

Memo

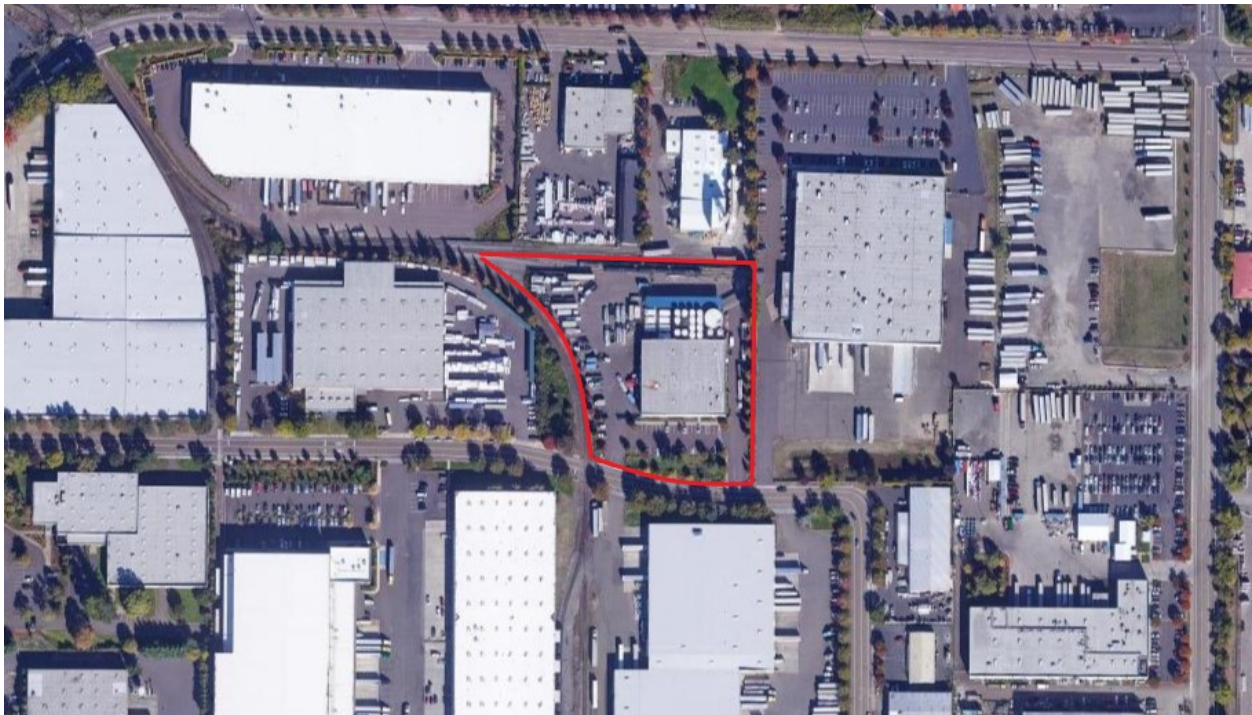
Date: June 24, 2020
To: Pam Peck, Policy and Compliance Director
From: Joanna Dyer, Senior Solid Waste Planner
Subject: Renewed Solid Waste Facility License No. L-121-20 for Thermo Fluids, Inc. Clackamas Oregon

Attached for your signature is renewed Solid Waste Facility License No. L-121-20 for Thermo Fluids, Inc. Clackamas Oregon (TFI), a reload facility that recycles used oil, antifreeze and consolidates non-hazardous cleanup material into drop boxes for transport to a landfill. TFI is located at 12533 SE Carpenter Drive in Clackamas (Metro District 2). This memo provides background information on the applicant's request, a description of proposed changes to the license and, and staff's recommendation to renew Metro's authorization for TFI.

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, TFI, is a Metro-licensed facility that accepts and recycles used oil and antifreeze, and consolidates non-hazardous cleanup material into drop boxes for transport to a landfill. The cleanup material received at TFI includes absorbents, petroleum contaminated soil, petroleum grease, non-putrescible sludges from clean-ups and empty drums.



Aerial view of Thermo Fluids Inc.

TFI operates 32 service and processing facilities throughout the western United States and is headquartered in Scottsdale, Arizona. TFI is owned by Clean Harbors Inc., located in Norwell, Massachusetts. TFI has operated as a Metro-licensed facility since 2004. The facility holds Metro Solid Waste Facility License No. L-121-15A which expires on June 30, 2020. The facility also holds a Solid Waste Disposal Permit (No. 1592) issued by the Department of Environmental Quality (DEQ) which expires on August 10, 2027 and a 1200-Z Industrial Stormwater Discharge Permit (No. 1150530) which expires in 2022.

On March 16, 2020, TFI 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 TFI license that will better with other Metro authorizations where appropriate. All of these proposed new and updated standard requirements 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.

Standard Requirements for Metro Authorizations

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:

- **Prohibition on mixing** (Section 4.2): Add section prohibiting the facility from mixing source-separated recyclable material with any other waste unless approved by Metro. This section is included in other facility licenses and is proposed here to increase uniformity across licenses.
- **Storage and exterior stock piles** (Section 5.6): Update language to prohibit stockpiling recovered or source-separated materials for longer than 180 days. This housekeeping update standardizes the language across licenses.
- **Signage** (Section 5.13): Add the following information to the signage requirements at the facility: 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 requirement 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.
- **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.
- **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.

TFI has a good record of compliance and staff is currently addressing the compliance issue that surfaced during the application process (see compliance section below). 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.

TFI filed a renewal application on March 16, 2020 accompanied by a \$300 application fee payment. The application was deemed complete on April 29, 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, if approved, will replace the current license that is set to expire on June 30, 2020.

COMPLIANCE HISTORY OF THE APPLICANT

Metro conducted 10 inspections of TFI between July 2015 and February 2020. Metro has not received any complaints regarding the facility or issued any enforcement actions during the term of the current license.

In February 2016, Metro learned that TFI was transporting non-putrescible plastic waste to the Covanta Waste to Energy Facility in Brooks, Oregon without a non-system license (NSL). TFI was notified that a NSL was required and that they must cease transporting waste until a NSL was in place. TFI was issued NSL No. N-121-16 in June 2016. The NSL was terminated at the facility's request in April 2017 because it ceased transporting the waste to Covanta.

The renewal application reported that non-hazardous empty drums are transported to a Clean Harbors Facility in Grantsville, Utah for disposal without an NSL. Metro staff informed TFI that an NSL is required to transport waste out of the region for disposal. The environmental, health and safety manager stated that the facility will begin routing that material to a Metro designated facility rather than apply for a non-system license. No enforcement action has been taken at this time.

No compliance issues related to the facility's operation have been reported by Clackamas County. DEQ staff reported issuing a Hazardous Waste Violation in 2017 for shipping 11 shipments without hazardous waste manifests. This is the only violation during the term of the current license, and TFI is currently in compliance with its DEQ permits.

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 TFI.

STAFF RECOMMENDATION

Staff recommends approving Solid Waste Facility License No. L-121-20 to renew TFI's authority to accept non-hazardous cleanup material for the purpose of consolidation and reloading to authorized disposal facilities. If approved, the proposed license will take effect on July 1, 2020 and expires on June 30, 2025. A copy of the proposed license is attached for your signature.