

Proposed Metro Code Chapter 5.05 - REVISED DRAFT 07/06/2016
Revisions made in response to comments received from the public.

CHAPTER 5.05

SOLID WASTE FLOW CONTROL

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- All of the proposed revisions to this chapter are marked in red with "strikethrough" text showing deletions and "underlined" text showing additions to the chapter.
- All of the proposed revisions highlighted in blue are changes that were made in response to comments received from the public. The public review and comment period for the initially proposed draft began on March 1 and ended on April 29, 2016.

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5.05.015-10 Purpose

(a) This chapter governs the regulation of solid waste transported, managed and disposed at locations outside the Metro regional boundary. 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;
- (4) Reduce the volume of solid waste disposal through source reduction, recycling, reuse and resource recovery; and
- (5) Protect the citizens of the region from liability arising from the use of a disposal site subject to federal law.

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

Comment [A1]: Revision made in response to comments. Refer to Exhibit A.

5.05.020 Special Findings for Solid Waste Flow Control

~~In connection with the enactment of the provisions of this Chapter 5.05 of the Metro Code (as defined below), the~~The
~~Council of Metro hereby finds and determines~~makes the following findings:

(a) Metro has limited land and resources for the disposal, transfer and recovery of resources from solid and liquid waste, and it is the Council's responsibility ~~of the Council~~ to protect and judiciously utilize ~~such~~Metro's limited land and resources.

(b) Metro has developed the system as a regional waste disposal and recovery system within the framework of a regional solid waste management plan, and it has done so in cooperation with federal, state and local agencies for the benefit of all Metro citizens ~~of Metro~~.

~~(c) The purposes of this chapter are to protect and preserve the health, safety and welfare of Metro's residents; to implement cooperatively with federal, state and local agencies the Regional Solid Waste Management Plan; to provide a~~

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~~coordinated regional disposal and resource recovery program and a solid waste management plan to benefit all citizens of Metro; to reduce the volume of solid waste disposal through source reduction, recycling, reuse and resource recovery; and to protect the citizens of the region from liability arising from the use of a disposal site subject to federal law.~~

~~(d) Pursuant to the authority granted to Metro under ORS chapter 268.317 and 268.360, as amended, Metro may require any person or class of persons who generate solid or liquid waste to make use of disposal, transfer or resource recovery sites or facilities of the system or disposal, transfer or resource recovery sites designated by Metro.:~~

~~(1) The system's disposal sites or solid waste facilities, or~~

~~(2) Metro's designated disposal sites or solid waste facilities.~~

~~(d) ORS 268.317 and ORS 268.360, as amended, also provides authorize Metro the authority to require any person or class of persons who pickup, collect, or transport solid or liquid waste to make use of the disposal, transfer or resource recovery sites of the system or disposal, transfer or resource recovery sites or facilities designated by Metro.:~~

~~(1) (f) The provisions of this Chapter 5.05 are intended to be, and they shall constitute, system's disposal sites or solid waste facilities, or~~

~~(2) Metro's designated disposal sites or solid waste facilities.~~

~~(e) Under the exercise by Metro of the powers and authority granted to it under in ORS 268.317 and, ORS 268.360, as amended, and the regional solid waste management plan-, this chapter's provisions authorize Metro to require the persons and classes of persons specified herein who generate, pickup, collect or transport solid or liquid waste to make use of the disposal, transfer or resource recovery sites of the system or disposal, transfer or resource recovery sites or facilities designated by Metro.:~~

~~(1) The system's disposal sites or solid waste facilities, or~~

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(2) Metro's designated disposal sites or solid waste facilities.

(Ordinance No. 89-319; Ordinance No. 01-917, Sec. 2; and Ordinance No. 02-974, Sec. 1.)

5.05.020-030 Authority, Jurisdiction, and Application

(a) Metro's solid waste flow control authority is ~~established under~~derived from ORS Chapter 268 for solid waste and the Metro Charter ~~and. It~~ includes the authority to regulate solid waste generated within Metro.

(b) This chapter ~~shall govern the~~governs:

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

(2) Any person who generates solid waste within Metro, and

(3) Any person who transports, transfers, disposes or otherwise deals with or processes solid waste generated within Metro.

(c) All solid waste regulation ~~shall be~~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~~abridges or ~~alter~~alters the rights of action by the State or by a person ~~which~~that exist in equity, common law, or other statutes to abate pollution or to abate a nuisance. The provisions of this chapter ~~shall~~should be liberally construed to accomplish these purposes.

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(Ordinance No. 89-319; Ordinance No. 01-917, Sec. 3; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1019, Sec. 2.)

5.05.025-040 Prohibited Activities

(a) ~~Except as otherwise provided in this chapter, it shall be unlawful for any waste hauler or other person to transport, or caused to be transported, solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within the District, any solid waste facility or disposal site without an appropriate license from Metro.~~ Unless a person has a valid, Metro-issued non-system license, no person may transport, or caused to be transported, solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within the District, any solid waste facility or disposal site without an appropriate license from Metro.

(b) ~~It shall be unlawful for any solid waste generator, hauler, contractor, or other person to state falsely, or to state to a system facility operator that solid waste delivered to that facility for disposal was generated outside of Metro if the waste was actually generated inside of Metro.~~ No person may falsely, or to state to a system facility operator that solid waste delivered to that facility for disposal was generated outside of Metro if the waste was actually generated inside of Metro.

(c) ~~No person may direct another person to state falsely, state to the operator of a system facility operator that solid waste delivered to that facility for disposal was generated outside of Metro if the District when, in fact, such solid waste was actually generated within the District, inside of Metro. A solid waste generator, hauler, or contractor shall be deemed to have directed another person to make false statements regarding the origin of solid waste under this section if the solid waste generator, hauler, or contractor person doing the directing knew or reasonably should have known that the person that transported the solid waste to the system facility would state falsely to the operator of a system facility that the solid waste being delivered to the facility for disposal or other processing was generated outside the District when, in fact, such solid waste was generated within the District.~~ No person may direct another person to state falsely, state to the operator of a system facility operator that solid waste delivered to that facility for disposal was generated outside of Metro if the District when, in fact, such solid waste was actually generated within the District, inside of Metro. A solid waste generator, hauler, or contractor shall be deemed to have directed another person to make false statements regarding the origin of solid waste under this subsection if the solid waste generator, hauler, or contractor person doing the directing knew or reasonably should have known that the person that transported the solid waste to the system facility would state falsely to the operator of a system facility that the solid waste being delivered to the facility for disposal or other processing was generated outside the District when, in fact, such solid waste was generated within the District.

