



UTC

Washington Utilities
and Transportation
Commission

Investigation Report

International Resource Management, Inc., d/b/a WasteXpress

TG-200131

**Kathryn McPherson
Compliance Investigations**

April 2020

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PURPOSE, SCOPE, AND AUTHORITY

Purpose

The purpose of this investigation is to determine if International Resource Management, Inc., d/b/a WasteXpress, (WasteXpress or Company) operated as a solid waste collection company for compensation on the public highways of the state of Washington without the necessary certificate required for such operations by Revised Code of Washington (RCW) 81.77.040.

Scope

The investigation focuses on information obtained by Washington Utilities and Transportation Commission (Commission) staff (Staff) relating to WasteXpress' transportation of solid waste.

Authority

RCW 80.01.040, RCW 81.01.010, and chapter 81.77 RCW collectively require the Commission to regulate persons engaging in the transport of solid waste on public highways for compensation in Washington. RCW 81.04.510 authorizes the Commission to institute a special proceeding when it believes a person is operating or has operated without the necessary authority. Appendix A includes relevant laws and rules.¹

Staff

Kathryn McPherson, Compliance Investigator

(360) 664-1108

Kathryn.McPherson@utc.wa.gov

¹ Attachment A - Applicable laws and rules.

INVESTIGATION

Overview

On August 26, 2019, Staff received an inquiry from Troy Rowan, a Waste Management Environmental Health Specialist at the Tacoma-Pierce County Health Department (TPCHD). Rowan identified WasteXpress as a solid waste company seeking a permit from TPCHD to transport medical waste. Staff investigated WasteXpress' operations and determined that the Company is operating as a solid waste collection company without a certificate of convenience from the Commission, in violation of RCW 81.77.040.

Staff finds that the Company's operations violate RCW 81.77.040 as follows:

1. WasteXpress advertises solid waste collection services on the Company's website, which includes non-hazardous industrial waste collection and roll-off drop boxes in the Tacoma² and Seattle area.³
2. WasteXpress applied for a permit with the TPCHD as a solid waste company, requesting authority to transport infectious waste.⁴
3. The Company admitted, and documents show, that the Company transported regulated waste in Washington without the required operating authority, on or about November 19, 2018.⁵

Company Information

Washington Department of Revenue (DOR) records show WasteXpress registered with the State of Washington Business Licensing Service under UBI 602-640-857.⁶ Governing persons for the business are Jeremy Komp and Arthur Marx. The Company's physical address is 11618 N Lombard St, Portland, Oregon, 97203, and the mailing address is P.O. Box 31100, Portland, Oregon, 97231. Staff has no record that the Company has registered with the Washington Secretary of State.

Commission History

At the time TPCHD inquired about the Company, the Commission had no record of WasteXpress.

Technical Assistance

On August 26, 2019, Staff received an inquiry from TPCHD about the certificate status of WasteXpress. Staff determined the Commission had no record of the Company.

² Attachment B - Tacoma area webpage advertisement.

³ Attachment C - Seattle area webpage advertisement.

⁴ Attachment D - Application for authority with Tacoma-Pierce Health Department.

⁵ Attachment E - Staff notes from December 5, 2019.

⁶ Attachment D - Application for authority with Tacoma-Pierce Health Department; Attachment F - Business License Department of Revenue.

On August 27, 2019, Staff sent a compliance letter to Komp and Marx at WasteXpress. The letter provided technical assistance regarding solid waste rules enforced by the Commission. The letter also requested the Company respond using one of three options: explain why its services do not require authority from the Commission, apply for a certificate of convenience and necessity to transport solid waste, or cease solid waste collection services in the state of Washington.⁷

On September 4, 2019, Staff participated in a teleconference with Komp and Thomas Benke, an attorney representing WasteXpress. Staff explained the Commission's solid waste enforcement program and clarified specific operations that require a solid waste certificate and common carrier permit from the Commission. Komp stated that the Company transports non-hazardous industrial waste and it planned to transport medical waste, not comingled with hazardous waste. Staff explained that industrial waste is solid waste as defined by Washington Administrative Code (WAC) 480-70-016. Staff stated it would send follow-up information to assist the Company in responding to Staff's compliance letter.⁸ Staff followed-up with an email to Komp providing additional technical assistance including Commission definitions of solid waste determination of authority.⁹

On September 9, 2019, Benke emailed Staff with a response to the compliance letter. Benke's email stated, in part, "...WasteXpress transports "solid waste" (as we understand the definition at RCW 70.95.030(22), particularly including "industrial wastes") under individual contracts with waste generators as its generator-clients require." Benke explained that WasteXpress does not require a common carrier permit as defined by RCW 81.77 and it is not a public service company for the purpose of Commission regulation. Benke's email failed to address the questions in Staff's September 4, 2019, email, asking WasteXpress define its services so that Staff could determine the required operating authority.¹⁰

On September 17, 2019, Staff emailed Benke and again directed Benke to Commission rules. Staff informed Benke that to ensure compliance, WasteXpress may need to apply for a solid waste certificate.¹¹

On September 25, 2019, Staff received an email from Benke stating that he had previously explained why he believed WasteXpress should not be required to have a solid waste certificate. Benke again failed to define the services WasteXpress provides, such as specific materials the Company transports, whom they transport for, and the destination of the materials for disposal.¹²

⁷ Attachment G – Staff letter dated August 27, 2019.

⁸ Attachment H – Staff notes dated September 4, 2019.

⁹ Attachment I – Staff email to Komp dated September 4, 2019.

¹⁰ Attachment J – Email from Benke dated September 9, 2019.

¹¹ Attachment K – Email to Benke dated September 17, 2019.

¹² Attachment L – Email from Benke dated September 25, 2019.

On September 26, 2019, Staff emailed Benke and reminded him that WasteXpress had not clarified the exact nature of WasteXpress' services. Staff explained that in order for Staff to determine if WasteXpress' services are regulated by the Commission, a response to questions was needed. Staff requested WasteXpress specifically answer questions regarding shipments. Additionally, Benke was asked to explain how the Company's waste collection services do not fall under the definitions in WAC 480-70-041.¹³

On October 30, 2019, Staff emailed Benke requesting a response to Staff's September 26, 2019, email, with a deadline of November 6, 2019.¹⁴

On November 6, 2019, Benke emailed Staff and again failed to answer Staff's previous questions.¹⁵

On November 18, 2019, Staff again asked WasteXpress to respond in writing to questions relating to the Company's operations so Staff could make a determination of authority.¹⁶

On November 26, 2019, Benke sent an email requesting a telephone conference on December 5, 2019.¹⁷

On December 5, 2019, Staff participated in a teleconference with Benke. Staff again explained the definitions of solid waste and reiterated that industrially generated waste is considered solid waste. Staff explained that WasteXpress could consider requesting exemptions from rules after the Company applied for a certificate from the Commission. Benke informed Staff that WasteXpress had withdrawn its request from TPCHD for a medical waste permit. Benke stated after three transports, the Company decided it was too much effort to transport medical waste in that county and had decided to stop.¹⁸ Later that day, Benke followed up with Staff by email. Benke reiterated that the Company does not collect solid waste "from residential or commercial" customers, therefore WasteXpress does not require a certificate from the Commission because the definition does not specifically say industrial customer.¹⁹

¹³ Attachment M – Email to Benke dated September 26, 2019.

¹⁴ Attachment N – Email to Benke dated October 30, 2019.

¹⁵ Attachment O - Email from Benke dated November 6, 2019.

¹⁶ Attachment P - Email to Benke dated November 18, 2019.

¹⁷ Attachment Q – Email from Benke dated November 26, 2019.

¹⁸ Attachment E – Staff notes from December 5, 2019. (Previously noted.)

¹⁹ Attachment R – Email from Benke dated December 5, 2019.

On December 9, 2019, Staff called Rowan at TPCHD to confirm WasteXpress had withdrawn its application. Rowan confirmed the Company had withdrawn its application for a permit to transport solid waste on October 8, 2019.²⁰

On February 13, 2020, Staff sent a second compliance letter requesting WasteXpress complete an application for a solid waste certificate, submit a request for exemption, or cease all operations as a solid waste company. The letter required that the Company take action by February 28, 2020.²¹

On February 27, 2020, Benke sent a letter on behalf of WasteXpress responding to Staff's compliance letter. Benke again failed to answer questions addressed in the compliance letter.²²

On April 9, 2020, I visited the Company's website at www.wastex.com, and discovered the Company actively advertising solid waste collection services in the Seattle and Tacoma areas.²³

On April 9, 2020, Rowan verified the names of three companies WasteXpress transported regulated waste for. Rowan could not verify the location of disposal.²⁴ Rowan also sent records in its possession pertaining to the Company to Staff on this same date. These records included a shipping label dated November 19, 2018, with WasteXpress identified as the Carrier, City MD – Puyallup (12005 Meridian E., Puyallup, WA 98373) identified as the Shipper, and International Resource Management, Inc. listed as the Consignee. Under "Basic Description," the label states "Regulated Medical Waste . . . (sharps & bandages)" along with other information. The shipping label was executed by representatives from both WasteXpress and City MD Puyallup.

STAFF FINDINGS AND RECOMMENDATIONS

Staff Findings

Staff finds that WasteXpress knowingly violated RCW 81.77.040 on at least two, and likely more occasions by engaging in the business of transporting solid waste without first having obtained a certificate from the Commission to do so.

Specifically, WasteXpress operated as a solid waste collection company when it:

²⁰ Attachment S – Email confirmation WasteXpress withdrew permit application dated October 8, 2019.

²¹ Attachment T – Compliance letter dated February 13, 2020.

²² Attachment U – Response letter dated February 27, 2020 from Benke.

²³ See Attachment B, Attachment C – Screenshots of Seattle and Tacoma area webpage advertisements from www.wastex.com.

²⁴ Attachment V – Email from Rowan, TPCPH dated April 9, 2020.

1. Transported regulated waste on at least one occasion on or about November 19, 2018, for City MD - Puyallup without first obtaining a solid waste certificate; and,
2. Advertised for solid waste collection and transportation in the Seattle and Tacoma areas without first obtaining a solid waste certificate.

Staff Recommendations

Staff recommends that the Commission initiate a classification proceeding under RCW 81.04.510 to determine whether WasteXpress is operating as a solid waste carrier in Washington without the certificate required for such operations by RCW 81.77.040. Staff also recommends that the Commission file a complaint for penalties of up to \$1,000 per violation for two violations, including one violation for solid waste collection services provided and one violation for advertising on the Company's website, for a total of \$2,000, as authorized by RCW 81.04.380.

Attachment A

Applicable Laws and Rules

RCW 80.04.405 allows the commission to assess an administrative penalty for any violation by a regulated company of a statute, rule, the company's own tariff, or commission order.

RCW 81.04.510 Duties of attorney general. It shall be the duty of the attorney general to represent and appear for the people of the state of Washington and the Commission in all actions and proceedings involving any question under this title, or under or in reference to any act or order of the Commission; and it shall be the duty of the attorney general generally to see that all laws affecting any of the persons or corporations herein enumerated are complied with, and that all laws, the enforcement of which devolves upon the Commission, are enforced, and to that end he or she is authorized to institute, prosecute, and defend all necessary actions and proceedings.

RCW 81.01.010 Adoption of provisions of chapter 80.01 RCW. The provisions of chapter 80.01 RCW, as now or hereafter amended, apply to Title 81 RCW as fully as though they were set forth herein.

RCW 81.04.380 allows the commission to assess a penalty not to exceed \$1,000 for each violation following a hearing.

Docket A-120061 - Enforcement Policy of the Washington Utilities and Transportation Commission – Section V.

Attachment B



Seattle (855) 224-3206
Tacoma (855) 224-3206
Portland (503) 224-3206

"Environmental Services Made Easy, Specializing In Hazard
Waste Disposal"

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Tacoma Hazardous Waste Disposal Services



2602 S 38th St. #129
Tacoma, WA 98409
Office: (855) 224-3206
Fax: (503) 228-9168
Email: info@wastex.com
[Map](#)

Tacoma is home of the largest port in the State of Washington. The Port of Tacoma is one of the main import and export routes in Washington, which in turn make it a key driver of the state's economy. Industries like the Railroad, Weyerhaeuser, Oil and Refining operations have shaped Tacoma's landscape since 1875. Today, nearly 39,000 barrels of petroleum are being refined daily making it one of the busiest refining operations in the nation. In the past these industries, to no fault of their own, have left behind numerous hazardous wastes disposal issues. Altogether, this has contributed to a distinctive odor in the industrial tide flats. Late in the 1990s it was reported that many companies implemented changes that reduced their total sulfur emissions by 90%. Today the resulting effects are not only good for the environment but also for the local communities.

