



**Effective Date: June, 17 2013**

**ADMINISTRATIVE RULES**  
**Commercial Solid Waste, Recycling and Compostables**

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\*For additional copies or for copies of the rules governing Residential collection or Business collection, and for any electronic copies, or large-type copies, contact the Bureau of Planning and Sustainability at 503-823-7202, or email [wasteinfo@portlandoregon.gov](mailto:wasteinfo@portlandoregon.gov)

## **PART 1.0, SCOPE OF RULES**

Administrative rules contained within this document are intended to articulate the standards and expectations for commercial solid waste, recyclables and compostables collection as authorized in the City Code, Chapter 17.102.

## **PART 2.0, ADOPTION AND REVISION OF ADMINISTRATIVE RULES**

- A. Director's Authority to Adopt Rules. Under authority of the City Code, Chapter 17.102, the Director of the Bureau of planning and sustainability [*hereinafter* Director] is authorized to adopt rules, procedures and forms to implement provisions of that chapter which regulate the collection and disposal of commercial solid waste, compostables and recycling in the City of Portland.
- B. Adoption and Revision of Rules.
1. Any rule adopted or revised according to the authority of the City Code shall require a public review process. Not less than ten or more than thirty days before such public review process, notice shall be given by publication in a newspaper of general local circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.
  2. The Bureau of Planning and Sustainability (BPS) shall give notice of the public review process to all neighborhood associations that are recognized by the City Office of Neighborhood Involvement (ONI) and all neighborhood business associations that are on ONI's mailing list. At least 60 days in advance of the anticipated adoption date, BPS shall notify those associations by regular mail, fax or electronic mail of its intent to review the rules, and invite those associations to comment. BPS shall by regular mail, fax or electronic mail send a notice of the initial public hearing to the same associations not less than ten days before the scheduled hearing.
  3. During the public review, the Director or the Director's designee shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendations, taking into consideration the comments received during the public review process and shall either adopt the proposal, modify or reject it.
  4. If a substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director.
  5. Notwithstanding paragraphs a., b., c. and d. of this section, an interim rule may be adopted by the Director without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than one year (365 days). Within five business days of the adoption of such interim rule, BPS staff shall send notice of the rule to all Neighborhood Associations, Neighborhood Business Associations, persons on the BPS list of parties interested in commercial administrative rules, and permittees, giving the language of the rule change, describing the purpose of the rule, and inviting comments to be sent to BPS

## Part 4.0, Commercial Standards

### Part 4.1, Definitions

*See also Definitions in Portland City Code Section 17.102.020.*

1. **"Assessment"** means a civil penalty assessed for an Infraction as provided in City Code Chapter 17.102.
2. **"Biodiesel"** is a domestic, renewable fuel for diesel engines comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils, or animal fats, designated B100, and which meets the specifications of ASTM #D6751-03a "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels" or revised ASTM specifications.
3. **"Biodiesel Blend"** is a blend of biodiesel fuel meeting the ASTM #D6751-03a or revised ASTM specifications and ASTM #D5453 "Test Method for Determination of Total Sulfur in Light Hydrocarbons, Motor Fuels and Oils by Ultraviolet Fluorescence", or revised ASTM specifications, comprised of biodiesel and ultra-low sulfur diesel fuels blended by a percentage of each individual component. B5 is 5% biodiesel and 95% ultra-low sulfur diesel fuel. B20 is 20% biodiesel and 80% ultra-low sulfur diesel fuel. B50 is 50% biodiesel and 50% ultra-low sulfur diesel fuel. B99 is 99% biodiesel and 1% ultra-low sulfur diesel fuel. B100 is 100% biodiesel.
4. **"BPS"** means the Bureau of Planning and Sustainability.
5. **"Business"** is any commercial entity, including industrial and institutional, non profit organizations and government facilities, but not including multifamily complexes or commercial entities which occupy less than 50 percent of the floor area of a residence.
6. **"Calendar Quarter"** means the segment of a calendar year from January 1 through March 31, from April 1 through June 30, from July 1 through September 30 or from October 1 through December 31.
7. **"Collect"** or **"Collection"** means to accept, accumulate, store, process, transport, market or dispose of.
8. **"Commercial"** means relating to an entity that is non-residential in nature or, if residential, consists of five or more dwelling units.
9. **"Compostable Material"** and **"Compostable"** means yard debris, food scraps and food soiled paper when source separated for controlled biological decomposition. Compostable material shall not include food soiled paper containing plastic or other materials that inhibit controlled biological decomposition.
10. **"Composting"** means the series of activities, including separation and processing, by which compostable materials are recovered from or otherwise diverted from the solid waste stream for controlled biological decomposition. Composting includes composting of source separated organics but not composting of mixed waste.
11. **"Customer"** means a person that has arranged the collection of solid waste, recyclable or compostable materials, excluding residential collection service covered by a franchise. Where several businesses share containers and service, customer refers only to the person that arranges for the service.

12. "**Day**" for purposes of designating an infraction, means a single infraction consists of the failure to comply with the rule any number of times during a single 24-hour period, regardless of the number of customers affected by the infraction (e.g., violating nighttime collection restrictions). Generally, Saturdays, Sundays and legal holidays are excluded.
13. "**Director**" means the Director of the Bureau of Planning and Sustainability, or the Director's authorized representative, designee or agent.
14. "**Disposal**" means landfilling, illegal dumping, burning, municipal waste incineration, and mixed waste composting.
15. "**Food Scraps**" means all waste from meats, fish, and vegetables, which attends or results from the storage, preparation, cooking, handling, selling, or serving of food for human consumption. Food scraps include, but are not limited to, excess, spoiled or unusable food or dairy products, meats, vegetable and meat trimmings, grains, breads and dough, incidental amounts of edible oils, and organic waste from food processing. Food scraps do not include large amounts of oils and meats which are collected for rendering, fuel production or other reuse applications.
16. "**Food Scraps Generating Business**" means businesses and institutions whose waste is composed of a large amount of food scraps and food soiled paper. It includes but is not limited to restaurants, grocery stores or food markets, hotels with catering operations, institutions with cafeterias, caterers, central kitchens or commissaries, bakeries, produce wholesalers and food processors. It does not include businesses that produce only incidental amounts of food waste in the course of doing business, such as employee lunches.
17. "**Food Soiled Paper**" means paper products that cannot be recycled into paper products or that have been in contact with organic materials to the degree that they would not be able to be recycled into paper products. Food soiled paper includes, but is not limited to, used paper table covers, used napkins, and waxy corrugated cardboard. Food soiled paper includes otherwise recyclable paper that has been in contact with food to the degree that it is not recyclable into paper products, but does not include unsoiled cardboard boxes, newspaper, or office paper.
18. "**Force Majeure**" means acts of God, landslides, lightning, forest fires, storms, floods, freezing, volcanic eruptions, earthquakes, civil disturbances, acts of terrorism or of the public enemy, wars, blockades, public riots, explosions, shortage of materials and other events which are not reasonably within the control of the franchisee, the approved recycler, yard debris recycler, or BPS.
19. "**Generator**" means an entity which uses the solid waste, recycling and/or compostables collection service and containers arranged for by a customer.
20. "**Independent Commercial Recycler**" means a person who collects only recyclable and/or compostable materials from non-residential sources for the purpose of recycling or composting, and who does not collect solid waste.
21. "**Incident**", for purposes of designating an infraction, means a single infraction consists of the failure to comply with the rule on an individual act, occurrence or generator basis.
22. "**Infraction**" means a failure to comply with City Code or rules promulgated thereunder. Infractions may be appealed to the City of Portland Code Hearings Officer pursuant to City Code Section 17.102.100.

23. "**Metro**" means the metropolitan service district responsible for regional solid waste management and planning within Multnomah, Washington and Clackamas counties.
24. "**Multifamily Complex**" or "**Multifamily**" means any multidwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as apartments, condominiums, mobile home parks, or houseboat moorages. Multifamily also includes certified or licensed residential care housing, such as adult foster care homes or group homes.
25. "**BPS**" means the City of Portland Bureau of planning and sustainability.
26. "**Owner**," with respect to the obligation to provide recycling for a condominium or cooperatively owned development, means the owners' association or its equivalent.
27. "**Per Day**," shown as "D" for purposes of designating an infraction, means a single infraction consists of the failure to comply with the rule any number of times during a single day, regardless of the number of customers affected by the infraction (e.g., collection schedule).
28. "**Per Incident**," shown as "I" for purposes of designating an infraction, means a single infraction consists of the failure to comply with the rule on an individual act, occurrence or customer basis.
29. "**Per Month**," shown as "M" for purposes of designating an infraction, means a single infraction consists of the failure to comply with the rule at least once and up to any number of times during a single, continuous 30-day period, regardless of the number of customers or, in the case of an infraction by a generator or customer, number of tenants, affected by the infraction (e.g., inadequate vehicle identification markings, or convenience of recycling systems at multifamily).
30. "**Permittee**" means any person granted a commercial collection permit under the provisions of Portland City Code.
31. "**Processing**" means an operation where collected source-separated recyclable or compostable materials are sorted, graded, cleaned, shredded, ground, densified or otherwise prepared, treated or converted for end use markets.
32. "**Recyclable Material**" and "**Recyclable**" includes, but is not limited to, aerosol cans, aluminum, aseptic packaging (drink boxes), corrugated cardboard and kraft paper, glass bottles and jars, magazines, ferrous and nonferrous scrap metals, gable top paper cartons, motor oil, newspaper, office paper, scrap paper, plastic bottles including milk jugs, steel "tin" cans, telephone directories, yard debris, cooking grease, wood, rubble and other materials as may be designated by the City.
33. "**Recycling**" means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from or otherwise diverted from the solid waste stream for use in the following: (1) in the form of raw materials in the manufacture of new products other than fuel; and (2) as fuel in the case of source separated wood waste which has no other material use.
34. "**Residence**" means any dwelling unit that is a four-plex or smaller, regardless of whether it has subscribed for waste collection, or has waste collection, in individual cans, carts or containers. Residence includes multifamily dwellings such as apartment complexes, condominiums, mobile home parks, or houseboat moorages with four units or fewer on a single tax lot. Residence also includes dwelling units used by fraternities or sororities. Residence does not include any multifamily complex, multi-dwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as condominiums, mobile home parks, or houseboat moorages, nor does

residence include certified or licensed residential adult foster care homes. Residence does not include any dwelling where over 50% of the entire building is being used for business purposes. Agreements between owners of residences purporting to provide for the collection of solid waste and recyclables on a combined basis shall not alter the status of each dwelling unit as a residence for purposes of these rules.

