

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 16-4699
OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM)
LICENSE TO WASTE MANAGEMENT OF OREGON, INC. FOR) Introduced by Chief Operating
TRANSPORT OF YARD DEBRIS MIXED WITH RESIDENTIAL) Officer Martha Bennett in
FOOD WASTE TO RECOLOGY OREGON COMPOST LOCATED) concurrence of Council President
IN NORTH PLAINS, OREGON.) Tom Hughes

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro Region to a non-system disposal facility; and

WHEREAS, Waste Management of Oregon, Inc. (WMO) has filed a complete application seeking a non-system license under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control" to deliver yard debris mixed with residential food waste to Recology Oregon Compost for composting; and

WHEREAS, Metro Code Chapter 5.05 provides that applications for non-system licenses for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

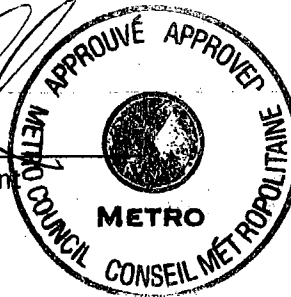
WHEREAS, the Chief Operating Officer recommends that the non-system license be issued together with specific conditions for approval of additional yard debris mixed with residential food waste as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

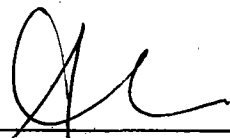
1. The non-system license application of WMO and Troutdale Transfer Station is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to WMO and Troutdale Transfer Station a Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 16th day of June, 2016.


Tom Hughes, Council President



Approved as to Form:


Alison R. Kean, Metro Attorney



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

No. N-001-16(3)

LICENSEE:
Waste Management of Oregon, Inc. Troutdale Transfer Station 869 NW Eastwind Dr. Troutdale, OR 97060
CONTACT PERSON:
Dean Kampfer Phone: (503) 493-7831 E-mail: dkampfer@wm.com
MAILING ADDRESS:
Troutdale Transfer Station Waste Management of Oregon, Inc. 869 NW Eastwind Dr. Troutdale, OR 97060

ISSUED BY METRO:

Paul Slyman,
Property and Environmental Services Director

Date



1	NATURE OF WASTE COVERED BY LICENSE
	<p>As provided in Section 9, this license applies to yard debris mixed with residential food waste that is generated by residential customers within the Metro region and is either:</p> <ul style="list-style-type: none">(a) Collected by Waste Management of Oregon, Inc; or(b) Received at Troutdale Transfer Station in accordance with its Metro-issued franchise.
2	CALENDAR YEAR TONNAGE LIMITATION
	<p>Licensee is authorized to transport to the non-system facility listed in Section 3 of this license up to 15,000 tons annually of the waste described in Section 1 of this license.</p>
3	NON-SYSTEM FACILITY
	<p>Licensee is authorized to deliver the waste described above in Section 1 only to the following non-system facility for composting:</p> <p style="text-align: center;">Recology Oregon Compost - Recology Organics North Plains 9570 NW 307TH Ave North Plains, OR 97133</p> <p>Metro issues this license on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 10 of this license.</p>
4	TERM OF LICENSE
	<p>The license term is from July 1, 2016, to December 31, 2018, unless terminated sooner under Section 7.</p>
5	REPORTING OF ACCIDENTS AND CITATIONS
	<p>Licensee must report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of the solid waste on behalf of the Licensee.</p>



6	MATERIAL MANAGEMENT
	<p>The Licensee is authorized to deliver the waste described in Section 1 of this license to the non-system facility listed in Section 3 under the following conditions:</p> <ul style="list-style-type: none">(a) The non-system facility must accept all solid waste that is transported under authority of this license for the sole purpose of processing and composting on-site. The Licensee shall not dispose of any source-separated recyclable material, except as provided in Section 7; and(b) The non-system facility must receive, manage, process, and compost all solid waste that is transported under authority of this license in accordance with all applicable local, state and federal laws, rules, regulations, ordinances, orders, and permits.

