

**Solid Waste
Administrative Rule**

AR 5.01 – 3100 through 3145


Administrative Rule of Metro Code Chapter 5.01
Administrative Rule Adoption Record and Findings

**AR 5.01 - 3100 through 3145
Private Transfer Station Management**

These administrative rules are adopted under the authority of Metro Code which authorizes the Chief Operating Officer (COO) to adopt and amend administrative rules. In accordance with Metro Code Chapter 5.08, the COO provided an opportunity for public comment and held a public hearing on these rules before their adoption.

The COO finds that these administrative rules are necessary to implement certain provisions of Metro Code Chapter 5.01 and hereby adopts Administrative Rules Nos. 5.01-3100 through 3145. The requirements of these administrative rules are in addition to all other requirements and provisions in Metro Code Chapter 5.01. These rules have the same force and effect as any other provision of Metro Code Chapter 5.01.

It is so ordered:

DocuSigned by:

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Marissa Madrigal
Metro Chief Operating Officer

June 2, 2020

Date

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5.01 – 3100 Legal Authority

Metro Code Chapter 5.08 authorizes the Chief Operating Officer (COO) to adopt or amend an administrative rule to implement any provision of Title V of the Metro Code.

5.01 – 3105 Definitions

Unless otherwise specifically defined in these rules, all terms used are as defined in Metro Code Chapter 5.00.

1. “Mixed Non-Putrescible Waste” means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes cleanup materials contaminated by hazardous substances, source-separated recyclable material, special waste, land clearing debris and yard debris.

5.01 – 3110 Applicability of Rules

These rules apply to all Metro-regulated transfer stations and have the same force and effect as any other chapter provision in Title V (Solid Waste).

5.01 – 3115 Facility Design Requirements

A transfer station must meet the following design requirements:

1. Management of Waste. The facility must be designed to receive, process, store, reload, and transfer waste on an impervious surface (such as asphalt or concrete) within a roofed building that is enclosed on at least three sides. The facility design must ensure that authorized outside areas designated for receiving, processing, storing, reloading and transferring material are constructed of an impervious material (such as asphalt or concrete).
2. Dust Control. The facility design must include elements that minimize and control off-site dust (such as shrouding, misting or ventilation equipment). This

requirement applies to all areas where dust generation is likely.

3. Litter Control. The facility design must include elements that minimize and control off-site litter (such as fencing, walls, or barriers). This requirement applies to all areas where 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 flammable materials or substances from processing and storage areas.
5. Capacity. The facility design must include sufficient capacity to accommodate seasonal throughput of all materials that are delivered to and generated by the facility, including but not limited to sufficient areas for receiving, processing, storing, reloading and transferring material.
6. Prohibited Waste Storage Area. The facility design must include a secured or isolated containment area to store prohibited wastes that is inadvertently received at the facility. All containment areas must be covered and enclosed to prevent leaking and contamination.
7. Access and Vehicle Accommodation. The facility design must comply with state and local traffic regulations and include adequate vehicle access to the site and adequate access roads that prevent traffic congestion and traffic hazards. The facility design must also include:
 - a. Adequate on-site areas 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 or another approved barrier at potential access points to prevent unauthorized access to the site when an attendant is not on duty;
 - c. Signs that inform customers not to queue on public roadways; and
 - d. Adequate off-street parking for vehicles, including adequate space for covering and uncovering of loads.

5.01 – 3120 Facility Operating Requirements

A franchisee must ensure the facility operates to meet the following requirements:

1. Prevent Contamination and Degradation. A franchisee must not mix different waste types unless such mixing is described in an operating plan and approved in writing by Metro. The franchisee must ensure the on-site recovery of materials is completed in a timely manner and also protect the quality of material that has not yet undergone material recovery.
2. Management of Waste. A franchisee must receive, process, store, reload, and

transfer putrescible and mixed non-putrescible waste on an impervious surface (such as asphalt or concrete) within a roofed building that is enclosed on at least three sides. Alternatively, a franchisee may receive, reload and transfer certain wastes into watertight, covered containers or within covered transport trailers, if this activity is described in the facility operating plan and approved in writing by Metro. Metro may require a franchisee to modify practices to maximize recovery and minimize nuisances, health, safety, or environmental problems.