- 35. "**Residential**" means of or pertaining to a residence.
- 36. "**Self-haul**," when used in reference to solid waste and/or recyclable and/or compostable materials generated by a commercial entity, means the collection and transportation of such material from a commercial entity where an owner or employee of the entity hauls the material rather than hiring a permittee or independent commercial recycler to perform this function.
- 37. "**Solid Waste**" has the meaning given in Oregon Revised Statutes but does not include the following materials: Sewage sludge, septic tank and cesspool pumpings or other sludge; Discarded or abandoned vehicles.
- 38. "**Source Separate**" means that the person who last uses recyclable or compostable material separates the material from solid waste and keeps the recyclable or compostable material separate from solid waste.
- 39. "**Yard Debris**" means leaves, grass clippings, sod, weeds, vines, vegetative material from the yard, pumpkins, and prunings of no greater than four inches in diameter or 36 inches in length. Large branches (greater than four inches in diameter or more than 36 inches in length), dirt, stumps, metal, rocks, ashes, animal waste, food and household Solid Waste are not considered yard debris.

## Part 4.2, Permittees: Collection Services for Solid Waste, Recyclables and Compostables

### A. COLLECTION REQUIREMENTS

1. Permit Required. Any person collecting commercial solid waste within the City must obtain a commercial collection permit from the City of Portland Bureau of planning and sustainability. Each permittee must hold a valid City of Portland Business License, or submit to BPS its Application for Portland Business License Exemption, as approved by the City's License Bureau. Collecting commercial solid waste within the City without a valid permit, or when a permit has been suspended or revoked is an infraction. **(A/D)\***
2. Permit Application Requirements. Permit applications shall be submitted to BPS at least ten days before the expiration of an existing permit or, for a new permit, ten days before the commencement of collection operations. The applicant shall use the permit application form provided by BPS and must demonstrate adequate staff, equipment and collection vehicles necessary to provide the required solid waste, recycling and compostables collection services. Submitting any late, incomplete or inaccurate application may result in denial of the issuance of a permit. **(D/D)\***
3. Permittees Obligation to attend City meetings. The permittee shall attend occasional mandatory meetings scheduled by BPS. BPS will provide permittees with reasonable advance notice of mandatory meetings by fax, postal mail or email. **(D/I)\***
4. Permit Conditions. Permittees shall comply with requirements specified in City Code Chapter 17.102 and these administrative rules. Failure to comply may result in assessments, suspension and/or revocation of the commercial collection permit.
5. Suspension or Revocation of Permit. The Director may suspend or revoke a commercial collection permit as provided in City Code Chapter 17.102.240. Suspension or revocation of a permit may be appealed to the Code Hearings Officer following procedures set forth in City Code Title 22.
6. Maintaining Passage on Public Streets. Permittees shall exercise reasonable efforts to minimize stopping of collection vehicles in a manner that blocks the passage of other vehicles or pedestrians on public streets or sidewalks while collecting solid waste, recyclables or compostables, or placing of drop-boxes. **(D/I for vehicles; D/D for drop boxes)\***
7. Hours of Collection. Permittees shall collect solid waste, recyclable and compostable materials in accordance with the daytime prohibition of downtown garbage collection in Portland City Code. In addition, the permittee shall not make solid waste, recycling or compostable collections at multifamily accounts between 10 p.m. and 6 a.m., unless the customer has requested in writing that collection be made during that time. This restriction does not apply where multifamily is part of a mixed use building, where other commercial accounts are being served. **(D/D)\***
8. Collection Schedules and Locations.
  - a. Solid waste, recycling and compostables collection schedules and pickup locations shall be mutually agreed upon by the permittee and the customer.
  - b. Night time noise and BPS Support for Termination of Service Agreements. A permittee's refusal to attempt to reduce noise in a manner acceptable to the customer constitutes the

only potential grounds for BPS support of termination of a customer's service agreement as described below.

- c. BPS Support for Termination of Service Agreement. Permittees may enter into services agreements, oral or written, with customers. If a customer finds that the permittee is refusing to attempt to reduce noise between 10 p.m. and 6 a.m. where there have been complaints about that nighttime noise, the customer may act to terminate the agreement and seek the support of BPS. In such case, the customer shall notify the permittee in writing of the specific failure to make efforts to reduce nighttime noise. If the failure still exists after a period of at least 30 days, or if the permittee has not taken reasonable steps to correct the failure, the customer may give the permittee 30 days notice of termination of the entire service agreement. Failure to make efforts to reduce nighttime noise, after requests by the customer, shall serve as the only valid basis for BPS to concern itself with a customer's terminating any services agreement. A permittee's refusal to abide by such a termination notice shall constitute an infraction subject to an assessment. **(D/I)\***
- d. Removal of containers. Where a customer has terminated service, following applicable procedures described in these rules, it is an Infraction for a permittee to leave solid waste, recycling, yard debris or compostables containers owned by the permittee in place at the customer's location for more than ten calendar days after the customer has given written notice of termination. **(D/D)\***
9. Notify City of Company Ownership or Name Change: The permittee shall notify BPS of changes in the company name or ownership information from the application submitted for the permittee's current city commercial waste collection permit, no less than 10 business days before the change becomes effective. A permittee's failure to notify BPS on a timely basis shall constitute an infraction subject to an assessment. **(D/M)\***
10. Hazardous Wastes. Permittee shall comply with all Federal, State and Metro regulations applicable to the collection and disposal of hazardous wastes.

## **B. EQUIPMENT STANDARDS**

1. Cleanup on Route. The permittee shall pick up all material in the public right-of-way as a result of being blown, littered, broken, or leaked in the course of collection subsequent to being set out by the Generator. **(D/I)\***
2. Prevention of Leaking and Spilling Loads. The permittee shall ensure that all collection vehicles and containers are constructed, loaded, operated and maintained in a manner to reduce to the greatest extent practicable dropping, leaking, blowing, sifting or escaping of solid wastes, recyclables, compostables or the vehicle's fuel, hydraulic fluid or lubricants from the vehicle onto private property and public streets while stationary or in transit excepting (a) normal leakage of fuel, hydraulic fluid or lubricants typically associated with a properly maintained vehicle; and (b) leakage of fuel, hydraulic fluid or lubricants due to equipment failure provided that the failure is immediately corrected and the leakage is cleaned up as soon as practicable. **(D/D, per vehicle)\***
3. Covers for Open-body Vehicles. The permittee shall ensure that every open-body collection vehicle has a cover which shall be either an integral part of the vehicle or a separate cover for the vehicle. To prevent material from blowing, leaking or falling out, this cover shall be used while stationary or in transit, except when the body is empty, and during the transportation of bulky wastes, including but not limited to stoves, refrigerators and similar "white goods." **(B/D, per vehicle)\***



4. Use of Biodiesel Fuel. Beginning March 1, 2009, a minimum biodiesel blend of B20 shall be used in all solid waste, recycling and compostables collection vehicles with a diesel engine as the source of fuel for operating the vehicle. For the purposes of this subsection, collection vehicles include, but are not limited to, front, side and rear load trucks, drop-box trucks, flatbed trucks, pickup trucks or any other vehicles used for collection. **(B/I)\***
5. Vehicle Identification.
  - a. The permittee shall ensure that all Solid Waste collection vehicles bear a Metro identification tag. **(C/M per vehicle)\***
  - b. All solid waste, recycling and compostable collection vehicles shall be clearly identified by displaying the permittee's name and telephone number prominently and conspicuously on both sides of the vehicle. Where a permittee has acquired used vehicles, or changed its business name, that permittee must update the vehicle identification within 45 days. In this case, that permittee shall ensure that the phone number on the vehicle will refer callers to the permittee currently using the vehicle. **(C/M per vehicle)\***
  - c. BPS may exempt specific vehicles in cases where a customer seeks confidentiality where the vehicle's recycling contents will be rendered unreadable (e.g., by shredding) before they are recycled. **(D/D, per vehicle)\***
  - d. Where a collection vehicle is designed and being used to collect both source-separated recyclables or compostables and solid waste in separate compartments in one vehicle, the vehicle shall be so identified prominently and conspicuously on both sides of the vehicle. **(D/D, per vehicle)\***
6. Container Identification. The permittee shall clearly identify all of its collection containers, including compactors, but excluding containers of less than 18-gallon capacity, by displaying the permittee's current name and telephone number prominently and conspicuously on at least the portion of the container that is visible when the container is being used to store materials. The permittee may use a temporary or removable label to display permittee's name and telephone number on recycling or compostables containers purchased and made available by BPS. **(D/M)\***
  - a. The permittee shall mark every collection container of 10 cubic yards and greater capacity (generally "drop-boxes") using an identification system that gives each container a unique number or number/letter combination to enable tracking the location of containers that are found placed in a public right-of-way. **(D/M, per container)\***
  - b. The permittee shall clearly label all containers for garbage, recyclables or compostables, indicating the material to be placed in the container. In the case of compactors, this labeling shall be clearly visible to users and located on the surface adjacent to the feed opening. If this surface is not part of the equipment provided by the permittee, then the permittee is not responsible for the labeling. The labeling shall comply with the City of Portland Commercial Sticker Protocol distributed most recently to all permittees by BPS. **(D/M)\***
  - c. Where permittee provides any recycling container of less than 18-gallon capacity, the container shall be a blue bin meeting specifications in Attachment A, or a yellow ("Portland Recycles") or blue ("Portland Businesses Recycle") 14-gallon bin provided in the past by BPS. The permittee shall provide these containers at no separate charge to the customer. **(D/M)\***