7	REGIONAL SYSTEM FEE AND EXCISE TAX
	<p>The Licensee is subject to the following conditions:</p> <ul style="list-style-type: none">(a) Source-separated food waste that is delivered under authority of this license and is accepted and composted, in accordance with all applicable regulations, at the non-system facility listed in Section 3 is exempt from regional system fee and excise tax.(b) If the Licensee delivers waste under this license to the non-system facility listed in Section 3 but the material does not meet the facility's acceptance criteria (for example, the material is too contaminated for processing or composting) or the non-system facility fails to process and compost the material as required as a condition of this license, the Licensee must pay to Metro an amount equal to the regional system fee, as provided in Metro Code Title V, for each ton or portion thereof of waste delivered to the non-system facility that is ultimately delivered to a disposal site.(c) If the Licensee delivers waste under this license to the non-system facility listed in Section 3 but the material does not meet the facility's acceptance criteria (for example, the material is too contaminated for processing or composting) or the non-system facilities fail to process and compost the material as required as a condition of this license, the Licensee must pay to Metro an amount equal to the excise tax, as provided in Metro Code Title VII, for each ton or portion thereof of waste delivered to the non-system facility that is ultimately delivered to a disposal site.



8	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee must keep and maintain accurate records of the amount of all waste that the Licensee delivers to the non-system facility described in Section 3 of this license. These records include the information specified in <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</u>. No later than the 15th day of each month, beginning with the first month following the commencement date of this license, Licensee must transmit to Metro in an electronic format prescribed by Metro the records required that apply to the preceding month.</p> <p>(b) So long as Metro provides at least three business days written notice, Licensee must make all records available to Metro (or Metro's designated agent) for inspection or copying or both. Licensee must also sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3.</p>

9	PRE-AUTHORIZATION REQUIREMENTS
	<p>The Licensee is authorized to transport to Recology Oregon Compost the waste that is generated from the city of Forest Grove residential food waste collection program and that which is collected from elsewhere in the Metro region and reloaded at the Troutdale Transfer Station (as described in Section 1). Metro's Chief Operating Officer (COO) may modify this license to include additional jurisdictions if the Licensee submits in writing to Metro the following documentation before any deliveries occur:</p> <ul style="list-style-type: none">(a) Confirmation from the local collection jurisdiction that a residential food waste collection program is in place;(b) Approval from both Washington County and DEQ for transport of yard debris mixed with residential food waste from the additional residential program to the non-system facility listed in Section 3; and(c) Approval from the non-system facility listed in Section 3 and a statement that sufficient capacity exists to manage, process, and compost additional waste.

10	ADDITIONAL LICENSE CONDITIONS
	<p>This license is subject to the following conditions:</p> <ul style="list-style-type: none">(a) The transport of solid waste to the non-system facility, listed in Section 3, authorized by this license is subordinate to any subsequent requirement by Metro to direct the solid waste described in this license to any other facility.(b) This license is subject to amendment, modification, or termination by the



	<p>COO in the event that the COO determines that:</p> <ul style="list-style-type: none"> i. There has been sufficient change in any circumstances under which Metro issued this license; ii. The provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems, Inc.; iii. Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility listed in Section 3; iv. The non-system facility listed in Section 3 fails to manage the waste subject to this license in accordance with the material management requirements described in Section 6; or v. The non-system facility listed in Section 3 generates malodors that are detectable off-site. <p>(c) In addition to subsections (b)(i) through (b)(v) above, this license is subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</p> <p>(d) The Licensee may not transfer or assign any right or interest in this license without Metro's prior written approval.</p> <p>(e) This license is subject to modification or termination by the COO upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</p> <p>(f) This license only authorizes the transport of solid waste to the facility listed in Section 3. Licensee is prohibited from transporting waste generated from within the Metro boundary to any non-system facility other than that specified in this license unless Metro authorizes such in writing.</p>
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11	COMPLIANCE WITH LAW
	<p>Licensee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee are deemed part of this license as if specifically set forth herein.</p>



12	INDEMNIFICATION
	<p>Licensee must defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.</p>

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4699 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO WASTE MANAGEMENT OF OREGON, INC. FOR TRANSPORT OF YARD DEBRIS MIXED WITH RESIDENTIAL FOOD WASTE TO RECOLOGY OREGON COMPOST LOCATED IN NORTH PLAINS, OREGON.