(Ordinance No. 01-917, Secs. 4-5; Ordinance No. 02-974, Sec. 1; and Ordinance No. 06-1104, Sec. 1.)

5.05.027-050 Exemptions to Prohibited Activities

(a) ~~A license is required of any waste hauler or other person to transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal, transportation, transfer or other processing of~~ This chapter does not apply to, or to utilize or cause to be utilized for the disposal, transportation, transfer or other processing of

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~~solid waste generated within Metro, or other dealing with, non-putrescible source separated recyclable materials that are either: (i) reused or recycled, or (ii) transferred, transported or delivered to a person or facility that will reuse or recycle them.~~

~~(b) If a designated facility-of the system that is in compliance with all local, state, federal and Metro regulations, including any agreement entered into between Metro and the system facility-, then a non-system license is not required of any person to:~~

- ~~(1) ~~Transport solid waste generated within Metro to that designated facility, or~~~~
- ~~(2) Utilize the designated facility for disposing or processing solid waste that was generated within Metro.~~

~~(c) A non-system license is not required for a government agency to transport solid waste to the Covanta Waste-to-Energy facility located in Brooks, Oregon, for the primary purpose of destroying ~~such waste~~the waste in order to assure public safety or for the public good. Solid waste exempt under this subsection ~~include~~includes, but ~~are~~is not limited to, contraband, postage stamps, expired pharmaceuticals, and lottery tickets.~~

~~(Ordinance No. 01-917, Secs. 6-7; Ordinance No. 02-974, Sec. 1; and Ordinance No. 06-1106.)~~

5.05.030060 Designated Facilities of the System

~~(a) Designated Facilities. The following described facilities ~~constitute the~~are designated facilities of the system, and the Metro Council ~~having found~~finds that ~~said~~these facilities meet the criteria set forth in Metro Code Chapter 5.05:~~

- ~~(1) ~~Disposal~~Metro owned or operated disposal sites or solid waste facilities~~-owned or operated by Metro.~~~~
- (2) Disposal sites or solid waste facilities within Metro's boundary that are subject to Metro regulatory authority under Chapter 5.01.

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(3) Disposal sites or solid waste facilities located outside Metro's boundary that the ~~Metro~~ Council ~~has designated~~designates as part of the system, and ~~are authorized~~which Council authorizes to accept waste generated from inside the Metro boundary ~~as specified by and subject to~~under:

- (A) An agreement between Metro and the ~~owner of the~~ disposal site or solid waste facility owner; or
- (B) A non-system license ~~issued that~~ Metro issues to the waste generator or the person transporting the waste to the disposal site or solid waste facility.

(b) The ~~Metro~~ Council will consider ~~for adoption~~ a list of designated facilities for adoption by resolution ~~(1)~~:

~~(1)~~ At least every five years ~~beginning in 2015~~ as set forth in Metro Code Section 5.05.~~033~~090; or ~~(2) any~~

~~(1)~~(2) Any time there is a proposed change to the list under Metro Code Sections 5.05.~~031~~070 or 5.05.~~032~~080 pursuant to administrative procedures.

(c) A disposal site or solid waste facility located outside the Metro boundary may ~~(1) apply~~:

~~(1)~~ Apply to Metro to become a designated facility of the system, or ~~(2) request to be removed~~

~~(2)~~ Request that Metro remove it from the list of designated facilities.

~~(d)~~ The Chief Operating Officer will provide ~~a form of an~~ application form and will consider the factors set forth in Metro Code ~~Sections~~Section 5.05.~~031~~070 when determining whether to recommend to the Council any addition to the designated facility list.

(Ordinance No. 14-1333; Ordinance No. 14-1334; Ordinance No. 14-1335; and Ordinance No. 14-1337.)

5.05.~~031~~ Addition 070 Adding Facilities to the List of Designated Facilities List

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(a) The Council may add a facility to the list of designated facilities ~~oneither:~~

- (1) On its own motion, ~~by recommendation of~~
- (2) Upon the Chief Operating ~~Officer~~Officer's recommendation, or ~~upon~~
- (3) Upon a facility application ~~by a facility~~ under Metro Code Section 5.05.~~030060~~(c). ~~in~~

(b) The Council will consider the following factors when deciding whether to add a facility to the ~~list of~~ designated facilities ~~the Council shall consider~~list:

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

(Ordinance No. 14-1337.)

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5.05.032 Deletions from 080 Removing From and Amendments
to Amending the List of Designated Facilities List

(a) The Council may ~~delete~~remove a facility from the ~~list~~
~~of~~ designated facilities ~~on~~list:

- (1) ~~On~~ its own motion, ~~by recommendation of~~
- (2) ~~Upon~~ the Chief Operating ~~Officer~~Officer's
recommendation, or ~~upon~~
- (3) ~~Upon a facility's~~ request ~~by a facility~~ under
Metro Code Section 5.05.030060(c).

~~(b)~~ In deciding whether to ~~delete~~remove a facility from the
~~list of~~ designated facilities list, the Council ~~shall~~will
consider:

- (1) Changes in facility operations, including without
limitation whether the facility is not operating,
whether the facility has changed the type of
waste it accepts, or whether the facility has
changed ~~the type of waste it accepts or~~ the
method for accepting the waste;
- (2) Changes in legal requirements that apply to the
facility;
- (3) The facility's record of regulatory compliance,
~~including~~. This includes but is not limited to
public health and safety regulations and
environmental ~~rules and~~ regulations;
- (4) Changes in ownership of the facility; ~~and~~
- (5) Other benefits or detriments accruing to regional
residents ~~of the region from~~if Council ~~action to~~
~~delete~~removes the facility from the list of
designated facilities; and
- (6) ~~(b)~~Any other factor the Council considers
appropriate to accomplish the purposes of this
chapter.