## 7. Container Use.

- a. Recycling or compostables containers purchased and made available by BPS for permittees to distribute to commercial customers (including the containers known as Blue Business Bins, and Portland Composts! containers) shall be distributed as specified by BPS. These containers remain the property of the City and are to be distributed only to commercial customers within the City. City-purchased recycling or compostables containers are to remain with the customer when the customer changes service providers, unless the customer specifically requests that they be removed or that the new service provider use a different system. BPS does not provide permittees any containers for yard debris recycling. The containers are to be used to contain only recyclables or compostables and shall be maintained by the permittee in good working condition. A permittee who picks up a City-provided container that is being used other than specified here also commits an Infraction. BPS may also require the permittee to return to BPS some or all of the containers provided to the permittee. **(B/I)\***
- b. Recycling containers provided by BPS are to be serviced directly by the permittee, and should not be provided to any customer or generator to transport recyclable materials to another container serviced by the permittee. Containers for compostables provided by BPS may be used to transport compostables to another container serviced by the permittee. Failure of a permittee to distribute these containers properly constitutes an infraction. **(B/I)\***
- c. Upon the request of a customer, the permittee shall provide BPS-purchased recycling or compostables containers without charge. **(B/I)\***
- d. The permittee shall collect all properly prepared recyclable or compostable materials and shall leave at the point of collection any reusable containers provided by the customer, the generator, or BPS, and any protective covers used to keep material dry. Used motor oil containers do not have to be left at the point of collection.
- e. City purchased containers stored by the permittee prior to distribution to customers are to be stored in a manner that will prevent damage and in accordance with the requirements or specifications of the manufacturer's warranty. **(D/M)\***
- f. The permittee shall report to BPS when recycling and compostable containers that are removed from use due to damage or other conditions that make them permanently unusable. If the container is within the manufacturer's warranty period, the permittee shall retain the container until notified by BPS or the manufacturer that it may be disposed of. Containers that are to be disposed of shall not be reused for any other purpose. The permittee shall dismantle the unusable container and recycle it if possible. **(D/M)\***
- g. Where there are containers provided by someone other than a permittee, the permittee is responsible for any damage caused by the permittee to those reusable containers and protective covers in the course of collection, except from weather or normal wear and tear. **(D/I)\***
- h. Multifamily containers: Where a multifamily customer cannot provide a central collection system for recycling but must provide recycling bins for each individual living unit, the permittee shall provide a minimum of two bins per living unit, unless the Customer requests three bins per unit. If the Customer requests three bins per unit, the permittee shall provide the additional bins at no separate charge. These bins shall be of a capacity of less than 18 gallons, and comply with requirements as described above in B.6.c. **(D/M)\***

8. Graffiti. The permittee shall maintain containers and carts so as to be free of graffiti. Permittees shall remove all graffiti from containers and carts before delivery to customers. Within ten days of receipt of notice from BPS or from the City Office of Neighborhood Involvement (ONI) of a container with graffiti, the permittee shall remove the graffiti or give the city graffiti manager written permission to do the graffiti removal. Permittees may charge the generating business for the cost of replacing or cleaning the container or cart. **(D/M, per container)\***
9. Limitation on Container Use. BPS does not provide permittees any containers for solid waste. Use of any BPS-provided container to contain solid waste constitutes misuse.
10. Compliance with Driving and Transportation Laws and Compliance with Metro and DEQ Requirements.
  - a. Permittee shall comply with all applicable federal, state and local laws and regulations relating to driving, transportation, and waste, compostable, and recyclable materials collection and disposal.
  - b. A permittee shall notify BPS when it has been prohibited from operating its collection vehicles due to an unsatisfactory safety fitness rating from either the U.S. Department of Transportation or the Oregon Department of Transportation. BPS will suspend that permittee's commercial collection permit until the permittee has been reinstated with a satisfactory or conditional rating. In addition, BPS will not issue a commercial collection permit to any company that has been prohibited from operating its collection vehicles due to an unsatisfactory rating at the time of application. **(B/I)\*** This provision also applies if:
    1. The permittee;
    2. Any person who will be directly engaged in the management or operation of the permittee; or,
    3. Any person who owns a five percent or greater interest in the permittee, has previously owned or operated as a permittee that has received such an unsatisfactory safety fitness rating that was not reinstated within a reasonable period of time with a satisfactory or conditional rating.
  - c. Appeal Provision. For appeal of a denial, suspension or revocation, see Section G, Appeal or Denial, Suspension or Revocation of Commercial Permit of Part 4.5A, Commercial Compliance and Enforcement: Permittees.
11. Safety and Maintenance. All collection equipment must be maintained and operated in compliance with all local and state statutes, ordinances and regulations including compliance with regulations related to the safety of the collection crew and the public.

**C. REQUIREMENTS FOR COLLECTION OF RECYCLABLES AND COMPOSTABLES**

1. Service Responsibility. The permittee shall offer collection service for all recyclable materials as listed below (Recyclable Materials to be Collected from Businesses and Multifamily Complexes), to all its solid waste customers and shall make known the availability of this service to all its customers. For a permittee to fail to offer and provide such collection for any material as listed below is considered an Infraction. **(A/I, with incident defined as one customer, one instance of hauler failure to offer and provide collection of one or more listed materials.)\***

Any business or any other person may sell or exchange at fair market value its own recyclable materials which are source separated for reuse or recycling. It is considered an Infraction if a permittee states or implies that a customer is required by the City to use the permittee for any or all recycling collection services. **(A/I, with incident defined as one customer, one instance of hauler misinformation)\***

2. **Food Scrap Collection.** The permittee shall offer and provide collection service for compostable materials to customers that are food scrap generating businesses subject to the food scrap composting requirements in City Code Chapter 17.102. The permittee shall provide information to the customer describing how to separate and prepare the material in accordance with BPS guidelines. Permittee shall notify BPS within 30 days of new customers that have either started or stopped food scraps collection service. **(A/I)\***
3. **Subcontracting.** A permittee may subcontract with another company for recycling and compostable collection, so long as the subcontractor holds either a current commercial permit or current independent recycler registration from BPS.
4. **Coordination with Service Providers.** Permittee shall coordinate with the customer and other service providers such as property management, janitorial service, permittees and independent commercial recyclers to set up the customer's recycling system and resolve any problems with its function. **(D/I)\***
5. **Recyclable Materials to be Collected from Businesses and Multifamily Complexes.**
  - a. **Businesses.** The permittee shall pick up the recyclable materials listed below that are set out for collection by the generator, so long as the materials are prepared and separated in a manner mutually acceptable to the permittee and the customer. The permittee shall provide, at a minimum, collection containers for a two-sort system, where glass is collected in one container and all other recyclables listed here, except yard debris, are collected in another container. Additional service for source separated recyclables may be added if agreed upon by the permittee and the customer. **(D/I)\***
  - b. **Multifamily Complexes.** The permittee shall pick up the recyclable materials listed below that are set out for collection at multifamily complexes so long as the materials are properly prepared (see preparation standards in Residential Solid Waste & Recycling Administrative Rules). The permittee shall provide collection containers for a two-sort system, where glass is collected in one container and all other recyclables listed here, except motor oil and yard debris, are collected in another container. Provision by a permittee of any other sort system is an infraction **(D/I)\***
    1. Aerosol cans.
    2. Aluminum.
    3. Aseptic packaging.
    4. Corrugated cardboard and kraft paper.
    5. Gable top paper cartons.
    6. Glass bottles and jars.
    7. Magazines.
    8. Metals: ferrous and nonferrous scrap.
    9. Newspapers.
    10. Paper: office paper including white and colored ledger and computer.
    11. Paper: scrap paper, may include envelopes, fax paper, blueprints, brochures, and other miscellaneous papers.
    12. Plastic bottles, tubs, buckets and plant pots.

13. Steel "tin" cans.
14. Telephone directories.
15. Yard debris.

BPS reserves the authority to add other materials to the above lists, such as, but not limited to, film plastics or other plastics. Permittees may collect other recyclables not listed above.

6. Disposal Prohibition. The permittee is responsible for transporting and delivery of collected materials for recycling and composting. The permittee shall ensure that all collected recyclables are delivered to a processor or broker of recyclable materials or to an end use market. The permittee shall ensure that all collected yard debris and compostable materials are delivered for beneficial use, including:
  - a. Composting by a facility that has a current Metro compost license, an Oregon Department of Environmental Quality compost permit or registration, or is licensed as a composter by the State of Washington, or
  - b. A reload facility licensed by Metro, or
  - c. For animal feed or land application by facilities regulated by the Oregon Department of Agriculture or the Washington State Department of Agriculture, or
  - d. Use as hog fuel in the case of woody waste.

The permittee is prohibited from delivering, or causing to be delivered, any collected source-separated recyclable or compostable materials for disposal, except by prior arrangement with BPS. Placement of properly prepared recyclables or compostables which have been separated and set out for recycling or collection for composting, into any solid waste container, including the solid waste compartment of a collection vehicle, for any length of time, shall constitute a failure to comply with this rule. **(A/I)\*** This rule does not prohibit use of collection technologies whereby source separated recyclables or compostables and solid waste are routinely collected by a single vehicle and loaded into separate compartments on that vehicle. A permittee may collect mixed dry waste at construction/demolition sites so long as the permittee ensures that the collected material is taken to a facility that reports to Metro and where recyclables are separated from waste.

