

FRANCHISE AGREEMENT

Between

Recology Oregon Compost, Inc. and Washington County, Oregon

**As it Relates to the Operation of the
NATURE'S NEEDS COMPOST FACILITY**

This Franchise Agreement (the "Agreement") is entered into this _____ day of _____, 2015 (the "Effective Date") by and between Washington County, Oregon (the "County"), located at 155 North First Avenue, Hillsboro, Oregon 97124 and Recology Oregon Compost, Inc., owner and operator of Nature's Needs, (the "Franchisee"), located at 9570 NW 307th, North Plains, Oregon 97133 (the "Facility"). The County and the Franchisee shall be referred to collectively as the "Parties" and individually as a "Party."

Recitals

WHEREAS, the County is authorized to enter into this Agreement under the authority of ORS 459 of the laws of the State of Oregon and Chapter 8.08 of the Washington County Code, Solid Waste Disposal Sites (the "Ordinance"), and

WHEREAS, the Oregon Department of Environmental Quality (DEQ) issued Solid Waste Disposal Site: Compost Facility Permit Number 1445 to Franchisee on April 8, 2011, authorizing the Franchisee to establish, operate and maintain a solid waste disposal facility, specifically a compost facility, in conformance with the requirements, limitations and conditions set forth within said permit, and

WHEREAS, the Franchisee entered into a Franchise Agreement to operate a disposal site, specifically a compost facility, located at 9570 NW 307th Avenue, North Plains, Oregon 97133 effective March 25, 2013, and

WHEREAS, the Franchisee filed an application for renewal of the Agreement by County on November 13, 2014, and

WHEREAS, the Parties desire through this Agreement to set forth the terms, conditions, rights, restrictions and obligations under which the Franchisee may receive the types of solid waste at the Facility specified by this Agreement, consistent with the Ordinance and state and federal law, and

WHEREAS, the Parties desire through this Agreement to standardize the procedures to be followed by the County in its regulation of the Franchisee's operations, including the acceptance of residential Type 3 feedstock materials,

Now, therefore, the Parties agree as follows:

Agreement

Section 1: Award

- 1.1 Subject to the terms and conditions set forth in this Agreement, and to the provisions of DEQ Disposal Permit, Composting Facility No. 1445, attached as Exhibit C, the Ordinance and state and federal law, and to any other permit issued by a public agency having jurisdiction, the Franchisee is awarded a franchise to operate a solid waste disposal site, specifically a composting operation, at the Facility. For the purposes of this Agreement, "Facility" shall refer to the franchised compost operation taking place at 9570 NW 307th, North Plains, Oregon 97133, "Site Address." This Agreement does not apply to other operations (for example delivery services, rock and aggregate sales) co-located at the Site Address that are not related to the receipt of Authorized Waste. The granting of this franchise by the Board shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste at the Facility during the term of this Agreement.

Section 2: Term of Franchise; Extension of Term

- 2.1 The term of this Agreement shall begin as of the Effective Date of the Agreement and shall remain in effect for a period of FIVE (5) years following the effective date of the Agreement. The Agreement shall be renewable unless grounds exist for refusal to renew as provided in WCC Chapter 8.08, the rules promulgated thereunder and the franchise terms. The Franchisee may submit notice of its intent to renew at any time. No later than ONE HUNDRED TWENTY (120) days prior to expiration of the Agreement, however, the Franchisee shall submit its application for renewal. The Franchisee may, however, submit a new franchise application at any time.
 - 2.1.1 If the Franchisee notifies the County of its desire to renew, it shall submit with its notice a report detailing its compliance with WCC Chapter 8.08 and the conditions imposed herein. Renewal shall be reviewed by the Solid Waste Advisory Committee (SWAC) and approved by the Board prior to the expiration of the franchise. The Board shall within THIRTY (30) days issue an order deciding that the Franchisee either qualifies for renewal, qualifies provided that certain additional conditions are complied with, or does not qualify for renewal.
 - 2.1.2 Grounds for refusal to renew include, but are not limited to, failure to comply with the terms of this Agreement, the requirements of the Ordinance, state and federal law, and failure of the Franchisee to take all reasonable and appropriate steps to resolve odor complaints and to ultimately control odors adequately as determined by the Board.

Section 3: Authorized Waste

- 3.1 The Franchisee is authorized to accept at the Facility the following solid wastes:
 - 3.1.1 Type 1 compostable feedstock including wood waste, yard debris and pre-consumer vegetable waste;

- 3.1.2 Type 2 compostable feedstock including manure and bedding materials; and
- 3.1.3 Type 3 compostable feedstock, originating from residential sources only, including food waste such as meat, dairy products and other types of post-consumer food waste.
 - 3.1.3.1 Franchisee shall not accept any Type 3 feedstock under the authority of this Agreement that is more than SEVEN (7) calendar days old. In addition, the Franchisee shall have the right under the authority of this Agreement to reject any Type 3 feedstock loads that may contribute to the generation of malodorous odor conditions.
- 3.2 Authorization to accept residential Type 3 feedstock materials is subject to the terms and conditions outlined below and within Exhibit A of this Agreement. An exception shall be allowed for incidental amounts of commercial Type 3 feedstock that is self-hauled directly to the Facility. These amounts shall not exceed TEN (10) tons per week or ONE-HUNDRED (100) tons per year.
 - 3.2.1 Failure of Franchisee to have in place at all times all required government approvals necessary to take Type 3 feedstock automatically suspends or terminates the County's authorization to accept residential Type 3 feedstock.
 - 3.2.2 The County has the right to terminate the authorization to accept residential Type 3 feedstock independent of any other agency actions or the status of any other agency permits or approvals.
 - 3.2.3 In addition to any other rights and remedies under this Agreement, grounds for termination of authorization to accept residential Type 3 feedstock include odor levels that are found to be "unacceptable" by the Board of Commissioners, with an inadequate response by the Franchisee to remedy the cause of the odor. The Board of Commissioners may proceed to provide written notice of termination of this authorization TEN (10) working days prior to the effective date of said termination.
 - 3.2.4 Prior to termination of authorization to accept residential Type 3 feedstock, the County shall provide written notice to Franchisee describing the unacceptable odors, the dates when unacceptable odors have occurred and their approximate locations. Franchisee shall within TEN (10) days from receipt of notice provide a plan, approved by the County, to remedy the cause of the unacceptable odors. Should the County determine such plan to be unacceptable, the County may proceed to terminate authorization to accept Type 3 residential feedstock, or allow Franchisee to provide an alternative plan to remedy the unacceptable odors

Section 4: Tonnage Cap

- 4.1 A Tonnage Cap of EIGHTY THOUSAND (80,000) tons per year shall limit annual volumes of Authorized Waste at the Facility.
- 4.2 County may, at its sole discretion, increase the amount of the annual Tonnage Cap.

Section 5: Rate Preference Prohibition Exception

- 5.1 As provided in WCC Section 8.08.660, an exception to the rate preference prohibition may be granted within the Agreement. Franchisee is permitted to offer a disposal rate that is different than the published rate for Authorized Waste under any of the following circumstances:
- The disposal rate is established through a competitive bid or solicitation process; OR
 - Rates set are comparable to all customers receiving like and contemporaneous service under substantially similar circumstances; OR
 - The County approves a variance from the published disposal rate.