~~(c)~~ Council may ~~delete~~remove a facility from the ~~list of~~
designated facilities list upon the facility's request ~~by the~~
~~facility~~ under Metro Code Section 5.05.030060(c) without
considering the factors set forth in ~~a~~subsection(b).

Comment [A2]: Revision made in response to
comments. Refer to Exhibit A.

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(ed) The Chief Operating Officer may change ~~thea facility~~ name or ~~the address of a facility~~ on the ~~list of designated facilities~~ facility list without Council ~~approval of a resolution so long as~~ action if no substantive change, ~~has occurred~~ as set forth ~~above in (a), has occurred.~~ subsection (b).

(Ordinance No. 14-1337.)

5.05.033090 Contents of Designated Facility List and Council Adoption Every Five Years

(a) The designated facility list will include ~~(1) the name and address of the:~~

(1) The designated facilities located outside the Metro region; and ~~(2) the name and address of~~

(2) Metro-owned facilities.

(b) Disposal sites ~~or~~ and solid waste facilities within Metro's boundary that are subject to Metro regulatory authority are designated facilities of the system but will not be included on the list ~~described in subsection (a).~~

~~(b)~~ (c) In addition to any resolution adopted under Metro Code Sections 5.05.031070 and 5.05.032, ~~no later than July 2015 and every five years thereafter, the Metro080, the~~ Council will adopt by resolution a list of designated facilities at least every five years.

(Ordinance No. 14-1337.)

5.05.034100 Agreements with Designated Facilities

(a) The Chief Operating Officer ~~is authorized to may~~ execute an agreement, ~~or an amendment to an agreement,~~ between Metro and a designated facility located outside the region for any solid waste ~~other than putrescible waste~~ that Council approves pursuant to Section 5.05.070. This authority includes any later amendments to the agreement.

(b) An agreement ~~or amendment to an agreement~~ between Metro and a designated facility ~~located outside~~ must specify the ~~region for putrescible~~ types of waste ~~shall be subject to approval by that~~ the facility can accept from within Metro ~~Council before execution by the Chief Operating Officer.~~ boundaries..

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

~~(d) An agreement between Metro and a designated facility shall~~ may not authorize the acceptance of non-putrescible waste, which has not yet undergone material recovery, originating or generated ~~with~~within Metro boundaries if the waste has not yet undergone material recovery, unless:

- (1) ~~Such~~The designated facility receives non-putrescible waste ~~is received~~ from a facility that Metro has ~~been~~ issued a license or franchise pursuant to Chapter 5.01 authorizing such facility to perform material recovery on non-putrescible waste;
- (2) ~~Such~~The designated facility receives non-putrescible waste ~~is received~~ from a designated facility that has ~~entered into~~ an agreement with Metro authorizing it to perform material recovery on non-putrescible waste; or
- (3) The designated facility ~~has entered into~~and Metro have an agreement ~~with Metro~~ authorizing ~~it~~the facility to perform material recovery on non-putrescible waste ~~in accordance with~~pursuant to subsection ~~(e) of this section.~~d).

~~(e) And~~ Any agreement between Metro and a designated facility that authorizes the facility to accept non-putrescible waste that (i) has not yet undergone material recovery, (ii) is not comprised of processing residual, and (iii) originated or generated within Metro boundaries ~~shall, must~~:

- (1) Require ~~such~~the designated facility to perform material recovery on ~~such~~the waste; and
- (2) Demonstrate, in a manner that can be verified and audited, that ~~such~~the processing achieves material recovery substantially comparable to that required of an in-region material recovery ~~facilities by~~facility under Metro Code Section 5.01.~~125~~260 by either:

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- (A) Meeting ~~such~~the material recovery requirements for all non-putrescible waste received at the facility, whether or not from within Metro boundaries; or
 - (B) Keeping all non-putrescible waste received from within Metro boundaries segregated from other waste throughout processing, keeping processing residual from such processing segregated from other solid waste after processing, and meeting such material recovery requirements for all such non-putrescible waste.
- (3) Demonstrate, in a manner that can be verified and audited, that ~~such~~the facility substantially complies with:
- (A) The performance goals described in Metro Code Sections 5.01.~~053~~(+090(c)) and 5.01.~~073~~(+190(c)); and
 - (B) The rules, performance standards, design requirements, and operating requirements applicable to licensed and franchised material recovery facilities operating within the Metro region and adopted by Metro as administrative ~~procedures~~rules pursuant to Metro Code Section 5.01.~~132~~280.

(Ordinance No. 89-319; Ordinance No. 91-388, Sec. 2; Ordinance No. 92-471C, Sec. 1; Ordinance No. 93-483A, Sec. 1; Ordinance No. 01-917, Sec. 8; Ordinance No. 02-979, Sec. 1; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1019, Sec. 3; Ordinance No. 03-999; Ordinance No. 05-1081, Sec. 1; Ordinance No. 05-1083, Sec. 1; Ordinance No. 07-1138, Sec. 4; Ordinance No. 07-1147B, Sec. 10.; Ordinance No. 08-1195; Ordinance No. 08-1197A; and Ordinance No. 14-1337.)

5.05.~~040~~—110 Non-System License to Use Non-System Facility

(a) A ~~waste hauler or other non-system license is required for any person may~~to transport-, or cause to be transported, any solid waste generated within Metro to, ~~or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within Metro, any~~ any non-system facility ~~only by obtaining a non system license in the manner provided for in~~

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~~this section. Applications for subsequent processing or disposal.~~

(b) ~~The Chief Operating Officer may approve or deny applications for non-system licenses ~~for~~to transport residential yard debris containing food waste, residential food waste, non-putrescible waste, special waste and cleanup material contaminated by hazardous substances shall be subject to approval or denial by the Chief Operating Officer. Applications for.~~

(c) ~~The Metro Council may approve or deny an application for a non-system licenses for license to transport putrescible waste shall be reviewed by after the Chief Operating Officer and are subject to approval or denial by the Metro Council reviews the application.~~

(Ordinance No. 14-1337.)