3. Exterior stockpiles. A franchisee must position all exterior stockpiles within the footprints identified on the facility site plan or operating plan. The following activities may be conducted outside a building:
 - a. Store putrescible waste in watertight, covered containers or within covered transport trailers. Public self-haul customers may tip putrescible waste outside, provided that such waste is tipped directly into watertight containers that are covered within 12 hours of receipt, or by the end of the business day, whichever is earlier.
 - b. Store source-separated food waste in watertight, covered containers or within covered transport trailers.
 - c. Receive and store non-putrescible waste if the waste is received from:
 - (1) Unusually large vehicles, for example 30-foot tippers, provided that the tipped wastes are moved into the roofed building prior to processing, within 12 hours of tipping, or by end of the business day, whichever is earlier.
 - (2) Public self-haul customers, provided that such waste is tipped directly into watertight containers that are covered within 12 hours of receipt, or by the end of the business day, whichever is earlier.
 - d. Receive, store, process, reload and transfer source-separated recyclables outside on an impervious surface so long as the franchisee moves the materials inside a roofed building that is enclosed on three sides.
 - e. Receive, store, process, reload and transfer source-separated yard debris, untreated wood, painted wood, treated wood, inert material on an impervious surface outside a building.
4. Timeframes for Storage and Transfer of Waste. The franchisee must remove materials from the site on the following schedule except when an alternative schedule is described in the facility operating plan and approved in writing by Metro.
 - a. Putrescible waste must be transferred offsite within 24 hours of receipt.
 - b. Mixed non-putrescible waste must be transferred offsite within 48 hours of receipt.

- c. Source-separated food waste must be transferred offsite within 24 hours of receipt, including residential yard debris mixed with food waste.
 - d. Source-separated recyclables must be transferred offsite within 180 days of receipt.
 - e. Source-separated yard debris must be transferred offsite within 7 days of receipt.
 - f. Infectious waste must be transferred offsite within 72 hours, pending transport to an appropriate disposal site.
 - g. Non-hazardous special waste must be transferred offsite within 48 hours, pending transport to an appropriate disposal site.
5. Processing and Disposal. The franchisee must transfer solid waste to an appropriate destination under Metro Code Chapter 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
- a. Source-separated food waste must be sent to an authorized facility for processing as described in an operating plan and approved in writing by Metro. A franchisee required to receive source-separated food waste must maintain adequate capacity to accommodate management of food waste generated within the region.
 - b. Source-separated recyclable materials must not be sent to a disposal site including, without limitation, landfills and incineration facilities, without written permission from Metro and DEQ.
6. Vehicle Maintenance. The franchisee must maintain and operate all vehicles and devices transporting waste from the facility in a manner that prevents leaking, spilling or blowing of materials on-site or while in transit.
7. Vehicle Accommodation. The franchisee must maintain access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. The franchisee must:
- a. Maintain access roads to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.
 - b. Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles must not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances.
 - c. Post signs informing customers not to queue on public roadways.
 - d. Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site covering and uncovering of load.
8. Facility Capacity. A transfer station must not exceed its designed operational capacity. If a transfer station reaches operational capacity, the franchisee must not accept additional material for processing or transfer.

9. Controlling Dust and Litter. The franchisee must control and minimize dust generation, airborne debris and litter, and must prevent their migration beyond property boundaries. The franchisee must maintain and operate all access roads, and all receiving, processing, storage, reload and transfer areas in such a manner as to control and minimize dust, airborne debris, and litter from being generated on-site.
10. Covered Loads. The franchisee must take reasonable steps, including providing signage, to notify and remind persons delivering waste to the facility that all loads must be sufficiently covered to prevent any material from blowing off the load during transit.
11. Fire prevention. The franchisee 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 and storage areas.
12. Qualified Operator. An operating staff employed by the facility must be present during all hours of operation and be qualified and competent to carry out Metro's requirements. The facility must make available to Metro for review all records related to the training of facility personnel to recognize, properly handle and manage rejected loads and prohibited waste. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of Metro's requirements and the relevant procedures contained within the facility's operating plan. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is inadvertently received.
13. Prohibited Waste. A facility must not knowingly receive prohibited waste. If prohibited wastes are discovered after receipt and cannot be rejected, the franchisee must properly manage and dispose of the prohibited waste in accordance with its Metro approved operating plan.
14. Load Checking. The franchisee must implement a load check program to prevent the acceptance of prohibited wastes and ensure the proper management of authorized wastes. All loads received at the facility must be inspected. Prohibited waste must be rejected upon discovery. The load check program must include at a minimum: a visual inspection of all loads, a containment area for the storage of prohibited wastes that are inadvertently received, and procedures for training facility personnel in the recognition, proper handling, and disposition of prohibited waste. Additionally, a franchisee receiving source-separated food waste must:
 - a. Visually inspect each incoming load of source-separated food waste to determine if the load is suitable for processing. The franchisee must establish and follow objective criteria to determine a load is suitable to be transported for processing. A contaminated load may be processed at the facility to remove enough contaminants to make the load acceptable to transfer for processing. The operator must notify Metro within one business day of receipt of any contaminated load

of source-separated food waste in a form and format specified by Metro.