Since WasteXpress was founded in 1989 in Portland, Oregon. We have continued to grow and expand our horizons in the waste disposal industry. From Portland, WasteXpress Environmental expanded into Seattle, Washington and began to service Seattle and the greater Puget Sound area with its waste disposal needs. As the greater Seattle metro area continues to grow, our company continues to grow. With that, WasteXpress has recently opened an office in Tacoma, Washington so we can better service the needs of our growing client base there. Tacoma, like Seattle, is a port city meaning much of the cities industry and economy is surrounded around the waterways via the imports and exports that are brought in and shipped out through these waterways daily. For years, Wastexpress Environmental has worked with companies ranging from Fortune 500 corporations to small mom and pop businesses to everyone in between. WasteXpress takes pride in continually finding routes to not only dispose of waste streams properly, but also to save our clients' money while they are disposing of their dangerous wastes.

With such a large industry-based economy in Tacoma there is a growing demand for proper disposal of hazardous and non-hazardous waste streams. In the past, hazardous waste was managed very poorly and in turn caused many environmental problems around the city. These are not irreversible problems and with a little thought and care put into properly managing hazardous and non-hazardous wastes, the damages can be reversed. We at WasteXpress Environmental strive to promote environmentally sound, safe and healthy practices while disposing of waste. We constantly pursue the most innovative routes of waste disposal and care not only about tomorrow, but rather the long term health of the environment we live in. When choosing your waste disposal route in the city of Tacoma or surrounding areas, WasteXpress Environmental is the reliable, friendly and trusted choice for you and your company.

[Photo by: Scott Hingst, via CC License]

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Tacoma, WA

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Attachment C

Hazardous Waste Disposal Seattle - WasteXpress

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Seattle Hazardous Waste Disposal Services



Phone: (855) 224-3206 

Fax: (503) 228-9168 

Email: info@wastex.com



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<https://www.wastex.com/hazardous-waste-disposal-seattle/>

4/8/2020

WasteXpress is a local family owned waste disposal and recycling company servicing the Pacific Northwest for over 30 years. Our experienced team of environmental professionals focuses on finding innovative and cost effective approaches to hazardous waste disposal and recycling. With well over 85 years of combined experience you can have confidence that our Project Managers will handle your hazardous waste or hazardous material properly.

Our Seattle operation offers a variety of hazardous waste disposal solutions to Seattle and surrounding metro businesses. WasteXpress can provide reasonable cost effective disposal solutions for:

- Solvents
- Corrosives (acid or basic / caustic)
- Oxidizers
- Flammables
- Disposal of Paint
- WTO2 waste
- Latex
- Investigative and Derived Waste (IDW)
- Non – RCRA special waste
- Contaminated heavy metal laden soil
- Off specification water
- Environmental consulting
- Tank cleaning
- Chemical disposal
- Bulk Waste Hauling
- Oil and Coolant Recycling
- Vactron Tank Pumping Services
- Roll off Drop Box's
- Bio-Hazardous Waste Disposal
- Universal waste Disposal

Seattle has always been known as one of the Northwest United States industrial hubs for technology, aerospace, and manufacturing. Over the years aeronautical manufactures have taken a progressive approach when dealing with hazardous waste or material. As it stands today, there are several Seattle based companies who engage in recycling and reclaiming hazardous waste making the city and surrounding communities a healthier place to live. Recently, Seattle's municipal government has committed to becoming North America's first "climate neutral" city in North America.

Being a "Climate neutral" city is a tremendous accomplishment for a city the size of Seattle. The only way such a success is possible is through a conscious effort put forth by major companies who are based out of Seattle. General manufacturing operations produce a tremendous amount of by-product and waste related material; however this waste can be minimized with proper waste disposal techniques. When waste materials cannot be reused, recycled, or reclaimed, environmentally friendly disposal techniques such as incineration are used on a very regular basis by Seattle based companies. Incineration limits the amount of waste that goes into our landfills and prevents potentially toxic materials from leaching into our food and water systems. It is through clean disposal efforts like this as well as many other recycling techniques that makes Seattle a "Climate neutral" city and a city that is paving the way for the future generations.

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<https://www.wastex.com/hazardous-waste-disposal-seattle/>

4/8/2020

Wastexpress Environmental is an environmental company first that in turn handles hazardous and non-hazardous waste disposal. We have access to the nation's leading incineration and recycling facilities which puts us far and ahead many other companies when it comes with environmentally friendly disposal. Wastexpress has a team that continually strives for environmentally friendly disposal and puts in the time and effort to prevent as much waste as possible from going into the ground. Our team strives to not only keep a green planet but also to keep the green in our customers wallets as we feel that environmentally friendly waste disposal takes precedent over maximizing profits. We offer our customers a reasonable price for exceptional service when handling your waste streams. This simple principal is what continues to make Wastexpress Environmental bloom and flourish through our nations ever changing times and mentality. For a greener tomorrow, Wastexpress Environmental is the smart choice for eco-friendly waste disposal.

WasteXpress has established an outstanding reputation on helping businesses and industry identify, categorize, properly package, cleanup, transport and dispose of waste material. Our primary focus is to provide customer service unlike any other waste management firm. We use Critical Path Methodology (CPM) to ensure your project costs stay competitive. We have comprehensive and tested protocols that guarantee waste materials and project activities are handled as required by environmental, transportation, and health and safety regulations in the most cost effective manner possible. Our professional project managers are always available to consult on both large and small scale projects to ensure that waste disposal is being handled in a controlled and safe manner. Our project managers and experienced waste characterization team work collaboratively to also provide profiling and waste characterization free of charge. This service not only saves our customer's time but also ensures that your waste is being characterized by a team of environmental professionals.

Other services that Wastexpress Environmental offers include Vactron tank pumping services where our experienced team of field technicians takes care of your onsite pumping needs. We also offer roll-off drop box services for that can be scheduled on a set pickup schedule that fits our customer's needs. In addition to these, Wastexpress Environmental frequently manages bulk waste disposal via tractor trailer transportation to various end facilities located throughout the country. Overall, Wastexpress is a fully licensed, fully insured vendor that has the capability to handle any waste disposal needs for companies whether large or small. When it comes to hazardous, non-hazardous and universal waste disposal, Wastexpress Environmental is the proven and trusted solution for waste disposal.

[Photo by: kla4067, via CC License]

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(503) 224-3206



<https://www.wastex.com/hazardous-waste-disposal-seattle/>

4/8/2020

Attachment D

**Infectious Waste Management
Permit Application**

PT0004067 FA0024499 PR0032352
AR0071074
AW0020481



Infectious waste management activity (Check all applicable activities):

- Class 1A Generator
Less than 40 gallons/50 pounds per month
- Class 1B Generator
41-100 gallons/50-110 pounds per month
- Class 1C Generator
More than 100 gallons/110 pounds per month
- Class II Transporter
All licensed transporters of waste (TP)
- Class III Storage and/or Treatment Facility (S)
- Alternate Technology Review Request
Must Include Supporting Documentation

POSTED
7/19/19

RECEIVED
T 98409
JUN 27 2019
Tacoma-Pierce County
Health Department

VALIDATION
Tacoma Pierce County
Health Department
6/28/2019 10:01:19 AM
Clerk 53-T5
Infectious Waste Class II
\$500.00
Receipt #548084
ck08677 Wastexpress 5812 S Adams

Amount of infectious waste generated, transported, stored or treated
Approx. 600/month pounds gallons

Facility Name WasteXpress Phone 360-688-4783
 Facility Address 5812 S. Adams St. City Tacoma Zip 98409
 Assessor-Treasurer's Parcel Number _____
 Mailing Address (if different) P.O. Box 31100 City Portland, OR Zip 97231
 Infectious Waste Coordinator Paul Krebsbach 360-688-4783
 Email Address paul@wastex.com
 Owner/Operator Arthur Marx
 Address (if different) _____ City _____
 Application type: New Application Opening Date 6-3-2019
 Change of Location/Ownership Permit Number _____

Transport Generator type:

- | | | | |
|--|--|---|---|
| <input type="checkbox"/> Acupuncture (A) | <input checked="" type="checkbox"/> Emergency Services (E) | <input checked="" type="checkbox"/> Medical (M) | <input checked="" type="checkbox"/> Pharmacy (PH) |
| <input checked="" type="checkbox"/> Assisted Living (AL) | <input type="checkbox"/> Funeral Home (F) | <input type="checkbox"/> Mental Health (MH) | <input checked="" type="checkbox"/> Tattoo (T) |
| <input checked="" type="checkbox"/> Clinic (C) | <input type="checkbox"/> Hospital (H) | <input type="checkbox"/> Naturopathic (NP) | <input type="checkbox"/> Trauma Cleanup (TC) |
| <input checked="" type="checkbox"/> Dental (D) | <input checked="" type="checkbox"/> Lab (L) | <input checked="" type="checkbox"/> Nursing/Rehab (N) | |
| <input type="checkbox"/> Other _____ | | | |

Types of infectious waste generated, (transported), stored or treated
Biological Waste, Cultures & Stocks, Pathological Waste, Sharps & Syringes

Infectious Waste Treatment Method:
 Onsite Autoclave Onsite Plaster Encasement
 Onsite Chemical Treatment Other Transportation only
 Approved Outside Contractor Provide name Waste Management

**Infectious Waste Management
Permit Application**



List names and addresses of any other facilities utilized by the applicant (i.e., offices, clinics, etc.) that generate, transport, store or treat infectious waste.

Waste Xpress (Portland OR) 11618 N Lombard St. Portland OR 97203

List name(s) of other parties sharing same office space.

N/A

The undersigned, representing the above-named firm, agrees to follow the Board of Health Resolution 2010-4226 (amendment to Resolution No. 712), Pierce County Ordinance No. 89-54S, and City of Tacoma Ordinance No. 24526 Infectious Waste Regulations, which pertain to the generation, transportation, storage and treatment of infectious waste in Pierce County.

Signature of authorized representative of above-named firm or managing partner

6-3-19

Date

Address of signer (if different from facility address on front of application)

Return application packet along with appropriate fees to:

Tacoma-Pierce County Health Department
Waste Management
3629 South D Street, MS 1045
Tacoma, WA 98418-6813

Make checks payable to Tacoma-Pierce County Health Department

Infectious Waste Management Plan, Policy and Procedures

Facility Name WasteXpress
Effective date 6/3/19 Approved by Jeremy Komp / VP

Policy

All employees, staff, housekeeping, and janitorial personnel that generate or handle infectious waste are responsible for reading, understanding, and implementing the following infectious waste management policies and procedures. List infectious waste coordinator or committee members responsible for implementing the infectious waste procedures:

Infectious Waste Coordinator: Paul Krebsbach 360-688-4753

All staff dealing with infectious waste must be provided training on the local infectious waste management plan and in-house procedures **at least annually**.

Definition Infectious waste is untreated solid waste capable of causing infectious disease via exposure to a pathogenic organism of sufficient virulence and dosage through a portal of entry in a susceptible host.

Infectious wastes generated include the following types of wastes (refer to infectious waste definitions in the regulations for specific types):

- Sharps (i.e. Needles with syringes, scalpel blades, glass slides, etc.)
- Cultures and stocks of infectious waste agents (i.e. blood specimen tubes, culture plates).
- Blood, blood saturated gauze, or bandages.
- Pathological waste.
- Other N/A

RECEIVED
JUN 27 2019
Tacoma-Pierce County
Health Department

Procedures

The following is an explanation of the infectious waste management plan:

- Sharps will be segregated and collected in plastic needle boxes. Sharps include all items of glass, needles, blades, etc. Saturated dressings, gauze, plastic blood specimen tubes and culture plates will be segregated and collected in a trash container lined with a red plastic bag. Sharps containers will not be filled over ¾ full and the containers' lids will be tightly secured at all times.

- Sharps containers are found in the following locations: WasteXpress Hazmat Trucks

Red bag containers will be kept at these locations: WasteXpress Hazmat Trucks

Approximately 600 gallons of infectious waste are ^{transported} ~~generated~~ each month.

- Infectious waste containers are not to be accessible to patients, the public, vectors, or exposed to elements.
- Storage rooms and containers used for infectious waste are labeled and identified with the words "Infectious Waste" or the international biohazard symbol. Until pick-up or treatment, infectious waste will be stored in:

No storage on site. Transportation only

Infectious Waste Management Plan, Policy and Procedures

- If the waste container is contaminated by infectious waste, decontamination of the container will be accomplished by application of a sanitizer (i.e. 1:10 solution of household bleach and water to the contaminated area) then wiping the area clean with paper towels or a sponge. The person cleaning the waste container will wear latex gloves and other appropriate protective gear, (i.e. nose and mouth mask, moisture resistant apron or gown, eye protection) to prevent exposure to infectious waste.
- Filled infectious waste containers will be stored on site for no more than seven (7) days before disposal or treatment.

