


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

AR 5.01 - 1100 through 1145
Source-Separated Recyclable Materials Facility Administrative Rules

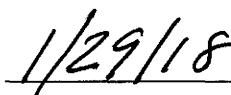
These administrative rules are adopted under the authority of Metro Code Section 5.01.280, which authorizes the Chief Operating Officer (COO) to adopt and amend administrative rules. In accordance with Metro Code Section 5.01.280, the COO provided an opportunity for public comment and held a public hearing 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. 5.01-1100 through 1145. 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:



Martha Bennett
Metro Chief Operating Officer



Date

SOLID WASTE

ADMINISTRATIVE RULES

AR 5.01 - 1100 through 1145

Source-Separated Recyclable Material Facility Rules

Effective March 1, 2018

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5.01 – 1100 Policy and Legal Authority

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

5.01 – 1105 Definitions

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

5.01 – 1110 Applicability of Rules and Effective Date

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

5.01 – 1115 Facility Design Requirements

A facility must comply with the following facility design requirements:

1. Storage and Processing Areas. The facility design must have an impervious surface (such as asphalt or concrete) within a roofed building that is enclosed on three sides for processing and storage purposes.
2. Dust Control. The facility design must include elements (such as shrouding, misting or ventilation

equipment) that minimize and control off-site dust. This requirement applies to all receiving, processing, and reloading areas; all processing equipment; and all conveyor transfer points where dust generation is likely.

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

5.01 – 1120 Facility Operating Requirements

A licensee must comply with the following facility operating requirements:

1. Prevent Contamination and Degradation. A licensee must protect source-separated recyclables from contamination from other solid wastes and not allow source-separated recyclables to degrade due to exposure to elements including sun, wind or rain.
2. Residuals. A licensee must keep all processing residual separate from source-separated recyclable

materials.

3. No disposal. A licensee may not transfer source-separated recyclable materials to a disposal site unless allowed by Metro. This rule does not apply to the disposal of materials that are considered contaminants by the facility operator or to materials that do not meet curbside program specifications.
4. Tipping and Reloading Materials. A licensee must tip and reload source-separated recyclables on an impervious surface. Tipping and reloading may occur outside on an impervious surface so long as the licensee moves the materials inside a roofed building that is enclosed on three sides. This must occur within 12 hours of tipping or by end of the business day except as permitted in subsection (6).
5. Material Storage. A licensee must store source-separated recyclable material on an impervious surface within a covered building that is enclosed on three sides except as permitted in subsection (6).
6. Outdoor Material Storage. A licensee must manage, contain and remove processed materials and solid waste at sufficient frequency to avoid material degradation, nuisance conditions, vector or bird attraction or harborage, or safety hazards. The following conditions apply to outdoor storage of source-separated or recovered recyclables:
 - a. The licensee may store such materials outside of a roofed building if the storage complies with local and state fire codes and meets at least one of the following conditions:
 1. The material is stored within an enclosed shipping container, enclosed vehicle, securely covered drop box (roll off container), compactor, or other similar secure portable storage container;
 2. The material is stored on an impervious surface and securely covered in order to be protected from wind and precipitation; or
 3. The material is stored in a manner that prevents material degradation, vectors, litter, odors, fires, or other conditions that may threaten the environment or quality of the material. Metro may require the licensee to modify outdoor storage practices to avoid nuisances, or health, safety, or environmental problems.
 - b. Exterior stockpiles must be positioned within the footprints of exterior storage areas identified on the facility site plan.
 - c. Materials may not be stockpiled for longer than 180 days. Metro may grant a variance to the 180 day limit if: (i) there is a demonstrated need for an exception, and (ii) the stockpiles will not create a nuisance or a health, safety or environmental problem.
7. Vehicle Maintenance. A licensee must maintain and operate all vehicles and devices transferring or transporting source-separated recyclables from the facility in a manner that prevents leaking, spilling or blowing of materials on-site or while in transit.
8. Impervious Surface Maintenance. A licensee must maintain and operate all access roads, and all receiving, processing, storage, and reload areas in such a manner as to minimize and mitigate dust,

airborne debris, and litter from being generated on-site.

