

# Memo

Date: June 12, 2023  
To: Pam Peck, Policy and Compliance Program Director  
From: Will Ennis, Senior Solid Waste Planner  
Subject: Renewed Facility License No. L-003-23 for Environmentally Conscious Recycling, Inc.

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Attached for your signature is renewed Solid Waste Facility License No. L-003-23 for Environmentally Conscious Recycling, Inc. (ECR), a locally owned and operated material recovery facility located at 12409 NE San Rafael Street in Portland (Metro District 1). This memo provides background information on the applicant's request, a description of proposed changes to the license and staff's recommendation to issue a renewed license to ECR.

Under Metro Code Section 5.01.110, the proposed license renewal 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.

## BACKGROUND

ECR is a Metro-licensed material recovery facility that primarily accepts mixed non-putrescible waste for the purpose of resource recovery. The facility is also authorized to accept source-separated materials including yard debris, wood waste and inerts. The facility accepts waste from both commercial and self-haul customers.



*Environmentally Conscious Recycling, Inc. located at 12409 NE San Rafael Street in Portland*

ECR has operated as a Metro-licensed facility since 1986. The facility holds two permits issued by the Department of Environmental Quality (DEQ): a solid waste disposal site permit (No. 387, expired July 15, 2022, and administratively extended), and a general air contaminant discharge permit (No. AQGP-008, expires October 1, 2027).

ECR submitted its license renewal application on February 28, 2023 along with a \$300 application fee. The application was complete on March 3, 2023. The applicant did not propose any changes to its operation.

### **Standard Requirement Updates**

As part of Metro's ongoing efforts to improve clarity and establish more uniform requirements, staff is proposing various updates and additions to the ORRCO license that will better align it with other Metro authorizations. The proposed license also includes various non-substantive housekeeping changes made for clarity and consistency across licenses. Updates to existing standard conditions and new standard conditions that will be included in all new and renewing licenses are as follows:

- **Pile size limitation** (Section 4.1): Add pile size limits that align with Oregon Fire Code. Metro has added this requirement to Metro-licensed compost facilities and is now expanding to other facilities that are authorized to accept yard debris or wood waste.
- **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.
- **Closure protocol** (Section 6.11): Update closure protocol to formalize the requirement that a licensee notify Metro within one business day of a 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 real-time data. This subsection will be added to all relevant authorizations.
- **Copies of enforcement action** (Section 8.7): Update language to require licensee to submit copies of enforcement actions to Metro within five business days of receipt rather than upon receipt to align with Metro Code Chapter 5.01.
- **Changes in ownership** (Section 8.9): 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 to Metro. Licensees must name Metro as an additional insured on the certificate of insurance, and also include the additional insured endorsement from the general liability policy as recommended by Metro's risk manager.
- **Termination** (Section 11.2): Add a new section to address Metro's authority to terminate the license at the request of the licensee or in the event of a long-term closure.
- **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**

On April 13, 2023, Metro issued public notice of the license renewal application and provided an opportunity for the public to submit comments. A description of the proposed facility and the license application was available on Metro's website. Interested parties could submit comments via an online form or leave a voicemail on a multi-language phone line. Postcards with information in six languages about the public notice were mailed to 434 property owners, businesses and residents located within approximately one-quarter mile of the facility. Notice was also emailed to community-based organizations and neighborhood associations located within one mile of the facility, and emailed to stakeholders with general interest in solid waste issues. The public comment period ended on May 12, 2023. Metro received five comments regarding this license application.

A summary of the comments that Metro received during the public notice period and staff's response to those comments are provided below. All comments that Metro received during the comment period are attached to this memo.

### *Summary of comments*

Three comments were in support of the facility's application, one comment expressed concern about the management of dust generated by lead paint and one comment opposed the facility's application due to its proximity to residences, dust and odor generation, and its management of asbestos containing material.

### *Metro response to comments*

Metro thanks the commentors for taking the time to submit a comment. The proposed license contains requirements for controlling and minimizing the generations of odor, dust, airborne debris and litter beyond property boundaries. The facility utilizes a halo misting system during its wood processing to minimize dust generation and does not process painted wood according to the operator. The facility is prohibited from accepting asbestos and has procedures in place to prevent its acceptance that are approved by DEQ. City of Portland is responsible for determining land use and ECR has had conditional use to operate in that location since 1986.

## **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.*

ECR filed a renewal application on February 28, 2023, along with a \$300 application fee. Metro deemed the application complete on March 3, 2023. 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 expires on June 30, 2023.

## **COMPLIANCE HISTORY OF THE APPLICANT**

ECR 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 approximately 9 inspections of ECR during the term of the current license. This includes the period of March 2020 through March 2021 when in-person inspections by Metro staff were suspended due to COVID-19 restrictions. Metro has not received any complaints regarding the facility and has not taken any enforcement actions during the term of the current license. DEQ solid waste staff report that there have been no compliance issues or

enforcement actions at ECR during the past five years. DEQ air quality staff also report that the facility is in compliance with its permit conditions.

Staff finds that facilities like ECR play an important role in the region's solid waste recovery efforts and it is in the public interest to renew the facility's license.

**STAFF RECOMMENDATION**

Staff recommends approval of Solid Waste Facility License No. L-003-23 to renew ECR's authority to accept mixed non-putrescible waste for the purpose of resource recovery, and source-separated materials including yard debris, wood waste and inerts for processing and reloading to authorized facilities. If approved, the proposed license would take effect on July 1, 2023 and expire on June 30, 2028. A copy of the proposed license is attached for your signature.

Attachment