5.05.041120 Application for Non-System License

(a) ~~Any waste hauler or other person desiring to obtain requesting a non-system license shall make application must apply to the Chief Operating Officer, which application shall be filed on forms or in the format provided by that the Chief Operating Officer requires.~~ Applicants may apply for a limited-duration non-system license ~~which that~~ has a term of not more than 120 days and is not renewable.

(b) An application for ~~anya~~ non-system license ~~shall must~~ set forth the following information:

- (1) ~~The applicant's name and address of the waste hauler or person making such application;~~
- (2) ~~The location of the site or sites at which the solid waste proposed to be covered by the non-system license is to be generated waste generation site location;~~
- (3) ~~The nature of the solid waste proposed to be covered by the non-system license;~~
- (4) ~~The expected tonnage of the solid waste proposed to be covered by the non-system license, including;~~

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

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

(d) An applicant for a non-system license that authorizes the licensee to transport non-putrescible waste that has not yet undergone material recovery, is not processing residual, and originated or was generated within Metro boundaries ~~shall~~must provide documentation that the non-system facility is in substantial compliance with the facility performance standards, design requirements and operating requirements adopted pursuant to Metro Code Chapter 5.01 for non-putrescible waste material recovery facilities. Any applicant or licensee that is authorized or seeks to deliver non-putrescible waste to a non-system facility must demonstrate that the non-system facility will be in substantial compliance with the material recovery requirements in Metro Code Section 5.01.~~125260.~~

(Ordinance No. 14-1337.)

5.05.042—130 Non-System License Application Fees

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~~Every application shall be accompanied by payment of an applicant must pay an application fee, part of which may be refunded to along with the applicant application in an amount as specified in the event that the application is denied, as provided in this section. The following application fees shall apply table:~~

- ~~(1) For an application for a limited duration non-system license, the application fee shall be two hundred fifty dollars (\$250), no part of which shall be refunded to the applicant in the event that the application is denied.~~
- ~~(2) For an application for a non system license seeking authority to deliver no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be five hundred dollars (\$500), two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250); provided, however, that if the result of granting the application would be to give the applicant the authority to deliver more than 500 tons of solid waste per year to a non-system facility, the application fee shall be \$500, two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. An application for renewal of a non system license authorizing the delivery of no more than 500 tons of solid waste per year to a non system facility shall be one hundred dollars (\$100).~~
- ~~(3) For all applications for a non system license seeking authority to deliver more than 500 tons of solid waste per year to a non system facility, whether they be new applications or applications for the renewal of existing licenses, the application fee shall be one thousand dollars (\$1,000), five hundred dollars (\$500) of which shall be refunded to the applicant in the event the application is denied. For an application~~

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~~for a change in authorization to an existing non-system license authorizing the delivery of more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250).~~

~~(4) For an application for a non system license seeking to deliver solid waste that is exempt from paying the Metro fees described in section 5.02.045, the application fee shall be one hundred dollars (\$100) as well as a fifty dollar (\$50) fee to either renew or amend such licenses.~~

<u>Type of Non-System License Application</u>	<u>Application Fee for a New Non-System License</u>	<u>Application Fee for the Renewal of a Non-System License</u>	<u>Application Fee for Change in Authorization to an Existing Non-System License</u>
<u>Non-system licenses that authorize a limited-duration term of 120 days or less.</u>	<u>\$250</u>	<u>Not applicable. Limited-duration non-system licenses are not subject to renewal.</u>	<u>\$250</u>

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<u>Type of Non-System License Application</u>	<u>Application Fee for a New Non-System License</u>	<u>Application Fee for the Renewal of a Non-System License</u>	<u>Application Fee for Change in Authorization to an Existing Non-System License</u>
<u>Non-system licenses that authorize the transport of 500 tons or less of solid waste per year.</u>	<u>\$500</u>	<u>\$100</u>	<ul style="list-style-type: none"> • <u>\$250 for change resulting in authorization of 500 tons or less per year.</u> • <u>\$500 for change resulting in authorization of more than 500 tons per year.</u>
<u>Non-system licenses that authorize the transport of more than 500 tons of solid waste per year.</u>	<u>\$1,000</u>	<u>\$1,000</u>	<u>\$250</u>
<u>Non-system licenses that authorize the transport of waste that is exempt from the payment of Metro's regional system fee.</u>	<u>\$100</u>	<u>\$50</u>	<u>\$50</u>

(Ordinance No. 14-1337.)

5.05.043140 Factors to Consider ~~To Determine Whether to Issue~~ Regarding Non-System License Issuance

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The Chief Operating Officer or ~~Metro~~Council, as applicable, ~~shall~~will consider the following factors to the extent relevant to determine whether ~~or not~~ to issue a non-system license:

- (1) The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which ~~such~~those wastes pose a future risk of environmental contamination;
- (2) The ~~record of non-system facility owner's and operator's~~ regulatory compliance ~~of the non-system facility's owner and operator~~record with federal, state and local requirements, including but not limited to public health, safety and environmental ~~rules and~~ regulations;
- (3) The adequacy of the non-facility's operational practices and management controls ~~at the non-system facility~~;
- (4) The expected impact on the region's recycling and waste reduction efforts;
- (5) The ~~consistency of issuing the license~~proposed non-system license's effect with Metro's existing contractual arrangements;
- (6) The applicant's record ~~of the applicant~~ regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements, including but not limited to public health, safety and environmental ~~rules and~~ regulations; and
- (7) ~~Such~~Any other ~~factors as a~~factor the Chief Operating Officer ~~deems~~considers appropriate ~~for purposes of making such determination.~~

(Ordinance No. 14-1337.)

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5.05.044 ~~Timetables To Determine Whether to Issue a~~150
Non-System License Issuance Timetable for Non-Putrescible Waste.

