

Memo

Date: June 12, 2023
To: Pam Peck, Policy and Compliance Program Director
From: Joanna Dyer, Solid Waste Authorization Coordinator
Subject: Renewed Facility License No. L-175-23 for EcoLube Recovery, LLC

Attached for your signature is renewed Solid Waste Facility License No. L-175-23 for EcoLube Recovery, LLC (EcoLube), located at 11535 N Force Ave. in Portland (Metro District 5). The proposed license renewal authorizes EcoLube to accept special waste, including petroleum-contaminated cleanup material, absorbents and used motor oil filters, for processing, reload and transfer to recycling facilities and disposal sites. 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 EcoLube.

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.

OVERVIEW

EcoLube is a Metro-licensed facility that accepts special waste, including petroleum-contaminated cleanup material, absorbents and used motor oil filters, for processing, reload and transfer to recycling facilities and disposal sites. Metal oil filters are crushed to remove residual oil which is re-refined on site, and the metal is consolidated and transported to a recycling facility. The absorbent materials and oily debris – such as rags, booms, pads and sawdust – are generated by automotive repair or similar businesses during the cleanup of minor spills of used oil, diesel and other non-hazardous liquids. The materials are consolidated at EcoLube and transported to Wasco County Landfill for disposal.



EcoLube Recovery, LLC, 11535 N Force Ave., Portland

EcoLube has operated as a Metro-licensed facility since 2017. EcoLube's primary business is re-refining used oil. The proposed license regulates only the acceptance and processing special waste as described above. It does not regulate nor prohibit the acceptance and management of used oil. These other

waste-related activities are regulated by the Oregon Department of Environmental Quality (DEQ) through a Solid Waste Disposal Site Permit (No. 1591, expires September 19, 2027). DEQ also regulates air emissions and air quality requirements at this facility through a Standard Air Contaminant Discharge Permit (No. 26-3021-ST-01, expires September 1, 2022; renewal in progress). The facility also holds an Industrial Wastewater Discharge Permit (No. 437.009, expires June 10, 2026) and a 1200-Z Industrial Stormwater Permit (No. 100707, expires June 30, 2026), which are issued by the City of Portland Bureau of Environmental Services.

EcoLube submitted its license renewal application on February 22, 2023. Metro received the \$300 application fee and deemed the application complete on March 16, 2023. The applicant did not propose any changes to its operation.

License language updates

The proposed license includes an updated description of authorized waste (Section 3.3) which better aligns with terms defined in Metro Code, though the types of materials authorized has not changed. Past licenses have authorized the acceptance and management of cleanup material and petroleum contaminated solids, all of which are included in the definition of special waste, which is generally described as solid waste that requires special handling.

As part of Metro's ongoing efforts to improve clarity and establish more uniform requirements, staff is proposing various updates and additions to the EcoLube 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:

- **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.
- **Copies of enforcement action** (Section 8.4): 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 8.6): Update language to require notification to Metro of any change in ownership within 10 days. 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.

- **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 notice and provided the public with an opportunity to review and comment on the license application for 30 days. 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 proposed license and comment period were mailed to 62 businesses, residents and owners of properties located within approximately one-quarter mile of the facility. Notice was also emailed to community-based organizations and neighborhood associations located in the vicinity of the facility, local governments, members of the solid waste industry, and other parties with general interest in solid waste issues. The public comment period ended on May 12, 2023. Metro received two comments in support of this license renewal application which are attached to this memo. Metro acknowledges the comments in support of renewing this license.

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.

EcoLube filed a renewal application on February 22, 2023. Metro received the \$300 application fee and deemed the application complete on March 16, 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. The operating plan submitted by the applicant was sufficient for the purposes of determining whether to issue a renewed license but does not sufficiently address all of the operating plan requirements as outlined in Section 6 of the license. The proposed license includes updated provisions as described above. Upon approval of the proposed license, staff will notify the facility in the issuance letter that it must submit an updated operating plan to Metro for approval.

COMPLIANCE HISTORY OF THE APPLICANT

EcoLube 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 10 inspections of EcoLube 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. During the term of the current license, Metro has not received any complaints regarding the facility and has not taken any enforcement actions.

EcoLube is currently in compliance with its DEQ Solid Waste Disposal permit and there have not been any enforcement actions from DEQ during the term of the license. DEQ's Air Quality division received 73 complaints between 2018 and 2022. The facility received two warning letters and one warning letter with opportunity to correct during the term of the license. DEQ staff report that all issues have been resolved and EcoLube is currently in compliance with its DEQ Air Quality permit.

The City of Portland Bureau of Environmental Services (BES) manages the stormwater program on behalf of DEQ. During the term of the current license, BES issued 12 warning letters and two warning letters

with opportunity to correct to EcoLube regarding compliance issues with the 1200-z permit. BES stormwater compliance staff report that all issues have been resolved, however, on February 7, 2023, BES referred EcoLube to the DEQ Office of Compliance and Enforcement (OCE) for failing to meet inspection requirements three times within a 36-month period. At the time of this staff report, DEQ OCE has not issued any enforcement action.

BES also manages the City of Portland's Industrial Wastewater Discharge program. During the term of the current Metro license, BES issued three warning notices and 12 notices of violation (NOV) of EcoLube's Industrial Wastewater Discharge Permit. The NOVs included intent to assess civil penalties totaling \$7,950. BES industrial wastewater compliance staff report that EcoLube is currently in compliance with its permit and has paid all fines and fees.

Notwithstanding the compliance issue described above, staff recommends renewing this Metro license because EcoLube works with regulatory agencies to come into compliance. Staff finds that EcoLube plays an important role in the region's solid waste recovery and management efforts, and it is in the public interest to renew the facility's license at this time.

STAFF RECOMMENDATION

Staff recommends approval of Solid Waste Facility License No. L-175-23 to renew EcoLube's authority to accept oil-contaminated special waste, including cleanup material, absorbents and used motor oil filters, for processing, reload and transfer to recycling facilities and disposal sites. 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.