Section 6: Franchise Fees

- 6.1 The Franchisee shall pay to the County a franchise fee on all revenues, fees and charges, from whatever source derived, received in connection with the operation of this disposal site franchise in an amount established in the Ordinance. Such franchise fee shall not be in lieu of any other revenue or regulatory fees, taxes or charges imposed on the Franchisee by any other public agency.
- 6.2 The franchise fee shall be due to the County on a quarterly basis, payable by the Franchisee no later than the THIRTIETH (30th) day of the month following the end of the quarter. The Franchisee shall submit to the County a quarterly Gross Receipt Statement Report, in a form provided by the County. The County shall maintain as confidential as prescribed in Section 8 of this Agreement, such reports and information submitted by the Franchisee, or inspected by the County or its authorized agents.
- 6.3 Unless specifically agreed in writing by County, the County's acceptance of any payment made by the Franchisee shall not be construed as an accord by the County that the amount paid is, in fact, the correct amount, nor shall the County's acceptance of such payments be construed as a release of any claim the County may have against the Franchisee for further or additional sums payable, or for the performance of any other obligation of the Franchisee.
- 6.4 Franchisee shall keep records and other supporting information reasonably necessary to support its calculation of gross receipts and franchise fees owed and paid to the County, including records of its pricing and rate structure, as well as information related to discounts it provides and any credit or rebate system it uses, for Solid Waste accepted at the Facility. On or before June THIRTIETH (30th) of each year, Franchisee shall prepare and submit to the County a certified independent accountant's "Annual Report" for the prior calendar year period that summarizes the gross receipts for the prior year period and the calculation of franchisee fees based on the gross receipts. Annual Report shall also verify, to the satisfaction of the County, that any disposal rate that has not been established through a competitive bid or solicitation process has been uniformly charged to all customers receiving like or contemporaneous service under substantially similar circumstances. County shall keep all such information confidential as provided in Section 8 of this Agreement.

- 6.5 The County shall have the right to audit the Annual Report and Franchisee's records to verify the determination of gross receipts and the calculation of the franchise fee paid or payable under this Agreement. If, as a result of the audit, the County determines that the Franchisee failed to pay the correct amount of franchise fees, Franchisee shall within THIRTY (30) days, pay any amount underpaid and the County shall reimburse any amount overpaid. If the audit determines that the Franchisee underpaid the franchise fees by more than FIVE PERCENT (5%), the Franchisee shall pay the County for its reasonable costs incurred in conducting the audit.
- 6.5.1 The County will have NINTEY (90) calendar days to provide notice to Franchisee of its intent to audit or otherwise review and object to the Annual Report. If no notice of audit is given and no objection raised by the County concerning the information supplied in the Annual Report, then any issues concerning the Annual Report, rate and rate preferences for the subject year shall be deemed to have been conclusively resolved.

Section 7: Records, Financial Information and Reports

- 7.1 The Franchisee shall maintain and make available to the County the records and reports set forth in this section.
- 7.1.1 Records. The Franchisee shall maintain, as reasonably necessary, records regarding all Solid Waste transported, treated, disposed of, or otherwise processed at the Facility, and shall make such records available to the County for inspection upon not less than FIVE (5) business days written notice from the County. Franchisee shall also maintain records regarding the sale of any and all material processed at the Facility and make those records available to the County for inspection upon not less than FIVE (5) business days written notice from the County.
- 7.1.2 Reports. The Franchisee shall report to the County no later than the THIRTIETH (30th) day of the month following the end of each quarter, the number of tons of Solid Waste transported, disposed of, or otherwise processed at the Facility during each of the preceding THREE (3) months. Submitted reports shall include data for each month of the previous quarter, in a form provided by the County. Such reports shall provide the types and quantities of Solid Waste delivered to and the sale of all material processed at the Facility. Such reporting period shall commence upon the Effective Date hereof.
- 7.1.3 Permits. The Franchisee shall provide to the County copies of all permits relating to operation of the Facility. Copies of renewals or revisions of existing permits and newly issued permits shall be provided to the County within FIVE (5) business days of receipt by the Franchisee. The Franchisee shall provide to the County, within FIVE (5) business days, a copy of any notice of any official enforcement action regarding the Facility or its operations, including but not limited to, a notice of violation of, or non-compliance with statute, regulation, or permit condition.

Section 8: Confidentiality

- 8.1 The County recognizes and acknowledges the confidential and proprietary nature of the financial information and records of the Franchisee submitted to the County pursuant to this Agreement for the purpose of determining the Franchisee's payment of franchise fees. The County further recognizes and acknowledges that the Franchisee faces competition in its business operations, that the records and information that the Franchisee shall submit to the County pursuant to this Agreement are of a nature which reasonably should be kept confidential, and that disclosure of such records and information will diminish or adversely affect competition in the composting business and, as a result, harm the public interest.
- 8.2 When submitting to the County the confidential information required to be submitted by this Agreement or the Ordinance, the Franchisee shall mark such documents as confidential. The Franchisee shall clearly and conspicuously stamp the word "Confidential" on each page of such documents that contain confidential or proprietary information, and shall provide a brief written explanation as to why such information should be maintained as confidential. The County shall keep all such documents separate from its other records and materials.
- 8.3 Subject to the provisions of the Oregon Public Records Law, ORS Chapter 192, the County agrees to treat as confidential and, to the extent permitted by law, to refuse to disclose publicly, any books, records, documents, or the contents thereof, that constitute proprietary or confidential information, to the extent the Franchisee has made the County aware of such confidentiality as prescribed by Section 8.2 hereof. No County staff member, consultant to the County, SWAC member, or Board member, or their agents shall disclose such confidential information unless a court or other agency of competent jurisdiction orders that such disclosure be made. No SWAC member having any interest in or association with a competitor of the Franchisee, or any of its affiliates shall be allowed access to such confidential information. If the County believes it must disclose any such confidential information in the course of its performance of this Agreement, or for any other reason, it shall advise the Franchisee sufficiently in advance of making such disclosure to permit the Franchisee to take appropriate actions to protect its interests.
- 8.4 In the event that the County receives a demand from any person for disclosure of any information designated by the Franchisee as confidential, the County shall, to the extent permitted by law and within a reasonable time, advise the Franchisee that such demand has been made and provide the Franchisee with a copy of such demand. Until otherwise ordered by the District Attorney, or a court or agency of competent jurisdiction, the County agrees that, to the extent permitted by law, it shall deny access by any person to any of the Franchisee's confidential information, as set forth herein.

Section 9: Transfer of Ownership or Control of the Franchise

- 9.1 The Facility shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, by voluntary sale, merger, consolidation, nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any person or entity other than the Franchisee without the prior written consent of the County, which consent shall not be unreasonably withheld or delayed.
- 9.1.1 Approval by the County. The Franchisee and any prospective purchaser or transferee shall submit a written request to the County requesting the County's

approval of such sale or transfer, and shall furnish any information relating to such sale or transfer required by law and requested by the County. Such information shall be subject to the Confidentiality provisions of this Agreement, as set forth in Section 8 hereof. The County shall issue a final written decision in response to such request within SIXTY (60) days following County's receipt of all information required by the County. In the event that the County does not issue such decision within such SIXTY (60) day period, the Franchisee's request for approval of such sale or transfer shall be deemed to have been approved by the County.

9.1.2 In conducting its review of the Franchisee's request for the sale or transfer of the Facility, the County may inquire into the legal, technical and financial qualifications of the prospective transferee, and the Franchisee shall use its best efforts to assist the County's inquiry. The County may condition such sale or transfer upon such terms and conditions as it deems reasonably appropriate; provided, however, any such terms and conditions so attached shall be related exclusively to the legal, technical and financial qualifications of the prospective transferee and to the resolution of outstanding and unresolved issues, if any, of noncompliance with the terms and conditions of this Agreement by the Franchisee.

9.1.3 The consent or approval of the County to any sale or transfer of the Facility by the Franchisee shall not constitute a waiver or release of any rights of the County, and any such sale or transfer shall by its terms be expressly subject to the terms and conditions of this Agreement and be performed in accordance with applicable laws and regulations.

9.1.4 Within THIRTY (30) days following the closing of a transfer or sale of the Facility, if approved or deemed approved by County, the Franchisee shall file with the County a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer, certified and sworn to as correct by the Franchisee and the transferee.