7. Handling of Glass and Other Recyclable Materials.
  - a. For business customers or generators who source separate glass for recycling, the permittee shall not provide a collection system which provides for glass to be mixed with paper. For multifamily complexes, the permittee shall not provide a collection system which provides for glass to be mixed with other recyclables. **(B/I)\***
  - b. Where glass has been source separated from solid waste by the customer, generator, or multifamily complex, the permittee shall keep glass separate from all paper types on the collection vehicle and maintain the separation of the glass from all types of paper when unloading for processing or end use markets. **(B/I)\***
  - c. Mixed Dry Waste: Except for mixed dry waste at construction/demolition sites, as allowed under C.6. above, Disposal Prohibition, the permittee shall not provide any recycling system which involves mixing recyclables with solid waste for post-collection separation. **(A/M)\***

8. Misrepresentation:

- a. The permittee shall not represent to any customer or generator that placing recyclables into any solid waste container is an acceptable method of handling recyclables, or provide any information that is contrary to the requirements of Part 5.2 (Customer and Generator Requirements), except for mixed dry waste at construction/demolition sites, as listed above,
- b. The permittee shall not represent to any customer or generator that materials collected by the permittee as recyclables are actually being recovered if the permittee knows that the material is not actually being recovered. This applies whether or not the material in question is listed in these administrative rules as a recyclable that the permittee is required to collect.
- c. Misrepresentation of the proper separation or actual disposition of recyclables is a failure to comply with this rule. **(B/I)\***

9. Unauthorized Collection of Recyclable or Compostable Materials.

- a. All recyclable or compostable materials placed in a recycling container provided by any collector, whether a permittee or a registered independent commercial recycler, is considered owned by and be the responsibility of that collector. Without permission of that collector, no person shall collect recyclable or compostable materials placed by the Customer in such a recycling container. **(A/I)\***
- b. All recyclable or compostable materials placed in a recycling container provided by a business or multifamily complex is considered owned by and be the responsibility of that provider. Without permission of that provider, no person shall collect recyclable or compostable materials placed in such a recycling container. **(A/I)\***

10. Improperly Prepared Recyclable or Compostable Materials. The following procedures shall be followed when the permittee encounters recyclables or compostables not prepared or placed as mutually agreed upon by permittee and business customer, or, in the case of a multifamily customer, when the permittee encounters improperly prepared material, materials that the permittee does not routinely collect or materials set out in an improper location.

- a. The permittee shall notify the customer of the problem no later than the customer's next business day and provide the customer or generator with the following options. Not offering these choices is considered an infraction. **(B/I with incident defined on a per customer basis)\***
  - 1. The customer or generator may sort the material or otherwise correct the preparation problem and set out the material for the next collection day or arrange an additional collection day;
  - 2. The customer or generator may authorize the permittee to dispose of the material as solid waste. For the permittee to dispose of rejected materials without being requested by the customer or generator constitutes an infraction. **(A/I)\***

- b. If compostable materials are improperly prepared or stored in such a manner as to create pest or odor problems that pose a potential public health and safety concern, the City may require the customer or generator to remedy the problem so that collection of the compostable materials may continue. The permittee shall work with the City and the customer or generator to remedy the pest or odor problem caused by the improperly prepared or stored compostable materials.

#### **D. PROMOTION AND EDUCATION.**

1. The permittee shall provide basic recycling collection information, and, where the customer is a food scraps generating business, compostables collection information, to every new customer, and former customer being reinstated after six months or more without service from that permittee, within seven days of sign-up, and to all existing customers at least annually. The permittee shall submit the information to BPS for review and approval prior to distributing it to customers. Failure to distribute this information according to these provisions is an Infraction subject to an assessment. **(B/I)\***

The permittee's information must include at a minimum information on the City's recycling requirements applicable to the customer and the services recommended and offered by the permittee that allow the customer to meet those requirements if the customer is a new customer for the permittee, or is a former customer being reinstated after six months or more without service from that permittee. The permittee may use either materials developed by BPS for this purpose or materials developed by the permittee that have been reviewed and approved by BPS.

The permittee shall report annually to BPS on the number of customers receiving recycling information, the method of distribution to those customers and samples of any other accompanying materials.

2. Distribution of BPS-provided Materials. In addition to distributing the above materials, permittees shall distribute other BPS-provided education and promotion information regarding the commercial recycling program to all commercial customers up to three times per year. The notices shall be distributed to these customers within a reasonable time period specified by BPS, and according to other delivery instructions provided by BPS. Permittee web site content must be consistent with BPS rules and policies but does not need to be submitted to BPS in advance of posting. **(B/I)\***
3. Where the permittee is providing solid waste and recycling collection service to multifamily complexes, and the BPS notice is directed at multifamily residents, the permittee shall obtain from BPS and provide to the customer an adequate number of notices to be distributed to every multifamily unit served. The permittee shall provide the notices to the on-site manager(s) or other person(s) designated by the customer for subsequent distribution to all units. **(B/I)\***
4. Where the permittee is providing solid waste and recycling collection service to customers with business tenants, and the BPS notice is directed at business tenants, the permittee shall obtain from BPS and provide to the customer an adequate number of notices to be distributed to every business tenant served. The permittee shall provide the notices to the on-site manager(s) or other person(s) designated by the customer for subsequent distribution to all tenants. **(B/I)\***
5. If a customer must set out recyclables or compostables on collection day (as distinct from having a central collection area that is used by, and accessible to, both the customer and the permittee), the permittee must notify the customer at least one week in advance of any change in the customer's recycling collection schedule.

6. The permittee shall provide the above information to a recycling coordinator or an owner or manager of the company. The information may not simply be left on a garbage or recycling container.
7. In a case where the customer asks the permittee for assistance recycling a material that is not listed above in C.5., and the permittee does not offer recycling collection for that material, the permittee shall refer the customer to Metro Recycling Information, 503-234-3000 or MRI@metro.dst.or.us, or to another recycler known to recycle that material.

**E. NIGHTTIME NOISE**

1. All permittees will conduct BPS-approved education sessions on ways drivers can minimize noisy operations, and shall require all drivers attend these sessions (1) before driving permittee trucks between 10 p.m. and 6 a.m., and (2) again at least once every 365 days. BPS will help design this training. **(D/M, per driver)\***
2. All permittees shall install, on all collection vehicles operating between 10 p.m. and 6 a.m., backup beepers which sound a quieter alarm in a quieter environment. **(D/I)\***
3. When a permittee is notified by BPS of a complaint about collection for a particular customer location, the permittee shall do all of the following. **(D/I for the first incident of violation of any one of these provisions)\***:
  - a. Deaden the sound of any metal arm (used to hold the lid open temporarily) on any containers used at that customer location,
  - b. Discuss with the driver the possible causes and ways to alleviate nighttime noise problems at that location.
  - c. If a complaint is about glass pickup, the permittee shall not collect glass for recycling at that location between 10 p.m. and 6 a.m., and:
  - d. If more than one complaint is received by BPS within three months about an individual driver, the permittee shall require that driver to undergo training again within one month of the second and subsequent complaints.

**F. COMPLIANCE WITH ZONING ORDINANCES.**

1. Any processing and storage of recyclable or compostable materials shall be undertaken in a location suitable and adequate for such activity. Processing and storage facilities shall comply with all applicable zoning ordinances and any other applicable local and state statutes, ordinances and regulations.
2. All parking, storage and maintenance facilities shall comply with all applicable zoning ordinances and any other applicable local and state statutes, ordinances and regulations. Areas for parking, repair, storage or cleaning of vehicles or equipment shall not be located in areas zoned as residential under local zoning ordinances, unless approved in writing by the Bureau of Development Services.

**G. ACCESS FOR INSPECTIONS AND DELIVERY OF NOTICES**

1. The permittee shall make all company premises, facilities and records related to their solid waste and recycling collection services (including, but not limited to: offices, vehicles, storage areas,



nonfinancial records, records pertaining to the origin of any solid waste collected by the permittee, receipts for sale or delivery of collected recyclables or compostables, customer lists and all records related to vehicle maintenance and safety which are required under PUC Motor Carrier Requirements and Regulations and Chapter 767 of the Oregon Statutes) available for inspection by BPS solid waste and recycling employees, within 24 hours of BPS notice by telephone. Such inspections are only for purposes of enforcing solid waste and recycling regulations, and are restricted to normal business hours. During normal business hours, the permittee shall make all company premises and facilities accessible to BPS personnel for delivery of any written notices. The 24-hour period excludes Saturdays, Sundays and legal holidays. Collection vehicles must be accessible for inspections during the normal operating hours for collection, in addition to normal business hours. The requirement for a 24-hour notice period shall not apply to BPS inspection of (1) containers stored in the public right-of-way or (2) a container or vehicle in response to a specific complaint that the permittee is allegedly disposing recyclables or compostables with solid waste. **(B/D)\***

## **H. OFFICE AND PERSONNEL REQUIREMENTS**

1. Email:
  - a. Permittees shall have electronic mail (email) available for messages to and from BPS. The email must be capable of receiving, opening and printing documents in PDF format. Permittee must provide BPS with one primary email address. **(D/M)\***
  - b. Where an email communication is sent between BPS and a permittee, it shall be sent by email to the primary email address provided to BPS by the permittee as required above, or to the BPS email address wasteinfo@ci.portland.or.us. Notices sent between BPS and permittees by email shall be deemed effective and delivered on the same day as email transmission, or the first business day thereafter if emailed on a Saturday, Sunday or legal holiday.
2. Response Time to BPS Staff Messages. Unless prevented by Force Majeure, or otherwise stated in BPS's message, permittees must respond to calls, faxes or email received from BPS within 24 hours of receipt of the incoming message, or, if the day after the incoming BPS message is not a business day, then by noon of the following business day. **(D/I)\***
3. The permittee shall provide BPS with an after-hours telephone number to be used only in emergencies. **(D/M)\***
4. The permittee shall notify BPS of anticipated changes in addresses, phone numbers, fax number and email address for any facilities regulated by these rules, including but not limited to office, mailing address, yard location(s), and after-hours phone number. Such notice shall be provided to BPS in writing no less than ten business days prior to such change. **(C/M)\***
5. The permittee shall notify BPS in writing of changes in company contact persons and responsible officials within one week after such changes. **(D/M)\***
6. All permittees must have at their office fax capability not requiring advance notice in order to receive messages and must provide their fax number to BPS. **(D/M)\***