15. Measurement of Materials. The franchisee must accurately weigh all materials when they are received, transferred to market or intra-facility, and transported to a disposal site. The scale used to weigh all solid waste must be permitted by the State of Oregon (Weights and Measures Act) or meet equivalent requirements. Except for minimum fee transactions for small, lightweight loads, the franchisee must record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee's on-site scales.
16. Transaction Records and Reporting. The franchisee must maintain complete and accurate transaction records on the amount of all solid waste including materials received, recovered, reloaded, removed or disposed from the facility. Records must also include those specified in the Metro document: "Reporting Requirements and Data Standards for Metro Solid Waste Franchisees, Franchisees, and Parties to Designated Facility Agreements" and as otherwise required by Metro. Within five business days of Metro's request, the franchisee must provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
17. Access Control. The franchisee must control access to the facility and prevent unauthorized pedestrian and vehicular traffic and illegal dumping.
18. Water Protection. The franchisee must provide pollution control measures to protect surface and ground waters from contamination. The franchisee must also comply with its approved DEQ storm water management plan or equivalent.
19. Vector Control. The franchisee must maintain the facility in a manner that is not conducive to the harborage of rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. If vectors are present or detected, the franchisee must implement vector control measures.
20. Response to Complaints. The franchisee must respond to all complaints in a timely manner 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.
21. Noise. The franchisee must control and minimize noise that causes adverse off-site impacts and the franchisee must meet applicable state and local regulatory standards and land-use regulations.
22. Odor. The franchisee must control and minimize odors that create off-site impacts or that are detectable off-site.
23. Signage. The franchisee must post signs at all public entrances to the facility. The signs must conform to local government signage regulations and be easily and readily visible and legible from off-site during all hours. The signs must 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. Rates and charges.
- 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.

24. Material Recovery Required.

- a. The franchisee must provide a place for collecting source-separated recyclable materials on the facility premises or at another location more convenient to the population being served by the facility, on the days and at the times that the facility is normally open to the public for the disposal of solid waste.
- b. The franchisee authorized to accept mixed non-putrescible waste must perform material recovery on the waste or must reload and transfer it to a facility authorized by Metro to perform material recovery.

25. Waste Hauler Access: A transfer station located inside the Metro region must maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers that collect solid waste within the geographic proximity of the facility. Access includes but is not limited to access to timely and accurate information to inquiries about the facility operating hours for receiving authorized wastes, rates, and authorized wastes. Therefore:

- a. The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region;
- b. The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance. Due cause includes, but is not limited to, consistent load contamination, failure to pay, or risk of exceeding the authorized tonnage allocation; and
- c. Metro may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.

26. Prohibition of Size Reduction on Non-Putrescible Waste. The franchisee must not crush, grind or otherwise reduce the size of non-putrescible waste except when

such size reduction constitutes a specific step in the facility's material recovery operations, reload operations or processing residual consolidation or loading operations, and such size reduction is described in an operating plan and approved in writing by Metro.

27. Rates. The facility rates charged for accepting solid waste are not subject to regulation by Metro unless the Metro Council establishes rate regulation of that facility. However, the rates charged must not exceed the rates posted at the facility.
28. Fees and Taxes. The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site. The franchisee must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06. The franchisee may collect and remit to Metro an amount not exceeding \$1.00 on each ton of non-putrescible waste delivered to the facility when the COO and facility owner determines it is in the public interest.

5.01 - 3125 Facility Operating Plan

The operating plan must include sufficient detail to demonstrate that the franchisee will comply with all relevant requirements established in Metro code, Metro administrative rules, and Metro authorizations.

1. Plan Compliance. The franchisee must operate the facility in accordance with a facility operating plan approved in writing by Metro. The franchisee may amend the operating plan subject to approval by Metro.
2. Plan Maintenance. The franchisee must revise the facility operating plan as necessary to keep it current with the facility conditions, procedures, and operating practices. The franchisee must submit revisions of the operating plan to Metro for review and approval.
3. Plan Access. The franchisee 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.

5.01 - 3130 Facility Pre-Operating Conditions

When the Metro Council authorizes a new franchise, the franchisee is subject to pre-operating requirements as determined by Metro Council.

5.01 - 3135 General Recordkeeping and Reporting

1. DEQ Submittals. The franchisee 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 franchise or the Metro authorization within two business days of providing that information to DEQ.
2. Enforcement Actions Submitted to Metro. The franchisee must ensure Metro receives copies of any notice of violation or non-compliance, citation, or any other

similar enforcement actions issued to the franchisee by any federal, state, or local government other than Metro, and related to the operation of the facility.