9.2 Transfer of Control. The Franchisee shall promptly notify the County of any change in, or transfer, or acquisition of control of the Franchisee by any other party. As used herein, the word "control" shall refer to ownership of an interest in the Franchisee sufficient to permit the entity having such interest to influence the operation, management and general conduct of business of the Facility. A rebuttable presumption that a transfer of control has occurred shall arise on the acquisition or accumulation by a person or group of persons of THIRTY PERCENT (30%) of the shares of the Franchisee; provided, however, that such presumption shall not arise in the case of such acquisition or accumulation by a person or persons owning upon the Effective Date a TEN PERCENT (10%) or greater interest of the Franchisee. This Agreement shall become subject to cancellation by the County upon any such change, transfer or acquisition of control of the Franchisee unless and until the County has consented thereto, which consent shall be in writing and shall not be unreasonably withheld or delayed. The County's consent to such a transfer of control of the Franchisee shall not be subject to the review and approval procedures relating to a transfer of the Facility set forth in Sections 9.1.1 and 9.1.2, hereof.

Section 10: Subcontractor and Agent Compliance

10.1 The Franchisee shall be responsible for ensuring that its contractors and agents operate in compliance with the terms and conditions of this Agreement.

Section 11: Indemnification

- 11.1 To the extent any claim is not insured under the policy purchased by the Franchisee under Section 12 of this Agreement, each Party agrees to indemnify the other from each and every claim which the indemnitor will be legally liable to pay if: (a) a claim asserting the same loss or injury were made directly against the indemnitor, whether or not such a direct claim is actually made, and (b) the loss or injury sustained by the claimant resulted from the acts, errors or omissions of the indemnitor to those for whose actions the indemnitor is legally responsible. This mutual right to indemnity is in addition to and not in lieu of any other right of contribution or indemnity that may exist in favor of either Party under Oregon law; and the right to indemnity extends to officers, employees and agents of the indemnitee for all claims made against them because of their actions or capacity as such. "Indemnify," as used herein, means to indemnify, defend and hold harmless.

Section 12: Insurance

- 12.1 Franchisee shall procure and at all times thereafter maintain with insurers acceptable to the County the following minimum insurance coverages.
- 12.1.1 In the event that Franchisee does not obtain, renew or maintain the required insurance and furnish evidence thereof, County may either procure the required coverages at Franchisee's expense or treat such an event as a material default under this Agreement and exercise any remedies provided under this Agreement.
- 12.2 Franchisee shall deliver to the County, prior to the commencement of this Agreement, a certificate of insurance evidencing all policies required by this Agreement, including additional insured provisions afforded by the policy. This requirement can be satisfied by providing a certificate of insurance(s) and/or the endorsement(s). Further, it is an affirmative obligation upon the Franchisee, not its insurance carrier, to advise the Health and Human Services Department within TWO (2) business days of the Franchisee's knowledge of any substantive change of any insurance policy or endorsement set out herein, and failure to do so shall be construed to be a violation of this Agreement.
- 12.2.1 County shall reasonably rely upon the certificate(s) of insurance as evidence of coverage, but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies expire during the life of this Agreement, it is the Franchisee's responsibility to forward renewal certificates.
- 12.3 All insurance carriers must have an AM Best rating of A VIII or better.
- 12.4 By requiring insurance, County does not represent that the coverage and limits will be adequate to protect Franchisee. County reserves the right to review any and all of the insurance policies cited in this Agreement, but has no obligation to do so. Failure to demand such evidence of compliance with the insurance requirement herein shall not relieve Franchisee from, nor be construed or deemed a waiver of, its obligation to maintain and renew the required insurance.
- 12.5 Franchisee shall provide insurance coverage and limits as described below. All insurance

carried by Franchisee must be primary and non-contributory with any insurance, including any self-insurance or retentions carried by the County. A waiver of subrogation in favor of the County shall be required on General Liability, Workers Compensation and Automobile Liability coverage. The waiver of subrogation endorsement must be attached to the certificate of insurance.

12.5.1 Franchisee shall comply with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. No Workers' Compensation insurance has been or will be obtained by the County for Franchisee or Franchisee's employees or subcontractors. Franchisee shall provide and maintain workers' compensation coverage for its employees, officers, agents or partners as required by applicable workers' compensation laws including employers' liability with limits not less than \$500,000/ \$500,000/ \$500,000.

12.5.2 Commercial General Liability insurance coverage shall include, but not be limited to coverage for independent and subcontractors, including coverage for products and completed operations through the statute of repose and statute of limitations. This insurance shall include contractual liability coverage to the extent applicable for the indemnity provided under this Agreement.

The minimum limits shall be:

\$2,000,000 Policy Aggregate

\$2,000,000 Products and Completed Operations Aggregate

\$1,000,000 Each Occurrence

\$1,000,000 Personal and Advertising Injury

12.5.3 Franchisee shall at all times carry Automobile Liability insurance in the amount of \$1,000,000 combined single limit per accident for Bodily Injury and Property Damage for Franchisee's vehicles, whether owned, hired, or non-owned, used in connection with the work of this Agreement, which includes coverage for County, its agents, officers, elected officials and employees.

12.5.3.1 If hauling hazardous waste is part of the scope of this Agreement, an MCS 90 endorsement and the ISO form CA 9948 Pollution Liability Broadened Coverage must be included on the policy.

12.5.4 Coverage for sudden and accidental pollution liability is required. The minimum amounts are \$1,000,000 each occurrence and \$1,000,000 in the aggregate.

12.5.5 Property insurance coverage for the Franchisee's tools, equipment or other property shall be the responsibility of the Franchisee.

12.6 Any deductible or retention amount shall be for the account of the Franchisee. Franchisee is responsible to pay any amounts within the deductible or retention amount without contribution from the County.

12.7 The County, its agents, officers, elected officials and employees must be named as additional insureds with respect to Franchisee's services to be provided under this Agreement. Franchisee's General Liability and Auto Liability policies must be endorsed to show this additional coverage. The Additional Insured status must include both ongoing operations and completed operations. The additional insured endorsement must be attached to the certificate of insurance.

- 12.8 Franchisee shall require and verify that all of its subcontractors, performing work directly related to the provision of franchised services, provide insurance coverage and limits identical to the insurance required by the Franchisee under this Agreement, unless this requirement is expressly modified or waived by the County.

General Conditions

Section 13: Waiver and Amendment

- 13.1 No waiver of any term or condition of, or amendment to this Agreement, shall be effective unless such waiver is set forth in writing and signed by both a duly authorized representative of the Board and by an authorized officer of the Franchisee. Waiver of a term or condition of this agreement by either Party shall not waive nor prejudice that Party's right otherwise to require performance of that same term or condition or any other term or condition of this Agreement.

13.1.1 Should the Franchisee wish to amend the Agreement, the Franchisee must submit notice of its intent to amend the Agreement in writing.

13.1.2 If the Franchisee notifies the County of its desire to amend the Agreement, it shall submit with its notice a report detailing its compliance with WCC Chapter 8.08 and the conditions imposed herein. The requested amendment shall be reviewed by SWAC and approved by the Board.

13.1.3 Grounds for refusal to amend include, but are not limited to, failure to comply with the terms of this Agreement, the requirements of the Ordinance, state and federal law, and failure of the Franchisee to take all reasonable and appropriate steps to resolve odor issues.

Section 14: Applicable Law

- 14.1 This Agreement shall be construed, applied and enforced in accordance with the laws of the State of Oregon.

Section 15: Compliance with Law

- 15.1 If any section, subsection, paragraph, term or provision of this Agreement or any ordinance, law or document incorporated herein by reference is held by a court or administrative body of competent jurisdiction to be invalid, unconstitutional or unenforceable, such holding shall not render this Agreement void or voidable, but shall be construed by the Parties to apply in its operation to the section, subsection, paragraph, term or provision directly involved in the controversy in which such holding shall have been rendered, and shall not in any way affect the validity of any other section, subsection, paragraph, term or provision hereof. Under such circumstance the Parties shall meet and confer in good faith to amend this Agreement, as such may be required as a result of the court's determination. The purpose of such amendment shall be to place the Parties, as nearly as possible, in the position that they occupied with respect to the obligation of each prior to such determination, consistent with applicable law. In the event the Parties are

unable to agree to a modification of this agreement within SIXTY (60) days following the commencement of such meetings, either Party may seek appropriate judicial remedies.