~~(1) Non(a)~~ The Chief Operating Officer will issue a non-system ~~licenses~~license for non-putrescible waste, special waste, cleanup material ~~contaminated by hazardous substances,~~ yard debris mixed with residential food waste, residential food waste or any other solid waste other than putrescible waste ~~according to the following timelines and circumstances:~~

(1) ~~(A) New licenses. The Chief Operating Officer shall determine whether or not to issue the non system license and shall inform the applicant in writing of such determination within~~non-system licenses. Within 60 days after receipt of a new ~~the Chief Operating Officer receives a completed application, including receipt of~~ along with any additional information required by the Chief Operating Officer ~~in connection therewith~~may require, the Chief Operating Officer will determine whether to issue the non-system license and will inform the applicant in writing of that determination.

(2) ~~(B) License Non-system license renewals. An application for renewal of an existing~~

(A) A non-system license ~~shall~~renewal application must be substantially similar to the existing non-system license with regard to waste type, quantity and destination.

(B) A ~~holder of a non-system license~~ shalllicensee must submit a completed non-system license renewal application ~~to renew the license~~ at least 60 days before the expiration of the existing non-system license, ~~including receipt of~~ expires, along with any additional information ~~required by~~ the Chief Operating Officer ~~in connection therewith.~~ may require.

(C) The Chief Operating Officer ~~shall~~will determine whether ~~or not~~ to renew the non-system license and ~~shall~~will inform the applicant in writing of ~~such~~that

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determination before the ~~expiration of the~~
existing non-system license. ~~— expires.~~

~~(A)~~(D) The Chief Operating Officer is not obligated to make a determination earlier than the non-system license's expiration date ~~of the existing license~~, even if the licensee files the renewal request ~~is filed~~ more than 60 days before the existing non-system license expires.

~~(2) Non-system licenses for putrescible waste. (b)~~
The Chief Operating Officer ~~shall formulate and provide to the Council~~ may impose conditions on the issuance of a new or renewed non-system license for non-putrescible waste as the Chief Operating Officer considers necessary under the circumstances to accomplish the purposes of this chapter.

Comment [A3]: Revision made in response to comments. Refer to Exhibit A.

5.05.160 Non-System License Issuance Timetable for Putrescible Waste.

(a) The Chief Operating Officer will make recommendations to the Council regarding whether ~~or not~~ to issue or renew a non-system license for putrescible waste. If the Chief Operating Officer recommends that Council issue or renew the non-system license ~~be issued or renewed for putrescible waste~~, the Chief Operating Officer ~~shall will~~ recommend to the ~~council~~ Council specific conditions of the non-system license.

(b) ~~(A) New non-system licenses. The Council shall will~~ determine whether ~~or not~~ to issue the non-system license and ~~shall will~~ direct the Chief Operating Officer to inform the applicant in writing of ~~such that~~ determination within 120 days after ~~receipt of Metro receives~~ a completed application for a non-system license for putrescible waste, including receipt of any additional information ~~required by the Chief Operating Officer in connection therewith~~ may require.

~~(c) (B) License Non-system license renewals.~~

(1) An application for renewal of an existing non-system license ~~shall~~ must be substantially similar to the existing non-system license with regard to waste type, quantity and destination.

(2) A ~~holder of a non-system license shall~~ licensee must submit a completed application to renew the

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~~non-system~~ license at least 120 days before the ~~expiration of the existing non-system license, including receipt of expires, along with~~ any additional information ~~required by~~ the Chief Operating Officer ~~in connection therewith.~~ requires.

~~(3)~~ (3) The Council ~~shall will~~ determine whether ~~or not to~~ renew the non-system license ~~and shall.~~ The Council will inform the applicant in writing of ~~such that~~ determination before the ~~expiration of the existing non-system license. expires.~~

~~(1)(4)~~ (4) The Council is not obligated to make a determination earlier than the expiration date of the existing non-system license, even if the licensee files its renewal request ~~is filed~~ more than 120 days before the existing non-system license expires.

~~(e)(d)~~ (3) ~~At the discretion of the The~~ Chief Operating Officer or ~~the Council,~~ the Chief Operating Officer or Councils applicable, may impose ~~such~~ conditions on the issuance of a new or renewed non-system license ~~as deemed for putrescible waste as they consider~~ necessary ~~or appropriate~~ under the circumstances.

(Ordinance No. 14-1337.)

5.05.045170 Issuance of Non-System License; Contents

Each non-system license ~~shall must~~ be in writing and ~~shall must~~ set forth the following:

- (1) The name and address of the waste hauler or other person to whom ~~such Metro issues the~~ non-system license ~~is issued;~~
- (2) The nature of the solid waste ~~to be covered allowed~~ by the non-system license;
- (3) The maximum total, weekly, monthly or annual quantity of solid waste ~~to be covered allowed~~ by the non-system license;
- (4) The non-system facility ~~or facilities at which or to which where the licensee will transport the~~

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solid waste ~~covered~~ allowed by the non-system license ~~is to be transported or, or the facilities at which the licensee will otherwise processed~~ process the solid waste;

- (5) The expiration date of the non-system license, ~~which. The expiration date shall be~~ may not be more than:
- (A) 120 days from the issue date ~~of issuance~~ for a limited-duration non-system license;
 - (B) Three years from the issue date ~~of issuance~~ for a new full-term non-system license; and
 - (C) Two years from the issue date ~~of issuance~~ of a renewed full-term non-system license.
 - (D) Notwithstanding the provisions of this subsection, the Chief Operating Officer may extend the term of any non-system license for up to an additional six months beyond the original expiration date.
- (6) Any conditions ~~imposed by~~ the Chief Operating Officer imposes as provided above and which the licensee must be complied comply with ~~by the licensee~~ during the ~~term of such~~ non-system license term, including but not limited to conditions that address the factors in Section 5.05.043140.

(Ordinance No. 14-1337.)

