3; Ordinance No. 12-1272, Sec. 3; and Ordinance No. 13-1306, Sec. 3.)

5.01.270 Direct Haul of Putrescible Waste

A franchisee authorized by Metro to deliver putrescible waste directly to a disposal site must:

(a) Deliver the putrescible waste to Metro's contract operator for disposal of putrescible waste;

(b) Comply with the performance standards for management of unacceptable waste adopted by the Chief Operating Officer pursuant to Section 5.01.280; and

(c) Provide transportation or arrange for transportation by a transportation service provider that complies with the following performance standards for long-haul transportation by highway:

- (1) All solid waste transported through the city limits of Arlington, Oregon, is subject to any routing, timing, parking or other operational requirements established by the city of Arlington.
- (2) All equipment satisfies all federal, state, and local regulations. In addition, the use of exhaust brakes is prohibited.
- (3) All solid waste is transported in completely sealed containers with leak-proof design considered wind-, water-, and odor-tight, and is capable of withstanding arduous, heavy-duty, repetitive service associated with the long-haul transport of solid waste. Containers using tarps or flip-tops are prohibited. Any spillage from the transport vehicles is prohibited.
- (4) The average weight of solid waste payloads transported during each calendar month is not less than 25 tons.
- (5) Any staging areas used is located in areas outside or excluded from the Columbia River Gorge National Scenic Area (NSA).
- (6) All transport vehicles use only designated stopping points outside the Columbia River Gorge NSA except in cases of emergency.

- (7) Use of rest areas, turnouts, scenic vista points, and state parks is limited to cases of emergency.
- (8) Transportation is prohibited in the Columbia River Gorge NSA during the following times:
 - (A) 4:00 p.m. to 10:00 p.m. Friday afternoons in June, July, August, and September.
 - (B) Daylight hours on Saturdays in June, July, August, and September.
 - (C) All hours on Sunday in June, July, August, and September.
- (9) All solid waste is transported by use of vehicles utilizing splash and spray suppressant devices behind each wheel, and utilizing rain suppressant side flaps on all non-turning axles.
- (10) All solid waste is transported by use of vehicles and equipment that is suitably painted and presents an acceptable appearance.
- (11) A franchisee representative and its transportation carrier must annually meet with the gorge communities and interested parties to receive input and discuss issues related to transportation of solid waste.
- (12) The franchisee must report to Metro any accidents, citations, and vehicle inspections involving vehicles of the franchisee's transportation carrier during the transporting of solid waste on behalf of the franchisee.
- (13) A franchisee representative and its transportation carrier must meet monthly with Metro to discuss operational problems, complaints and any extraordinary occurrences.
- (14) The franchisee must immediately report any violations of this subsection to Metro.

(Ordinance No. 98762C, Secs. 32-33; and Ordinance No. 02974, Sec. 1.)

REGULATORY ADMINISTRATION OF SOLID WASTE FACILITIES

5.01.280 Authority of Chief Operating Officer to Adopt and Amend Rules, Standards, and Forms

(a) The Chief Operating Officer may adopt or amend rules, performance standards, and forms to implement any

provision of this chapter. Any rule, performance standard, or form adopted or amended under this section has the same force and effect as any other chapter provision.

(b) Before the Chief Operating Officer adopts or amends a rule or performance standard under this section, the Chief Operating Officer will provide an opportunity for public comment for a period of at least 30 days. The Chief Operating Officer will provide notice of the public comment period in a manner reasonably calculated to reach interested parties. The notice will include a brief description of the proposed rule or performance standard; the location at which a person may obtain a copy of the full text of the proposed rule or performance standard; the method for submitting public comments; and the deadline for submitting public comments.

(c) In addition to public comments, the Chief Operating Officer will also hold a public hearing on any proposed rule or performance standard or amendment to an existing rule or performance standard. The public hearing will take place not less than 14 days from the deadline for submitting public comments. The Chief Operating Officer will give public notice of the hearing not less than 10 days nor more than 30 days before the hearing. The notice will include the time, place, and purpose of the public hearing, a brief description of the proposed rule or performance standard, and the location at which a person may obtain copies of the full text of the proposed rule or performance standard.

(d) During the public hearing, the Chief Operating Officer will receive any offered written or oral testimony regarding the proposed rule, including any written comments received during the public comment period.