15.1.1 In the event that a Party hereto, by force of law or regulation, at any time during the Term of this Agreement, is ordered or required by a court or administrative body having jurisdiction over such Party to perform or refrain from performing any act relative to this Agreement, which act materially impairs or alters such Party's ability to perform its obligations arising herefrom, such Party shall immediately notify the other Party of such condition and the Parties shall commence negotiations in good faith, in the manner prescribed in Section 15.1 hereof, to amend this Agreement in a manner that will permit such Party to perform its obligation under this Agreement.

15.2 The obligations of the Franchisee under this Agreement are subject to the provisions of WCC Chapter 8.08 of the Ordinance in effect as of the Effective Date. Nothing herein is intended or shall be construed as preventing the County from amending the Ordinance, and the obligations of the Franchisee hereunder shall be subject to such amended provisions of the Ordinance. If any term of this Agreement conflicts with any term of the Ordinance, the terms of the Ordinance shall control.

15.3 Relation to Other Provisions of Law. This Agreement and all rights and privileges granted under it are subject to, and the Franchisee shall exercise all rights hereunder in accordance with, applicable law as amended over the Term of this Agreement. This Agreement does not confer any property right nor are any contractual or other rights or immunities conferred upon the Franchisee, except as expressly provided herein. In the event of a conflict between this Agreement and any ordinance of general application enacted pursuant to County's police power, except as provided in Section 15.1.1 hereof, that ordinance shall govern; provided, however, nothing herein shall be interpreted to prevent the Franchisee from challenging the lawfulness or enforceability of any provision of applicable law.

Section 16: Remedies

16.1 Remedies set forth in this Agreement are cumulative and not exclusive; such that the exercise of one remedy shall not prevent the exercise of another remedy or the exercise of any rights of the Franchisee or the County at law or equity. Without limitation, the recovery of amounts under the insurance or indemnity provisions of this Agreement shall not be construed as an election of remedies; a limit on the liability of the Franchisee under this Agreement for fines or otherwise, or an excuse of faithful performance by the Franchisee.

Section 17: Entire Agreement

17.1 This Agreement, together with all appendices, attachments and exhibits, contains the entire agreement between the Parties, supersedes all prior agreements or proposals except as specifically set forth herein and cannot be amended orally, but only by an instrument in writing executed by the Parties.

Section 18: Additional Conditions

18.1 This Agreement shall be subject to the following Additional Conditions:

Exhibit A – Additional Conditions

Exhibit B – DEQ Disposal Permit, Composting Facility, Permit No. 1445

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

Dated this _____ day of _____, 2013

By: _____
Board of County Commissioners
Washington County, Oregon

By: _____
George McGrath, Chief Operating Officer
Recology Oregon Compost, Inc.

Date: _____

Mailing Address:

Street

City

State

Zip

EXHIBIT A
Additional Conditions
Franchise Agreement:
Washington County/ Recology Oregon Compost, Inc.

1. Recology Oregon Compost, Inc. (Franchisee) shall comply with all the criteria set forth in Washington County Code (WCC) Chapter 8.08. Failure to comply with the WCC Chapter 8.08 or any of the following Conditions may result in a penalty, suspension, revocation or failure to renew the franchise as provided for in WCC Chapter 8.08 and the rules and regulations adopted thereunder, as currently adopted or as amended. Franchisee shall cooperate in good faith with any Washington County (County) investigation or review of alleged violations.

Franchisee shall comply with its Oregon Department of Environmental Quality (DEQ) approved Operations Plan including any addendum or modifications of that Operations Plan approved by DEQ. In addition to the steps set forth in its Operations Plan, the Franchisee shall comply with all (DEQ) and Metro Regional Government (Metro) requirements for controlling odors related to the receipt of Type 3 feedstock, including but not limited to, any requirement to maintain a blower system with bio-filters to draw odors from the compost. The County retains the independent authority to enforce any odor-related DEQ requirements through the enforcement provisions of WCC Chapter 8.08.

In addition to the odor minimization procedures contained in the facility's Operations Plan, the Franchisee shall take whatever steps are necessary to eliminate the negative impact of malodors on public welfare including identifying and implementing any necessary improvements. These enhancements or modifications may include additional capital improvements or changes to operational protocols. These improvements are the financial responsibility of the Franchisee. All incoming Type 3 feedstock will be processed using an aerated system with biocovers or equivalent or better technology. No open windrows will be used to process incoming Type 3 feedstock during the first THREE (3) weeks of the composting process. Material containing Type 3 feedstock will be allowed to be placed in open windrows only after it has been initially processed using an aerated system with biocovers or equivalent or better system as approved by either DEQ or the County.

2. Franchisee shall notify and advise County staff of observations and remediation methods employed as a result of facility inspections into odor events. Franchisee will also provide County staff with updated information on the timing and progress of changes to protocols and results of implementation. Upon determination by County staff that the Franchisee's effort to mitigate malodors has not been successful, County staff shall require the Franchisee to initiate a TWENTY-FIVE PERCENT (25%) volume reduction of all incoming feedstocks to the Facility immediately. This will be followed by an additional TWENTY-FIVE PERCENT (25%) reduction in volumes each week thereafter, until the presence of malodor is no longer present. County staff may also determine and require the Franchisee to stop accepting all incoming feedstock to the Facility at any point in this process if necessary. Once malodor events have been controlled, County staff and the Franchisee's Facility Operators will work cooperatively to evaluate the appropriate time to begin increasing feedstock volume. County staff will then determine and approve a start date and phase-in schedule for reintroduction of feedstock.

3. Franchisee shall notify the County and City of North Plains when facility activities that are outside of regular, steady-state operations, are likely to produce a significantly increased level of odor. This includes weather related impacts to operations.
4. Franchisee shall operate in accordance with its DEQ Approved Feedstock Monitoring Plan to reduce and control the potential for contaminants (including non-compostable plastics) which may be present within received feedstock. Franchisee shall not knowingly accept for compost any plastic-based bags or foodservice ware that lacks the necessary properties to fully breakdown or compost within Franchisee's current processing system. Nothing in this Term and Condition 4 shall prevent County and Franchisee from reassessing the addition of these feedstocks.
5. County staff shall continue to inspect and monitor the Franchisee's operations through periodic site visits to the facility and surrounding area.
6. Pursuant to WCC Section 8.08.200 (8), the Franchisee shall maintain the frontage road to its Facility including the prevention of potholes.
7. Pursuant to WCC Section 8.08.200 (22), the Franchisee shall submit annual water quality laboratory test results, as required by DEQ, to County staff within THIRTY (30) working days of receipt of said results. If DEQ changes its water quality testing requirements for Franchisee's Facility, the Franchisee shall comply accordingly and continue to submit corresponding water quality laboratory results to County staff within THIRTY (30) working days of results. The Franchisee will be held to DEQ water quality standards.
8. Pursuant to WCC Section 8.08.200 (24), the Franchisee shall post for public viewing the days of the week and hours of operation at the Facility in plain view.
9. Pursuant to WCC Section 8.08.230 D, the Franchisee shall submit proof of financial assurance in a form and of a value sufficient to satisfy the County within TEN (10) days after the grant of the franchise by the Board, but before issuance of the franchise.
10. Pursuant to WCC Section 8.08.250, prior to the issuance of the franchise, the Franchisee shall prove to the reasonable satisfaction of County that it has sufficient financial ability to meet the obligations imposed by WCC Chapter 8.08. This submittal shall be made within THIRTY (30) days of the grant of the franchise.
11. Pursuant to WCC Section 8.08.260, the Franchisee shall keep records on site of the amount by weight and volume of incoming feedstock and outgoing finished product. Such records shall be made available for review by County staff upon request.
12. Pursuant to WCC Section 8.08. 280, the Franchisee shall provide evidence that its Facility is in compliance with the water system requirements of the Washington County Environmental Health Program.
13. Pursuant to WCC Section 8.08.400 A, the Franchisee shall provide the County and feedstock generators written notice of intent to perform site closure and restoration at least NINETY (90) days prior to beginning such closure and site restoration. This notice shall include dates of suspension of feedstock acceptance.
14. Pursuant to WCC Section 8.08.710:

- 14.1 The Franchisee shall provide closure and site restoration necessary to protect public health, safety, and the environment.
 - 14.2 The operation and Facility grounds, ponds, and drainage areas shall be cleaned by Franchisee of all residues from composting operations including, but not limited to, compost materials, construction scraps, and other materials related to the operations, and these residues shall be legally recycled, reused, or disposed of properly.
 - 14.3 All machinery shall be cleaned and removed or securely stored by Franchisee.
 - 14.4 All remaining structures shall be cleaned of compost materials, dust, particulates, or other residues related to the composting site and restoration operations by Franchisee. Within THIRTY (30) days of completion of closure, the Franchisee shall file a report with staff verifying that closure was completed in accordance with this Condition.
15. All complaints shall be processed as follows:
- 15.1 All complaints shall be reported to County by the next County working day.
 - 15.2 The Franchisee shall maintain records in the form of complaint logs of any written or verbal complaints received from the public or a customer, including but not limited to, information on the nature of the complaint, name, address, and telephone number of the complainant, the date the complaint was received, and any action taken to respond to the complaint. A copy of complaint logs shall be submitted by Franchisee to County staff quarterly.
 - 15.3 Complaint logs shall be maintained onsite by Franchisee for a TWO (2) year rolling period.
16. Inclement Weather Operation:
- 16.1 During severe climatic conditions, the Franchisee shall provide supplemental road maintenance, if needed, to accommodate incoming material to the Facility. The Franchisee shall maintain access roads and the tipping area in and to the Facility to minimize potential problems associated with inclement weather.
 - 16.2 The Franchisee shall water the access roads and the tipping area in and to the Facility as necessary to control dust.
 - 16.3 The Franchisee shall remove snow, ice, and other obstacles from the roads and tipping area in and to the Facility to ensure safe movement, prior to customer access.
17. The Franchisee shall record the number of loads rejected and the reason rejected. The Franchisee shall keep the records onsite for FIVE (5) years.
18. Spill Response/Litter Abatement:
- 18.1 The Franchisee shall maintain the area within ONE-THIRD (1/3) of a mile radius from the property line of the Facility to keep it free from litter resulting from feedstock spillage.

- 18.2 The Franchisee shall control blowing debris at the Facility so that the entire Facility is maintained reasonably free of litter at all times.
19. All violations of permits/conditions must be reported to County staff within FIVE (5) working days of the Franchisee's receipt of such information. Records shall be maintained by Franchisee for FIVE (5) years.
20. The Franchisee will maintain compliance with, and must maintain its approval from, the Washington County Department of Land Use and Transportation, the DEQ and Metro, as applicable for the Facility, during the term of this Agreement. Failure for Franchisee to maintain said compliance shall be grounds for the County to initiate enforcement proceedings of this Agreement as provided for within WCC Section 8.08.410 Enforcement – Notice of Violation of the Ordinance.



State of Oregon
Department of
Environmental
Quality

SOLID WASTE DISPOSAL SITE PERMIT: COMPOSTING FACILITY

Oregon Department of Environmental Quality

2020 SW 4th Ave., Suite 400

Portland OR 97201-4987

Telephone (Information): (503)229-5353

Issued in accordance with the provisions of Oregon Revised Statutes (ORS) Chapter 459, Oregon Administrative Rules (OAR) 340 Divisions 93, 95, 96 and 97 and ORS Chapter 468B and subject to the land use compatibility statement referenced below.

ISSUED TO:

Recology Oregon Compost, Inc.
235 North First Street
Dixon, California 95620
(530)743-6321

FACILITY NAME AND LOCATION:

Nature's Needs Compost Facility
9570 NW 307th Avenue
North Plains, Oregon 97133
(503)647-9489
Washington County

PROPERTY OWNER:

Sunset Mill Investors, LLC.
525 N Tomahawk Island Drive
Portland, Oregon 97217
(503)224-9554

OPERATOR:

Phil Graham
Recology Oregon Compost, Inc.
235 North First Street
Dixon, California 95620
(530)743-6321
pgraham@recology.com

ISSUED IN RESPONSE TO:

- A solid waste disposal site, composting permit application and associated documents, received on March 12, 2010.
- A Land Use Compatibility Statement from Washington County dated May 7, 2010.

The determination to issue this permit is based on findings and technical information included in the solid waste permit application and in the permit record.

ISSUED BY THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

Audrey O'Brien
Solid Waste Manager, Northwest Region

Date

Permitted Activities

Until such time as this permit expires or is modified or revoked, the permittee is authorized to establish, operate, and maintain a solid waste disposal site for composting activities and to construct, install, modify or operate stormwater and process water treatment and/or control facilities in conformance with the requirements, limitations, and conditions set forth in this document, including all attachments.

Unless specifically authorized by this permit, by another National Pollutant Discharge Elimination System (NPDES) or Water Pollution Control Facilities (WPCF) permit, or by Oregon Administrative Rule, any other direct or indirect discharge to waters of the state is prohibited.

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Introduction

This document is a solid waste permit issued by the Oregon Department of Environmental Quality in accordance with Oregon Revised Statutes (ORS) 459, ORS 468B.050 and Oregon Administrative Rules (OAR), Chapter 340. This individual permit is issued to owners and operators of composting facilities handling greater than 100 tons per year of Types 1, or 2 feedstocks or greater than 20 tons of type 3 feedstocks, or greater than 40 tons of Type 3 feedstocks when composting in containers designed to prohibit vector attraction and prevent nuisance and odor generation.

Rules relating specifically to composting facilities may be found in OAR Chapter 340, Divisions 93, 95, 96 and 97.

In this document

This document contains the following sections:

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ALLOWABLE ACTIVITIES

1.0 AUTHORIZATIONS

1.1 In this section	<p>This section describes the activities the permittee is authorized to conduct, including:</p> <ul style="list-style-type: none"> • Authorization to receive specific types of feedstocks; • Authorization to receive other feedstocks or amendments; • Authorization of other activities; and • Water quality activities.
1.2 Authorization to receive Types 1 – 3 feedstocks	<p>This permit authorizes the facility to accept the following feedstocks (Note: a detailed list of authorized feedstocks is listed in the DEQ-approved Operations Plan for this site.):</p> <ul style="list-style-type: none"> • Type 1 – includes source separated yard and garden wastes, wood wastes, agricultural crop residues, wax-coated cardboard, vegetative food waste including DEQ approved industrially produced vegetative food waste, and other materials DEQ determines pose a low level of risk from hazardous substances, physical contaminants and human pathogens. • Type 2 – includes animal manure and bedding and other materials DEQ determines pose a low level of risk from hazardous substances and physical contaminants and higher level of risk from human pathogens compared to type 1 feedstocks. • Type 3 – includes meat and dairy waste, source separated mixed food waste and industrially produced non-vegetative food waste. Also included are other materials DEQ determines pose a low level of risk from hazardous substances and a higher risk from physical contaminants and human pathogens compared to type 1 and 2 feedstocks. <p><u>Note:</u> See permit section 2.2</p>
1.3 Authorization to receive other feedstocks or amendments	<p>Feedstocks or amendments excluded from the above authorization may not be accepted unless DEQ has approved in writing an updated Site Operations Plan which describes the new feedstocks or amendments.</p>
1.4 Authorization of other activities	<p>All facility activities must be conducted in accordance with the provisions of this permit. All reports and plans required by this permit become part of the permit by reference once approved by DEQ. Any conditions of report and plan approvals are also incorporated into this permit unless contested by the permittee within 30 days of the receipt of a conditional approval.</p>
1.5 Water quality activities	<p>The permittee is allowed to construct, install, modify, operate and maintain a compost leachate and/or stormwater collection and/or treatment system provided these activities are done in accordance with plans and specifications approved in writing by DEQ. No activities are to be conducted that could adversely impact groundwater quality. If adverse impacts to groundwater are suspected from a facility covered by this permit, DEQ may require the permittee to perform a groundwater investigation.</p>