Treatment of Infectious Waste Choose one: On-site Treatment Off-site Treatment

Onsite Treatment

Autoclave—Onsite treatment of infectious waste, both red bag and sharps, will be accomplished by autoclaving. Autoclave indicator tape will be applied to each infectious waste container before being autoclaved. After the infectious waste containers have been autoclaved and the autoclave tape indicates this fact, the waste may be disposed as regular waste directly into the dumpster. Ensure each treated container is rewrapped in an opaque bag (non-red) before disposal in the normal trash.

- Infectious waste will be treated until the autoclave tape indicates the waste has been autoclaved.
- Offsite spore test will be conducted at least quarterly to confirm adequate sterilization.
- For Class 1A and 1B generators, place biological indicator in the center of a representative load at least monthly. Class 1C generators and III treatment facilities will be tested weekly.
- All autoclaves will have their interior thermometers calibrated annually (if applicable).

Chemical Sterilization—Onsite treatment of non-sharps infectious waste (red bag) may be accomplished by chemical sterilization. Saturate the infectious waste with a 1:10 solution of household bleach, let sit for at least 30 minutes prior to disposal. If any red bags are placed in the trash after autoclave or chemical treatment, they must be rewrapped with a non-red bag prior to disposal.

Plaster Encasement—Onsite treatment of sharps can be conducted by plaster encasement. Plaster is added into a sharps container when still empty to form a bottom layer. When syringes in the sharps container reach a depth of 12 inches or nightly (whichever comes first), another layer of plaster will be poured and the container shaken to fully encapsulate the needles. When the container is ¾ full, a final layer of plaster will be poured to fully encapsulate all needle points. Once the final layer of plaster has dried, the container will be sealed and disposed of in the regular trash.

Isolyzer®/SMS®—Onsite treatment of sharps can be conducted by Isolyzer®/SMS® sharps disposal system. Needles are added to a sharps container filled with an Isolyzer® solution. When the container is ¾ full of needles, add water until almost full. Then add the catalyst to harden the liquid and fully encapsulate all needle points. When the container has fully hardened, the container will be sealed and disposed of in the regular trash.

Alternate Method of On-site Disposal None - NO on-site disposal.
Transportation only

Infectious Waste Management Plan, Policy and Procedures

Off-site Treatment

A regulated infectious waste disposal company Murrey's Stericycle Waste Management
 other Waste Xpress will pick up and transport infectious waste to a facility for treatment and final disposal.

Infectious waste will be ^{Transported} ~~picked up~~ daily weekly bi-weekly monthly as required.

Final off-site treatment will be accomplished by incineration microwave autoclave other _____

In the event the designated and approved primary treatment and disposal method is unavailable, emergency backup contingency plan is to utilize either Murrey's Stericycle Waste Management other _____

Spill Response

In the event of an infectious waste spill, cleanup personnel will find blood/body fluid spill response kits at the following location(s): Waste Xpress Hazmat Trucks

- Put on the appropriate personal protection equipment. Personal protective gear includes latex gloves, moisture resistant apron, eye protection, and nose and mouth mask.
- Apply absorbent to any spilled liquids and a hospital approved germicidal disinfectant to the spillage site. Pick up any solid debris and dispose of in red bag. Strip off any protective gear and dispose of anything that is for single use. Sanitize any personal protective gear which will be used again with an approved sanitizer.
- For spills greater than 1 liter of liquid body fluid or 32 gallons of solid infectious waste, notify the Health Department within 24 hours by calling (253) 798-6047 and record spill response activities in your spill log.

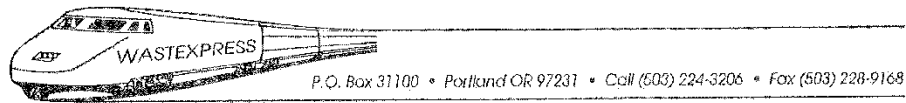
Record Keeping

A file containing the above infectious waste management policies and procedures will be maintained by our infectious waste coordinator and can be reviewed at our facility. All waste disposal and autoclave records, testing data, infectious waste management correspondence, and spill/training logs must be retained on site for a **minimum of three years**.

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Infectious/Medical/Pharmaceutical Wastes (Special Waste Management Plan)

WasteXpress' Solid Waste Disposal Permit #1565 (February 20, 2018) requires that WasteXpress operate in accordance with an approved Special Waste Management Plan ("SWMP") addressing certain waste materials that, because of their nature, pose potential hazards to human Health or the environment and require careful handling at transfer facilities. Infection Wastes as defined at ORS § 459.386(4) (e.g. biological waste, cultures and stocks, pathological waste and sharps) are included among those wastes which must be managed in accordance with an approved SWMP. WasteXpress transports, stores and transfers Infectious Waste in accordance with the procedures set out at ORS § 459.390.

For clarification purposes, Infectious waste means:

- (a) "Biological waste", which includes blood and blood products, excretions, exudates, secretions, suctioning's and other body fluids that cannot be directly discarded into the municipal sewer system, and waste materials saturated with blood or body fluids, but does not include diapers soiled with urine or feces. In addition, biological waste does not include articles contaminated with fully absorbed or dried blood, such as gauze, paper towels, and sanitary napkins;
- (b) "Cultures and stocks", which includes etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate and mix cultures, wastes from production of biologicals, and serums and discarded live and attenuated vaccines. "Cultures" does not include throat and urine cultures;
- (c) "Pathological waste", which includes biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals. "Pathological waste" does not include teeth or formaldehyde or other preservative agents;
- (d) "Sharps", which includes needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers;
- (e) "Syringe" means an instrument for the injection of medicine or the withdrawal of body fluids that consists of a hollow barrel fitted with a plunger and a hollow needle.

Containers – WasteXpress only accepts 40-gallon pre-labeled DOT approved Infectious Waste containers compliant with ORS § 459.390(7), and which have been filled and sealed by the customer. Upon receipt at the facility a WasteXpress technician will confirm that the containers have a tight-fitting cover, have been kept clean and in good repair, and are labeled with the international biohazard symbol and the words "Biomedical Waste" on the sides so as to be readily visible from any lateral direction when the container is upright.

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WasteXpress will not accept any infectious waste from a generator that generates more than 50 pounds of infectious waste per month. This will be confirmed during the profiling process described in Sec. 2.3.1.

Temporary Storage – Infectious Waste containers accepted for transport are brought to the WasteXpress Transfer Station and stored in a secure storage area until they are picked up by a vendor licensed to treat (i.e., incinerate) the Infectious Waste in accordance with ORS § 459.395. Enclosures used for storage of infectious waste at the WasteXpress Transfer Station are secured to prevent access by unauthorized persons and are marked with prominent warning signs.

WasteXpress does not open Infectious Waste containers.

Spill Response Plan – WasteXpress has adopted and implemented a Spill Plan for general activities performed by WasteXpress employees. All appropriate Personal Protective Equipment for any necessary response to an Infectious Waste spill is maintained and available at the WasteXpress Transfer Station as described in the Spill Plan.

Documentation-WasteXpress will maintain records showing the point of origin and date and place of final disposal of infectious waste collected from generators. A copy of these records will be given to the generator or the Department of Environmental Quality upon request.

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**SOLID WASTE DISPOSAL SITE PERMIT:
Transfer Station**

Oregon Department of Environmental Quality
700 NE Multnomah St., Suite 600
Portland, OR 97232-4100
503-229-5353
Email: DEQNWR.SolidWastePermitCoordinator@deq.state.or.us

Issued in accordance with the provisions of Oregon Revised Statutes Chapter 459 and 459A and 466, Oregon Administrative Rules 340 Divisions 93, 95, 96, 97, 100 and 111 and 113 and subject to the Land Use Compatibility Statement referenced below.

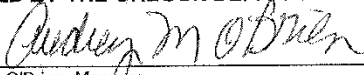
Issued to: Arthur Marx International Resource Management, Inc. (IRM) P.O. Box 31100 Portland, OR 97231	Facility name and location: WasteXpress 11618 N. Lombard St. Portland, OR 97203 Multnomah County
Owner: Marx Investments, LLC P.O. Box 83492 Portland, OR 97283	Operator: WasteXpress 11618 N. Lombard St. Portland, OR 97203 Multnomah County

ISSUED IN RESPONSE TO:

- A solid waste permit application received July 28, 2016.
- A Land Use Compatibility Statement from the City of Portland dated April 25, 2016.

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

ISSUED BY THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY


Audrey O'Brien, Manager
Environmental Partnerships
DEQ Northwest Region

February 20, 2018
Date

Permitted Activities

Until this permit expires or is modified or revoked, the permittee is authorized to operate and maintain a Solid Waste Transfer Station (TS) and accept waste in conformance with the requirements, limitations, and conditions set forth in this document including all attachments.

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ALLOWABLE ACTIVITIES

1 Waste receipt and disposal authorizations

1.1 Waste authorized for acceptance

This permit authorizes the permittee to accept the following wastes from generators and waste haulers for transfer, except waste specifically prohibited in Section 2.0 (Prohibitions).

- latex paint
- water based products
- used oil for transfer to an offsite recycling center
- emulsified oil and water
- oily solids
- oil filters
- used coolant for transfer to an offsite recycling center
- investigation derived wastes
- sharps handled in accordance with OAR 340-093-0190(1)(d)(B)
- other non-putrescible wastes that don't require a Special Waste Management Plan and are included in a DEQ approved Operations Plan

This permit authorizes the permittee to accept conditionally exempt generator's (CEG) hazardous wastes subject to the requirements of 40 CFR 257.5 through 257.30 and 40 CFR 261.5(e)(3)(vi) (version in effect June 30, 2015).

Note: A DEQ approved SWMP is required for acceptance of certain wastes that require special management due to the threat posed to human health or the environment. (see Special Waste Management Plans [SWMP] in Section 3).

Reference: The permittee must manage CEG wastes in accordance with 40 CFR 257.5. Requirements for hazardous waste generated by conditionally exempt small quantity generators are provided in 40 CFR 261.5 (version in effect June 30, 2015)

Solid waste is defined in ORS 459.005

1.2 Authorization to accept other waste

The DEQ may authorize the permittee to accept wastes other than those set forth in Section 1.1 if:

- The permittee submits a written request to DEQ that includes an updated Operations Plan and a SWMP (if needed) specific to the additional waste and DEQ approves the updated operations plan and SWMP. The permittee must also demonstrate that the materials are not hazardous waste, as defined by state and federal regulations, or not otherwise a threat to human health or waters of the state.
- Should permittee submit a request to accept waste other than that set forth in Section 1.1, DEQ may require a permit modification and public notice.
- Prior to accepting household hazardous waste (HHW), as defined in ORS 459.005(12), the permittee must submit to DEQ a written request that includes an updated SWMP that meets DEQ's guidance on HHW facility design and operation which can be found at:
<http://www.deq.state.or.us/qa/pubs/docs/sw/hhw/2004HHWCollectionFacilityGuidance.pdf>.

1.3 Acknowledgement of other wastes accepted

In addition to those wastes set forth in Section 1.1, the permittee also accepts the following wastes:

- Hazardous wastes for 10-day storage and transfer as regulated in 40 CFR 263 (HW10DSF) in accordance with RCRA regulations and the facility's hazardous waste transporter license (RCRA ID# ORQ000023150).
- PCB articles and other TSCA waste in accordance with TSCA regulations and the facility's PCB transporter license (TSCA ID # ORQ000023150). (40 CFR Part 761).

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- Used oil for transfer in accordance with state and federal regulations (OAR 340-111 and 40 CFR 279) and the facility's used oil transfer facility registration.
- Universal wastes as a small quantity handler of universal waste in accordance with OAR 340-113 and 40 CFR 273.
- Waste pesticides in accordance OAR 340-113.
- Out-of-date pharmaceuticals must be managed in accordance with applicable hazardous waste requirements and as authorized by the DEA.
- **Infectious wastes in accordance with OAR 333-056. This material also requires a SWMP to ensure operations comply with ORS 459.386 to 459.405.**

1.4 Authorization of activities

The permittee must conduct all facility activities in accordance with the provisions of this permit. Once approved by the DEQ, any permit-required plans become part of the permit by reference. The DEQ may provide notice and opportunity for review of permit-required plans. Reference: OAR 340-093-0110 and OAR 340-093-0113

1.5 Duration of authorization

The authorization for the permittee to accept wastes listed in Section 1.1 will terminate at the time of site closure. After that time, permittee cannot accept wastes without written authorization by the DEQ. Reference: OAR 340-093-0115

2 Prohibitions

2.1 Prohibited waste

Unless otherwise approved in writing by DEQ, the permittee must not accept the following wastes. Reference: OAR 340-093-0040

- Explosives
- Radioactive materials

2.2 Open burning

The permittee must not conduct any open burning anywhere on at its facility. Reference: OAR 340-264-0030.