**I. COMMERCIAL SERVICE CHARGES**

Consistent with ORS 459A.070, if a customer source separates recyclable material - and makes it available for reuse or recycling - permittees may charge the customer less, but not more, for collection and disposal of solid waste and collection of recyclable material than the collection service charges a customer who does not source separate recyclable material. This provision does not affect charges for the collection of compostables. **(A/I)\***

**J. RECORD KEEPING**

Permittees shall keep records allowing each weight slip received for solid waste disposed from a drop box of ten cubic yards or larger capacity to be specifically identified in relation to a customer billing name, service date and address and invoice. These records shall be kept for two years from the date of disposal. **(C/I, with incident defined as one weight slip)\***

## Part 4.3, Permittees: Reporting

- A. GENERAL.** Permittee shall maintain records and reports as noted herein and promptly respond to periodic requests for such records and reports which are directly pertinent to the permit requirements and conditions or required by City Code chapter 17.102. The permittee shall complete and deliver reports to BPS using the applicable form provided or approved by BPS by the specified due date. When this due date falls on a Saturday, Sunday or legal holiday, the report is due on the next business day. Failure to deliver a complete, signed and accurate report or requested information by the deadline shall constitute an infraction. **(C/I)\***
- B. DELIVERY OF REPORTS.** For purposes of reporting deadlines, the delivery address for BPS is 721 NW 9<sup>th</sup> Avenue, #350, Portland, Oregon, 97209-3447 between 8 a.m. and 5 p.m. on business days excluding legal holidays. BPS fax number for reports is (503) 823-4562. BPS may provide a new mailing address or fax number with advance notice to the permittee. Reports may be submitted in hard copy, readable fax form, or, if in a format provided or pre-approved by BPS, electronically. Reports faxed to any other phone number are not considered submitted.
- C. RECYCLING AND COMPOSTABLES DATA REPORTING.** Permittees shall report to BPS for each month, and shall include all information indicated on report forms BPS provides.
1. Report Due Date:
    - a. Permittees shall collect the information on a monthly basis and submit reports for each month following each calendar quarter. This data shall be received by BPS no later than the 30th day following the end of the reporting period.
  2. Report Content:
    - a. Permittees shall report the total number of commercial customers, separated into multifamily and businesses. The report shall include the number of service locations per customer. A service location is a distinct property such as an apartment complex or one location of a chain of businesses. Multifamily service locations with food scrap collection service (not limited to yard debris) shall also be identified.
    - b. Permittees shall report each month's tonnage and market information for each of the recyclable or compostable materials collected from multifamily and other commercial customers and tonnage for each of these materials sold or delivered for recycling or composting, including optional recyclables. Permittees shall include tonnage collected by third-party providers collecting material on behalf of the permittee.
  3. Other Reports As Requested:
    - a. On a requested basis, permittees shall report the following customer information for commercial food scraps collection accounts: account number, business name and service address(es). To the extent authorized under Oregon law, The City shall treat this information as confidential proprietary information and it will not be subject to public disclosure. Permittee shall submit this information to BPS no later than the 30th day following the request.

**D. QUARTERLY WASTE TONNAGE REPORTING.**

1. By the 30th day after the end of each calendar quarter, the permittee shall complete and deliver to BPS a quarterly tonnage fee report form.
2. The permittee shall provide the following data concerning all tonnage of solid waste disposed at each Metro-approved facility during the quarter: The total of such tonnage disposed at each facility, the total of such tonnage collected within and outside the City, and the total of such tonnage collected from residential sources within the City. All tonnage collected shall be reported, no matter whether the permittee is directly paying fees to Metro, or the fees are being charged to a third party's Metro account. Permittees shall include tonnage collected by third-party providers collecting material on behalf of the permittee.
3. When reporting waste tonnage, permittee shall consolidate all its Portland waste on a single quarterly report, including all waste collected by related companies which deliver waste under other Metro account numbers, unless those companies hold separate Portland commercial permits and submit their own Portland waste tonnage reports. Where a report consolidates waste tonnage delivered under more than one Metro account number, permittee's report shall include an itemization of the waste identified by the account numbers used at Metro. A permittee's failure to so report, itemize and identify such waste is an infraction subject to an assessment. **(D/I for each related company omitted)\***

**E. BIODIESEL USAGE REPORT**

1. Quarterly starting April 2009 and onward, by the 30<sup>th</sup> day of the month following the end of the reporting period, the permittee shall complete and deliver to BPS a Quarterly Biodiesel Usage Report.
2. Report Content: For the Quarterly Biodiesel Usage Report, the permittee shall report that the required biodiesel blend was used for solid waste, recycling, and compostables collection vehicles. Biodiesel purchase documentation shall be kept on file for verification by BPS upon request.

**F. INVENTORY / ORDER REPORTS FOR CONTAINERS AND STICKERS**

1. When requested by BPS, the permittee shall complete and deliver to BPS a Recycling and Compostable Container Inventory / Order Report and Sticker Inventory / Order Report. The permittee shall return the completed form to BPS within 10 business days following the request.
2. Report Content:
  - a. Existing inventory of containers and stickers purchased by the City.
  - b. Request for additional containers and stickers (ordered annually).
  - c. Number of commercial and multifamily customers.

**G. RECYCLING AND COMPOSTABLE CONTAINER ACKNOWLEDGEMENT REPORT**

1. When requested by BPS, the permittee shall complete and deliver to BPS a Recycling and Compostable Container Acknowledgement Report. The permittee shall return the completed form to BPS within 10 business days following the request.
2. Report Content:

- a. Date permittee received containers.
- b. Confirmation of quantity received.
- c. Condition of containers and hardware.
- d. Signature of affirmation to abide with Commercial Administrative Rules

#### **H. RESPONSE TIME FOR PROVIDING REQUESTED INFORMATION**

1. Where BPS finds information to be lacking or incorrect in a report, BPS may request corrected information from the permittee by fax, email or phone but shall allow the permittee at least three business days to provide the requested information. The permittee shall acknowledge the request within one business day and provide the requested information by the specified deadline. **(B/I)\***

#### **I. DELINQUENT REPORTS AND ENFORCEMENT**

1. Should a commercial permittee fail to submit a report required by these rules or the provisions of City Code Chapter 17.102, or corrected information as requested by BPS, by the due date then BPS will send a Delinquent Notice within five business days following the due date. The Delinquent Notice will require the permittee to send in the report, or corrected information as requested by BPS, within five business days of the date of the delinquent notice. The Notice will also require payment of a **\$50.00 service charge**, due and payable when the report is submitted.
2. Should a commercial permittee, after being sent the "Delinquent Notice", fail to return a required report, or corrected information as requested by BPS, within five business days of the date of the delinquent notice, then BPS shall send the permittee an Alleged Infraction Letter. The Delinquent Notice shall replace the "Initial Notice" required by Part 4.6A.C. Notice of Alleged Infraction.
3. Where BPS finds that a permittee has failed to provide information in an accurate and timely fashion, BPS may require that permittee to submit reports more frequently or in more detail than the usual monthly reports.
4. Failure to deliver a complete and accurate report by the deadline identified above shall constitute an infraction **(B/I)\***.

#### **J. RETENTION AND ADDITIONAL INFORMATION.**

1. All data and program information necessary for the above data reporting requirements shall be retained by the permittee for a period of two years, including market receipts for the sale or delivery of all collected recyclable or compostable materials. BPS has the right to require access to any relevant nonfinancial information from the permittee as may be needed for the program. Information requested by BPS shall be provided or made available to BPS within ten working days of a written request, or, if BPS makes an inspection as provided in these commercial administrative rules governing Access for Inspections and Delivery of Notices, the information shall be made available during the inspection. **(B/D)\***
2. Upon the occasion of BPS inspection of the permittee's premises, the permittee shall provide BPS with access to inspect other relevant information of the permittee as may be required for the program, including financial records necessary to verify sale or delivery of collected recyclables or compostables, and financial records pertaining to the origin of solid waste collected by the permittee. **(B/D)\***

## Part 4.4, Independent Commercial Recyclers

### A. REGISTRATION

In order to collect recyclables or compostables from Portland businesses or multifamily complexes, any independent commercial recycler shall register with the City of Portland, Bureau of planning and sustainability (BPS). This registration shall be accomplished by the recycler submitting to BPS a copy of the front page of its Portland Business License application or a copy of its Application for Portland Business License Exemption, and by completing a registration form provided by BPS. No BPS registration fee is required. Collection of recyclables or compostables within the City without so registering, or when registration has been suspended (see K.5. Safety Fitness rating, below), is considered an infraction subject to an assessment. **(A/D)\*** The purpose of this registration is to enable BPS to track the quantities of material being collected for recycling and composting, and to ensure that independent recyclers' vehicles are maintained according to federal and state transportation safety standards.

### B. DISPOSAL PROHIBITION

Disposal Prohibition. The independent commercial recycler is responsible for transporting and delivery of collected source-separated materials for recycling or composting. The independent commercial recycler shall ensure that all such collected materials are delivered to a processor or broker of recyclable materials or to an end use market. The independent commercial recycler shall ensure that all collected yard debris and compostable materials are delivered for beneficial use, including:

1. Composting by a facility that has a current Metro compost license, an Oregon Department of Environmental Quality compost permit or registration, or is licensed as a composter by the State of Washington, or
2. A reload facility licensed by Metro, or
3. For animal feed or land application by facilities regulated by the Oregon Department of Agriculture or the Washington State Department of Agriculture, or
4. Use as hog fuel in the case of woody waste. The independent commercial recycler is prohibited from delivering, or causing to be delivered, any collected source-separated recyclable or compostable materials for disposal, except with prior approval by BPS. Placement of properly prepared recyclables or compostables which have been separated and set out for recycling or collection for composting, into any solid waste container for any length of time, or delivery of any such materials for disposal shall constitute a failure to comply with this rule. **(A/I)\***

### C. REPORTING OF RECYCLING DATA

1. Independent commercial recyclers that collect at least 25 tons per year shall report to BPS for each calendar quarter the cumulative quantities of each recyclable and compostable material collected from the premises of all businesses and multifamily complexes within Portland.