(e) After the public hearing is closed, the Chief Operating Officer may adopt the rule as originally proposed, adopt a modified version of the proposed rule, or reject the proposed rule. If the Chief Operating Officer intends to adopt a substantially modified version of the proposed rule, the Chief Operating Officer must mail a notice of opportunity to comment on the proposed modifications along with a copy of the text of the new proposed changes to each person who has either submitted written comments on the proposal, testified at the public hearing, or asked to receive a notice of proposed modifications. Metro must also post the notice on its website. The public has 15 days from the mailing date to provide written comment on the proposed modifications, but no further public hearing is required. After the 15-day comment period ends, the Chief Operating Officer may adopt the proposed rule.

(f) Any rule or performance standard adopted under this section takes effect 30 days after the Chief Operating Officer adopts it, unless the Chief Operating Officer specifies a later effective date.

(g) Notwithstanding subsections (b) and (c), the Chief Operating Officer may adopt an interim rule or performance standard without prior public notice, comment or hearing upon a written finding that a failure to act promptly will result in serious prejudice to the public interest or the interest of an affected party. The Chief Operating Officer must include the specific reasons for the serious prejudice. Any rule or performance standard adopted pursuant to this subsection expires no later than 180 days from its effective date.

(h) If the Metro Council enacts an ordinance establishing rulemaking procedures that are applicable agency-wide, then the rulemaking procedures set forth in this chapter are superseded by the agency-wide procedures. However, the procedures set forth in this chapter will still apply to the adoption or amendment of performance standards and forms.

(i) Any form, performance standard, or administrative rule (formerly known as an "administrative procedure") that is in effect on the date of this ordinance's adoption remains in effect unless otherwise repealed or amended.

(j) For purposes of ORS 34.020, any rule adopted by the Chief Operating Officer under this section is considered a final decision.

(Ordinance No. 98762C, Secs. 34-35; Ordinance No. 01916C, Sec. 5; Ordinance No. 02974, Sec. 1; Ordinance No. 071138, Sec. 3; and Ordinance No. 12-1272, Sec. 5.)

5.01.290 Inspections, Audits, and other Investigations of Solid Waste Facilities

(a) The Chief Operating Officer is authorized to make such inspection, audit, or other investigation as the Chief Operating Officer considers appropriate to ensure compliance with this chapter, the Code, the franchise or license, and administrative rules and performance standards adopted pursuant to Section 5.01.280. Licensed or franchised facilities must allow access to the facility premises, and all other solid waste facilities, at all reasonable times during business hours with or without notice, and during non-business hours with 24 hours notice.

(b) Inspections, audits, or other investigations authorized under subsection (a) will occur regularly and as the Chief

Operating Officer determines necessary. The Chief Operating Officer will report the results of each inspection, audit, or other investigation in the format approved by the Chief Operating Officer.

(c) The Chief Operating Officer may access and examine any records during the inspections, audits, or other investigations if the Chief Operating Officer considers the records pertinent to the license or franchise, or to the provisions of this chapter. These records include but are not limited to the licensee's, franchisee's or solid waste facility operator's books, papers, records, equipment, blueprints, operation and maintenance records, logs and operating rules and procedures. As part of the inspections, audits, or other investigations, the Chief Operating Officer may take samples and conduct analysis of any waste or other material, including storm water runoff, water treatment or holding facilities, leachate, soil and solid waste. The Chief Operating Officer will coordinate any sampling or follow-up activities with DEQ or local jurisdictions as necessary to avoid redundant requirements on operations.

(d) Any violation discovered by an inspection, audit, or other investigation is subject to the penalties provided in Section 5.01.330.

(Ordinance No. 98762C, Secs. 36-37; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec. 18; and Ordinance No. 07-1147B, Sec. 4.)

5.01.300 Regional System Fees

(a) Pursuant to Chapter 5.02, regional system fees apply to solid waste facilities and disposal sites that Metro owns, operates, licenses or franchises, or which are liable for payment of the fees pursuant to a special agreement with Metro.

(b) Regional system fees are in addition to any other fee, tax or charge imposed upon a solid waste facility or disposal site.

(c) Regional system fees must be separately stated upon records of the solid waste facility or disposal site.

(d) Regional system fees and finance charges on those fees must be paid as specified in Metro Code Chapter 5.02.