9. Facility Capacity. A licensee may not exceed its designed operational capacity. If a licensee reaches operational capacity, the licensee may not accept additional loads of source-separated recyclables for processing.
10. Controlling Dust and Litter. A licensee must minimize and mitigate dust generation, airborne debris and litter, and must prevent their migration beyond property boundaries.
11. Covered Loads. A licensee must take reasonable steps, including providing signage, to notify and remind persons delivering source-separated recyclables to the facility that all loads must be sufficiently covered to prevent any material from blowing off the load during transit.
12. Fire prevention. The licensee must provide fire prevention, protection, and control measures. This includes, but is not limited to, providing an adequate water supply for fire suppression and isolating potential heat sources and/or flammable materials or substances from the processing area.
13. Qualified Operator. The licensee must provide a qualified operator on-site during all hours of operation to carry out the function required by the license and the operating plan.
 - a. The licensee must maintain and make available to Metro for review all records related to the licensee's training of personnel to recognize, properly handle and dispose of prohibited waste.
 - b. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of the license and the relevant procedures contained within the facility's operating plan.
 - c. A qualified operator must be an employee or contractor of the licensee with training and authority to reject prohibited loads and properly manage prohibited waste that is inadvertently received.
14. Prohibited Waste. The licensee must not knowingly receive prohibited waste, including but not limited to non-putrescible waste, putrescible waste, hazardous waste and asbestos containing waste.
15. Load Checking. The licensee must visually inspect all loads it receives and reject prohibited loads upon discovery. If prohibited wastes are discovered after such time that the licensee cannot reject the load, the licensee must properly manage and dispose of the prohibited waste.
16. Measurement of Materials. The licensee must accurately weigh all source-separated recyclable materials when they are received, transferred to market or intra-facility, and transported from the facility. The scale used to weigh all solid waste must be licensed by the state of Oregon (Weights and Measures Act).
17. Transaction Records and Reporting. The licensee must maintain complete and accurate transaction records on the weights and types of all solid waste including source-separated recyclable materials received, recovered, reloaded, removed or disposed from the facility. Records must include those specified in the Metro document: "Reporting Requirements and Data Standards for Metro Solid

Waste Licensees, Franchisees, and Parties to Designated Facility Agreements” and as required in the solid waste license.

18. Access Control. The licensee must control access to the facility and prevent unauthorized pedestrian and vehicular traffic and illegal dumping.
19. Traffic Flow. The licensee must take reasonable steps to notify and remind persons delivering materials to the facility that vehicles may not park or queue on public streets or roads except under emergency conditions or as allowed by local traffic laws.
20. Water Protection. The licensee must provide pollution control measures to protect surface and ground waters from contamination. The licensee must operate consistent with an approved DEQ storm water management plan (or equivalent).
21. Vector Control. The licensee must operate the facility in a manner that does not attract nor is conducive to the harborage of rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. If vectors are present, the licensee must implement vector control measures.
22. Response to Nuisance Complaints. The licensee must respond in a timely manner to all nuisance complaints (including, but not limited to, blowing debris, fugitive dust or odors, noise, litter, traffic, and vectors), and must keep a record of those complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.
23. Noise. The licensee must prevent noise that causes adverse off-site impacts, and to the extent necessary the licensee must meet applicable state and local regulatory standards and land-use regulations.
24. Odor. The licensee must prevent odors that create off-site impacts or that are detectable off-site.
25. Signage. The licensee must post signs at all public entrances to the facility that are easily and readily visible, and legible to users of the facility. The signs must conform to local government signage regulations and contain at least the following information:
 - a. Name of the facility
 - b. Address of the facility
 - c. Emergency telephone number for the facility
 - d. Operating hours during which the facility is open for the receipt of authorized waste
 - e. Fees and charges if applicable
 - f. Metro’s name and telephone number (503) 234-3000
 - g. A list of authorized and prohibited wastes
 - h. Directions not to queue on public roadways
 - i. Vehicle / traffic flow information or diagram
 - j. Covered load requirements

5.01 – 1125 Facility Operating Plan

A licensee must compile a facility operating plan.

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

5.01 – 1130 Facility Pre-Operating Conditions for New Facilities

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

5.01 – 1135 General Recordkeeping and Reporting

1. DEQ Submittals. The licensee must provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this license within two business days of providing that information to DEQ.