2. Quantities reported shall not include materials excluded under State law, ORS 459A.010(4)(f), which describes materials that are routinely recycled without entering the solid waste stream, such as certain manufacturing and industrial wastes.
3. This data shall be provided on forms supplied by BPS and received by BPS no later than the 30th day following the end of the reporting period. When the 30th day falls on a Saturday, Sunday or legal holiday, the report is due on the next business day.
4. Delivery of reports. For purposes of reporting deadlines, the delivery address for BPS is 721 NW 9<sup>th</sup> Avenue, #350, Portland, Oregon, 97209-3447, between 8 a.m. and 5 p.m. on business days, excluding legal holidays. BPS fax number for reports is (503) 823-4562. BPS may provide a new mailing address or fax number with advance notice to the independent commercial recycler. Reports may be submitted in hard copy or readable fax form, or electronically in a format provided or pre-approved by BPS. Reports faxed to any other phone number are not considered submitted.

Where BPS finds information to be lacking or incorrect in a recycling report, and uses phone, or if a fax number or email address has been provided to BPS by the independent commercial recycler, by fax or email, to request the independent commercial recycler to provide corrected information, the independent commercial recycler shall provide the requested information by the deadline given in the request, the deadline being no less than three business days after the BPS request for corrected information. In addition, the independent commercial recycler shall acknowledge the request within one business day.  
**(B/I)\***

#### **D. DELINQUENT REPORTS AND ENFORCEMENT**

1. Should an independent commercial recycler fail to submit a report required by these rules of the provisions of City Code Chapter 17.102, or corrected information as requested by BPS, by the due date then BPS will send a Delinquent Notice within five business days following the due date. The Delinquent Notice will require the independent commercial recycler to send in the report, or corrected information as requested by BPS, within five business days of the date of the delinquent notice. The Notice will also require payment of a **\$50.00 service charge**, due and payable when the report is submitted.
2. Should an independent commercial recycler, after being sent the "Delinquent Notice", fail to return a required report, or corrected information as requested by BPS, within five business days of the date of the delinquent notice, then BPS shall send the recycler an Alleged Infraction Letter. The Delinquent Notice shall replace the "Initial Notice" required by Part 4.5B. Notice of Alleged Infraction.
3. Where BPS finds that an independent commercial recycler has failed to provide information in an accurate and timely fashion, BPS may require that recycler to submit reports more frequently or in more detail than the usual monthly reports.
4. Failure to deliver a complete, signed, accurate report, or corrected information as requested by BPS, by the deadline identified above, shall constitute an Infraction. **(B/I)\***

**E. RETENTION AND ACCESS TO RECORDS**

1. All records necessary for providing these data shall be retained by the recycler for a period of two years. BPS has the right to require access to any relevant nonfinancial recycling information as may be needed for the program. Information requested by BPS shall be made available to BPS within ten working days of a written request, or, if BPS makes an inspection as provided below, the information shall be made available during the inspection. **(B/D)\***
2. The independent commercial recycler shall make records related to their recycling collection services in Portland available during normal business hours for inspection by BPS personnel within 24 hours of BPS notice by telephone. The 24 hour period excludes Saturdays, Sundays and legal holidays. **(C/D)\***

**F. IDENTIFICATION**

All recycling or compostables collection vehicles provided by the independent commercial recycler shall be marked with the recycler's current name and telephone number. Where an independent commercial recycler has acquired used vehicles, or changed its business name, that recycler must update the vehicle identification within 45 days. In this case, that recycler shall ensure that the phone number on the vehicle will refer callers to the company currently using the vehicle. BPS may exempt specific vehicles in cases where a customer seeks confidentiality for documents to be rendered unreadable (e.g., by shredding) before they are recycled. **(C/M, per vehicle)\***

**G. CONTAINERS**

1. For customers or generators who source separate glass for recycling, the independent recycler shall provide a collection system which provides for glass to be separate from paper. **(B/I)\***
2. When providing containers for recyclables or compostables, including compactors, the independent commercial recycler shall ensure that the container is clearly labeled, including the independent recycler's name and phone number, an indication of the material to be placed in the container and the word "recycling" or "recyclable" or "food waste" or the "chasing arrows" recycling symbol. This information must be displayed prominently and conspicuously on at least the portion of the container that is visible when the container is being used to store materials **(D/M)\***
3. Where there are containers provided by someone other than the independent commercial recycler, the independent commercial recycler is responsible for any damage caused by the independent commercial recycler to those reusable containers and protective covers in the course of collection, except from weather or normal wear and tear. **(D/I)\***
4. Independent commercial recyclers shall mark every recycling or compostables container of 10 cubic yards and greater capacity (generally "dropboxes") using an identification system that gives each container a unique number or number/letter combination to enable tracking the location of, and enforcement of City street use regulations for, containers that are found placed in the public right-of-way. **(D/M, per container)\***
5. Graffiti: The independent recycler shall maintain containers and carts so as to be free of graffiti. Independent recyclers shall remove all graffiti from containers and carts before



delivery to customers. Within ten days of receipt of notice from BPS or from the City Office of Neighborhood Involvement (ONI) of a container with graffiti, the independent commercial recycler shall remove the graffiti or give the city graffiti manager written permission to do the graffiti removal. Independent commercial recyclers are able to charge the generating business for the cost of replacing or cleaning the container or cart. **(D/M, per container)\***

**H. UNAUTHORIZED COLLECTION OF RECYCLABLE MATERIALS**

1. All recyclable or compostable materials placed in a recyclables or compostables container provided by any collector, whether a registered independent commercial recycler or a permittee, are considered owned by and be the responsibility of that collector. Without permission of that collector no person shall collect recyclable or compostable materials placed by the customer in such a container. **(A/I)\***
2. All recyclable or compostable materials placed in a recycling or compostables container provided by a business or multifamily complex are considered owned by and be the responsibility of that provider. Without permission of that provider no person shall collect recyclable materials placed in such a recycling or compostables container. **(A/I)\***

- I. HOURS OF COLLECTION.** At a multifamily account, an independent commercial recycler shall not collect recyclables or compostables between 10 p.m. and 6 a.m., unless the customer has requested in writing that collection be made during that time. This restriction does not apply where multifamily is part of a mixed-use building, where other commercial accounts are being served. **(D/D)\***

- J. COMPLIANCE WITH ZONING ORDINANCES.** All parking, storage and maintenance facilities shall comply with all applicable zoning ordinances and any other applicable local and state statutes, ordinances and regulations. Areas for parking, repair, storage or cleaning of vehicles or equipment shall not be located in areas zoned as residential under local zoning ordinances, unless approved in writing by the Bureau of Development Services.

**K. OTHER**

1. Collection of Compostables. If compostable materials are improperly prepared or stored in such a manner as to create pest or odor problems that pose a potential public health and safety concern, the City may require the customer or generator to remedy the problem so that collection of the compostable materials may continue. The independent commercial recycler shall work with the City and the customer or generator to remedy the pest or odor problem caused by the improperly prepared or stored compostable materials.
2. Prevention of Leaking and Blowing. All recycling or compostables collection equipment shall be covered or otherwise secure to prevent material from blowing, leaking or falling out while stationary or in transit. All collection equipment must also be constructed, loaded, operated and maintained in such a manner to reduce to the greatest extent practicable dripping or leaking of the vehicle's fuel, hydraulic fluid or lubricants from the vehicle onto private property and public streets while stationary or in transit, excepting (a) normal leakage of fuel, hydraulic fluid or lubricants typically associated with a properly maintained vehicle; and (b) leakage of fuel, hydraulic fluid or lubricants due to equipment failure provided that the failure is immediately corrected and the leakage is cleaned up as soon as practicable. **(D/D, per vehicle)\***

\* For an explanation of infractions and assessment amounts, see 4.5.C

3. Compliance with Driving and transportation laws and compliance with Metro and DEQ requirements. The independent commercial recycler shall comply with all applicable federal, state and local laws and regulations relating to driving, transportation, and waste, compostable and recyclable materials collection and disposal.
4. Safety and Maintenance. All collection equipment must be maintained and operated in compliance with all local and state statutes, ordinances and regulations including compliance with regulations related to the safety of the collection crew and the public.
5. Safety Fitness Rating: An independent commercial recycler shall notify BPS when it has been prohibited from operating its collection vehicles due to an unsatisfactory safety fitness rating from either the U.S. Department of Transportation or the Oregon Department of Transportation. BPS will suspend that Independent Recycler's registration until the Recycler has been reinstated with a satisfactory or conditional rating. In addition, BPS will not register any company that has been prohibited from operating its collection vehicles due to an unsatisfactory rating at the time of application for registration. **(B/I)\*** This provision also applies if:
  - a. The independent commercial recycler;
  - b. Any person who will be directly engaged in the management or operation of the independent commercial recycler; or,
  - c. Any person who owns a five percent or greater interest in the independent commercial recycler, has previously owned or operated as an independent commercial recycler that has received such an unsatisfactory safety fitness rating that was not reinstated within a reasonable period of time with a satisfactory or conditional rating.
6. Appeal Provision. For appeal of Denial, Suspension or Revocation provided above in K.5., see Section G, Appeal of Denial, Suspension or Revocation of Registration as an Independent Commercial Recycler, of Part 4.5B, Commercial Compliance and Enforcement: Independent Commercial Recyclers.
7. Maintaining Passage on Public Streets. The independent commercial recycler shall exercise reasonable efforts to minimize stopping of collection vehicles in a manner that blocks the passage of other vehicles or pedestrians on public streets or sidewalks while collecting recyclable or compostable materials, or placing of drop-boxes. **(D/I** for vehicles; and **D/D** for drop boxes)\*
8. Response Time to BPS Staff Messages. Unless prevented by Force Majeure, or otherwise stated in BPS's message, registered independent commercial recyclers must respond to calls, faxes or email received from BPS within 72 hours of receipt of the incoming message, or, if the day after the incoming BPS message is not a business day, then by noon of the following business day. **(D/I)\***
9. Notify City of Company Ownership or Name Change: The registered independent commercial recycler shall notify BPS of changes in the company name or ownership information from the application submitted for the registered independent commercial recycler's current city independent commercial recycler registration, no less than 10 business days before the change becomes effective. A registered independent commercial recycler's

\* For an explanation of infractions and assessment amounts, see 4.5.C

failure to notify BPS on a timely basis shall constitute an infraction subject to an assessment.  
**(D/M)\***

## **Part 4.5, A Commercial Compliance and Enforcement: Permittees**

### **A. INITIATION OF ENFORCEMENT ACTION**

BPS may initiate an enforcement action based on its own observations or on a complaint. Complaints regarding compliance with these rules may be accepted from any source in writing, through personal visit or telephone call. BPS will maintain the confidentiality of complainants to the greatest extent possible. Anonymous complaints will result in an Infraction only if BPS investigation reveals other evidence that is sufficient to serve as an independent basis by BPS for its decision that an infraction has occurred.