3. Unusual Occurrences. The franchisee 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 franchisee must report any facility fire, accident, emergency, or other significant incidents to Metro within 12 hours of its discovery in a form and format specified by Metro. If a breakdown of the franchisee's equipment occurs that will substantially impact the ability of the facility to remain in compliance or create off-site impacts, the franchisee must notify Metro within 24 hours. The franchisee must report any long term or short term closures.
4. Complaint Recordkeeping. For every complaint received related to the solid waste operations and other related activities at the site, the franchisee must record the:
 - a. Nature of the complaint,
 - b. Date the complaint was received,
 - c. Name, address and telephone number or email address of the person making the complaint and
 - d. Actions taken by the franchisee in response to the complaint, whether successful or unsuccessful.

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

5. Changes in Ownership. As set forth in Metro Code Chapter 5.01, the franchisee must notify Metro within 10 days if the franchisee leases, assigns, mortgages, sells, or otherwise transfers control of the franchise to another person.

5.01 - 3140 Variance from Administrative Rules

A franchisee or applicant may request a variance from these administrative rules as provided for franchisees in Metro Code Chapter 5.01.

5.01 - 3145 General Administrative and Legal Obligations

The franchisee must adhere to standard administrative and legal obligations required by Metro.

1. Compliance with Law. The franchisee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to the franchise, including all applicable Metro Code

provisions and administrative rules adopted pursuant to Chapter 5.01, whether or not those provisions have been specifically mentioned or cited in the franchise. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility are deemed part of the franchise as if specifically set forth in the franchise. These conditions and permits include those cited within or attached as exhibits to the franchise document, any existing at the time the franchise is issued but not cited or attached, and any issued or amended during the term of the franchise.

2. Confidential information. The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee must prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" before it submits it to Metro for review. Metro will 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.
 - a. If Metro receives a public records request seeking disclosure of information identified as confidential by the franchisee, Metro will provide the franchisee with a courtesy notice of that request within five days of receipt of the request. Metro is not limited in the use of information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, those representatives agree to continue to treat the information as confidential and make good faith efforts not to disclose the information.
3. Modification of Franchise by Metro Council. The provisions of the franchise will remain in effect unless the Metro Council:
 - a. Amends the Metro Code, amends the 2030 Regional Waste Plan or implements other legislation of broad applicability that affects the class of facilities of which the franchisee is a member; or
 - b. Adopts an ordinance or resolution to implement policy, Metro Code or other requirements such as the 2030 Regional Waste Plan.
4. Modification of Franchise by COO. The COO may modify, suspend, or revoke a franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for any reason included in the franchise or as determined by Metro Council.
5. Inspection and Audit. The franchisee must allow Metro's authorized representatives to access the facility and premises at any time during business hours, with or without advanced notice. For non-business hours, the franchise must allow access to Metro's authorized representatives upon receiving advanced notice

of not less than 24 hours.

- a. Authorized representatives of Metro may take photographs, collect samples of materials, and perform such inspection or audit as Metro deems appropriate. The franchisee must provide safe access to all facility areas, access to personnel and equipment, and access to a safe, covered location for authorized representatives of Metro to analyze waste and record data.
 - b. Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in the franchise, Metro's right to inspect will 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 franchisee that are directly related to the operation of the facility.
6. Insurance. The franchisee must provide Metro with a Certificate of Insurance complying with all insurance required. The franchisee must list Metro as the certificate holder. Upon insurance renewal, the franchisee must submit an updated certificate of insurance and the additional insured endorsement to Metro in a form and format specified by Metro. The franchisee must give at least 30 days written notice to Metro of any lapse or proposed cancellation of insurance coverage. The franchisee must carry the following types of insurance:
- a. The franchisee must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. The franchisee's coverage will be primary as respects Metro. Metro, its elected officials, departments, employees, volunteers and agents must be named as ADDITIONAL INSUREDS on the Commercial General Liability policy. The franchisee must include the additional insured endorsement along with the certificate of insurance.
 - b. The franchisee must carry automobile insurance with coverage for bodily injury and property damage, and with limits not less than minimum of \$1,000,000 per accident or combined single limit.
 - c. The franchisee, its subcontractors, if any, and all employers working under the franchise, are subject employers under the Oregon Workers' Compensation Law, and must comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The Workers' Compensation Insurance must meet Oregon statutory requirements including Employer's Liability with limits not less than \$1,000,000 per accident or disease. The franchisee must provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee 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.