May 12, 2016

Prepared by: Hila Ritter
503-797-1862

Approval of Resolution No. 16-4699 will authorize the Chief Operating Officer (COO) to issue a two-year and six month non-system license (NSL) to Waste Management of Oregon, Inc. (WMO) to annually transport a maximum of 15,000 tons of yard debris mixed with residential food waste to Recology Oregon Compost (formerly known as "Nature's Needs Compost Facility") located at 9570 NW 307th Avenue in North Plains, Oregon (located outside the Metro regional boundary).

BACKGROUND

1. Overview

The applicant seeks authorization to transport yard debris mixed with residential food waste generated within Metro to a non-system facility, Recology Oregon Compost, located outside of the region. Metro Code Section 5.05.025 prohibits any person from transporting solid waste to a non-system facility without an appropriate license from Metro. The proposed NSL is subject to Metro Council approval because it involves putrescible waste (food waste).

2. The Applicant

Waste Management, Inc., a company headquartered in Houston, Texas, is the parent company of WMO. On March 15, 2016, WMO submitted an application to Metro requesting authorization to deliver up to 15,000 tons of yard debris mixed with residential food waste per calendar year. The proposed NSL would authorize 1) WMO to transport yard debris mixed with residential food waste from its collection routes in the city of Forest Grove directly to Recology Oregon Compost and 2) Troutdale Transfer Station to transport consolidated loads of the same type of waste received at its facility. WMO owns and operates Troutdale Transfer Station (TTS), a Metro-franchised transfer station located at 869 NW Eastwind Drive in Troutdale.

Although the applicant requested authority to deliver up to 15,000 tons, WMO is not expected to deliver more than 10,000 tons of food waste to Recology Oregon Compost per year for the duration of this license. The applicant requested the additional amount to allow greater flexibility to incorporate new residential food waste collection programs if they are adopted in various other local jurisdictions in the Metro region.

WMO is franchised/permitted by several local governments within the region to collect residential and commercial solid waste. TTS currently holds an NSL¹ which authorizes it to deliver up to 20,000 tons per calendar year of yard debris mixed with residential and commercial food waste that is generated within the Metro region to the Dirt Hugger composting facility in Dallesport, Washington (Klickitat County).

¹ NSL No. N-001-15(2)

3. ANALYSIS/INFORMATION

A. Known Opposition

There is no known opposition to the issuance of this specific NSL. However, there has been some local opposition to the composting of organic material, especially commercial food waste at Recology Oregon Compost. In consideration of the site's history, the proposed NSL stipulates that the COO may amend, modify, or terminate the license as necessary if Metro determines that Recology Oregon Compost cannot adequately control odors at the site based on findings or actions taken by either Washington County or Oregon Department of Environmental Quality (DEQ). Since Recology Oregon Compost is located outside the Metro jurisdictional boundary, Metro will rely on Washington County's and DEQ's regulatory authority over this facility.

B. Legal Antecedents

Metro Code Section 5.05.043 provides that, when determining whether or not to approve an NSL application, the Metro Council shall consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The proposed NSL authorizes the delivery of food waste to Recology Oregon Compost, an established yard debris and food waste composting facility which is well known to Metro staff. Because this facility accepts only wood waste, yard debris and residential food waste for composting rather than disposal, it does not pose the same potential for environmental contamination. Washington County's franchise does not allow Recology Oregon Compost to acceptance of commercial food waste. The environmental risk from the use of this facility is presumed to be minimal because it is fully regulated and monitored by the appropriate local and state authorities.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including, but not limited to, public health, safety and environmental rules and regulations;*

Recology Oregon Compost is permitted by DEQ and has a current franchise agreement with Washington County. Both DEQ and Washington County staff have indicated the facility is in compliance with health, safety, and environmental regulations.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

Metro and DEQ consider the operational practices and management controls in place at Recology Oregon Compost to be adequate and consistent with other similar facilities. Recology Oregon Compost manages the food waste they receive in accordance with the requirements of their DEQ-issued permit and County-issued franchise.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The waste subject to the proposed NSL will be transported to a composting facility rather than a disposal site. Based on the waste management hierarchy, composting is considered to be a higher and better management option than land disposal. As such, approval of the proposed NSL is likely to have a positive impact on the region's recycling and waste reduction efforts.

As previously explained above, TTS currently holds an NSL authorizing it to transport food waste to Dirt Hugger. Granting this NSL will provide WMO and TTS with an additional option for composting and potentially lessen the distance that its vehicles have to travel to deliver the feedstock to a compost facility.