2.3 Batteries for disposal

The permittee can collect lead-acid batteries for recycling but cannot mix lead-acid batteries in solid waste or transfer lead-acid batteries to a landfill. Reference: OAR 340-093-0040.

2.4 Asbestos containing materials

The permittee must not accept friable or non-friable asbestos or asbestos-containing material at the facility. (Reference: OAR 340-0248)

Exception: If the permittee discovers that it has accepted asbestos-containing waste material inadvertently, that waste must be managed for disposal according to procedures regarding the receipt, handling, storage, spill cleanup and disposal of the asbestos-containing waste materials set forth in the approved SWMP.

Reference: OAR 340-093-0190

2.5 Used oil for disposal

The permittee must not accept any used oil for disposal or for transfer to a landfill for disposal. The permittee must not mix used oil with solid waste for disposal or transfer to a landfill for disposal.

Reference: OAR 340-093-0040(3)(a)

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OPERATIONS AND DESIGN

3 Operations Plan

3.1 Plan compliance

Within 60 days of the permit issue date, the permittee must submit an updated facility Operations Plan to DEQ for review and approval. The updated plan must be consistent with the conditions of this permit. Once approved, the plan is incorporated into this permit and the conditions of the plan become permit conditions. Until that time, the facility must operate in accordance with the December 2016 Operations Plan. Reference: OAR 340-093-0070 and OAR 340-096-0040

At least 90 days before beginning operations in a building(s) not in existence at the time of issuance of this permit, the permittee must submit to DEQ a revised Operations Plan. The permittee cannot start operations in a new building prior to receiving DEQ approval.

3.2 Plan Content

The Operations Plan must describe the current method of operation of the facility in accordance with all regulatory and permit requirements.

The operations plan must, at a minimum, include how the permittee will conduct:

- Waste unloading and handling
- Management of transfer containers
- Washing equipment
- Maintaining leachate collection systems
- Maintaining surface water control structures
- Screening procedures for detection of unauthorized wastes
- Handling and removal of unauthorized wastes discovered at the facility
- Procedures for dealing with cleanup of an oil or hazardous materials spill. The plan must also include the procedure for reporting the spill to the Oregon Emergency Response System (OERS) at 1-800-452-0311
- Establishing and maintaining the operating record that shows the facility is being operated in compliance with the permit and the Operations Plan
- Providing fire protection equipment
- Notifying DEQ about emergencies and fires.
- Screening procedures describing how the facility will screen hazardous waste generators to ensure their CEG status.
- Methods to report all failures in the CEG system immediately and maintain a file containing all documentation for at least three years
- Worker safety protections
- Emergency Response Plan which addresses procedures for spill prevention, emergency response, emergency contacts list, layout of the facility, evacuation routes, properties of wastes handled and types of equipment on-site
- Personnel Training Plan including 24- or 40- hour HAZWOPER
- Facility Closure Plan
- Management of other wastes (See Section 3.3)

3.3 Acknowledgement of other wastes accepted

If otherwise authorized to accept the wastes listed under Section 1.3, the Operations Plan must address how the permittee will track and store these wastes to ensure they are not commingled with wastes listed under Section 1.1.

3.4 Special Waste Management Plan

The permittee must submit to DEQ, a SWMP which must address certain waste materials that, because of their nature, pose potential hazards to human health or the environment and require careful handling at transfer facilities. Once approved by DEQ, the SWMP will be incorporated into the approved Operations Plan.

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The SWMP must address procedures for receipt, handling, storage, spill clean-up and transport for reuse, recovery or disposal at an appropriately permitted facility.

Special wastes requiring a SWMP include but are not limited to:

- Asbestos containing materials
- Electronic waste
- **Infectious waste**
- Source separated household hazardous waste
- Septage
- Sewage sludges and grits
- Waste pesticides and pesticide residues
- Household hazardous wastes

Reference: OAR 340-093-0190(1)

3.5 Plan maintenance

Prior to commencing any change in operations that might negatively affect the environment or human health, the permittee must submit revisions of the Operations Plan to DEQ for review and approval. Additionally, the permittee must revise the Operations Plan as necessary so that it reflects current facility conditions and procedures. Reference: OAR 340-93-0070 and OAR 340-096-0040.

All submittals to the DEQ under this section must be sent to:

Oregon Department of Environmental Quality
700 NE Multnomah St., Suite 600
Portland, OR 97232-4100
503-229-5353
DEQNWR.SolidWastePermitCoordinator@deq.state.or.us

4 Site Design and Construction

4.1 Facility design and construction plan

Prior to constructing any modifications to the facility, the permittee must submit to DEQ a modified Facility Design and Construction Plan, stamped by a registered professional engineer. The permittee must receive written approval of the modified Facility Design and Construction Plan from DEQ prior to commencing construction. The permittee must design and construct any changes to the facility in accordance with plans approved by DEQ. Reference: ORS 459.235; OAR 340-093-0140 (1); and OAR 340-096-0040(2).

4.2 Construction requirements

The permittee must perform all construction in accordance with the approved plans and specifications, including all conditions of approval by DEQ. Any amendments to those plans and specifications must be approved in writing by DEQ. Reference: OAR 340-093-0140.

4.3 Construction documents

When 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 include a Construction Quality Assurance 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. Reference: OAR 340-093-0150

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4.4 Construction report submittal

Within 90 days of completing construction, the permittee must submit to DEQ a Construction Certification Report, 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 DEQ-approved design specifications. This submittal must include "as constructed" facility plans which note any changes from the original approved plans. Reference: OAR 340-093-0150 (1)

4.5 Approval to use

The permittee must not accept any wastes for storage or processing in any newly constructed facilities or areas until DEQ has approved a Construction Certification Report. If DEQ does not respond in writing to a Construction Certification Report within 30 days of its receipt, the permittee may accept waste at the facility in the newly constructed facilities or areas. Reference: OAR 340-093-0150 (3)

4.6 Submittal address

All submittals to DEQ under this section must be sent to:

Oregon Department of Environmental Quality
700 NE Multnomah St., Suite 600
Portland, OR 97232-4100
503-229-5353
DEQNWR.SolidWastePermitCoordinator@deq.state.or.us

5 Recordkeeping, reporting and fee payment

5.1 Disposal and recycling data collection

The permittee must collect the following information on a monthly basis:

- Number of compactor, drop box, and private vehicles that used the facility
- Volume (i.e., pounds, tons, cubic yards) of solid waste and CEG transferred and where
- Tons of incoming materials accepted
- Types and amounts of salvage or recyclables removed monthly
- Tons of residual waste sent for disposal and where

The permittee must collect information about the amount of each material recovered for recycling or other beneficial purpose each quarter for each year.

5.2 Data reporting

- Solid Waste: Information collected on solid waste accepted for transfer to a disposal site must be recorded annually on the DEQ form titled: *Solid Waste Transfer Report*. This form is due by Jan. 31 following each reporting year.
- Recycling – Recycling information collected must be submitted to the local wasteshed representative (county recycling contact) by Jan. 31 following each reporting year.

5.3 Non-compliance reporting

In the event that the permittee violates any condition of this permit or of DEQ's rules, the permittee must immediately take action to correct the violation and notify DEQ within 24 hours at 503-229-5353 or via email at DEQNWR.SolidWastePermitCoordinator@deq.state.or.us.

Response: 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.

5.4 Fee payment

The permittee must pay the solid waste compliance fee each year this permit is in effect. DEQ will send an invoice to the permittee indicating the amount of the fee and the due date. Fees are based on the tons of solid waste received and transferred for disposal.

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5.5 Records

The permittee must keep copies of all records and reports for five years from the date created, unless another timeframe is set forth in this permit.

The permittee must keep documentation available which demonstrate that permittee has:

- Submitted its most recent Operations and Emergency Response Plans, updated emergency contacts list and if appropriate establish response agreements with all appropriate agencies, including as applicable, all local police, fire departments, state and local emergency response teams and the appropriate DEQ regional office.
- Taken steps to make sure that the above agencies, as applicable, are familiar with the layout of the facility, the wastes handled, and evacuation routes.

5.6 Access to records

Upon request, the permittee must make all records and reports related to the facility available to DEQ.
Reference: OAR 340-096-0040 and OAR 340-093-0050(6)(e)

6 Financial Assurance

6.1 Financial assurance plan

The permittee must implement the DEQ approved financial assurance plan and provide financial assurance for the cost of site closure. A copy of the plan must be kept at the facility. The plan be updated if any changes in the operation or closure would result in increased closure costs.

Reference: The plan must be prepared in accordance with OAR 340-095-0090. Acceptable mechanisms are specified in OAR 340-095-0095. DEQ may tailor financial assurance requirements to the nature of the facility per OAR 340-096-0001.

6.2 Verification of financial assurance

To confirm that the financial assurance is valid and adequate, the permittee must submit the following to DEQ on an annual basis:

- A copy of the current financial assurance mechanism
- A written certification that the financial assurance meets all state requirements

Reference: OAR 340-095-0090(6)(d).

6.3 Use of financial assurance

The permittee cannot use the financial assurance for any purpose other than to finance approved closure, post-closure, and corrective action activities or to guarantee that those activities will be completed.

6.4 Continuous nature

The permittee must maintain financial assurance for the facility until the permittee is no longer required to demonstrate financial responsibility for closure, or corrective action (if required).

6.5 Submittal address

All submittals to DEQ under this section must be sent to:

Oregon Department of Environmental Quality
700 NE Multnomah St., Suite 600
Portland, OR 97232-4100
503-229-5353
DEQNWR.SolidWastePermitCoordinator@deq.state.or.us

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GENERAL CONDITIONS

7 Administration

7.1 Definitions

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

Universal waste (UW) is defined in 40 CFR 273.1 and OAR 340-113-010. Wastes pesticides are defined in OAR 340-113-0010. Hazardous waste (HW) is defined in ORS 466.005(7). CEG is defined in ORS 459.412 and ORS 465.003(1). Used oil is defined in OAR 340-111-0020. PCB and TSCA wastes are defined in 40 CFR 761. Asbestos and Asbestos-containing material are defined in OAR 340-248-0010.

7.2 Permit term and renewal

The effective date of this permit is the date this document is signed by DEQ. The expiration date of the permit is indicated at the top right of this document. The authorization to accept waste at the facility will terminate when this permit expires and/or at the time of site closure; after that time the permittee cannot accept waste at the facility. An application for permit renewal is required if a permittee intends to continue operation beyond the expiration date of this permit. A complete renewal application must be filed at least 180 days before the existing permit expires. Reference: ORS 459.245 and OAR 340-093-0070

7.3 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.

7.4 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.

7.5 Documents superseded

This document is the primary solid waste permit for the facility, superseding all other solid waste permits and orders issued for this facility by DEQ. Reference: OAR 340-093-0115

7.6 Permittee responsibility and liability

Conditions of this permit are binding upon the permittee. The permittee must conduct all facility activities in compliance with the provisions of this permit. The permittee is liable for all acts and omissions of the permittee's contractors and agents in carrying out the operations and other responsibilities pursuant to this permit. Reference: OAR 340-093-0050(6)

7.7 Access to disposal site

The permittee must allow representatives of DEQ access to the facility at all reasonable times for the purpose of performing inspections, surveys, collecting samples, obtaining data, reviewing records and carrying out other necessary functions related to this permit. Reference: ORS 459.365 and OAR 340-093-0050(6)(e)

7.8 Other compliance

Issuance of this permit does not relieve the permittee from the responsibility to comply with any other applicable federal, state or local law or regulations including the following solid waste requirements, and any future updates or additions to these requirements:

- Solid waste permit application received June 09, 2017;
- Oregon Revised Statutes, Chapters 459, 459A, 465 and 466;
- Oregon Administrative Rules Chapter 340; and Any documents submitted by the permittee and approved by the DEQ

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7.9 Penalties

Violation of any condition of this permit or any incorporated plan may subject the permittee to civil penalties up to \$25,000 for each day of each violation. Reference: OAR 340-093-0050(7), OAR 340-012-0160(4) and ORS 459.995

8 Permit modification

8.1 Modification

At any time during the life of the permit, DEQ or the permittee may propose changes to the permit. Once approved by DEQ, any permit-required plans become part of the permit by reference. DEQ may provide public notice and opportunity for review of permit-required plans.
Reference: OAR 340-093-0113 and OAR 340-093-0070

The permittee must apply for a modification to this permit if a significant change in facility operations is planned, there is a deviation from activities described in this permit, or there is a sale or exchange of the facility. The permittee cannot implement any change in operations that requires a permit modification prior to receiving approval from DEQ. Reference: OAR 340-093-0070(6)

8.2 Modification and revocation by DEQ

DEQ 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 waste accepted or in the operation of the facility
- Noncompliant operation of the facility.