2. Enforcement Actions Submitted to Metro. The licensee must send to Metro, upon receipt, copies of any notice of violation or non-compliance, citation, or any other similar enforcement actions issued to licensee by any federal, state, or local government other than Metro, and related to the operation of the facility.
3. Unusual Occurrences. The licensee must keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. The licensee must report any facility fire, accident, emergency, or other significant incidents to Metro at (503) 234-3000 within 24 hours of its discovery. If a breakdown of the operator's equipment occurs that will substantially impact the ability of the facility to remain in compliance, or create off-site impacts, the operator must notify Metro within 24 hours.
4. Nuisance Complaint Recordkeeping. For every nuisance complaint received related to the solid waste operations and other related activities at the site (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), the licensee 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 operator in response to the complaint (whether successful or unsuccessful).

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

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

5.01 – 1140 Variance from Administrative Rule Requirements

1. The COO may grant a variance from administrative rule requirements.
2. The COO may impose conditions on any variance as necessary to protect public health, safety and welfare.
3. A licensee or license applicant must request a variance in writing and must state in a concise manner why the COO should grant the variance. The COO may investigate the variance request as necessary.
4. If an existing licensee makes a variance request, the COO has 60 days from the date the request is

received to either approve or deny it. For a new license applicant, the COO must approve or deny the variance request at the same time the COO approves or denies the license application. If Metro finds that an emergency exists, then the COO will act promptly to approve or deny a variance request. An applicant and COO may mutually agree to a longer period of time to approve or deny a request.

5. A request for a variance is not a substitute for the license application or modification required under Metro Code Chapter 5.01.
6. A written variance request must include, at a minimum, the following information:
 - a. The specific administrative rule or rules for which the license applicant or licensee is seeking a variance;
 - b. A concise description of how the requesting party will meet the intent of the rule or rules or why the rule is unnecessary;
 - c. The duration of the variance, if temporary; and
 - d. Any other supporting documentation or information to inform the variance request.
7. If the COO denies a variance request, the COO must notify the requesting party of the right to a contested case hearing under Metro Code Chapter 2.05.
8. If the COO denies a variance request, the requesting party may not request the same or a substantially similar variance for at least six months from the date of denial.

5.01 – 1145 General Administrative and Legal Obligations for Operating

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

1. Compliance with Law. The licensee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility will be deemed part of this license as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the license document, as well as any existing at the time of the issuance of the license but not cited or attached, and permits or conditions issued or modified during the term of the license.
2. Confidential information. The licensee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the licensee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The licensee must prominently mark any information that it claims confidential

with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. 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. Within five days of Metro's receipt of a request for disclosure of information identified by licensee as confidential, Metro will provide licensee written notice of the request. The licensee will have three days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The licensee must pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. Nothing in this section will limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information.

3. Modification. At any time during the term of the license, either the COO or the licensee may propose amendments or modifications to the solid waste license. The COO has the authority to approve or deny any such amendments or modifications provided that the activities authorized in the amended or modified license do not require a franchise under Metro Code Chapter 5.01. No amendment or modification pursuant to this section will be effective unless in writing and executed by the COO.

The COO may, at any time before the expiration date, modify, suspend; or revoke a license in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:

- a. Violation of the terms or conditions of the license, Metro Code, or any applicable statute, rule, or standard;
 - b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into the license;
 - c. Failure to disclose fully all relevant facts;
 - d. Significant change in the character of solid waste received or in the operation of the facility;
 - e. Any change in ownership or control, excluding transfers among subsidiaries of the licensee or licensee's parent corporation;
 - f. A request from the local government stemming from impacts resulting from facility operations; and,
 - g. Compliance history of the licensee.
4. Inspection and Audit. Authorized representatives of Metro may take photographs, collect samples of materials, and perform such inspection or audit as the COO deems appropriate, and must be permitted access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24

hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in the license, 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 licensee that are directly related to the operation of the Facility.

5. Insurance. The licensee must carry the following types of insurance:
 - a. General liability. The licensee 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 must include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. Contractor's coverage will be primary as respects Metro.
 - b. Automobile. If the licensee owns, leases or otherwise operates vehicles as part of its operations, the licensee must carry automobile bodily injury and property damage liability insurance.
 - c. Coverage. Insurance coverage must be a minimum of \$1,000,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit must not be less than \$1,000,000.
 - d. Additional Insureds. The licensee must name Metro, its elected officials, departments, employees, and agents as ADDITIONAL INSUREDS on the Commercial General Liability and automobile insurance policies.
 - e. Worker's Compensation Insurance. The licensee, its subcontractors, if any, and all employers working under this license, are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The licensee must provide Metro with certification of Workers' Compensation insurance including employer's liability. If the licensee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
 - f. Notification. The licensee must give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.