### **B. DELIVERY OF NOTICES.**

Any notice provided for under these rules is considered sufficient if in writing and accomplished by any of the following means: (1) delivered personally to the permittee office address on record at BPS; (2) deposited in the United States Mail, first class, postage prepaid, addressed to the permittee's mailing address on file with BPS; (3) sent by commercial courier to the permittee's office address on file with BPS; (4) sent by fax transmission addressed to the permittee's fax number on file with BPS, or (5) sent by email to the permittee's email address on file with BPS. Any such notice, communication or delivery is deemed effective and delivered upon the earliest to occur of either (1) actual personal delivery to the permittee's office address, during normal business hours; (2) three (3) business days after depositing in the United States Mail as aforesaid; (3) one (1) business day after shipment by commercial courier as aforesaid; or (4) the same day as fax transmission (or the first business day thereafter if faxed on a Saturday, Sunday or legal holiday.) or (5) the same day as email transmission (or the first business day thereafter if emailed on a Saturday, Sunday or legal holiday).

### **C. NOTICE OF ALLEGED INFRACTION**

#### **1. Initial Notice**

- a. Within 48 hours, exclusive of Saturdays, Sundays and legal holidays, of a BPS audit or inspection revealing a potential infraction, BPS will notify the permittee of the potential Infraction. Only where a potential infraction is based on a complaint, rather than on direct BPS staff observation, will BPS notify the permittee of the potential Infraction within 48 hours after receipt of a complaint.
- b. The notification will describe the nature of the complaint and, if a representative of the permittee is available, BPS will relate further pertinent available details regarding the alleged infraction. Messages left on telephone recorders or answering services or sent by fax or email will be considered as successful contacts for this purpose.
- c. Initial Notice for alleged infractions of reporting deadlines will be treated as described under Part 4.3, I. Delinquent Reports and Enforcement.

#### **2. Delivery of Notifications.** Excepting alleged infractions of reporting deadlines, within seven business days of the initial notice, BPS will send a "Notice of Alleged Infraction" to the

Permittee. The Notice will set out clearly all available details that support the alleged infraction.

3. Opportunity to Respond. The permittee, unless otherwise arranged for reasonable cause, will be given ten business days from the date of the Notice of Alleged Infraction to provide BPS with a written explanation of the pertinent events and circumstances relative to the alleged infraction. This information will be used by the BPS to determine if an infraction has occurred.

**D. BPS INVESTIGATION OF ALLEGED INFRACTIONS**

BPS shall investigate each alleged infraction and may contact any known complainant, witness and the permittee before making its determination.

**E. FINDING OF NO INFRACTION**

Within 30 calendar days of a BPS determination that no Infraction has actually occurred, BPS shall notify the permittee of such determination.

**F. NOTICE OF ASSESSMENT**

1. Form and Delivery of Notice. If, upon investigation, it is determined that an infraction has occurred, the BPS Director or Director's designee shall deliver a written Notice of Assessment to the offender, specifying the infraction, the findings that support the infraction and stating the amount of the Infraction Assessment and deadline for payment. This notice shall also include information on the procedure for requesting a hearing to appeal the determination. Where BPS can demonstrate an attempt to properly deliver the Notice, a refusal by the offender or offender's representative to receive the Notice in person, or failure of offender to accept certified mail, shall not constitute a failure by BPS to fulfill the requirement for the delivery of notice.
2. Deadline for Notice of Assessment. The Notice of Assessment must be issued by BPS within 30 calendar days of BPS notification of the offender of the occurrence of the alleged Infraction. Infractions associated with records or file keeping which are discovered more than 30 days after their occurrence are exempt from this time limit; notice will, however, occur within 30 days of the discovery by BPS.
3. Accumulation of Infractions. A Notice of Assessment may be issued for each rule and for each day or instance when the Infraction occurs. More than one Infraction, involving different rules, may be accrued simultaneously.

**G. APPEAL OF DENIAL, SUSPENSION OR REVOCATION OF COMMERCIAL PERMIT**

Any person receiving a notice of denial, suspension or revocation of a commercial permit shall, within 14 business days of issuance of a written notice of the denial, suspension or revocation, cease all collection of solid waste and/or recyclables and/or compostables from customers located in the City of Portland, or request an appeal hearing a Code Hearings Officer in accordance with procedures set forth in Title 22 of the City Code. The filing of an appeal of denial, suspension or revocation shall stay the effective date of the denial, suspension or revocation until the appeal is determined by the Code Hearings Officer.

If, pursuant to said appeal hearing, the denial, suspension or revocation is sustained by the Code Hearings Officer, the permittee shall cease all collection of solid waste and/or recyclables and/or compostables in Portland no later than 15 calendar days after the order becomes final unless the Code Hearings Officer decision is appealed to circuit court by writ of review. If a denial, suspension or revocation decision is appealed to the state courts and is upheld, permittee shall cease all collection of solid waste and/or recyclables and/or compostables in Portland no later than 15 calendar days after final resolution of the judicial proceedings.

## **Part 4.5, B Commercial Compliance and Enforcement: Independent Commercial Recyclers**

### **A. INITIATION OF ENFORCEMENT ACTION**

BPS may initiate an enforcement action based on its own observations or on a complaint. Complaints regarding compliance with these rules may be accepted from any source in writing, through personal visit or telephone call. Anonymous complaints alone will not result in an Infraction though BPS may choose not to identify a complainant if its investigation reveals other evidence that is sufficient to serve as an independent basis by BPS for its decision that an Infraction has occurred.

### **B. DELIVERY OF NOTICES.**

Any notice provided for under these rules is considered sufficient if in writing and accomplished by any of the following means: (1) delivered personally to the independent commercial recycler's advertised business address; (2) deposited in the United States Mail, first class, postage prepaid, addressed to the independent commercial recycler's mailing address on record with BPS; (3) sent by commercial courier to the independent commercial recycler's advertised business address; (4) if to an independent commercial recycler who has provided a fax number to BPS, sent by fax transmission to that number, or (5), if to an independent commercial recycler who has provided an email address to BPS, sent by email to that address. Any such notice, communication or delivery is deemed effective and delivered upon the earliest to occur of either (1) actual personal delivery to independent commercial recycler's advertised business location during normal business hours; (2) three (3) business days after depositing in the United States Mail as aforesaid; (3) one (1) business day after shipment by commercial courier as aforesaid; or (4) the same day as fax transmission (or the first business day thereafter if faxed on a Saturday, Sunday or legal holiday) or (5) the same day as email transmission (or the first business day thereafter if emailed on a Saturday, Sunday or legal holiday).

### **C. NOTICE OF ALLEGED INFRACTION**

#### **1. Initial Notice**

- a. Within 48 hours, exclusive of Saturdays, Sundays and legal holidays, of finding a potential Infraction, BPS will notify the independent commercial recycler of the potential Infraction. Only where a potential Infraction is based on a complaint, rather than on direct BPS staff observation, will BPS notify the independent commercial recycler of the potential Infraction within 48 hours after receipt of a complaint.
- b. The notification will describe the nature of the offense and, if a representative of the independent commercial recycler is available, BPS will relate further pertinent available details regarding the alleged Infraction. Messages left on telephone recorders or answering services, sent by fax or email will be considered as successful contacts for this purpose.
- c. Initial Notice for alleged infractions of reporting deadlines will be treated as described under Part 4.4, D. Delinquent Reports and Enforcement.

2. Mailed Notice. Excepting alleged Infractions of reporting deadlines, within seven business days of the initial notice, BPS will mail, or send by fax, a "Notice of Alleged Infraction" to the independent commercial recycler. The Notice will set out clearly all available details that support the alleged infraction.
3. Opportunity to Respond. The independent commercial recycler, unless otherwise arranged for reasonable cause, will be given ten business days from the date of the mailed Notice to provide BPS with a written explanation of the pertinent events and circumstances relative to the alleged Infraction. This information will be used by the BPS to determine if an Infraction has occurred.

**D. BPS INVESTIGATION OF ALLEGED INFRACTIONS**

OSD shall investigate each potential infraction and may contact any known complainant, witness and the independent commercial recycler before making its determination.

**E. FINDING OF NO INFRACTION**

Within 30 calendar days of a BPS determination that compliance has been achieved, BPS shall notify the independent commercial recycler of such determination.

**F. NOTICE OF ASSESSMENT**

1. Form and Delivery of Notice. If it is determined that an Infraction has occurred, the BPS Director shall deliver a written Notice of Assessment to the offender, specifying the Infraction, the findings that support the Infraction and stating the amount of the Infraction Assessment and deadline for payment. This notice shall also include information on the procedure for requesting a hearing to appeal the determination. Where BPS can demonstrate an attempt to properly deliver the Notice, a refusal by the offender or offender's representative to receive the Notice in person, or failure of offender to accept certified mail, shall not constitute a failure by BPS to fulfill the requirement for the delivery of notice.
2. Deadline for Notice of Assessment. The Notice of Assessment must be issued by BPS within 30 calendar days of BPS notification of the offender of the occurrence of the alleged Infraction. Infractions associated with records or file keeping which are discovered more than 30 days after their occurrence are exempt from this time limit; notice will, however, occur within 30 days of the discovery by BPS.
3. Accumulation of Infractions. A Notice of Assessment may be issued for each rule and for each instance when the Infraction occurs. More than one Infraction, involving different rules, may be accrued simultaneously.