(5) *The consistency of issuing the license with Metro's existing contractual arrangements;*

Metro is contractually obligated to transport a minimum of 90 percent of the region's putrescible waste that is delivered to general purpose landfills during the calendar year, to landfills owned by its disposal contractor. The waste subject to the proposed license will be transported to a composting facility rather than disposal. Therefore, approval of the proposed license will not conflict with Metro's disposal contract.

(6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including, but not limited to, public health, safety and environmental rules and regulations; and*

The applicant is currently in compliance with Metro Code and Metro's authorization requirements. In addition, staff's investigation of the applicant revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.

(7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

The purpose of this proposed NSL is to provide greater flexibility for the licensee to collect residential food waste as more programs are initiated by local jurisdictions and to deliver the feedstock to a nearby authorized compost facility as well as to improve administrative efficiency. Recology Oregon Compost provides important processing and composting capacity for the region that supports Metro's goal of diverting organics away from disposal and into recovery outlets.

The proposed NSL would initially apply only to yard debris mixed with residential food waste that is transported from Troutdale Transfer station, or generated and collected curbside within the city of Forest Grove. WMO would directly transport this waste to Recology Oregon Compost. However, the NSL also includes a special condition that authorizes the Chief Operating Officer (COO) to approve additional food waste from other local jurisdictions that formally decide to allow residential food waste to be mixed with yard debris provided that certain other conditions are met. The NSL requires that the licensee must notify and obtain the COO's pre-approval for any jurisdiction that seeks to be included under the proposed NSL. The COO will determine whether to include waste from new jurisdictions based upon meeting the conditions described in Section 9 of the NSL. In particular, the licensee must submit a letter from the local collection jurisdiction stating that a residential food waste collection program is in place, and provide written approval from Washington County and DEQ showing that Recology Oregon Compost is authorized to receive the waste. In addition, the COO will solicit input from

the local collection jurisdiction and city of North Plains when considering whether to allow additional waste under the NSL. This approval process balances providing greater flexibility to approve and monitor the waste delivered to Recology Oregon Compost while assuring cooperation with local governments.

The proposed NSL includes a two-year and six month term, commencing on July 1, 2016, and expiring on December 31, 2018. Although NSLs are typically issued for a two-year period, staff recommends that the Metro Council establish a two-year and six month term in this instance in order to align it with other food waste NSLs which typically expire at the end of the calendar year. Metro Code stipulates that new NSLs may be issued for up to a three-year period.²

C. Anticipated Effects

The effect of Resolution No. 16-4699 will be to authorize WMO to transport up to 15,000 tons per calendar year of yard debris mixed with residential food waste to Recology Oregon Compost for composting from both residential collection routes from the city of Forest Grove, as well as from Troutdale Transfer Station.

D. Budget/Rate Impacts

If Metro Council approves the proposed NSL, staff estimates that it will have a net negative effect on Metro's finances in the amount of about \$15,000 under the adopted rate structure for fiscal year 2016-2017. This includes lost revenues of about \$9,000 in regional system fees, and about \$6,000 in excise taxes as more fully explained below.

Waste diversion affects Metro's finances in a number of ways. Metro's regional system fee and excise tax rates depend, to some extent, on the amount of waste that is disposed. Any waste that is diverted from disposal, such as the composting of residential food waste, generally increases those fee and tax rates, which are paid by all generators. The residential food waste component of the 15,000 tons is expected to be six percent of the total volume based on Metro's experience with the city of Portland residential food waste program.³ Therefore, the budget impact for the food waste portion of newly diverted residential food waste is expected to be negligible.

In subsequent fiscal years, the tonnage loss will be offset by a fee rate increase of less than one cent. Unlike the fee, the tax rate is driven in part by previous-calendar year tonnage, however, the rates will be adjusted in subsequent years. Finally, approval of the NSL may reduce projected community enhancement fees collection by up to \$500 per year for the city of Forest Grove as food scraps move from the garbage to the yard debris container.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 16-4699 finding that the license application satisfies the requirements of Metro Code Section 5.05.043, and issuance of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

HR
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² Metro Code Section 5.05.045(5)(B)

³ Cascadia Consulting Group; *Metro Organics Stream Composition Study*, June 2013