

Memo

Date: June 24, 2020
To: Pam Peck, Policy and Compliance Director
From: Joanna Dyer, Senior Solid Waste Planner
Subject: Renewed Solid Waste Facility License No. L-130-20 for Ultimate RB Inc. dba RB Recycling

Attached for your signature is renewed Solid Waste Facility License No. L-130-20 for Ultimate RB Inc. dba RB Recycling (RB Recycling), a tire processing facility located at 9945 N Burgard Way in Portland (Metro Council District 5). This memo provides background information on the applicant's request, a description of proposed changes to the license, and staff's recommendation to renew Metro's authorization for RB Recycling.

Under Metro Code Section 5.01.080, the proposed license is to be approved or denied by the Chief Operating Officer (COO). On March 16, 2020, the COO delegated to the Policy and Compliance Director (the Director) authority to carry out the COO's responsibilities under Metro Code Chapter 5.01 for approving or denying a solid waste facility license. As such, the Director is authorized to approve this proposed license.

OVERVIEW

The applicant, Ultimate RB Inc., is the owner and operator of RB Recycling. RB Recycling is a Metro-licensed facility that accepts waste tires for recovery and processing. RB Recycling processes passenger tires into crumb rubber which is transported to its manufacturing facility in McMinnville where it is made into recycled flooring, tiles and mats. RB Recycling also recovers metal from the tires which is reloaded to local processors. Tire shreds, waste tire residual not processed into crumb rubber, oversized tires and inner tubes are transported to an authorized landfill for disposal.



Aerial view of the RB Recycling facility

Ultimate RB Inc. is a subsidiary of Carlisle Construction Materials located in Carlisle, Pennsylvania. Carlisle Construction Materials purchased Ultimate RB's former owner Accella Performance Systems in 2017. RB Recycling has operated as a Metro-licensed facility since 1996. The facility holds Metro Solid Waste Facility License No. L-130-15 that expires on June 30, 2020. The facility holds a Department of Environmental Quality (DEQ) Waste Tire Storage Site / Carrier Combination Permit (No. 1411). The facility has applied to renew its DEQ permit which is currently in its public comment period. DEQ is expected to issue a new permit to RB Recycling in June with an expiration date of April 15, 2023. The facility also holds a DEQ Simple Air Contaminant Discharge permit (No. 26-9818-SI-01) which expires on November 1, 2023 and a 1200-Z Industrial Stormwater Discharge Permit (No. 119308) that expires on July 31, 2022.

On March 6, 2020, Ultimate RB Inc. submitted an application to Metro requesting the renewal of its license. The applicant did not propose any changes in its operation or request new authorizations. As part of Metro's ongoing efforts to improve clarity and establish more uniform requirements, staff is proposing various updates and additions to the RB Recycling license that will better it with other Metro authorizations where appropriate. Some of these updates and additions are facility-specific and some are standard requirements that will be included in all new and renewing licenses. In addition to the updates outlined below, the proposed license includes various non-substantive housekeeping changes for clarity and consistency.

New License Requirements for Tire Processing Facilities

The proposed license includes the following update and addition for tire processing facilities:

- **Pile size limitation** (Section 4.1): Add a requirement that material stock piles must comply with limits set forth in any applicable federal, state, regional and local government law, rule, regulation, ordinance, order or permit. DEQ Waste Tire Storage Site / Carrier Combination permits contain pile size restrictions that are different than Oregon Fire Code. Tire facilities must be aware of the differing regulations and conform to the strictest dimensions. Licensees are required to comply with applicable law (Section 12), and staff proposes to add this language to spotlight the importance of managing waste for fire prevention.
- **Reporting requirements** (Section 8.2) Change the facility reporting frequency and methodology. Historically, quarterly reports from tire facilities were submitted via fax. Beginning with July 2020 data, tire facilities are required to report data monthly via email. With this change, Metro will receive data in a timely manner, which will aid in making informed decisions about tire facilities in the future.

Standard Requirement Updates and Additions for RB Recycling

Certain license requirements are standard across all licenses and franchises. This proposed license updates language in some existing standard conditions and also adds new standard conditions that will be included in all new and renewing licenses as follows:

- **Signage** (Section 5.13): Add the following information to the signage requirements at the facility: fees and charges, list of authorized and prohibited wastes, vehicle/traffic flow information or diagram, covered load requirements and direction to not queue on public roadways. This information is required of other licensed facilities and is proposed here to increase uniformity across licenses.
- **Employment Standard** (Section 5.16): Add a new section requiring that the licensee be in compliance with Oregon's "ban the box" law (ORS 659A.360). Oregon's "ban the box" law makes it illegal for an employer to inquire about criminal convictions before the interview stage of hiring. This advances progress on the 2030 Regional Waste Plan and the Waste Prevention

and Environmental Services Diversity, Racial Equity and Inclusion Work Plan goals. This requirement was added to the franchises in 2020 and will be added to all licenses as they are renewed.