(Ordinance No. 81111, Sec. 16; Ordinance No. 86214, Sec. 1; Ordinance No. 91-422B, Sec. 4; Ordinance No. 93509, Sec. 2; Ordinance No. 95-621A, Sec. 7; Ordinance No. 98762C, Sec. 41; Ordinance No. 00866, Sec. 6; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec. 19; and Ordinance No. 14-1332, Sec. 1.)

5.01.310 Determination of Rates

(a) The Council may establish facility rates if it finds that setting facility rates is in the public interest as a matter of metropolitan concern.

(b) Notwithstanding any other provision of this section,

(1) Licensees are exempt from all rate setting; and

(2) Franchisees are exempt from rate setting unless Metro requires rate setting as a franchise condition.

(Ordinance No. 81111, Sec. 19; Ordinance No. 82136, Sec. 4. Renumbered by Ordinance No. 91-436A, Sec. 2, which repealed former Section 5.01.170, "Rate Review Committee." Repealed by Ordinance No. 98762C, Sec. 43; replaced by Ordinance No. 98762C, Sec. 44; and Ordinance No. 031018A, Sec. 20.)

ENFORCEMENT AND APPEALS

5.01.320 Enforcement Provisions

(a) Any person who violates any provision of this chapter or who fails to comply with a license or franchise condition is subject to the fines and penalties set forth in this chapter.

(b) The Chief Operating Officer may investigate whether there is sufficient cause to suspend, modify or revoke a franchise or license. If there is sufficient evidence to suspend, modify, or to revoke a franchise or license, the Chief Operating Officer will notify the franchisee or licensee in writing of the alleged violation, and the necessary steps the violator must take to correct the violation. If the franchisee or licensee is unable to or refuses to correct the violation within a reasonable time after Metro sends notice, the Chief Operating Officer may provide notice to the franchisee or licensee that Metro will impose penalties pursuant to Section 5.01.330 or that Metro will suspend, modify or revoke the franchise or license.

(c) The Chief Operating Officer will send the notice upon finding that the franchisee or licensee has:

(1) Violated the franchise or license, the administrative rules or performance standards issued by the Chief Operating Officer, this chapter, the Code, state law, local ordinance or the rules promulgated there under or any other applicable law or regulation; or

(2) Misrepresented material facts or information in the franchise or license application, or other

information that Metro requires the licensee or franchisee to submit;

- (3) Refused to provide adequate service at a licensed or franchised site, facility or station, after Metro provides written notification and reasonable opportunity to do so;
- (4) Misrepresented the gross receipts from the operation of the licensed or franchised site, facility or station;
- (5) Failed to pay when due the fees required under this chapter; or
- (6) Violated a city or county ordinance if the ordinance requires licensees or franchisees to comply with the Metro solid waste facility regulation code.

(d) Except as provided in subsection (e), if the Chief Operating Officer revokes, modifies or suspends a license or franchise, it does not become effective until Metro gives the licensee or franchisee an opportunity to request a contested case hearing under Metro Code 2.05.

(e) If Metro finds a serious danger to the public health or safety as a result of the actions or inactions of a franchisee or licensee, the Chief Operating Officer may in accordance with Code Chapter 2.05 immediately suspend the franchise or license and may take whatever steps may be necessary to abate the danger. In addition, in the case of a franchise, the Chief Operating Officer may authorize another franchisee or another person to provide service or to use and operate the site, station, facilities and equipment of an affected franchisee for reasonable compensation in order to provide service or abate the danger for so long as the danger continues. If Metro immediately suspends a franchise, the franchisee has 30 days from the suspension date to request a contested case hearing under Code Chapter 2.05.

(f) If Metro revokes a franchise or license, all franchisee or licensee rights in the franchise or license become void.

(Ordinance No. 81111, Sec. 20; Ordinance No. 82136, Sec. 5; Ordinance No. 95-621A, Sec. 8. Renumbered by Ordinance No. 91-436A, Sec. 2. Amended by Ordinance No. 98762C, Sec. 45; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec. 21; and Ordinance No. 14-1332, Sec. 1.)

5.01.330 Penalties

(a) Each violation of this chapter is punishable by a fine of not more than \$500.00. Each day a violation continues constitutes a separate violation. Metro may join separate offenses in one Notice of Violation in several counts.

(b) If the Chief Operating Officer finds that a licensee or franchisee is in violation of this chapter, the Code, the license or franchise, or the administrative rules or performance standards adopted pursuant to Section 5.01.280, the Chief Operating Officer will provide written notice to the violator describing the violation and requiring the violator to correct the violation within the time specified in the notice.