5.05.046—180 Non-System Licensee Requirements to be met by License Holder

Each ~~waste hauler or other person to whom a~~ non-system ~~licensee~~ licensee is ~~issued shall be~~ required to:

- (1) ~~—————(1)———~~ Maintain complete and accurate records of, including but not limited to, the information required by the Chief Operating Officer regarding all solid waste transported, disposed ~~of~~ or otherwise processed pursuant to the non-system license, and make ~~such~~ those records available to Metro or its duly designated

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agents for inspection, auditing and copying upon not less than three days written notice from Metro;

~~(2) Report in writing to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, the number of tons of solid waste transported, disposed or otherwise processed each month pursuant to such the non-system license during the preceding month; and~~

~~(2) _____ (3) Pay to Metro, not by no later than the 15th day following the end of each month, commencing the 15th day of the month following the month in which the non system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires,;~~

~~(2)(3) Pay to Metro~~ a fee equal to the Regional System Fee and Excise Tax multiplied by the number of tons (or fractions thereof) of solid waste transported, disposed or otherwise processed each month pursuant to such the non-system license during by no later than the preceding 15th day following the end of each month;

~~(3)(4) _____ (4) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated outside the Metro boundary, the licensee must report to Metro that the load in its entirety shall be reported to Metro by the non system licensee as having been was generated within the Metro boundary and. The licensee must pay the Regional System Fee and Excise Tax shall be paid on the entire load unless the non-system licensee provides Metro with documentation regarding records demonstrating the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary, or~~

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~~unless Metro has agreed in writing to another method of reporting; and~~

- (5) Comply with all conditions and requirements found in the non-system license.

(Ordinance No. 14-1337.)

5.05.047190 Failure to Comply with Non-System License

~~In the event that any waste hauler or other person to whom~~
~~(a) If a non-system license is issued licensee fails to fully and promptly comply with the requirements set forth in Section 5.05.045 above 170 or with any conditions of such non-system license condition imposed pursuant to Section 5.05.043, then, upon discovery of such non-compliance 180, the Chief Operating Officer shall issue to such licensee a written notice of non-compliance briefly describing such failure. If, within 20 days following may:~~

- ~~(1) Impose penalties, or~~
~~(2) Modify, suspend, or terminate the date of such notice of non-compliance or such longer period a non-system license pursuant to Section 5.05.250.~~

~~(b) If the Chief Operating Officer may determine to grant as provided below, the licensee fails to finds a violation, the Chief Operating Officer will provide written notice to the licensee describing the violation and requiring the licensee to correct the violation within the time specified in the notice.~~

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

~~Then, and in such event such non-system license shall automatically terminate, effective as of 5:00 p.m. (local time) on such 20th day or on the last day of such longer period as the Chief Operating Officer may determine to grant as provided~~

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~~below. If, in the judgment of the Chief Operating Officer, such non-compliance cannot be corrected within such 20 day period but the licensee is capable of correcting it and within such 20 day period diligently commences such appropriate corrective action as shall be approved by the Chief Operating Officer, then and in such event such 20 day period shall be extended for such additional number of days as shall be specified by the Chief Operating Officer in writing, but in no event shall such the local period as so extended be more than 60 days from the date of the notice of non-compliance.~~

(Ordinance No. 89-319; Ordinance No. 91-388; Ordinance No. 01-917, Sec. 9; Ordinance No. 02-979, Sec. 2; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-992B, Sec. 1; Ordinance No. 03-1019, Sec. 4; Ordinance No. 06-1098B, Sec. 3; Ordinance No. 06-1105; Ordinance No. 07-1138, Sec. 5; Ordinance No. 07-1139, Sec. 3; Ordinance No. 07-1161, Sec. 2; Ordinance No. 07-1147B, Sec. 11; and Ordinance No. 14-1337.)

5.05.050200 Issuance of Required Use Orders

(a) The Chief Operating Officer may issue a "required use order" to any ~~waste hauler or other~~ person within Metro, ~~requiring~~. ~~This order requires~~ the recipient to deliver waste to a specific designated facility. ~~In issuing a required use order, the~~ The Chief Operating Officer ~~shall~~ must comply with the provisions of this section and Section 5.05.055210 ~~if the Chief Operating Officer issues a required use order.~~

(b) The following priorities ~~shall govern the Chief Operating Officer in~~ apply when determining whether to issue a required use ~~orders~~ order:

- (1) ~~To~~ Metro will allow persons to use the designated facility of their choice to the extent doing so is consistent with state, Metro and local regulations, ~~and~~ facility obligations and facility limitations, ~~waste haulers and other persons should be allowed to utilize the designated facility of their choice;~~ and
- (2) It may be necessary for the Chief Operating Officer to override the facility choice of a ~~waste hauler or other~~ person if the Chief Operating Officer finds that allowing specific ~~haulers~~ persons to exercise their choice appears likely to ~~result in~~:

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- (A) ~~The overloading~~Overload or ~~under-utilization~~of underutilize a specific designated facility or facilities; or
- (B) ~~Other~~Create system inefficiencies or negative impacts on the public health, safety or welfare as specified by the Chief Operating Officer.

(c) ~~If, after considering the priorities in subsection (b) of this section, the Chief Operating Officer determines that~~
When determining whether it is necessary to issue or amend a required use order(s), ~~the Chief Operating Officer may do so giving due regard to~~will consider the following factors:

- (1) The location of the ~~waste hauler or other~~ person's route and/or facilities in relation to designated facilities, in terms of travel time and/or distance;
- (2) The equipment being utilized by the ~~hauler~~person at the time of the order's issuance ~~of the order~~ in relation to the equipment handling capabilities of designated facilities;
- (3) The types of waste being disposed of by the ~~waste hauler or other~~ person, in relation to the capabilities of designated facilities to most appropriately process those wastes; and
- (4) Other considerations ~~deemed relevant by that~~ the Chief Operating Officer finds relevant, including but not limited to other health, safety and welfare considerations.