2.0 PROHIBITIONS

- | | | |
|-------|--|---|
| 2.1 | In this section | <p>This section describes specific feedstocks or wastes the permittee is prohibited from accepting and specific activities the permittee is required to carry out if these prohibited feedstocks or wastes are discovered. These include:</p> <ul style="list-style-type: none">• Prohibited feedstocks or wastes;• Discovery of prohibited wastes;• Open burning; and• Sewage sludge (biosolids). |
| <hr/> | | |
| 2.2 | Prohibited feedstocks or wastes | <p>The permittee is prohibited from accepting materials for composting that are not specifically authorized in Section 1.2 of this permit, unless the materials have been approved in accordance with the requirements of Section 1.3 of this permit.</p> <p>The permittee must not accept any wood waste that does not meet the definition of wood waste in OAR 340-093-0030. <u>Note:</u> Wood waste does not include painted or treated wood.</p> <p>The permittee must not accept unsorted, mixed domestic solid waste as a feedstock or for disposal at the composting facility.</p> <p>The permittee must not accept any materials that are listed in OAR 340-093-0040, as prohibited from disposal at solid waste disposal sites, including but not limited to hazardous waste as defined in ORS 466.005 and OAR 340, Division 101.</p> <p>The permittee must not accept dead animals as a feedstock or for disposal at the composting facility.</p> |
| <hr/> | | |
| 2.3 | Discovery of prohibited wastes | <p>In the event that the permittee discovers prohibited feedstocks or wastes at the composting facility, the permittee must initiate procedures to isolate or remove the prohibited feedstocks or waste.</p> <p>Non-putrescible, non-hazardous, prohibited waste must be transported to a disposal or recycling facility authorized to accept such waste within 90 days, unless otherwise approved or restricted by DEQ.</p> <p>Putrescible, non-hazardous, prohibited wastes must be removed within 48 hours, unless otherwise approved or restricted in writing by DEQ.</p> <p>In the event the permittee discovers wastes that are hazardous or suspected to be hazardous, the permittee must, within 48 hours, notify DEQ.</p> <p>Hazardous wastes must be removed within 90 days, unless otherwise approved or restricted by DEQ. Temporary storage and transportation must be carried out in accordance with the rules of DEQ.</p> |
| <hr/> | | |
| 2.4 | Open burning | <p>The permittee must not initiate or maintain any open burning at this site.</p> |

2.5	Sewage sludge (biosolids)	The permittee must not accept any sewage sludge for composting at this facility, except Class A exceptional quality biosolids. If the permittee wishes to accept sewage sludge other than Class A exceptional quality biosolids, then the permittee must obtain the applicable water quality permit, in lieu of this solid waste permit, as required under ORS 468B and OAR 340-050.
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OPERATIONS AND DESIGN

3.0 OPERATING CONDITIONS

3.1	In this section	This section describes specific operating conditions to which the facility must conform, including: <ul style="list-style-type: none">• Performance standards; and• Pathogen reduction.
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3.2	Performance Standards	<p>The composting facility must be operated in conformance with the performance standards identified in OAR 340-096-0070:</p> <p>1) All composting facilities must be designed, constructed, and operated in a manner that does not cause a discharge of leachate or stormwater from the facility to surface water, except:</p> <p>(a) Leachate from a composting facility may be discharged to surface water only in compliance with a discharge permit issued by DEQ.</p> <p>(b) Stormwater from a composting facility may be discharged to surface water only in compliance with a discharge permit issued by DEQ.</p> <p>2) All composting facilities that collect and dispose of leachate or stormwater in engineered structures must comply with the applicable requirements of OAR 340-096-0130: Leachate Collection Design and Operating Requirements.</p> <p>3) All composting facilities must be designed, constructed, and operated in a manner that does not cause a likely adverse impact to groundwater under OAR 340 Division 40. All composting facilities proposing to use infiltration in soil as a method for managing leachate or stormwater must comply with OAR 340-096-0120: Groundwater Protection.</p> <p>4) All composting facilities must be designed, constructed, and operated in a manner that, to the greatest extent practicable, is consistent with proper facility design and operation, controls and minimizes odors that are likely to cause adverse impacts outside the boundaries of the facility.</p> <p>5) All composting facilities must be designed, constructed, and operated in a manner that achieves human pathogen reduction as required by OAR 340-096-0140: Pathogen Reduction.</p> <p>(6) All composting facilities must be designed, constructed, and operated in a manner that controls or prevents propagation, harborage, or attraction of vectors, including but not limited to rats, birds, and flies.</p> <p>(7) All composting facilities must comply with all other applicable laws and regulations.</p>
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3.3 Pathogen reduction

The composting facility must be operated in conformance with OAR **340-096-0140 Special Rules Pertaining to Composting: Pathogen Reduction** including the following:

1) Analytical limits for composted material:

- a) For composted material produced from Type 1 or Type 3 feedstock, or a mix of Type 1 and 3 feedstocks with less than 50% by volume of Type 2 feedstock, analysis must be performed for salmonella or fecal coliform:

Parameter	Limitations
Fecal Coliform	Less than 1,000 Most Probable Number (MPN) per gram of total solids (dry weight).
Salmonella	Less than 3 Most Probable Number (MPN) per 4 grams of total solids (dry weight).

- b) For composted material produced from feedstock containing more than 50% by volume of Type 2 feedstock in the initial pile, analysis must be performed for fecal coliform:

Parameter	Limitations
Fecal Coliform	Less than 1,000 Most Probable Number (MPN) per gram of total solids (dry weight).

2. Testing frequency for composted material to determine pathogen reduction success:

Amount and Type of Compost Produced Annually	Minimum Frequency	Type of Sample
Less than 2,500 tons of composted material from Type 1 and 2 feedstocks	Testing must be conducted once a year.	Composite from finished compost
Greater than 2,500 tons of composted material from Type 1 and 2 feedstock are produced per year	Testing must be conducted every 5,000 tons of feedstock used or a maximum of once every three months.	Composite from finished compost
Less than 2,500 tons of composted material from Type 3 feedstocks	Testing must be conducted once every 4 months.	Composite from finished compost
Greater than 2,500 tons of composted material from Type 3 feedstock	Testing must be conducted every 5,000 tons of feedstock used, or at least monthly if less than 5,000 tons of feedstock used in that month.	Composite from finished compost

4.0 OPERATIONS PLAN

4.1	In this section	<p>This section describes the requirements associated with the composting facility Operations Plan, including:</p> <ul style="list-style-type: none">• Plan compliance;• Initial Operations Plan;• Plan maintenance;• Environmental Monitoring Plan; and• Submittal address.
4.2	Plan compliance	<p>The permittee must conduct all operations at the facility in accordance with the approved Operations Plan, including any amendments. The DEQ approved Operations Plan is incorporated into the permit by reference.</p> <p><u>Note:</u> The basic elements of an Operations Plan for a composting facility are listed in OAR 340-096-0026.</p>
4.3	Initial Operations Plan	<p>The permittee must submit for DEQ approval an updated draft Operations Plan to incorporate any changes to operations or site conditions that are required by the final signed permit and receive written approval on the updated document from DEQ within 180 days of permit issuance.</p>
4.4	Plan maintenance	<p>The permittee must revise the Operations Plan as necessary to keep it up to date to reflect current facility conditions and procedures.</p> <p>The permittee must submit revisions of the Operations Plan to DEQ for review and written approval prior to commencing any change in operations.</p>
4.5	Environmental Monitoring Plan	<p>The permittee must submit, for approval, an Environmental Monitoring Plan (EMP) to DEQ within 180 days of permit issuance. The EMP must include a sampling plan for stormwater runoff from the site to demonstrate whether stormwater controls at the site are adequate. Upon approval, this plan is incorporated into the approved Operations Plan and this permit by reference including all conditions of the approval and any updates.</p>
4.6	Submittal address	<p>All submittals to the Department under this section must be sent to:</p> <p>Oregon Department of Environmental Quality Manager, Solid Waste Program 2020 SW 4th Ave., Suite 400 Portland OR 97201-4987 Phone: (503)229-5353</p>