Reference: OAR 340-093-0113 and OAR 340-093-0115

8.3 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 permit. The permittee must not implement any change in operations that requires a permit modification prior to receiving approval from DEQ.
Reference: OAR 340-093-0070 (6)

8.4 Public participation

DEQ will issue a public notice to inform the public of any significant changes in the permit as required by DEQ rules. Reference: OAR 340-093-0100

8.5 Changes in ownership or address

The permittee must report to DEQ in writing any changes in either ownership of the facility, the facility property or the name and address of the permittee within 10 days of the change. Reference: OAR 340-093-0070

9 Site Operations

9.1 Waste collection

The permittee must at all times maintain and properly operate all waste collection and disposal facilities to prevent discharges, health hazards, and nuisance conditions and to achieve compliance with the conditions of this permit. Reference: OAR 340-093-0050, OAR 340-093-0210 and OAR 340-096-0040

9.2 Waste removal

The permittee must remove all waste from the facility at least as often as necessary to prevent malodors, unsightliness and attraction of insects or other vectors. Reference: OAR 340-093-0210

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The permittee may not exceed the storage time limits provided in the table below, unless there are stricter time limits established in any state or federal regulations. The permittee may propose longer storage time limits in the Operations Plan.

Waste type	Storage time limit
Non-hazardous solid wastes	1-year
CEG hazardous wastes	6 months
Used oil	35-days

9.3 Discovery of prohibited waste

In the event that the permittee discovers prohibited waste at the facility, the permittee must, within 24 hours, notify DEQ and initiate procedures to isolate and remove the prohibited waste.

Reference: OAR 340-093-0050 and OAR 340-093-0190

- 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 by DEQ.
- Putrescible, non-hazardous, prohibited waste must be removed **within 48 hours**, unless otherwise approved in writing by DEQ.
- In the event the permittee discovers unauthorized waste that is hazardous waste or suspected to be hazardous waste, the permittee must, **within 48 hours**, notify DEQ and this waste must be removed **within 10 days**, unless otherwise approved by DEQ. The temporary storage and transportation of hazardous waste must be carried out in accordance with federal and state law.
- In the event that the permittee discovers asbestos containing waste materials or suspected asbestos containing waste materials inadvertently received, the permittee must immediately notify DEQ and follow the approved special waste management plan, including taking steps to wet down, isolate and sample the material. The permittee must work with DEQ to have asbestos containing material properly abated.

9.4 Maximum waste quantities

The permittee must not exceed the maximum quantities of authorized wastes by waste category in the facility's most recent DEQ-approved Financial Assurance Plan.

9.5 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 vectors. Reference: OAR 340-093-0210

9.6 Equipment

The permittee must have available equipment of adequate size and design to properly operate the facility at all times. In the event of an equipment breakdown, the permittee must inform DEQ and provide alternative equipment, unless otherwise approved by DEQ in writing.

Reference: OAR 340-093-0050 and OAR 340-093-0210

9.7 Equipment or facility breakdown

In the event the permittee is unable to comply with any conditions of this permit because of a breakdown of equipment or facilities, an accident caused by human error or negligence, or any other cause such as an act of nature, the permittee must:

- Immediately take action to stop, contain, and correct the problem.
- Immediately notify The DEQ Northwest Region Office so that DEQ can conduct an investigation to evaluate the impact, corrective actions taken, and determine any additional action that must be taken.
- Within five days of the breakdown, submit to DEQ a detailed written report describing the breakdown, corrective action taken, steps taken to prevent recurrence, and any other pertinent information.

Reference: OAR340-093-0050.

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Tacoma-Pierce County
Health Department

Template last updated: 9/13/2016

9.8 Roads

The permittee must construct and maintain roads within the facility in such a manner as to deter traffic hazards, dust and mud, and to provide reasonable all-weather access for vehicles using the site and for emergency responders, to the maximum extent practical. The permittee must use appropriate means, including truck washing as needed, to prevent haul trucks from tracking mud onto external roadways outside the disposal site property boundary. Any truck washing activities must be conducted on an impermeable surface and any disposal of wash water must be done in a manner approved by the DEQ.

Reference: OAR 340-096-0040

9.9 Vehicles and Truck Covers

All vehicles and equipment operated by the permittee and using public roads, must be constructed, maintained and operated so as to prevent leaking, shifting or spilling of wastes while in transit. The permittee must notify all incoming haulers that trucks containing loads must be covered or suitably cross-tied to prevent any load loss during shipment, in conformance with Reference: OAR 340-093-0210 and OAR 340-093-0220.

9.10 Litter control

The permittee must control litter such that the facility and adjacent lands are maintained free of litter at all times. The permittee must retrieve and properly dispose of any debris within the same operational day.

Reference: OAR 340-096-0040

9.11 Air Quality

The permittee must control dust, malodors, and noise in accordance with the DEQ's rules on air pollution and noise control.

According to OAR 340-208-0450, no person may cause or permit the emission of particulate matter larger than 250 microns in size at sufficient duration or quantity as to create an observable deposition upon the real property of another person when notified by the DEQ that the deposition exists and must be controlled.

Reference: OAR 340-096-0040

9.12 Drainage

The permittee must divert surface and storm water drainage around or away from waste handling and storage areas. The permittee must maintain surface water diversion ditches or structures in a serviceable condition and free of obstructions and debris at all times. The permittee must be reported to DEQ any significant damage and make necessary repairs as soon as possible. Reference: OAR 340-096-0040 and OAR 340-093-0050

9.13 Leachate prevention and management

The permittee must operate the facility in a manner that minimizes leachate production to the maximum extent practicable. The permittee must collect, remove and manage leachate in a manner approved by DEQ.

Reference: OAR 340-093-0210 and OAR 340-096-0040

9.14 Storm water management

The permittee must manage and monitor storm water in accordance with all federal and state requirements.

9.15 Spill Response

The permittee must immediately clean up any spill of oil or hazardous material as described in the Operations Plan. The permittee must notify DEQ in the event of any release. In addition, 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

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Tacoma-Pierce County
Health Department

Template last updated: 9/13/2016

- 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.

9.16 Unloading area

The permittee must clearly identify the area(s) for unloading of solid waste using signs, fences, barriers or other devices. Reference: OAR 340-093-0050 and OAR 340-096-0040

9.17 Public Access

The permittee must control public access to the facility as necessary to prevent unauthorized entry and dumping. Reference: OAR 340-093-0050 and OAR 340-096-0040

9.18 Legal control of property

The permittee must maintain legal control of the 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. Reference: OAR 340-093-0050

9.19 Fire protection

The permittee must make arrangements with the local fire control agency to immediately acquire their services when needed and must provide adequate on-site fire protection as determined by the local fire control agency.

- The permittee must immediately and thoroughly extinguish any fire. The permittee must initiate and continue appropriate fire-fighting methods until all smoldering, smoking and burning ceases.
- The permittee must report fires to the DEQ within twenty-four (24) hours at 503-229-5353.
- The permittee must provide water in sufficient quantities for fire protection, dust suppression, and other site operations requiring water. Reference: OAR 340-096-0040 and OAR 340-093-0050

9.20 Signs

The permittee must post signs at the facility, which are clearly visible and legible, providing the following information: Facility name, emergency telephone number, days and hours of operation, solid waste permit number and operator's address. Reference: OAR 340-093-0050 and OAR 340-096-0040

9.21 Vector Control

The permittee must provide rodent, insect, bird and other vector control measures as necessary to prevent vector harborage. Reference: OAR 340-093-0210 and OAR 340-096-0040

The permittee must investigate and 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 contact information (when possible), date complaint was received, date of facility response, description of facility response
- Immediately initiate procedures at the facility, when possible, to resolve the problem identified by the complainant
- For odor, litter or dust complaints, the permittee must report to DEQ as soon as complaints are received from five different businesses and/or individuals about a single event, or if an odor event lasts longer than 24 hours without resolution or mitigation

Reference: OAR 340-093-0050

9.22 Permit display

The permittee must display this permit or a photocopy of it where operating personnel can readily refer to it. Reference: OAR 340-093-0050

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JUN 27 2019

Tacoma-Pierce County
Health Department

Template last updated: 9/13/2016

Sara Bird

Closed Pull record

From: Troy Rowan
Sent: Tuesday, October 8, 2019 8:26 AM
To: Sara Bird
Subject: WasteXpress

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Infectious Waste

Sara,

Can you close in Envision WasteXpress (PR0036352). They withdrew their IW permit application, but time had been spent on the review process so no refund will be issued. Dailies have been added. Thanks.

Troy

Troy Rowan
 Environmental Health Specialist
 Environmental Health
 (253) 798-6429 o • trowan@tpchd.org
 (253) 255-7751 c • www.tpchd.org



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- Daily
- PR status
- Balance
- AR status
- Full file

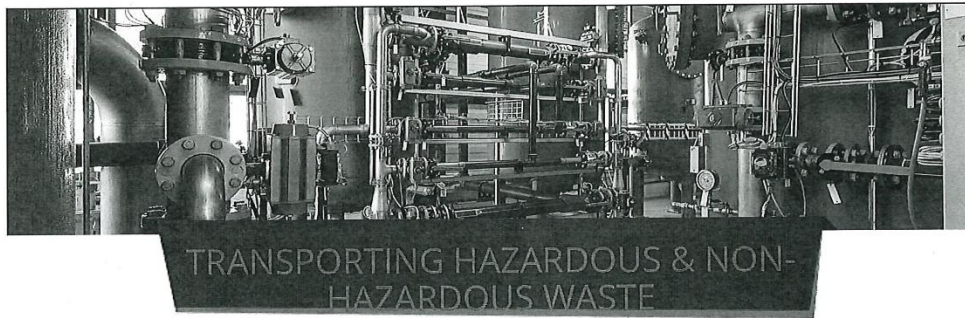


Seattle (855) 224-3206
 Tacoma (855) 224-3206
 Portland (503) 224-3206

"Environmental Services Made Easy, Specializing In
 Hazardous Waste Disposal."

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WasteXpress is committed to and has built an industry reputation of providing safe and cost effective solutions to your environmental needs. We maintain a full fleet of trucks and contract equipment from the best vendors across the Northwest, to ensure that our service isn't far from your facility. We have the insurance, certifications, permits, compliance track record, and years of experience that you are looking for. Our turn-key services are available for small and large disposal projects alike. We provide all the proper waste profiles, manifests, and labels to ensure that your facility remains compliant with all federal and state guidelines.



Transporting Haz Waste



Transporting Non-Haz Waste

We Guarantee Safe and Proper Disposal of:

<http://wasteremovalhazardous.wastex.com/transporting-hazardous-non-hazardous-waste/>

4/10/2019

Attachment E

Motor Carrier Activities - Teleconference with Thomas Benke

Page 1 of 2

SharePoint

Newsfeed OneDrive Sites

McPherson, Kathryn (UTC)  

Activity Date 12/5/2019 1:00 PM

Title Teleconference with Thomas Benke

Activity Status Complete

Activity Due Date

Activity Type [Phone call](#)

Activity Mode [Phone Call](#)

Activity Contact Name Thomas Benke, Jason Hoxit, Patrick Remfrey

Activity Contact Email

Activity Contact Phone

Activity Contact Address

Activity Contact Location

Desc Telephone conference with Thomas Benke regarding WasteXpress business practices. Mr. Benke states he does not believe company should be under regulation because he does not transport commercial generated waste, but industrial generated waste. Mr. Hoxit read the definition of WAC 480.70.041 where industrial waste is included in the definition of solid waste. In addition, I explained that under the definition of commercial authority and commercial service, industrial generators are categorized. Mr. Benke stated he is not arguing the definition but says the company does not qualify for regulation. I asked what the company transports and to where. Mr. Benke did not answer specifically but just stated they are industries that are not commercial. I asked Mr. Benke about the company's application for Tacoma-Pierce Public Health requesting a permit to transport medical waste. He stated the company had withdrawn their application. Mr. Benke stated after three transports, the company decided it was too much effort to transport medical waste in that county and had decided to stop. I explained to Mr. Benke staff's opinion is that the company should apply for a certificate of authority transport solid waste, or request and exemption. Mr. Benke asked if I would send information on exemption.