(Ordinance No. 89-319. Sec. 5.05.040 repealed and replaced with Ordinance No. 91-388, Sec. 3; Ordinance No. 01-917, Sec. 11; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)

5.05.055210 Content of Required Use Orders; Notice

(a) Required use orders ~~issued by the Chief Operating Officer shall set forth~~will contain the following:

- (1) The names of the ~~waste haulers or~~ persons ~~to be~~ subject to the required use order, together with

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~~their address~~ the person's address or
~~places~~ place of business and telephone
~~numbers~~ number;

- (2) The type and quantity of solid waste subject to the required use order;
- (3) The name and location of the designated facility that the recipient is required to use ~~pursuant to the order~~;
- (4) The effective date of the required use order, ~~which date, in the absence of.~~ Absent an emergency, ~~shall~~ the effective date may not be less than 10 days from the date of the order; ~~and~~
- (5) A brief description of the procedure for how a recipient may request that the Chief Operating Officer reconsider either issuance of the order, or specific details of the order; and
~~A brief description of the procedure for requesting that the Chief Operating Officer reconsider issuance of the order, or specific details of the order; and~~
- (6) ~~Such~~ Any other information ~~as~~ the Chief Operating Officer ~~may consider~~ considers necessary ~~or~~ appropriate.

(b) Within two days after the date of any required use order, the Chief Operating Officer ~~shall cause~~ will give notice of ~~such~~ the required use order ~~to be given~~ as follows:

- (1) By United States mail, postage prepaid, to each ~~waste hauler and person to be~~ subject to ~~such~~ the required use order at the person's last known address ~~thereof~~; and
- (2) By any other method ~~deemed by that~~ the Chief Operating Officer ~~as~~ considers necessary, and most likely, to ensure actual notice to the ~~waste hauler or other~~ person subject to the order.

(c) The failure of any ~~waste hauler or~~ person subject to a required use order to receive notice ~~thereof~~ of the order

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does not affect the order's validity ~~of such required use order~~
~~nor and it does not~~ excuse ~~such waste hauler or any~~ person from
complying with the ~~order's terms thereof~~.

(Ordinance No. 89-319; Ordinance No. 91-388, Sec. 4; and
Ordinance No. 14-1337.)

5.05.060220 Requests for Reconsideration of Required Use Order

(a) Any ~~waste hauler or other~~ person receiving a required
use order may request that the Chief Operating Officer
reconsider issuance of the order or specific details of the
order. The requesting person may premise the request ~~may be~~
~~premised~~ on any matter that was relevant to the order's issuance
~~of the order~~, as specified in Metro Code Section 5.05.~~050200~~.

(b) A request for reconsideration must be in writing, ~~and~~
on a form provided by Metro. To be timely, the Chief Operating
Officer must receive a request for reconsideration ~~must be~~
~~received by the Chief Operating Officer~~ within 30 days of the
~~date of issuance of the~~ required use ~~order~~order's issuance date,
as specified in the order.

(c) The Chief Operating Officer ~~shall~~will review a request
for reconsideration and, within 15 days of receipt, ~~issue a~~
~~written affirmance of the original order, either affirm~~ or a
~~modified~~modify the order.

(1) The affirmance or modification ~~shall~~will be
considered timely if Metro deposits it ~~is~~
~~deposited~~ in the mail within the 15-day period,
with regular first class postage and addressed to
the person requesting review.

(2) The affirmance or modification ~~shall~~must include
a brief statement of the decision's basis ~~for the~~
~~decision~~, and a brief statement ~~of~~on how the
~~procedure for~~ requesting review of the decision
~~by party~~ may request that the Chief Operating
Officer review the decision.

(d) ~~Review by the Chief Operating Officer of a request~~
~~for~~The reconsideration process is intended to be informal, ~~and~~.
It may include personal, written, or telephone contact between
the ~~waste hauler or other persons~~requesting party and the Chief
Operating Officer or Finance and Regulatory Services staff.

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(e) If the Chief Operating Officer fails to issue a timely decision, the ~~waste hauler or other~~ person receiving the order may appeal the decision to a hearings officer as specified in Metro Code Section 5.05.~~065~~230.

(f) A request for reconsideration ~~shall~~does not stay the order issued. A required use order ~~shall be~~is effective on the date issued, and ~~shall~~will remain in effect until ~~modified~~modified Metro ~~modifies~~ or ~~revoked~~revokes the order.

~~(Ordinance No. 91-388, Sec. 5; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)~~

(Ordinance No. 91-388, Sec. 5; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)

5.05.~~065~~230 Appeals to the Hearings Officer

(a) ~~A waste hauler or other~~Any person receiving a required use order may appeal the ~~Chief Operating Officer's affirmance or modification of the order~~ to a hearings officer. The hearings officer may ~~be asked to~~ review any matter that was relevant to ~~the order's issuance of the order~~, as ~~specified~~set forth in Metro Code Section 5.05.~~050~~200.

(b) An appeal to the hearings officer ~~shall~~must be in writing and on a form provided by Metro. ~~To be timely, The hearings officer must receive the appeal must be received by the hearings officer~~ within 30 days of the ~~date of order's issuance of the Chief Operating Officer's affirmed date~~ or ~~modified order~~affirmance date.

(c) ~~The hearings officer shall review a request for reconsideration and, within~~Within 15 days of ~~receipt, receiving the appeal, the hearings officer must~~ issue a written order ~~either affirming or modifying the Chief Operating Officer's decision of the Chief Operating Officer.~~

- (1) The ~~affirmance or modification shall be considered~~hearings officer's order is timely if it is deposited in the mail within the 15-day period, with regular first class postage and addressed to the ~~person requesting review~~appellant.

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- (2) The ~~affirmance or modification shall~~ hearings officer's order must include a brief statement of the basis for the decision, and a brief statement of the process for contested case review of the decision by the ~~Metro~~ Council.

(d) If ~~a waste hauler or other person~~ the appellant is not satisfied with the hearings officer's ~~decision~~ order, or if the hearings officer fails to issue a timely ~~decision~~ order, the ~~waste hauler or other~~ person receiving the Order may appeal the ~~decision~~ order to the ~~Metro~~ Council as a contested case proceeding. ~~Review in such proceedings shall~~ The contested case hearing will be limited to the following whether:

- (1) ~~Whether exceptional~~ Exceptional circumstances of the ~~waste hauler or other person warrant revocation or modification of~~ person justify Council to revoke or modify the order; or
- (2) ~~Whether the~~ The order is likely to cause extreme financial hardship to the ~~waste hauler or other~~ person subject to the order, ~~warranting revocation or modification of the order.~~

(e) ~~A request for reconsideration shall~~ An appeal does not stay the order issued. A required use order ~~shall be~~ is effective on the date issued, and ~~shall remain~~ remains in effect until modified or revoked.