5.0 RECORDKEEPING AND REPORTING

5.1	In this section	<p>This section describes recordkeeping of operational information for the composting facility, including:</p> <ul style="list-style-type: none">• Non-compliance and leachate release reporting;• Access to records;• Recordkeeping procedures; and• Submittal address.
5.2	Non-compliance reporting	<p>In the event that any condition of this permit or the DEQ's rules is violated, the permittee must immediately take action to correct the violation and to notify DEQ within 24 hours at: DEQ's Northwest Region Solid Waste Program Office at (503) 229-5353.</p> <p><u>Response:</u> In response to a notification, DEQ may conduct an investigation to evaluate the nature and extent of the problem, and may require additional corrective actions, as necessary.</p>
5.3	Leachate releases	<p>Unauthorized leachate releases to waters of the state must be reported to DEQ within 24 hours.</p>
5.4	Access to records	<p>Upon request, the permittee must make all records and reports related to the permitted facility available to DEQ.</p>

5.5 Record-keeping procedures

The permittee must keep records and submit reports according to the following:

Step	Action
1	Establish a location for document retention at the facility, or at another location mutually agreed to with DEQ.
2	<p>Collect information during facility operations on the amount of each type of feedstock received, recording "0" if none is received.</p> <ul style="list-style-type: none"> At a minimum, the following types of feedstocks must be: 1) separately identified; and 2) categorized as originating either in or out-of-state: Type 1, 2 and 3 feedstocks or amendments; <ul style="list-style-type: none"> Leaves Yard debris – compacted and uncompact Vegetative food waste and non-vegetative food waste Agricultural crop residue Wood chips – dry Wood chips – green Clean wood waste Sawdust, wet Sawdust, bone dry Manure Bedding Other authorized feedstocks or amendments. <p>Submit the information on the Composting Facility Report form provided by DEQ. Date Due: January 31st of each year for the previous calendar year.</p> <p>Pay the Annual Permit Compliance Fee required by OAR 340-097, according to the invoice provided by DEQ. Permittee must notify DEQ immediately of any change in invoicing mailing address. Date Due: July 31st of each year.</p>
3	<p>Permittees accepting non-agricultural, post-consumer recyclable materials generated in Oregon are required to complete a Material Recovery Survey on a form provided by DEQ.</p> <p>Information necessary to complete this survey includes: amounts and types of recyclable materials; county of origin of the material; and, names of companies providing the material(s). The survey also asks for information about what was done with the recyclable material, such as: made compost; shipped wood waste for hogged fuel; etc. The permittee must submit this survey to the local Wastashed Representative. The survey is then forwarded by that person to DEQ. Date Due: January 31st of each year for the previous calendar year.</p>
4	Keep a written, ongoing log showing assessment of composting processing parameters required in OAR 340-096-0090(5)(i). This log must be placed in the facility file.
5	Retain copies of all records and reports for five years from the date created.
6	Keep record files updated so they reflect current conditions at the composting facility.

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- 5.6 **Submittal address**
- Send submittals for item 2 (Composting Facility Report and the Annual Permit Compliance Fee) above to DEQ at:

**Oregon Department of Environmental Quality
Land Quality Division
Solid Waste Program
811 SW Sixth Ave.
Portland, OR 97204

Phone: (503) 229-5409**

Submittals for item 3 (Material Recovery Survey) above must be sent to the local Wasteshed Representative.

6.0 ENGINEERED STRUCTURE DESIGN AND MANAGEMENT

- 6.1 **In this section**
- This section describes site design and construction requirements for engineered structures designed to collect leachate or stormwater, including:
- Facility Design and Construction Plan;
 - Construction requirements;
 - Construction documents;
 - Construction report submittal;
 - Approval to use; and
 - Submittal address.

- 6.2 **Facility Design and Construction Plan**
- Composting facilities that collect leachate or stormwater in engineered structures must comply with the requirements of OAR 340-096-0130 *Special Rules Pertaining to Composting: Leachate Collection Design and Management Requirements*. Structures subject to this Rule include, but are not limited to:

- Leachate collection and storage facilities;
- Stormwater collection and storage facilities; and
- Constructed surfaces designed to protect groundwater.

The permittee must contact DEQ prior to any site modification affecting these structures. DEQ may require the permittee to prepare and submit a modified Facility Design and Construction Plan, stamped by a registered professional engineer. If so required, the permittee must receive written approval of the modified Facility Design and Construction Plan from DEQ **prior to commencing construction**.

- 6.3 **Construction requirements**
- The permittee must perform all construction in accordance with the approved plans and specifications, including all conditions of approval. Any amendments to those plans and specifications must be approved in writing by DEQ.
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6.4	Construction documents	<p>If required by DEQ, prior to initiating construction, the permittee must submit and receive written DEQ approval of complete construction documents for the project to be constructed. The construction documents submitted must:</p> <ul style="list-style-type: none">• Define the construction project team;• Include construction contract documents specifying material and workmanship, and requirements to guide how the constructor is to furnish products and execute work; and• Include a Construction Quality Assurance (CQA) plan describing the measures that will be taken to monitor and ensure that the quality of materials and the work performed by the constructor complies with project specifications and contract requirements.
6.5	Construction report submittal	<p>If required by DEQ, within 90 days of completing construction, the permittee must submit to DEQ a <u>Construction Certification Report</u>, prepared by a qualified independent party, to document and certify that all required components and structures have been constructed in compliance with the permit requirements and approved design specifications. This submittal must include "as constructed" facility plans which note any changes from the original approved plans.</p>
6.6	Approval to use	<p>The permittee must not accept feedstocks for storage, processing or composting in newly constructed facilities or areas until DEQ has accepted the Construction Certification Report. If DEQ does not respond in writing to the Construction Certification Report within 30 days of its receipt, the permittee may accept feedstock at the facility in the newly constructed facilities or areas.</p>
6.7	Submittal address	<p>All submittals to DEQ under this section must be sent to:</p> <p>Oregon Department of Environmental Quality Manager, Solid Waste Program 2020 SW 4th Ave., Suite 400 Portland OR 97201-4987</p> <p>Phone: (503)229-5353</p>

COMPOSTING FACILITY GENERAL CONDITIONS

7.0 ADMINISTRATION

7.1 Definitions

Unless otherwise specified, all terms are as defined in OAR 340-093-0030.

7.2 Property rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights.

7.3 DEQ liability

DEQ, its officers, agents, or employees do not sustain any liability on account of the issuance of this permit or on account of the construction, maintenance, or operation of facilities pursuant to this permit.

7.4 Documents superseded

This document is the primary composting permit for the facility, superseding all other solid waste permits issued for this facility by DEQ.

7.5 Binding nature

Conditions of this permit are binding upon the permittee. The permittee is liable for all acts and omissions of the permittee's contractors and agents.

7.6 Access to disposal site

The permittee shall allow representatives of DEQ access to the facility at all reasonable times for the purpose of performing inspections, surveys, collecting samples, obtaining data and carrying out other necessary functions related to this permit.

7.7 Other compliance

Issuance of this permit does not relieve the permittee from the responsibility to comply with any applicable federal, state, or local laws or regulations.

7.8 Penalties

Violation of any condition of this permit or any incorporated plan may subject the permittee to civil penalties for each day of each violation, up to the maximum amount allowed by law at the time of the violation (ORS 468.140). Oregon law provides for penalties of up to \$25,000 per day per violation.