(c) If a licensee or franchisee fails to correct the violation within the specified time period, the Chief Operating Officer will issue a Notice of Violation, indicating the continuing violation, the date of re-inspection and the fine imposed as specified in subsection (a).

(d) If after re-inspection, the Chief Operating Officer finds the licensee or franchisee has failed to correct the violation, the violation is punishable by a fine as specified in subsection (a). Metro will give notice of a final deadline for correcting the violation at the time of re-inspection.

(e) If the licensee or franchisee fails to correct the violation after the final deadline, the licensee or franchisee must cease the activity resulting in the violation.

(f) Metro will conduct further inspections to ensure that the licensee or franchisee suspends the offending activity. If the licensee or franchisee fails to suspend the offending activity, the Chief Operating Officer may:

- (1) Impose a remedy suitable to Metro to be implemented by and at the expense of the licensee or franchisee;
- (2) Suspend all solid waste activities on site;
- (3) Impose a lien on the property for the amount of the fines; or
- (4) Suspend, modify or revoke the license or franchise pursuant to Section 5.01.320.

(g) In addition to subsection (a), Metro may enjoin any violation of this chapter upon suit in a court of competent jurisdiction, and the violator may also be subject to a civil penalty not to exceed \$500.00 per day for each day of violation.

(Ordinance No. 81111, Sec. 22. Renumbered by Ordinance No. 91436A, Sec. 2; Ordinance No. 98762C, Sec. 47; Ordinance No. 98767, Sec. 6; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec.22; and Ordinance No. 14-1332, Sec. 1.)

5.01.340 Appeals

(a) Any applicant, franchisee or licensee may request a contested case hearing pursuant to Code Chapter 2.05 upon the suspension, modification, revocation or refusal by the Council or Chief Operating Officer, as appropriate, to issue, renew, modify or transfer a franchise or license or to grant a variance.

(b) Except as provided in subsection (d), if the Council refuses to renew a franchise or the Chief Operating Officer refuses to renew a license, the refusal does not become effective until Metro affords the franchisee or licensee an opportunity for a contested case hearing if one is requested.

(c) The refusal by either the Council or Chief Operating Officer to grant a variance, or to issue, modify or transfer a franchise or license is effective immediately. The franchisee, licensee or applicant may request a hearing on the refusal within 30 days of notice of the refusal.

(d) Upon a finding of serious danger to the public health or safety, the Chief Operating Officer may suspend a franchise or license or the Council or Chief Operating Officer may refuse to renew a franchise or license and that action is effective immediately. If a franchise or license renewal is refused, the franchisee or licensee has 30 days from the date of the action to request a contested case hearing.

(Ordinance No. 81111, Sec. 11; Ordinance No. 95-621A, Sec. 6; Ordinance No. 02974, Sec. 1; and Ordinance No. 031018A, Sec. 14.)

MISCELLANEOUS PROVISIONS

5.01.350 Miscellaneous Provisions

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

(b) Metro's granting of a license or franchise does not vest any right or privilege in the licensee or franchisee to receive specific quantities of solid waste during the license or franchise term.

(c) Metro has the power to regulate, in the public interest, the exercise of the privileges it grants by a license or franchise. Metro may establish or amend rules, regulations or

standards regarding matters within Metro's authority and enforce those requirements against licensees or franchisees.

(d) No waiver of any license or franchise condition is effective unless it is in writing and signed by the Chief Operating Officer. If Metro waives a license or franchise condition, that waiver does not waive or prejudice Metro's right to require performance of the same condition or any other condition.

(e) Metro will construe, apply and enforce a license or franchise in accordance with the laws of the State of Oregon.

(f) If a court of competent jurisdiction determines that any license or franchise provision is invalid, illegal or unenforceable in any respect, that determination does not affect the validity of the remaining provisions in the license or franchise.

(g) Nothing in this chapter limits the power of a federal, state, or local agency to enforce any provision of law relating to any solid waste facility or disposal site that it is authorized or required to enforce or administer.

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

(Ordinance No. 98762C, Secs. 52-53; Ordinance No. 02974, Sec. 1; Ordinance No. 031018A, Sec. 24; and Ordinance No. 14-1332, Sec. 1.)