**G. APPEAL OF DENIAL, SUSPENSION OR REVOCATION OF REGISTRATION AS AN INDEPENDENT COMMERCIAL RECYCLER**

Any person receiving a notice of denial, suspension or revocation of registration as an independent commercial recycler shall, within 15 calendar days of issuance of a written notice of the denial, suspension or revocation, cease all collection of recyclables and/or compostables within the City of Portland or request an appeal hearing a Code Hearings Officer in accordance with procedures set forth in Title 22 of the City Code. The filing of an



appeal of denial, suspension or revocation shall stay the effective date of the denial, suspension or revocation until the appeal is determined by the Code Hearings Officer.

If, pursuant to said appeal hearing, the denial, suspension or revocation is sustained by the Code Hearings Officer, the independent commercial recycler shall cease all collection of recyclables and/or compostables within Portland no later than 15 calendar days after the order becomes final unless the Code Hearings Officer decision is appealed to circuit court by writ of review. If a denial, suspension or revocation decision is appealed to the state courts and is upheld, the independent commercial recycler shall cease all collection of recyclables and/or compostables in Portland no later than 15 calendar days after final resolution of the judicial proceedings.

## **Part 4.5, C Commercial Compliance and Enforcement: Common Aspects**

### **A. VIOLATIONS OF CITY CODE**

For the purposes of compliance and enforcement, violations of City Code shall be addressed in the same manner as violations of these rules. Assessments for violations of City Code shall be made in accordance with City Code Chapter 17.102.090.

### **B. STANDARD FOR MAKING DETERMINATION OF INFRACTION**

In determining whether an infraction has occurred, the Director shall evaluate the totality of the circumstances related to the infraction.

### **C. PAYMENT OF INFRACTION ASSESSMENTS**

1. Initial Deadline for Payment or Appeal. The alleged offender shall, within 14 business days of BPS issuance of the written notice of Assessment, pay to BPS the stated civil penalty or request an appeal hearing by a Code Hearings Officer.
2. Deadline for Payment after Appeal. If, pursuant to said appeal hearing, an Infraction assessment is ordered, payment of said Assessment must be received by BPS or postmarked within 15 calendar days after the order becomes final.
3. Interest on Assessment. An Assessment which is not paid within the time provided shall accrue interest at the rate set by the Council until paid. BPS may take legal action to collect assessments which are not paid when due.

### **D. INFRACTION CATEGORIES AND ASSESSMENTS**

1. Infraction Classifications. Each violation of a rule for which an infraction is assigned is given a dollar amount which reflects BPS's evaluation of both the seriousness of the matter and the frequency with which the violation is committed. The lowest amount, \$200, is assigned to the first occurrence of the least serious infraction while the highest amount, \$1500, is assigned to the most serious infraction on the third or subsequent occurrence. Each infraction notation consists of two letters, such as (A/I) which reflect the seriousness of the infraction.
  - a. First Letter. The first letter represents the level of assessment as show on the chart below. These range from category A-D, with category A representing the most serious and category D representing the least serious infractions.
  - b. Second Letter. The second letter reflects the classification of the standard that is whether an infraction will be on a "Per Incident," "Per Day" or "Per Month" basis (see Definitions). The following abbreviations apply:
    - "I" means on a per incident basis;
    - "D" means on a per day basis;
    - "M" means on a per month basis, and

For example, an (A/I) designation means that a \$500 assessment (as shown under category A on the chart below) would be applied for the first single “incident” within a 365-day period but would increase to \$1500 for the third or subsequent incident within that same period.

2. **Infraction Assessment Schedule.** An infraction according to these rules shall result in an Infraction Assessment in accordance with the following schedule:

Category	First Infraction	Second Infraction	Third and Subsequent Infractions
<b>A</b>	\$500	\$1000	\$1500
<b>B</b>	\$400	\$800	\$1200
<b>C</b>	\$300	\$600	\$900
<b>D</b>	\$200	\$400	\$600

The assessment amounts shown throughout these rules are for the first infraction of a given rule within a 365-day period. If more than one infraction of the same rule occurs within a 365-day period, the corresponding infraction amount will increase for the second, third or subsequent infractions, as shown above. The total assessment will be the sum of infraction amounts. For example, three separate infractions of the same rule with an assessment category of “B” above will result in a total assessment of \$400 + \$800 + \$1200 = \$2400.

The Director has the discretion to adjust the assessment amount when considering the following criteria:

- a. The nature and extent of the person's involvement in the violation;
- b. Whether the person was seeking any benefits, economic or otherwise, through the violation;
- c. Whether the violation was isolated and temporary, or repeated and continuous;
- d. The length of time from any prior violations;
- e. The magnitude and seriousness of the violation;
- f. The costs of investigation and remedying the violation;
- g. Whether any criminal prosecutions have occurred in regard to the violations; and
- h. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.

## Part 4.5, D Containers in the Right of Way

### A. **PROHIBITION ON CONTAINERS IN THE RIGHT OF WAY**

No permittee or independent commercial recycler shall cause any newly placed container for solid waste, compostable or recyclable materials to be stored in the public right of way in violation of Portland City Code 17.102.290. Examples of cause may include, but are not limited to, an agreement to store a container in the right of way or providing a container that is larger than any of the entry points to the storage area within the customer's or generator's place of business. The permittee or independent commercial recycler shall remove any existing container in the public right of way that is the subject of a notice of noncompliance if there is a finding of noncompliance after the conclusion of the compliance period. **(D/M, per container)\***

### B. **AUTHORITY TO ENFORCE**

The Bureau of Development Services shall serve as the enforcement agent for complaints received of containers in the public right of way.

### C. **COMPLAINTS**

Complaints. All complaints of containers in the public right of way shall be directed to the Bureau of Development Services for intake and processing. BDS may follow its established practices and procedures for processing complaints including receiving the complaint and completing an investigation.

### D. **FOLLOW-UP AFTER INVESTIGATION**

1. Determining Who is the Offender. In its investigation, BDS shall make a determination regarding responsibility for noncompliance among the business, the property owner, the permittee and/or the independent commercial recycler. Responsibility for noncompliance and resulting assessments shall follow this determination.
2. Letter of Noncompliance. If, after its investigation, BDS has reason to believe that there is a condition of noncompliance, BDS may issue a letter of noncompliance to the business and property owner. BDS may also notify the permittee or independent commercial recycler that provides the container and collection service.
3. The letter of noncompliance may give the business or property owner a period of at least 30 days from the date of the letter to achieve compliance. During this period, the business or property owner may request assistance from BDS in identifying solutions that will enable the business or property owner to come into compliance.
4. Extensions for Compliance. BDS may grant an extension beyond 30 days to the business or property owner to achieve compliance if the business or property owner is making a good faith effort to come into compliance.
5. New service. If, in its investigation, BDS determines that a permittee or independent recycler has started service with a customer and is responsible for placing containers in the right of

way, BDS may refer the case to BPS for enforcement action against the responsible permittee or independent recycler prior to the completion of the compliance period.

**E. NOTICE OF ASSESSMENT**

1. Form and Delivery of Notice. If, after the compliance period, it is determined that noncompliance still exists and an infraction has occurred, the Director may deliver a written notice of assessment to the offender, specifying the infraction, the findings that support the infraction and stating the amount of the infraction assessment and deadline for payment. This notice shall also include information on the procedure for requesting a hearing to appeal the determination. Notice of infraction is considered effective as of the mailing date by certified mail.

**Attachment A to Commercial Administrative Rules  
Required features of small bins (less than 18 gallons capacity)**

Each bin shall meet the following requirements.

1. Each bin shall have a volume of no less than 1.8 cubic feet (13.5 US gallons) and no more than 2.1 cubic feet (16 US gallons).
2. The minimum interior bottom dimensions are 12" and 17".
3. The bin is to be rectangular shaped (not round).
4. The bin shall have a handle at least on each end.
5. The bins shall be manufactured from high density polyethylene and will contain a minimum of 25 percent by weight post-consumer recycled (PCR) content. Upon City request, bin owner must supply to City a letter from the vendor certifying that the PCR resin meets this 25% standard.
6. There shall be at least four ½ inch drain holes in the bottom surface of the bin, with uninterrupted drainage retention canals.
7. Where bins are provided by Permittees, on one of the short ends of the bin, the Permittee may place a sticker or hot-stamped printing giving the Permittee's name and phone number. Any such message shall be in at least 36 point type, with a high contrast between text and background colors. If a sticker, it shall not obscure any of the wording or logo required above.
8. Bins shall be a bright blue such as Pepsi Blue (BL55-PCM#: Reflex Blue C)

9. Bins shall be hot stamped with the following logo and wording, in the color and size specified.

*Hot stamped in bright yellow, 18 point Arial, except "Portland Recycles!", which is to be in 110 point, Times New Roman. The recycling logo is to be 3.25" to 3.75" high, width proportional:*

*On both long sides:*

**Portland  
Recycles!**



**The theft of recyclables is punishable by a fine of \$500 or more under Portland City Code. Report all theft to your hauler.**

**Please contact your waste hauler if you have any questions regarding your curbside collection service.**

*On one short end:*

**This recycling bin is the property of the [choose one: waste hauler or landlord] and is to remain at the address to which it was delivered.**

**This bin contains 25% post consumer recycled plastic.**

**This bin is designed for the express purpose of holding recyclable materials. The City of Portland, the waste hauler, recycler, landlord and bin manufacturer take no responsibility for injury or damage resulting from any use other than the container's intended purpose.**

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