UTC Staff Members McPherson, Kathryn (UTC)

InvestigationItemSPID 850

Activity Document Count 0

Is Reportable No

Investigation ID

<https://apps.utc.wa.gov/apps/investigations/Lists/Motor%20Carrier%20Activities/DispForm...> 4/9/2020

Attachment F

8/26/2019

eServices

Washington State Department of Revenue

[Services](#) [Business Lookup](#) [WASTEXPRESS](#)

License Information:

[New search](#) [Back to results](#)

Entity name: INTERNATIONAL RESOURCE MANAGEMENT, INC.
Business name: WASTEXPRESS
Entity type: [Profit Corporation](#)
UBI #: 602-640-857
Business ID: 001
Location ID: 0001
Location: Active
Location address: 11618 N LOMBARD ST
PORTLAND OR 97203-6468
Mailing address: PO BOX 31100
PORTLAND OR 97231-0100
Excise tax and reseller permit status: [Click here](#)
Secretary of State status: [Click here](#)

Governing People *May include governing people not registered with Secretary of State*

Governing people	Title
KOMP, JEREMY	
MARX, ARTHUR	

https://secure.dor.wa.gov/gteunauth/_/#3

1/2

Registered Trade Names

Registered trade names	Status	First issued
HAZARDOUS WASTE DISPOSAL	Active	May-15-2017
HAZARDOUS WASTE EXPERTS	Active	May-15-2017
WASTEXPRESS	Active	Apr-06-2017
WASTEXPRESS HAZARDOUS WASTE DISPOSAL	Active	May-15-2017

The Business Lookup information is updated nightly. Search date and time: 8/26/2019 11:18:14 AM

Working together to fund Washington's future

Attachment G



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
621 Woodland Square Loop S.E. • Lacey, Washington 98503
P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

August 27, 2019

Jeremy Komp
Arthur Marx
d/b/a International Resources Management
d/b/a WasteXpress
P.O. Box 31100
Portland, OR 97231

Dear Mr. Komp and Mr. Marx:

The Washington Utilities and Transportation Commission (commission) believes your company is engaged in services that require a solid waste certificate from the commission. The purpose of this letter is to provide technical assistance with respect to Washington's requirements for a solid waste certificate. Pierce County Department of Health contacted commission staff to inform them that International Resources Management d/b/a WasteXpress (WasteXpress) applied for a license to transport biomedical waste. Staff discovered that WasteXpress advertises online for solid waste, biomedical waste, and hazardous transportation on the company's webpage.

Operating or advertising as a solid waste transporter without the required certificate is illegal, and subject to a penalty of \$1,000 per violation.¹ Under the law, advertising of biomedical waste collection services is evidence of operating as a solid waste transporter. Solid waste collection includes residential and commercial garbage, residential recycling, yard waste, and drop box service. Biomedical waste collection means animal waste, biosafety level 4 disease waste, culture and stocks, human blood and blood products, pathological waste, and sharps waste. Hazardous waste means any material that is subject to the hazardous waste manifest requirements of the U.S. Environmental Protection Agency specified in 40 Code of Federal Regulations (CFR) Part 262.²

You may not advertise or transport solid, biomedical, or hazardous waste in Washington without obtaining operating authority from the commission. Until and unless the commission grants a

¹ RCW 81.04.380

² WAC 480-70-041

Respect. Professionalism. Integrity. Accountability.

August 27, 2019
Jeremy Komp
Arthur Marx
Page 2

solid waste certificate, your company must immediately cease advertising and providing all forms of solid, biomedical, or hazardous waste collection services.

If you wish to offer solid, biomedical, or hazardous waste collection services you must first apply a solid waste certificate. An application is included with this letter. All applications are subject to a public protest period and applicants must demonstrate that the existing company is not providing the service you propose to offer. The commission will only grant authority if the existing certificated company is determined to be unfit, unwilling, or unable to provide the service.

By September 10, 2019, please either submit a complete application for a solid, biomedical, or hazardous waste certificate, or explain in writing why your company does not require operating authority from the commission by September 10, 2019. Please explain the nature of your company's operations in detail.

Please direct your written response to Kathryn.McPherson@utc.wa.gov or mail to P.O. Box 47250, Olympia, WA 98504. You may also reach Ms. McPherson at 360-664-1108.

Sincerely,

/s/ Mathew Perkinson
MATHEW PERKINSON
Assistant Director, Transportation Safety

Enclosures (4)

Attachment H

Motor Carrier Activities - Telephone meeting with company

Page 1 of 2

SharePoint

Newsfeed OneDrive Sites

McPherson, Kathryn (UTC)  

Activity Date 9/4/2019 1:30 PM
Title Telephone meeting with company
Activity Status Complete
Activity Due Date
Activity Type [Phone call](#)
Activity Mode [Meeting](#)
Activity Contact Name Jeremy Komp and Thomas Benke
Activity Contact Email
Activity Contact Phone 503-890-4030
Activity Contact Address
Activity Contact Location

Desc Mr. Komp and Mr. Benke conference called to discuss the various types of certificates and permits for solid waste and common carrier. The company states they are transporting non-hazardous industrial waste. We discussed as defined by WAC 480-70-016, industrial waste is solid waste. The company also plans to transport medical waste, but states it is not comingled with hazardous waste. I told the company I would need more details, and I was sending them more information to assist them in responding to staff inquiries.

UTC Staff Members McPherson, Kathryn (UTC)

InvestigationItemSPID 850

Activity Document Count 0

Is Reportable No

Investigation ID

Content Type: MotorCarrierInvestigationActivity
Created at 9/6/2019 8:59 AM by McPherson, Kathryn (UTC)
Last modified at 4/9/2020 1:30 PM by McPherson, Kathryn (UTC)

Close

Attachment 

Documents

 Name Modified Modified By InvestigationDocIndustry InvestigationDocumentType

<https://apps.utc.wa.gov/apps/investigations/Lists/Motor%20Carrier%20Activities/DispForm...> 4/9/2020

Attachment I

McPherson, Kathryn (UTC)

From: McPherson, Kathryn (UTC)
Sent: Wednesday, September 4, 2019 3:33 PM
To: 'Jeremy@wastex.com'
Subject: Link to solid waste page

Here is a link to UTC solid waste page.

<https://www.utc.wa.gov/regulatedIndustries/transportation/solidWaste/Pages/default.aspx>

Also, please refer to WAC 480-70-016 Determination of Authority

(1) Chapter [81.77](#) RCW is intended to cover operations of carriers whose primary business is transporting solid waste for collection and/or disposal. Persons holding permits issued by the commission under the provisions of chapter [81.80](#) RCW, whose primary business is not the collection of solid waste, normally will also need to obtain a certificate of public convenience and necessity if they transport solid waste to a disposal site on more than an occasional basis, or if they hold themselves out to the public as providing solid waste collection service.

(2) In some instances carriers may be engaged extensively in both motor freight and solid waste collection operations. In cases where such operations are separable, carriers may be required to hold both a solid waste certificate under the provisions of chapter [81.77](#) RCW and a motor carrier permit under the provisions of chapter [81.80](#) RCW in order to provide both services. In each case it is within the discretion of the commission to determine whether a carrier is required to hold both a motor carrier permit and a solid waste certificate.

(3) In some instances, transportation of a specific commodity may be subject to commission regulation under the provisions of chapter [81.80](#) RCW, or as solid waste under the provisions of chapter [81.77](#) RCW, depending on the circumstances involved in the transportation of that commodity. For example, if soil is transported to a landfill to become part of the cover of the landfill, the transportation is subject to regulation as a motor carrier under the provisions of chapter [81.80](#) RCW. However, if the soil is being transported to a landfill merely for disposal, the transporter is subject to regulation as a solid waste collection company under the provisions of chapter [81.77](#) RCW.

(4) In determining whether operations require a solid waste certificate or a motor carrier permit, the commission will consider factors including, but not limited to:

- (a) The intent of the shipper;
- (b) The intended destination of the shipment;
- (c) The actual destination of the shipment;
- (d) Special handling or conditions placed on the shipment by the shipper and/or receiver;
- (e) The value of the commodity being transported;
- (f) Whether the carrier is primarily engaged in the business of providing solid waste collection or is primarily engaged in the business of providing a service other than the collection of solid waste; and
- (g) Whether the carrier holds itself out to the public as a transporter of solid waste.

I look forward to your responses.

Thank you,

Kathryn McPherson
Investigator, Solid Waste Enforcement
Transportation Safety Division
(360) 664-1108 Office
Kathryn.Mcpherson@utc.wa.gov
www.utc.wa.gov

Attachment J

McPherson, Kathryn (UTC)

From: Thomas Benke <trbenke@environmental-compliance.com>
Sent: Monday, September 9, 2019 4:19 PM
To: McPherson, Kathryn (UTC)
Cc: Jeremy Komp
Subject: WasteXpress - Certificate of Convenience and Necessity

Kathryn,

This is Thomas Benke, counsel for International Resource Management, Inc. dba WasteXpress, following up on UTC's letter to Mr. Marx and Mr. Komp of August 27, 2019. Thank you for taking the time to talk with Mr. Komp and me last week.

I understand from our conversation that there may be some uncertainty about whether the requirements outlined in the Commission's letter apply to WasteXpress in whole or in part. You had suggested that the types of waste transported by WasteXpress might be determinative. However, my review of applicable statutes and regulations indicates to me that the customers served by WasteXpress may determine whether WasteXpress needs to operate subject to a certificate of convenience and necessity. Please consider the following analysis and let me know if you concur, or if you think I have misunderstood applicable law.

UTC's letter references RCW 81.04.380, which applies to violations by "public service" companies. A public service company includes every "common carrier". RCW 81.04.010(16).

Chapter 81.77 RCW relating to "Solid Waste Collection Companies" includes at RCW 81.77.010(3) and (4) the following definitions:

"Common carrier" means any person who collects and transports solid waste for disposal by motor vehicle for compensation, whether over regular or irregular routes, or by regular or irregular schedules.

"Contract carrier" means all solid waste transporters not included under the terms "common carrier" and "private carrier", as defined in this section, and further, includes any person who under special and individual contracts or agreements transports solid waste by motor vehicle compensation.

International Resource Management, Inc. (Oregon Secretary of State business registration #178287-81) doing business as WasteXpress is a licensed hazardous materials transporter (USDOT #881002) operating pursuant to USDOT regulations promulgated at 49 CFR 173, 178 and 179. WasteXpress' USEPA Identification number is ORQ000023150.

WasteXpress transports "solid waste" (as we understand the definition at RCW 70.95.030(22), particularly including "industrial wastes") under individual contracts with waste generators as its generator-clients require. As I understand the term, WasteXpress is not a "common carrier" for purposes of RCW 81.77 and, therefore, is not a "public service" company for purposes of RCW 81.04.380, cited at footnote 1 of your letter.

That RCW 81.04.380 (relating to penalties) may not apply is not dispositive of the primary issue raised by the Commission's letter, whether WasteXpress can only operate subject to a certificate of convenience and necessity issued in accordance with RCW 81.77.040 ("A solid waste collection company shall not operate for

the hauling of solid waste for compensation without first having obtained from the commission a certificate declaring that public convenience and necessity require such operation.”)

The definition of “solid waste collection company” promulgated at RCW 81.77.010(7) includes both “common” and “contract” carriers:

“Solid waste collection company” means every person... owning, controlling, operating or managing vehicles used in the business of transporting solid waste for collection or disposal, or both, for compensation... over any public highway in this state as a “common carrier” or as a “contract carrier”.

But the definition of “solid waste collection” at WAC 480-70-041 (promulgated to administer and enforce chapter 81.77 RCW) does not include collection from *industrial* customers:

“Solid waste collection” means collecting solid waste from residential or commercial customers and transporting the solid waste, using a motor vehicle, for collection and/or disposal over the highways of the state of Washington for compensation.

If my understanding is correct, WasteXpress needs a certificate of necessity only if it collects “industrial waste” from “residential or commercial customers”. WasteXpress serves almost exclusively industrial customers.

I say “almost” because as of this writing I cannot rule out the possibility that WasteXpress would collect (for example) discarded pesticides or herbicides from retailers who have taken those products off their shelves because of expiration dates, or discarded paints, solvents and other unusable chemicals from retail or residential shops. If this type of collection would require that WasteXpress operate subject to a certificate of convenience then WasteXpress would not serve those customers in Washington, but we would also ask who in the hazardous materials transportation industry would qualify to serve that very narrow (and very necessary) market?

I have not addressed the secondary issue of whether WasteXpress would need to operate subject to a certificate of convenience and necessity and a tariff in order to collect medical waste. I anticipate that compliance with the tariff is required, but I would like to deal with the issues discussed in this email first if you will allow.

I want to emphasize that WasteXpress intends no contest with the Utilities and Transportation Commission regarding these issues. WasteXpress just wants some assurance that it must operate subject to a certificate before it undertakes the application process. I look forward to discussing this matter with you further.

Thank you for your consideration,
Thomas R. Benke
503-890-4030

Attachment K

McPherson, Kathryn (UTC)

From: McPherson, Kathryn (UTC)
Sent: Tuesday, September 17, 2019 3:31 PM
To: Thomas Benke
Cc: Jeremy Komp
Subject: RE: WasteXpress - Certificate of Convenience and Necessity

Good day, Mr. Benke.

There can be a lot of confusion about the rules regarding solid waste in the state of Washington. Solid Waste is regulated by three agencies: Department of Ecology, Department of Health, and Washington Utilities and Transportation Commission. I am sure as your company expands into the Washington state area, definitions and agencies WasteXpress is communicating with may differ.