- **Procedures for managing prohibited waste** (Section 6.6): Add a provision requiring the operating plan to include procedures for notifying generators to not place prohibited waste in loads destined for the facility. This is required of other licensed facilities and is proposed here to increase uniformity across licenses.
- **Procedures for odor prevention** (Section 6.7): Add a provision requiring the operating plan to include odor prevention procedures. This is required of other licensed facilities and is proposed here to increase uniformity across licenses.
- **Closure protocol** (Section 6.11): Update closure protocol to distinguish between a short-term and long-term closure of the facility and require a licensee to notify Metro within one business day of a short-term or long-term closure. This standardizes the closure protocol across licenses and formalizes the expectation that Metro is notified of any short-term or long-term closure.
- **Reporting requirements** (Subsection 8.2.2): Add a new subsection stating that Metro may require reporting on a weekly or daily basis in the event of a significant disruption to the solid waste system. This was created in response to the COVID-19 pandemic and Metro's need for more real-time data. This subsection will be added to all relevant authorizations.
- **Changes in ownership** (Section 8.6): Update language to require notification to Metro of any change in ownership. This change will be standard across new and renewing licenses and aligns with Metro Code Chapter 5.01.
- **Certificate of insurance** (Section 9.5): Add a new section to formalize the expectation and the long-standing practice that licensees submit a certificate of insurance (CERT) to Metro. Licensees must name Metro as an additional insured on the CERT, and also include the *additional insured endorsement* from the general liability policy as recommended by Metro's risk manager.
- **Termination** (Section 11.2): Add new section authorizing Metro to terminate the license at the request of the licensee or in the event of a long term closure. This section is included in other facility licenses and is proposed here to increase uniformity across licenses.
- **Right of inspection and audit** (Section 12.3): Update language to require access to the facility by Metro authorized personnel to perform research. This update was made to the franchises in 2020 and will be made to all licenses as they are renewed.
- **Confidential Information** (Section 12.4): Update language to reflect current state public records law which has more restrictive timelines for responding to a requestor. This update was made to the franchises in 2020 and will be made to all licenses as they are renewed.

PUBLIC NOTICE AND OPPORTUNITY TO COMMENT

Metro has a longstanding practice of providing public notice and a 30 day comment period for a license renewal application before deciding whether to approve or deny it. However, due to the COVID-19 pandemic, Metro has postponed the public notice and comment period for a series of licenses that expire June 30, 2020. Metro is committed to soliciting input from the public about these facilities and will open a public comment period later this year when our communities are better able to provide feedback.

RB Recycling has a good record of compliance and staff is not aware of any issues associated with the facility. Metro will solicit input from the public about this facility later this year. In the interim, staff finds that it is in the public's interest to renew the license with a standard five-year term. Metro may amend the license at a later date based on new information received during the public comment period.

METRO CODE LICENSE RENEWAL CRITERIA

Metro Code Section 5.01.110 states:

The Chief Operating Officer must approve a solid waste facility license renewal unless the Chief Operating Officer determines that the proposed license renewal is not in the public interest. The Chief Operating Officer may attach conditions to any renewed license.

Ultimate RB, Inc. filed a renewal application on March 6, 2020 accompanied by a \$300 application fee payment. The application was deemed complete on April 17, 2020. The license renewal application included a description of the facility's operation and the solid waste it accepts. The proposed license does not include any new authorizations and would replace the current license that is set to expire on June 30, 2020.

COMPLIANCE HISTORY OF THE APPLICANT

As mentioned above, RB Recycling has a good record of compliance with respect to Metro's regulations and the facility is currently in compliance with the conditions of its license. Metro conducted seven inspections of RB Recycling between July 2015 and February 2020. Metro has not received any complaints regarding the facility and has not taken any enforcement actions at the facility during the term of the current license. No compliance issues have been reported by city of Portland or DEQ staff. Staff finds the facility plays a positive role in the region's solid waste recovery efforts and it is in the public interest to renew this license for RB Recycling.

STAFF RECOMMENDATION

Staff recommends approving Solid Waste Facility License No. L-130-20 to renew RB Recycling's authority to accept waste tires for the purpose of processing and material recovery. If approved, the proposed license will take effect on July 1, 2020 and expire on June 30, 2025. A copy of the proposed license is attached for your signature.