CHAPTER 5.00

SOLID WASTE DEFINITIONS
DRAFT CHANGES FOR MRF/CT

5.00.010 Definitions

For the purposes of Title V Solid Waste, unless the context requires otherwise, the following terms have the meaning indicated:

"Activity" means a primary operation or function that is performed in a solid waste facility or at a disposal site, including but not limited to resource recovery, composting, energy recovery, and other types of processing; recycling; transfer; incineration; and disposal of solid waste. This term does not include operations or functions that serve to support the primary activity, such as segregation.

"Agronomic application rate" means land application of no more than the optimum quantity per acre of compost, sludge or other materials. In no case may the application adversely impact the waters of the state. The application must be designed to:

- (1) Provide the amount of nutrient, usually nitrogen, needed by crops or other plantings, to prevent controllable loss of nutrients to the environment;
- (2) Condition and improve the soil comparable to that attained by commonly used soil amendments; or
- (3) Adjust soil pH to desired levels.

"Alternative program" means a solid waste management service proposed by a local government that differs from the service required under Chapter 5.10.

"Authorized official" means a person authorized to issue citations under Chapter 5.09.

"Business" means any entity of one or more persons, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational, or other activity that is non-residential in nature, including public bodies and excluding businesses whose primary office is located in a residence.

"Business recycling service customer" means a person who enters into a service agreement with a waste hauler or recycler for business recycling services.

"Chief Operating Officer" means the Metro Chief Operating Officer or the Chief Operating Officer's designee.

"Clean fill" means material consisting of soil, rock, concrete, brick, building block, tile or asphalt paving that does not contain contaminants that could adversely impact the waters of the state or public health. This term does not include putrescible waste, cleanup material, construction and demolition waste, or industrial waste.

"Cleanup material" means solid waste resulting from the excavation or cleanup of releases of hazardous substances into the environment, including street sweeping waste, non-hazardous contaminated soils that do not qualify as clean fill (such as petroleum contaminated soils) and contaminated debris resulting from the cleanup of chemical spills or releases. This term does not include solid waste generated by manufacturing or industrial processes.

"Closure" means the restoring a solid waste facility or a disposal site to its condition before licensed or franchised solid waste activities began at the site. Closure includes, but is not limited to, the removal of all accumulations of solid waste and recyclable materials from the site.

"Code" means the Metro Code.

"Community enhancement fee" or "enhancement fee" means the fee collected in addition to general disposal rates that pays for rehabilitation and enhancement projects in the areas surrounding solid waste facilities and disposal sites.

"Compost" means the stabilized product of composting.

"Composting" means the controlled biological decomposition of organic material.

"Conditionally exempt generator" (CEG) means a conditionally exempt small quantity generator as defined in 40 CFR 261.5.

NEW: "Conversion technology facility" means a facility that uses primarily chemical or thermal processes other than melting (changing from solid to liquid through heating without changing

chemical composition) to produce fuels, chemicals, or other useful products from solid waste. These chemical or thermal processes include, but are not limited to, distillation, gasification, hydrolysis, pyrolysis, thermal depolymerization, transesterification and animal rendering, but do not include direct combustion, composting, anaerobic digestion, melting, or mechanical recycling. Mills that primarily use mechanical recycling or melting to recycle materials back into similar materials are not considered to be conversion technology facilities, even if they use some chemical or thermal processes in the recycling process.

"Council" means the Metro Council.

"DEQ" means the Department of Environmental Quality of the State of Oregon.

"Department" means Metro's Property and Environmental Services Department.

"Designated facility" means a facility in the system of solid waste facilities and disposal sites that Metro authorizes under Chapter 5.05 to accept waste generated within the jurisdiction of Metro.

"Direct haul" means the delivery of putrescible waste from a solid waste facility directly to Metro's contract operator for disposal of putrescible waste. Direct haul is an activity under Chapter 5.01.

"Disposal fee" means a fee that pays the direct unit costs of transportation and disposal of general purpose solid waste.

"Disposal site" means the land, buildings, and equipment used for the disposal of solid waste whether or not open to the public. This term does not include a solid waste facility.

"Electronic device" means:

- (1) A computer monitor of any type having a viewable area greater than four inches measured diagonally;
- (2) A desktop computer or portable computer;
- (3) A television of any type having a viewable area greater than four inches measured diagonally;
- (4) A computer peripheral; or
- (5) A printer.