At times, the definitions disagree. For example, Department of Ecology defines solid waste as “**“Solid waste”** or **“wastes”** means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and **recyclable materials.”** (173-345-030) Whereas the utilities commission defines solid waste “**“Solid waste”** or **“solid wastes”** means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to: garbage, rubbish, refuse, swill, ashes, industrial wastes, sewage sludge, demolition and construction wastes, abandoned vehicles or parts of abandoned vehicles, and source-separated recyclable materials collected from single and multifamily residences.” It also defines recyclables separately as “materials that are transported for recycling, reprocessing, reclamation, or for any process that extracts or modifies the commodity for reuse or another commercially valuable purpose.” (WAC 480-70-041)

WAC 480-70-041 Definitions also refers to “industrial generators” under the definition of commercial authority. **“Commercial authority”** means authority to provide solid waste collection service to business, institutional, or industrial generators.

In order to ensure compliance with Washington Utilities and Transportation Commission regarding the transportation of solid waste, your company may need to apply for a certificate of convenience. If you have additional questions regarding applying for a certificate, I encourage you to contact our licensing division at (360) 664-1222.

Thank you,

Kathryn McPherson
Investigator, Solid Waste Enforcement
Transportation Safety Division
(360) 664-1108 Office
Kathryn.Mcpherson@utc.wa.gov
www.utc.wa.gov

Attachment L

McPherson, Kathryn (UTC)

From: Thomas Benke <trbenke@environmental-compliance.com>
Sent: Wednesday, September 25, 2019 2:44 PM
To: McPherson, Kathryn (UTC)
Cc: Jeremy Komp
Subject: Re: WasteXpress - Certificate of Convenience and Necessity

Kathryn,

This is Thomas Benke for WasteXpress. Thank you sincerely for your response to my email of September 17, 2019. In my email, I explained why I believe that WasteXpress is not a “Solid Waste Collection Company” subject to WAC 480-70 (because “solid waste collection” does not include collecting from industrial customers).

You responded that the definition of “Commercial authority” references “industrial generators”. I do not want to be obtuse, but I don’t see how the definition of “commercial authority” relates to the activities of WasteXpress. For one thing, I can’t find anywhere in WAC 480-70 the phrase “commercial authority” except as it is defined at WAC 480-70-041. (I downloaded a pdf of the WAC and ran a search for “commercial authority”.) Secondly, the definition of “commercial authority” is itself limited by the definition of “solid waste collection” which, as I pointed out, does not reference collecting from industrial customers.

WasteXpress understands that its many competitors also operate in Washington without a certificate of convenience and necessity. WasteXpress is absolutely committed to operating in compliance with all Washington statutes and regulations, but we need to understand how the our services fall within the gamut of Chapter 480-70 WAC before making any application.

Arguably, WasteXpress is a “commercial operator”, and perhaps that is relevant to whether “commercial authority” pursuant to Chapter 480-70 WAC is required for it to operate in Washington. Can you tell me where in the rules the term “commercial authority” appears in other than the definitions?

Please continue to work with me on this issue. If you can direct me to any authority that might clarify the issue I would very much appreciate it.

TRB

On Sep 17, 2019, at 3:30 PM, McPherson, Kathryn (UTC) <kathryn.mcpherson@utc.wa.gov> wrote:

Good day, Mr. Benke.

There can be a lot of confusion about the rules regarding solid waste in the state of Washington. Solid Waste is regulated by three agencies: Department of Ecology, Department of Health, and Washington Utilities and Transportation Commission. I am sure as your company expands into the Washington state area, definitions and agencies WasteXpress is communicating with may differ.

Attachment M

McPherson, Kathryn (UTC)

From: McPherson, Kathryn (UTC)
Sent: Thursday, September 26, 2019 4:06 PM
To: Thomas Benke
Cc: Jeremy Komp
Subject: RE: WasteXpress - Certificate of Convenience and Necessity

Unfortunately, you have not made clear the exact nature of the transports to help me determine your classification as a common carrier or solid waste carrier.

Please answer these questions. It will help if I have this information to determine authority.

In determining whether operations require a solid waste certificate or a motor carrier permit, the commission will consider factors including, but not limited to:

- (a) The intent of the shipper;
- (b) The intended destination of the shipment;
- (c) The actual destination of the shipment;
- (d) Special handling or conditions placed on the shipment by the shipper and/or receiver;
- (e) The value of the commodity being transported;
- (f) Whether the carrier is primarily engaged in the business of providing solid waste collection or is primarily engaged in the business of providing a service other than the collection of solid waste; and
- (g) Whether the carrier holds itself out to the public as a transporter of solid waste.

Can you explain how your company's waste does not fall under the definition of WAC 480-70-041?

"Solid waste" or "solid wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to:

- Garbage;
- Rubbish;
- Refuse;
- Swill;
- Ashes;
- Industrial wastes;
- Sewage sludge;
- Demolition and construction wastes;
- Abandoned vehicles or parts of abandoned vehicles; and
- Source-separated recyclable materials collected from single and multifamily residences.

After I receive your responses, I will be able to assist your company in determining if you need a certificate of convenience, a common carrier permit, or perhaps neither.

Kathryn McPherson

From: Thomas Benke [mailto:trbenke@environmental-compliance.com]
Sent: Wednesday, September 25, 2019 2:44 PM
To: McPherson, Kathryn (UTC)
Cc: Jeremy Komp
Subject: Re: WasteXpress - Certificate of Convenience and Necessity

Attachment N

McPherson, Kathryn (UTC)

From: McPherson, Kathryn (UTC)
Sent: Wednesday, October 30, 2019 3:15 PM
To: Thomas Benke
Cc: Jeremy Komp
Subject: RE: WasteXpress - Certificate of Convenience and Necessity

I have not received a response as requested. Please follow-up by November 6, 2019.

Kathryn McPherson

Investigator, Solid Waste Enforcement
Transportation Safety Division
(360) 664-1108 Office
Kathryn.Mcpherson@utc.wa.gov
www.utc.wa.gov

From: McPherson, Kathryn (UTC)
Sent: Thursday, September 26, 2019 4:06 PM
To: 'Thomas Benke'
Cc: Jeremy Komp
Subject: RE: WasteXpress - Certificate of Convenience and Necessity

Unfortunately, you have not made clear the exact nature of the transports to help me determine your classification as a common carrier or solid waste carrier.

Please answer these questions. It will help if I have this information to determine authority.

In determining whether operations require a solid waste certificate or a motor carrier permit, the commission will consider factors including, but not limited to:

- (a) The intent of the shipper;
- (b) The intended destination of the shipment;
- (c) The actual destination of the shipment;
- (d) Special handling or conditions placed on the shipment by the shipper and/or receiver;
- (e) The value of the commodity being transported;
- (f) Whether the carrier is primarily engaged in the business of providing solid waste collection or is primarily engaged in the business of providing a service other than the collection of solid waste; and
- (g) Whether the carrier holds itself out to the public as a transporter of solid waste.

Can you explain how your company's waste does not fall under the definition of WAC 480-70-041?

"Solid waste" or **"solid wastes"** means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to:

- Garbage;
- Rubbish;
- Refuse;
- Swill;
- Ashes;
- Industrial wastes;
- Sewage sludge;
- Demolition and construction wastes;

Attachment O

McPherson, Kathryn (UTC)

From: Thomas Benke <trbenke@environmental-compliance.com>
Sent: Wednesday, November 6, 2019 2:28 PM
To: McPherson, Kathryn (UTC)
Cc: Komp Jeremy
Subject: Re: WasteXpress - Certificate of Convenience and Necessity

Kathryn,

This is Thomas Benke for WasteXpress responding to your email of September 26, 2019 (below).

Your most recent email requests additional information of WasteXpress to help you determine WasteXpress' "classification as a common carrier or solid waste carrier". As always, we appreciate your assistance in this matter.

I will note that prior to your September 26, 2019 email that we were discussing only whether WasteXpress needed to operate under a "certificate of convenience and necessity" in accordance with RCW 81.77.040. My analysis, included in my email to you of September 9, 2019, is that WasteXpress is not a "solid waste collection company" (which I assume you meant by "solid waste carrier" in your most recent email) because the term does not include collection from *industrial* customers like those served by WasteXpress.

In your most recent email you quote WAC 480-70-016(4) ("In determining whether operations require a solid waste certificate or a motor carrier permit, the commission will consider...") The purpose of WAC 480-70-016 is to determine what authority is required of a transportation company (e.g, either a "certificate of convenience and necessity" issued pursuant to RCW 81.77.040 or a "motor carrier permit" issued pursuant to RCW 81.80.070) whose operations implicate both statutes. At the risk of oversimplifying the several "factors" of WAC 480-70-016(4), I would venture to say that the rule requires the commission to determine whether the transporter's operations are primarily waste-related, which WasteXpress' operations arguably are. But the "factors" of WAC 480-70-016(4) are irrelevant where RCW 81.77.040 does not apply, as here, because WasteXpress does not serve "residential or commercial customers" as referenced at WAC 480-70-041 (implementing RCW 81.77.040).

You would be correct to say that WasteXpress transports "solid waste" to the extent the definition of "solid waste" includes "industrial wastes", but as I have stated it is the nature of the customer, not the nature of the waste, that implicates the requirement of a "certificate of convenience and necessity" under RCW 81.77 and WAC 480-70.

I appreciate your reference to the permitting and registration requirements of Chapter 480-14 WAC for intrastate and interstate common carrier's respectively. The term "common carrier" does not include "solid waste collection companies as defined at WAC 480-70-041" (see WAC 480-14-040(1)) so it is clear that the authorities of RCW 81.77 and 81.80 are mutually exclusive. As I have stated in a previous email, WasteXpress is a licensed hazardous materials transporter operating in accordance with USDOT regulations. WasteXpress does pick-up and drop-off some wastes entirely intrastate. If the Washington Utilities and Transportation Commission concurs with my analysis here that WasteXpress does not need to operate under authority of a "certificate of convenience and necessity", then I understand that WasteXpress should submit a Permit Application for Common Carrier of Property to the Commission immediately.

I look forward to discussing this matter with you further.

Regards,

Thomas R. Benke

Attachment P

McPherson, Kathryn (UTC)

From: McPherson, Kathryn (UTC)
Sent: Monday, November 18, 2019 4:06 PM
To: Thomas Benke
Cc: Komp Jeremy
Subject: RE: WasteXpress - Certificate of Convenience and Necessity

Mr. Benke,

If your company is transporting solid waste, as defined by our definitions – and includes medical waste and industrial waste, a certificate of necessity is required. The only exception for that would be if the transportation of the waste is incidental.

As requested previously, respond to the following questions:

In determining whether operations require a solid waste certificate or a motor carrier permit, the commission will consider factors including, but not limited to:

- (a) The intent of the shipper;
- (b) The intended destination of the shipment; (Where is WasteXpress transporting the waste to?)
- (c) The actual destination of the shipment;
- (d) Special handling or conditions placed on the shipment by the shipper and/or receiver;
- (e) The value of the commodity being transported;
- (f) Whether the carrier is primarily engaged in the business of providing solid waste collection or is primarily engaged in the business of providing a service other than the collection of solid waste; and
- (g) Whether the carrier holds itself out to the public as a transporter of solid waste.

Thank you,

Kathryn McPherson
Solid Waste Enforcement Investigator

From: Thomas Benke [mailto:trbenke@environmental-compliance.com]
Sent: Wednesday, November 6, 2019 2:28 PM
To: McPherson, Kathryn (UTC)
Cc: Komp Jeremy
Subject: Re: WasteXpress - Certificate of Convenience and Necessity

Kathryn,

This is Thomas Benke for WasteXpress responding to your email of September 26, 2019 (below).

Your most recent email requests additional information of WasteXpress to help you determine WasteXpress' "classification as a common carrier or solid waste carrier". As always, we appreciate your assistance in this matter.

I will note that prior to your September 26, 2019 email that we were discussing only whether WasteXpress needed to operate under a "certificate of convenience and necessity" in accordance with RCW 81.77.040. My analysis, included in my email to you of September 9, 2019, is that WasteXpress is not a "solid waste collection

Attachment Q

McPherson, Kathryn (UTC)

From: Thomas Benke <trbenke@environmental-compliance.com>
Sent: Tuesday, November 26, 2019 9:44 AM
To: McPherson, Kathryn (UTC)
Subject: Re: WasteXpress - Certificate of Convenience and Necessity

Let's calendar a telephone conference for Thursday December 5, 2019 at 1:00 pm. I will call you.
Have a happy Thanksgiving.
TRB

On Nov 25, 2019, at 3:32 PM, McPherson, Kathryn (UTC) <kathryn.mcpherson@utc.wa.gov> wrote:

Mr. Benke,
My schedule is short this week with the holiday. We could schedule a phone conference Wednesday, November 27, anytime 8 a.m. to 4 p.m. Or Thursday, December 5, anytime from 1 p.m. to 4 p.m. Let me know when is convenient for you.