(Ordinance No. 91-388, Sec. 5; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)

~~(Ordinance No. 91-388, Sec. 5; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)~~

5.05.070240 Solid Waste Tracking System

The Chief Operating Officer ~~shall establish and will~~ maintain a system for tracking ~~of~~ that is solid waste generated, collected, transported or disposed within or outside Metro for the purpose of ensuring compliance with the requirements of this chapter ~~and to ensure equitable application of the requirements of this chapter. The Chief Operating Officer in developing the tracking system shall consider the following:~~

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~~(a) Establishment of a permit or licensing system for waste haulers or persons generating, collecting, transporting or disposing of solid waste.~~

~~(b) Use of franchises.~~

~~(c) Use of personnel to monitor compliance with the requirements of this chapter.~~

~~(d) Intergovernmental agreements for exchange of information.~~

~~(e) Equipment identification.~~

~~(f) Reporting requirements by waste haulers or persons generating, transporting or disposing of solid waste.~~

~~(g) Such other criteria or methods which the Chief Operating Officer considers reasonable and appropriate.~~

(Ordinance No. 89-319; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)

5.05.000250 Solid Waste Flow Control Enforcement; Fines, Penalties and Damages for Violations

(a) Any ~~waste hauler or person~~ who violates ~~or fails to comply with~~ any provision of this chapter ~~or who fails to comply with the terms and conditions of~~, any non-system license condition, or a required use order ~~shall be~~ is subject to the fines and penalties set forth in this section, ~~which fines and penalties shall be assessed by the~~.

(b) The Chief Operating Officer may assess the following fines and penalties:

- (1) A fine ~~in the amount of~~ not to exceed \$500 for each violation; and
- (2) ~~Such waste hauler or person shall not be extended any~~ A revocation of credit by Metro for the use of any system facility ~~constituting a part of the system until such time as the violator pays in full~~ all fines owing under this chapter as a result of ~~such any~~ any violation ~~or failure to comply have been paid in full.~~

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~~(bc)~~ In addition to the ~~foregoing~~ fines and penalties ~~in~~ subsection (b):

- (1) Any ~~waste hauler or~~ person who fails to comply with ~~the terms and conditions of~~ any non-system license ~~shall be required to~~ condition must pay to Metro a fine in ~~the an~~ amount equal to (i) the regional system fee multiplied by (ii) the number of tons (or fractions thereof) of solid waste generated within Metro transported, disposed of or otherwise processed in violation of the ~~terms and conditions of such~~ non-system license conditions;
- (2) Any ~~waste hauler or~~ person who, without having a non-system license then in effect, transports solid waste generated within Metro to, or utilizes or causes to be utilized for the ~~disposal or other processing~~ or disposal of any solid waste generated within Metro, any non-system facility ~~shall be required to~~ must pay to Metro a fine in an amount equal to the non-system license application fee that would have otherwise been required to authorize the waste disposed, plus an amount equal to the regional system fee and excise tax multiplied by the number of tons (or fractions thereof) of solid waste generated within Metro transported, recycled, disposed of or otherwise processed to or at any non-system facility; and
- (3) Any ~~waste hauler or~~ person who violates Metro Code Section 5.05.~~025040~~(b) by falsely stating the origin of waste transported to a system facility ~~shall be required to~~ must pay to Metro a fine in an amount equal to the regional system fee ~~multiplied by the number of tons (or fractions thereof) of solid waste generated within the District transported to such system facility, plus the~~ and excise tax multiplied by the number of tons (or fractions thereof) of solid waste generated within the ~~District~~ Metro regional boundary transported to ~~such~~ the system facility.

~~(c) If in the judgment of the Chief Operating Officer such action is warranted,~~

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(d) Metro ~~shall~~ may commence an appropriate ~~action in a state court of competent jurisdiction for the purpose of collecting legal action to collect~~ the fines and penalties provided for above ~~and/or enjoining~~. Metro may also seek to ~~enjoin any violations of the provisions~~ violation of this ~~Chapter 5.05~~ chapter or any ~~non-compliance~~ failure to comply with the ~~terms and conditions~~ any condition of ~~anya~~ non-system license or required use order.

~~(d) A required use order may be enforced by)~~ An authorized gatehouse ~~employees~~ employee may enforce a required use order at any Metro facility, by denying facility access to a ~~waste hauler or other~~ any person ~~who~~ if the person is ~~subject~~:

(1) Subject to a required use order, ~~and is~~ attempting

(2) Attempting to deliver waste to a facility not specified in the required use order.

This enforcement ~~shall be~~ is in addition to the fines and penalties that Metro may ~~be levied~~ levy pursuant to this section.

(Ordinance No. 89-319; Ordinance No. 91-388, Sec. 6; Ordinance No. 01-917, Sec. 12; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-992B, Sec. 2; Ordinance No. 06-1104, Sec. 2; and Ordinance No. 14-1337.)

~~5.05.090 - 260 Adoption and Amendment of Administrative Rules and Performance Standards~~

~~5.05.260 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, performance standard or form; the location at which a person may obtain a copy of the full text of the proposed rule, performance

Comment [A4]: Revision made in response to comments. Refer to Exhibit A.

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standard or form; 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

Comment [A5]: Revision made in response to comments. Refer to Exhibit A.

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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.

~~Except for the system tracking pursuant to Section 5.05.070 hereof, the Chief Operating Officer is hereby authorized and empowered to make such administrative rules and regulations as the Chief Operating Officer considers proper to effectively carry out the purposes of this chapter 5.05.~~

Comment [A6]: Revision made in response to comments. Refer to Exhibit A.

(Ordinance No. 89-319; Ordinance No. 91-388, Sec. 7; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)

5.05.100-270 Contested Case Proceedings

Any ~~waste hauler or other~~ person ~~desiring~~wishing to contest any decision made by the Chief Operating Officer under this chapter ~~5.05 shall~~may commence a contested case proceeding pursuant to Chapter 2.05 of the Metro Code.

(Ordinance No. 89-319; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)