The term electronic device does not include:

- (1) Any part of a motor vehicle;
- (2) Any part of a larger piece of equipment designed and intended for use in an industrial, commercial or medical setting, such as diagnostic, monitoring or control equipment;
- (3) Telephones or personal digital assistants of any type unless the telephone or personal digital assistant contains a viewable area greater than four inches measured diagonally; or
- (4) Any part of a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier or air purifier.

"Energy recovery" means a type of resource recovery that is limited to methods in which all or a part of solid waste materials are processed to use the heat content or another form of energy.

"Facility" means the land, buildings, and equipment used for an activity.

"Franchise" means the grant of authority or privilege given by the Council to operate a disposal site, transfer station, energy recovery facility, or to conduct any other activity that requires authorization under Chapter 5.01.

"Franchisee" means the holder of a current, validly issued franchise granted by the Council under Chapter 5.01.

"Franchise fee" means the fee Metro charges the franchisee for the administration of the franchise.

"Hazardous substance" means any substance defined as a hazardous substance pursuant to Section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 USC 9601 et seq., oil, as defined in ORS 465.200, and any substance designated by DEQ under ORS 465.400.

"Hazardous waste" has the meaning provided in ORS 466.005.

"Hearings officer" means a person that Metro designates to hear and decide cases under this title.

"Household hazardous waste" means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is

commonly used in or around households and is generated by the household. Household hazardous waste may include but is not limited to some cleaners, solvents, pesticides, and automotive and paint products.

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

"License" means the permission given by the Council or Chief Operating Officer to operate a solid waste facility otherwise exempted or requiring a franchise under Chapter 5.01.

"Licensee" means the holder of a current, validly issued license granted by the Council or Chief Operating Officer under Chapter 5.01.

"Local government" means any city or county that is within Metro's jurisdiction, including the unincorporated areas of Clackamas, Multnomah, and Washington Counties.

"Local government action" means adoption of any ordinance, order, regulation, contract, or program affecting solid waste management.

"Material recovery" means a type of resource recovery that is limited to manual or mechanical methods of obtaining material from solid waste that still has useful physical or chemical properties and can be reused, recycled, or composted for some purpose. Material recovery includes obtaining material from solid waste that is used in the preparation of fuel, but excludes the extraction of heat content or other forms of energy from the material.

"Medical waste" means solid waste that is generated as a result of patient diagnosis, treatment or immunization of human beings or animals.

"Metro Central Station" is the Metro solid waste transfer and recycling station located at 6161 NW 61st Avenue, Portland, Oregon 97210.

"Metro South Station" is the Metro solid waste transfer station and recycling station located at 2001 Washington Street, Oregon City, Oregon 97045.

"Non-commercial customer" means a person who is not primarily engaged in the business of collection or transportation of solid waste and who is not authorized by any federal, state or local government to perform such collection or transportation.

"Non-putrescible waste" means any waste that contains no more than trivial amounts of putrescible materials or minor amounts of putrescible materials contained in such a way that they can be easily separated from the remainder of the load without causing contamination of the load. This term includes construction and demolition waste. This term does not include cleanup material, source-separated recyclable materials, special waste, land clearing debris or yard debris.

"Non-system facility" means any solid waste facility, disposal site, transfer station, processing facility, recycling drop center, resource recovery facility or other facility for the disposal, recycling or other processing of solid waste if the facility is not part of the system.

"Non-system license" means the permission given by the Council or Chief Operating Officer to transport solid waste generated within the Metro boundary to a non-system facility.

"Person" has the same meaning as in Metro Code Section 1.01.040. For any person other than an individual, the acts of the person's employees, contractors, and authorized agents are considered the acts of the person.

"Petroleum contaminated soil" means soil into which hydrocarbons, including gasoline, diesel fuel, bunker oil or other petroleum products have been released. This term does not include soil that is contaminated with petroleum products but also contaminated with hazardous waste or radioactive waste.

"Process," "processing, or "processed" means a method or system of altering the form, condition or content of wastes, including but not limited to composting, vermiprocessing and other controlled methods of biological decomposition; classifying; separating; shredding, milling, pulverizing, or hydropulping. This term does not include incineration or mechanical volume reduction techniques such as baling and compaction.

"Processing facility" means a facility where or by which solid wastes are processed. This term does not include commercial and home garbage disposal units which are used to process food wastes and are part of the sewage system, hospital incinerators,

crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center. "Processing residual" means the solid waste that remains after resource recovery has occurred and which is intended for disposal.

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

"Putrescible waste" means waste containing putrescible material.

"Radioactive waste" means the same as defined in ORS 469.300.