8.0 PERMIT MODIFICATION

8.1 Mid-term review

At the mid-point of the life of the permit, DEQ may review the permit and determine whether or not the permit should be amended. While not an exclusive list, the following factors will be used in making that determination:

- Compliance history of the facility;
- Changes in volume and/or composition of feedstock(s);
- Changes in operations at the facility;
- Changes in state or federal rules which should be incorporated into the permit;
- Release of leachate to the environment from the facility; or
- Significant changes to DEQ-approved Design Plan or Operations Plan.

8.2 Modification

At any time in the life of the permit, DEQ or the permittee may propose changes to the permit.

8.3 Modification and revocation by Department

The Director may, at any time before the expiration date, modify, suspend, or revoke this permit in whole or in part in accordance with Oregon Revised Statutes 459.255 for reasons including, but not limited to, the following:

- Violation of any terms or conditions of this permit or any applicable statute, rule, standard or order of the Environmental Quality Commission;
- Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
- A significant change in the quantity or character of feedstocks received;
- Non-compliant operation of the composting site; or
- A significant change in the composting process.

8.4 Modification by permittee

The permittee must apply for a modification to this permit if a significant change in facility operations is planned or there is a deviation from activities described in this document. The permittee must not implement any change in operations that requires a permit modification prior to receiving approval from DEQ.

8.5 Public participation

Significant changes in the permit will be made public by the issuance of a public notice as required by DEQ rules.

8.6 Changes in ownership or address

The permittee must report to DEQ in writing any changes in either ownership of the composting site property or of the name and address of the permittee or operator within ten (10) days of the change.

9.0 SITE OPERATIONS

9.1 Containers

The permittee must clean all containers on-site, as needed to maintain a sanitary operating environment, and to prevent malodors, unsightliness, and attraction of insects.

9.2 Vehicles

All composting vehicles and devices operated by the permittee, and using public roads, must be constructed, maintained, and operated so as to prevent leaking, shifting, or spilling of feedstocks and finished compost while in transit.

9.3 Litter control

Litter that results from the composting facility operation must be controlled such that the entire composting facility and adjacent lands are maintained virtually free of litter at all times. Any debris from the facility must be retrieved and properly disposed of as soon as possible that same operational day.

9.4 Air quality

Dust and malodors must be controlled in accordance with DEQ's rules on air pollution.

9.5 Drainage

The permittee must divert surface drainage around or away from feedstock handling and grinding areas and active composting areas. The permittee must maintain surface water diversion ditches or structures in a serviceable condition and free of obstructions and debris at all times. Any significant damage must be reported to DEQ and repairs made as soon as possible.

9.6 Leachate prevention/ management

The permittee must operate the facility in a manner that deters leachate production to the maximum extent practicable. Leachate must be collected, removed and managed in a manner approved by DEQ.

9.7 Oil and Hazardous Material Spill Response

Any spill of oil or hazardous material must be cleaned up immediately as described in the facility Operations Plan. In addition to notifying the appropriate DEQ office, if the spill is of a reportable quantity the permittee must immediately report the spill to the Oregon Emergency Response System (OERS), at 1-800-452-0311.

Reportable quantities include:

- Any amount of oil spilled to waters of the state;
- Oil spills on land in excess of 42 gallons;
- 200 pounds (25 gallons) of pesticide residue; or
- Hazardous materials that are equal to, or greater than, the quantity listed in the Code of Federal Regulations, 40 CFR Part 302 (List of Hazardous Substances and Reportable Quantities), and amendments adopted before July 1, 2002. For a complete list of hazardous materials required to be reported, please refer to OAR 340-142-0050.

9.8 Public unloading area

The area(s) used by the public for unloading of feedstocks must be clearly defined by signs, fences, barriers, or other devices.

9.9 Public Access

Public access to the facility must be controlled, as necessary, to prevent unauthorized entry and dumping.

9.10 Legal control of property

The permittee must maintain legal control of the composting site property, including maintaining a current permit, contract or agreement that allows the operation of the facility if the site is not owned by the permittee.

9.11 Fire protection

The permittee must arrange with the local fire control agency to immediately acquire their services when needed and provide adequate on-site fire control protection, as determined through the local fire control agency. The permittee must extinguish unauthorized fires immediately and report unauthorized fires to DEQ within 24 hours.

9.12 Signs

The permittee must post signs at the facility which are clearly visible and legible, providing the following information: Name of composting facility, emergency telephone number, days and hours of operation, authorized and prohibited wastes, solid waste permit number; and operator's address.

9.13 Vector Control

The permittee must provide rodent and insect control measures, as necessary, to prevent vector production and sustenance.

9.14 Truck Covers

The permittee must notify all in-coming feedstock haulers that trucks must be covered or suitably cross-tied to prevent any load loss during shipment, in conformance with OAR 340-093-0220.

9.15 Complaints

The permittee must attempt to resolve all complaints it receives regarding facility operations by doing the following:

- Contact the complainant within 24 hours to discuss the problem;
- Keep a record of the complaint, name and phone number of the complainant (when possible), date complaint was received and date of, and response by, the facility operator; and
- Immediately initiate procedures at the facility, when possible, to resolve the problem identified by the complainant.

For complaints, the permittee must report to DEQ as soon as complaints are received at the facility from five (5) different businesses and/or individuals about a given event or if an odor event lasts longer than 24 hours without resolution or mitigation.

9.16 Permit display

The permittee must display this permit, or a photocopy thereof, where operating personnel can readily refer to it.

COMPLIANCE SCHEDULE

10.0 SUMMARY OF DUE DATES

- 10.1 Summary** The following is a summary of event-driven reporting required by this permit. This section does not include routine reporting and submittals required by this permit.

DUE DATE	ACTIVITY	RULE CITATION/ SECTION IN THIS PERMIT
Within 180 days of permit issuance	Submit for DEQ approval an updated draft Operations Plan to incorporate any changes to operations or site conditions that are required by the final signed permit.	4.3
Within 180 days of permit issuance	Submit for DEQ approval an EMP for inclusion into the approved Operations Plan. The EMP should address stormwater sampling for indicator analytes of potential leachate from composting operations.	4.5
Six months prior to initiating any new construction for leachate or stormwater collection systems or groundwater protective surfaces.	Permittee must consult with the DEQ Solid Waste Project Manager to determine whether DEQ engineering oversight is necessary. If required by DEQ, Permittee must submit design and construction plans and receive written DEQ approval of plans.	OAR 340-096-0130 6.2
If required by DEQ, prior to initiating construction.	Submit construction documents, including a Construction Quality Assurance Plan and receive written DEQ approval.	OAR 340-096-0130 6.4
If required by DEQ, within 90 days after completion of any major construction and prior to accepting feedstock in new construction.	Submit Construction Certification Report for acceptance. Receive written Department approval of Report.	OAR 340-096-0130 6.5

11.0 WHEN TO NOTIFY DEQ

Note: Contact DEQ staff at phone number listed in section 5.2, "Non-compliance reporting".

EVENT	NOTIFICATION REQUIREMENTS	SECTION IN THIS PERMIT
Facility not able to meet requirements of this permit	Contact DEQ for assessment.	All
Hazardous waste discovered at facility	Notify DEQ within 48 hours.	2.3
Conditions of permit violated	Notify DEQ within 24 hours.	5.2
Leachate released from facility	Notify DEQ within 24 hours.	5.3
Change in ownership of facility	Notify DEQ in writing within 10 days.	8.6
Change in name or address of facility, name or address of permittee or name or address of operator	Notify DEQ in writing within 10 days.	8.6
Complaints	<p>Notify DEQ after 5 complaints are received for same odor event or if odor persists unresolved after 24 hours.</p> <p>The permittee must report to DEQ as soon as complaints are received at the facility from five (5) different businesses or individuals about a given event or if an odor event lasts longer than 24 hours without resolution or mitigation.</p>	9.15