Thank you,

Kathryn McPherson

Investigator, Solid Waste Enforcement
Transportation Safety Division
(360) 664-1108 Office

From: Thomas Benke [<mailto:trbenke@environmental-compliance.com>]
Sent: Monday, November 25, 2019 11:24 AM
To: McPherson, Kathryn (UTC) <kathryn.mcpherson@utc.wa.gov>
Cc: Komp Jeremy <jeremy@wastex.com>
Subject: Re: WasteXpress - Certificate of Convenience and Necessity

Kathryn,

This is Thomas Benke. I would appreciate an opportunity to discuss this matter with you. I can be available this week Monday Tuesday Wednesday, or we can talk next week. Please let me know what time is best for you and I will try to accommodate.

Thomas R. Benke

On Nov 18, 2019, at 4:05 PM, McPherson, Kathryn (UTC) <kathryn.mcpherson@utc.wa.gov> wrote:

Mr. Benke,

If your company is transporting solid waste, as defined by our definitions – and includes medical waste and industrial waste, a certificate of necessity is required. The only

Attachment R

McPherson, Kathryn (UTC)

From: Thomas Benke <trbenke@environmental-compliance.com>
Sent: Thursday, December 5, 2019 3:11 PM
To: McPherson, Kathryn (UTC)
Subject: Re: WasteXpress - Certificate of Convenience and Necessity

Ms. McPherson,

Thank you for our conference call today. I very much appreciated your patience with me as I tried to understand the basis for Commission staff's insistence that WasteXpress must operate pursuant to a Washington UTC Certificate of Convenience and Necessity.

In our conversation, I agreed that "solid waste" includes industrial waste, including hazardous, dangerous and non-hazardous wastes. I further stated that the requirement of operating pursuant to a Certificate depends not on whether WasteXpress collects "solid waste" (it clearly does) but *from whom* WasteXpress collects solid waste. The definition of "Solid waste collection" promulgated at WAC 480-70-041 is dispositive:

"Solid waste collection" means collecting solid waste *from residential or commercial customers* and transporting the solid waste, using a motor vehicle, for collection and/or disposal over the highways of the state of Washington for compensation.

I stated that WasteXpress does not collect solid waste "from residential or commercial customers". Rather, it collects solid waste from industrial customers. You and your colleagues responded that "commercial" in that definition includes industrial customers.

"Solid waste collection company" is defined in WAC 480-70-041 as "every common carrier, including a contract carrier, who provides solid waste collection service." Thus, in the Commission's rules, "solid waste collection company" is limited by the definition of "solid waste collection", which is itself limited by the type of customers from whom a carrier collects solid waste (e.g., "residential or commercial".) I appreciate that there is a different, disparate, definition of "Solid waste collection company" codified at RCW 81.77.010(7), a definition that is not limited by the type of customer from whom a carrier collects solid waste. However, the very fact that the Commission promulgated a more limited definition of "solid waste collection company" in its administrative rules supports my client's position that it does not need to operate pursuant to a Certificate of Necessity and Convenience to serve its industrial customers.

Rather than simply conflate the statutory and regulatory definitions, as staff has apparently done, I submit that there must be some reason why the Commission adopted a different definition of "Solid waste collection company" for purposes of defining the type of activities that require a Certificate of Convenience and Necessity. As I pointed out in our conversation, there are substantial differences between residential and commercial markets on the one hand, and industrial markets on the other, that might explain the Commission's decision to not include "industrial customers" in the definition of "Solid waste collection".

The nub of the issue is whether "commercial customers" includes "industrial customers" as you propose. Please send to me whatever administrative basis you have to substantiate staff's interpretation of the definition of "Solid waste collection" promulgated by the Commission at WAC 480-70-041.

Respectfully,
Thomas R. Benke
Counsel for WasteXpress

Attachment S

Sara Bird

Closed Pull record

From: Troy Rowan
Sent: Tuesday, October 8, 2019 8:26 AM
To: Sara Bird
Subject: WasteXpress

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Infectious Waste

Sara,

Can you close in Envision WasteXpress (PR0036352). They withdrew their IW permit application, but time had been spent on the review process so no refund will be issued. Dailies have been added. Thanks.

Troy

Troy Rowan
Environmental Health Specialist
Environmental Health
(253) 798-6429 o • trowan@tpchd.org
(253) 255-7751 c • www.tpchd.org



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- Daily*
- PR status*
- Balance*
- AR status*
- Full file*

Attachment T



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503

P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

February 13, 2020

Jeremy Komp
Arthur Marx
d/b/a International Resources Management
d/b/a WasteXpress
P.O. Box 31100
Portland, OR 97231

Dear Messrs. Komp and Marx,

On December 5, 2019, staff met with Thomas Benke, representing WasteXpress, to discuss solid waste transportation rules. In our discussion, staff stated that it believes your company is engaged in the transportation of solid waste for compensation requiring a certificate of necessity.

Mr. Benke stated he does not believe WasteXpress's transportation of industrial waste falls within the Commission's jurisdiction. As an initial matter, WAC 480-70-041 expressly includes "Industrial wastes" within the definition of "solid waste." More specifically, and as defined by WAC 480-70-041, "Commercial authority" means "authority to provide solid waste collection service to business, institutional, or *industrial generators*." (Emphasis added.) The same rule provides that "Commercial service" means "solid waste collection service provided to a business, institution, or *industrial generator*." (Emphasis added.) As discussed with Mr. Benke, not only does the Commission define "solid waste" to include "industrial wastes," but the Department of Ecology similarly defines "Solid waste" or "wastes" to mean "all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials." RCW 70.95.030(22).

If WasteXpress wishes to offer solid waste collection services, including transportation of industrial waste, it must first apply for authority as a solid waste collection company. Solid waste applications are subject to public protest and WasteXpress will have to demonstrate that the current solid waste company is not providing the service WasteXpress proposes to offer. The Commission will only grant new solid waste authority if the current certificated company is determined to be unfit, unwilling, or unable to provide the service.

Respect. Professionalism. Integrity. Accountability.

February 13, 2020
Jeremy Komp and Arthur Marx
Page 2

The Commission may grant an exemption from, or modify the application of, any of its rules in individual circumstances if the exemption or modification is consistent with the public interest, the purposes underlying regulation, and applicable statutes.¹ The process to request an exemption is outlined in WAC 480-07-110(2).

To avoid enforcement action by the Commission, please either submit a complete application for a solid waste certificate, submit a request for an exemption, or cease all operations as a solid waste company by February 28, 2020.

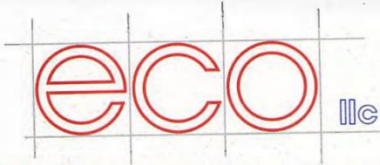
Please direct your written response to kathryn.mcpherson@utc.wa.gov or by mail to P.O. Box 47250, Olympia, WA 98504. You may also reach Ms. McPherson at (360) 664-1108.

Sincerely,

/s/ Mathew Perkinson
MATHEW PERKINSON
Assistant Director, Transportation Safety

¹ WAC 480-07-110(1).

Attachment U



The Environmental Compliance Organization LLC

7133 N Lombard St
PO Box 83706
Portland, Oregon 97283
Telephone 503/246-1514
environmental-compliance.com



Thomas R. Benke
Managing Member
trbenke@env-compliance.com

February 27, 2020

Mr. Mathew Perkinson
Assistant Director, Transportation Safety
Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-7250

Re: WasteXpress

Dear Mr. Perkinson,

I represent International Resource Management, Inc. dba WasteXpress. I am in receipt of your letter of February 13, 2020 to Mr. Jeremy Komp and Mr. Arthur Marx, who have asked me to respond on their behalf.

Your letter continues a discussion between me and Ms. Kathryn McPherson that began with her letter to WasteXpress of August 27, 2019. In her letter, Ms. McPherson states "The Washington Utilities and Transportation Commission (commission) believes your company is engaged in services that require a solid waste certificate from the commission." I responded in my email of September 9, 2019 that WasteXpress does not need to operate pursuant to a certificate of convenience and necessity (issued in accordance with RCW 81.77.040) because the definition of "solid waste collection" promulgated at WAC 480-70-041 does not include collection *from industrial customers*.

I have never stated that WasteXpress' transportation of industrial waste does not fall within the Commission's jurisdiction, as your letter asserts, only that WasteXpress' transportation of industrial waste *from industrial customers* does not require a certificate of convenience and necessity. In my email to Ms. McPherson of December 5, 2019 I wrote:

The nub of the issue is whether "commercial customers" includes "industrial customers" as you propose. Please send to me whatever administrative basis you have to substantiate staff's interpretation of the definition of "Solid waste collection" promulgated by the Commission at WAC 480-70-041.

The Environmental Compliance Organization LLC

Mr. Mathew Perkinson
February 27, 2020
Page 2

I have never received any response to the above request.

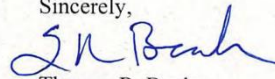
Messrs. Komp and Marx have expressed their concern that requiring a certificate of convenience and necessity to haul industrial waste generated by tens of thousands of industrial businesses (such as in manufacturing, allied products, aircraft, aerospace, high tech, transportation, automotive, construction, real estate, agricultural, forest products, metal processing, military, marine and the like) would be extremely disruptive to the operation of those industries and particularly in conflict with hazardous waste collection activities regulated by the Washington Department of Ecology.

WasteXpress is aware of numerous transporters who haul industrial waste from industrial customers without a certificate of convenience and necessity. Moreover, Messrs. Komp and Marx are concerned about the Commission's ability to establish rate structures and billing systems appropriate to the transportation of industrial waste (given that the myriad of rates charged by haulers are very specific and unique to the type of hazard being handled and includes disposal costs which vary greatly depending on the chemical and physical characteristics of the wastes.)

Your letter, for the first time, suggests the possibility that WasteXpress may obtain an exemption from the requirement of operating pursuant to a certificate of convenience and necessity [WAC 480-07-110(1)]. Irrespective of my contention that RCW 81.77.040 does not apply, please consider this letter a request for an exemption in accordance with WAC 480-07-110(2)(a).

WasteXpress would appreciate an opportunity to meet with you and your staff to discuss this matter further. Messrs. Komp and Marx would particularly appreciate the opportunity to explain to you why an exemption, if necessary, would be appropriate under the standard for determination established at WAC 480-07-110. As always, we appreciate the staff's attention to this matter. Please let me know a day and time when WasteXpress' management and I can meet with you and your staff in Lacey. You may contact me anytime by phone (503-890-4030) or by email (trbenke@env-compliance.com).

Sincerely,



Thomas R. Benke
Attorney – Managing Member

cc: Mr. Jeremy Komp
Mr. Arthur Marx

PO Box 83706 • Portland, Oregon 97283 USA
503/246-1514 • environmental-compliance.com

Attachment V

McPherson, Kathryn (UTC)

From: Troy Rowan <TRowan@tpchd.org>
Sent: Thursday, April 9, 2020 2:31 PM
To: McPherson, Kathryn (UTC)
Subject: RE: WasteXpress

Thanks Kathryn.

I was aware of three sites that had used WasteXpress. They were City MD (Puyallup and University Place) now operated exclusively by CHI-Franciscan Urgent Care and One-Stop Dentistry (Tacoma). City MD was exclusively bio-medical waste (sharps) and the dental practice had a one-time shipment of dental wastes (spent fixer, lead foils, dental amalgam) and sharps.

I don't have a record of a destination facility (biomedical) but have a recollection of being told either Waste Management or Stericycle (depending upon contract/cost).

Troy

Troy Rowan

Environmental Health Specialist
Environmental Health
(253) 798-6429 o • trowan@tpchd.org
(253) 255-7751 c • www.tpchd.org



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From: McPherson, Kathryn (UTC) <kathryn.mcpherson@utc.wa.gov>
Sent: Thursday, April 9, 2020 11:21 AM
To: Troy Rowan <TRowan@tpchd.org>
Subject: RE: WasteXpress

Can you share with me what three businesses they serviced? What they were transporting? And where was the disposal destination?

Sincerely,

Kathryn McPherson
Investigator, Solid Waste Enforcement

This email/letter states the informal opinions of commission staff, offered as technical assistance, and are not intended as legal advice. We reserve the right to amend these opinions should circumstances change or additional information be brought to our attention. Staff's opinions are not binding on the commission.

From: Troy Rowan <TRowan@tpchd.org>
Sent: Wednesday, April 8, 2020 10:44 AM
To: McPherson, Kathryn (UTC) <kathryn.mcpherson@utc.wa.gov>
Subject: RE: WasteXpress