"Rate" means the amount that Metro approves and that the franchisee charges, excluding the regional system fee and franchise fee.

"Recoverable solid waste" means source-separated or homogeneous material accepted in a single transaction at Metro Central Station or at Metro South Station in a form that is usable by existing technologies (notwithstanding the presence of incidental amounts or types of contaminants) for reuse, recycling, controlled biological decomposition of organic material including composting and digestion, and the preparation of fuels that meet an engineering, industrial, or market specification. This term does not include mass burning, incineration in refuse derived fuel facilities, and similar methods of extracting energy from mixed solid wastes.

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

"Recycle" or "recycling" means any process by which waste materials are transformed into new products in such a manner that the original products may lose their identity.

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

This term does not include a facility that processes source-separated recyclable materials.

"Regional Solid Waste Management Plan" or "RSWMP" means the Regional Solid Waste Management Plan adopted as a functional plan by Council and approved by DEQ.

"Regional system fee" means a fee that pays the costs for all associated Metro solid waste services related to management of the entire recycling, processing and disposal system.

"Reload" means the activity of receiving solid waste for the purpose of consolidating and transferring it to a solid waste facility.

"Required use order" means a written order issued pursuant to Chapter 5.05 requiring a waste hauler or other person to use a designated facility pursuant to the terms of the order.

"Residence" means the place where a person lives.

"Resource recovery" means a process by which useful material or energy resources are obtained from solid waste.

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

"RSWMP requirement" means the portions of the Regional Solid Waste Management Plan that are binding on local governments as set forth in Chapter 5.10.

"Segregation" means the removal of prohibited wastes, unauthorized wastes, bulky material (such as but not limited to white goods and metals) incidental to the transfer of solid waste. Segregation does not include resource recovery or other processing of solid waste. The sole intent of segregation is not to separate useful material from the solid waste but to remove prohibited, unauthorized waste or bulky materials that could be hard to handle by either the facility personnel or operation equipment.

"Solid waste" means all putrescible and non-putrescible wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard; discarded or abandoned vehicles or parts thereof; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; discarded home and industrial appliances;

asphalt, broken concrete and bricks; manure, vegetable or animal solid and semi-solid wastes, dead animals; infectious waste; and other such wastes, including without limitation cleanup materials, commingled recyclable material, petroleum contaminated soil, special waste, source-separated recyclable material, land clearing debris and yard debris. This term does not include:

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

"Solid waste disposal transaction" means a customer's use of a Metro transfer station disposal facility, hazardous waste facility, or household hazardous waste collection event, for the purpose of delivering for disposal a single load of solid or hazardous waste during a single visit from a single vehicle (whether or not accompanied by, or transporting, one or more trailers). A solid waste disposal transaction occurs when a customer enters a Metro transfer station facility, hazardous waste facility, or household hazardous waste collection event.

"Solid waste facility" means a facility at which solid waste is received for transfer, resource recovery, and/or processing. The term does not include disposal sites.

"Solid waste system facility" means a facility that Metro designates as part of Metro's system for the management and disposal of solid and liquid waste. This term includes, but is not limited to, all designated facilities set forth in Chapter 5.05 and any non-system facility that receives solid waste from within the Metro area, whether pursuant to an authorized non-system license or otherwise.

"Source separate" or "source separated" or "source separation" means that the person who last uses recyclable material separates the recyclable material from solid waste.

"Source-separated recyclable material" or "Source-separated recyclables" means solid waste that has been source separated by the waste generator for the purpose of reuse, recycling, or

composting. This term includes (1) all homogenous loads of recyclable materials that have been source separated by material type for the purpose of recycling (i.e., source-sorted) and (2) residential and commercial commingled recyclable materials, which include only those recyclable material types that the local jurisdiction, where the materials were collected, permits to be mixed together in a single container as part of its residential curbside recyclable material collection program. This term does not include any other commingled recyclable materials.

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

- (1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 and 11 of this definition below.
- (2) Waste transported in a bulk tanker.
- (3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid (Method 9095, SW-846) test or includes 25 or more gallons of free liquid per load, whichever is more restrictive.
- (4) Containers (or drums) that once held commercial products or chemicals, unless the containers (or drums) are empty as provided in 40 CFR 261.7(b)(1).
- (5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, Laundromats or car washes.
- (6) Waste from an industrial process.
- (7) Waste from a pollution control process.
- (8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition.
- (9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition.
- (10) Chemical-containing equipment removed from service (for example: filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical containing equipment).

- (11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4, but not empty containers so marked.
- (12) Any waste that requires extraordinary management or special handling. Examples of such special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or byproducts.
- (13) Medical waste.

NEW "Specific material recycler" means a facility that processes a single type of non-putrescible recyclable material that holds intrinsic value in established reuse or recycling markets. These materials include, but are not limited to, scrap metal, plastic, paper, or other similar commodities.

"Standard recyclable materials" means newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, aluminum, container glass, high-grade office paper, tin/steel cans, yard debris, mixed scrap paper, milk cartons, plastic containers, milk jugs, phone books, magazines, and empty aerosol cans."State" means the State of Oregon.

"Substantial compliance" means local government actions, on the whole, conform to the purposes of the performance standards in Chapter 5.10 and any failure to meet individual performance standard requirements is technical or minor in nature.

"System" means all facilities that Metro designates as part of its system for the management and disposal of solid and liquid waste. This includes, but is not limited to, the following:

- (1) recycling and other volume reduction facilities;
- (2) landfills, or other disposal means;
- (3) resource recovery facilities (including steam production and electrical generating facilities using solid waste as fuel);
- (4) recycling and transfer stations;
- (5) roads, water lines, wastewater lines and treatment facilities to the extent used to carry out the

provisions of ORS chapter 268 and other applicable laws of the state of Oregon;

- (6) all buildings, fixtures, equipment, real property and personal property that Metro owns, leases, operates or uses to dispose of solid and liquid waste;
- (7) designated facilities as provided in Chapter 5.05.

"Transaction charge" means the fee that Metro imposes for each transaction at a Metro transfer station to pay for related scalehouse costs.

"Transfer" means the activity of receiving solid waste for purposes of transferring it from one vehicle or container to another vehicle or container for transport. Transfer may include segregation, temporary storage, consolidation of solid waste from more than one vehicle, and compaction. This term does not include resource recovery or other processing of solid waste.

"Transfer station" means a solid waste facility whose primary activity includes, but is not limited to, the transfer of solid waste to a disposal site.

"Unacceptable waste" means waste that is either:

- (1) Prohibited from disposal at a disposal site by state or federal law, regulation, rule, code, permit or permit condition; or
- (2) Special waste without an approved special waste permit.

"Useful material" means material that still has useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and which, when separated from solid waste, is suitable for use in the same or other purpose(s). For purposes of this Code, cleanup materials are not useful materials. Types of useful materials include, but are not limited to:

- (1) material that can be reused;
- (2) recyclable material;
- (3) organic material(s) suitable for controlled biological decomposition (such as for making compost);
- (4) material used in the preparation of fuel;
- (5) material intended to be used, and which is in fact used, for construction or land reclamation (such as inert material for fill);

- (6) material intended to be used, and which is in fact used, productively in landfill operations (such as roadbeds or alternative daily cover).

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

"Waste" means any material considered to be useless, unwanted or discarded by the person who last used the material for its intended and original purpose. For the purpose of Chapter 5.09, the term "waste" also includes any such material even if it is broken, recoverable, or recyclable.

"Waste hauler" means any person who is (1) franchised, licensed or permitted by a local government unit pursuant to state law to collect and haul solid waste; or (2) engaged, in whole or part, in the collection, transportation, delivery, or disposal of solid waste generated by such person or others within the Metro boundary.

"Waste hierarchy" means first, reduce the amount of solid waste generated; second, reuse material for its originally intended purpose; third, recycle or compost material that cannot be reduced or reused; fourth, recover energy from material that cannot be reduced, reused, recycled or composted so long as the energy recovery facility preserves the quality of air, water and land resources; and fifth, landfill solid waste that cannot be reduced, reused, recycled, composted or from which energy cannot be recovered.

"Waste Reduction Program" means the Waste Reduction Program required by ORS 459.055(2)(a), adopted by the Metro Council as part of the RSWMP, and accepted and approved by the DEQ as part of the RSWMP.

"Yard debris" means vegetative and woody material generated from residential or commercial landscaping activities. Yard debris includes landscape waste, grass clippings, leaves, hedge trimmings, branches, sod, scrapings, stumps and other vegetative waste having similar properties. This term does not include other solid waste such as soil, demolition debris, painted or treated wood waste.

(Ordinance No. 14-1331)
