

IN CONSIDERATION OF RESOLUTION NO. 21-5167, FOR THE PURPOSE OF AMENDING AND ADOPTING THE LIST OF DESIGNATED FACILITIES OF THE SOLID WASTE SYSTEM PURSUANT TO METRO CODE CHAPTER 5.05

Date: April 14, 2021
Department: Waste Prevention and
Environmental Services
Meeting Date: April 29, 2021

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ISSUE STATEMENT

The following solid waste facilities and disposal sites have applied to become designated facilities of Metro's solid waste system pursuant to Metro Code Chapter 5.05:

- Chemical Waste Management of the Northwest, Inc. (ChemWaste), 17629 Cedar Springs Lane, Arlington, Ore.
- Covanta Marion (Covanta), 4850 Brooklake Road NE, Brooks, Ore.
- Dirt Hugger, 111 E. Rockland Road, Dallesport, Wash.
- Divert Albany Processing Facility (Divert), 950 SE Jackson St., Albany, Ore.
- Recology Organics – Aumsville (Recology Aumsville), 8712 Aumsville Highway SE, Aumsville, Ore.
- Recology Organics – North Plains (Recology North Plains), 9570 NW 307th Ave., North Plains, Ore.

ACTION REQUESTED

Approve Resolution No. 21-5167 to:

1. Designate ChemWaste, Covanta, Dirt Hugger, Divert, Recology Aumsville and Recology North Plains as part of Metro's solid waste system and add these six facilities to the designated facilities list;
2. Adopt an amended list of designated facilities, attached as Exhibit A, that becomes effective on May 1, 2021;
3. Authorize the Chief Operating Officer to remove from the list of designated facilities any disposal site that is now or later becomes a "limited capacity landfill" as that term is defined in Metro Code Chapter 5.00, without requiring further Metro Council action;
4. Authorize the Chief Operating Officer to execute an agreement between Metro and each facility as described in this staff report and Metro Code Chapter 5.05; and
5. Authorize the Chief Operating Officer to extend the term of nine non-system licenses (NSLs) that authorize transport of waste to Covanta and Divert, attached as Exhibit B, to expire December 31, 2021 to prevent any lapse in authorization until Metro can execute an agreement with each facility.

IDENTIFIED POLICY OUTCOMES

Staff finds that designating the proposed facilities as part Metro's solid waste system and establishing designated facility agreements with each provides greater oversight of the region's waste and helps Metro ensure that the waste is properly managed in accordance with the Regional Waste Plan and other solid waste policy objectives. The proposed action would also result in process improvements and make reporting and fee and tax collection more efficient because the designated facility would take on that responsibility instead of the users of those facilities. There are 24 NSLs currently in effect that would no longer be necessary upon approval of the proposed resolution and establishment of designated agreements with the proposed facilities. This would result in a reduction in administrative work for Metro and the users of the facilities.

POLICY QUESTION(S)

1. Should Metro Council designate ChemWaste, Covanta, Dirt Hugger, Divert, Recology Aumsville and Recology North Plains as part of Metro's solid waste system, adopt the proposed list of designated facilities, attached as Exhibit A, and authorize the Chief Operating Officer to execute agreements with these proposed facilities to authorize the types of waste described in this staff report?
2. Should Metro Council authorize the Chief Operating Officer to extend the term of nine NSLs, attached as Exhibit B, to expire December 31, 2021 to prevent any lapse in authorization until Metro executes agreements with Covanta and Divert?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the resolution as proposed to designate ChemWaste, Covanta, Dirt Hugger, Divert, Recology Aumsville and Recology North Plains as part of Metro's solid waste system and add the facilities to the designated facilities list.
2. Amend the resolution to adopt a list of designated facilities that is different than that recommended by staff.
3. Do not approve Resolution No. 21-5167.

STAFF RECOMMENDATIONS

Staff recommends that Metro Council adopt Resolution No. 21-5167 to add six facilities, including two disposal sites (ChemWaste and Covanta), three compost facilities (Dirt Hugger, Recology Aumsville, and Recology North Plains), and a food waste processing facility (Divert) to Metro's designated facilities list, and approve the list that will become effective May 1, 2021.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

The Metro Council determines whether a solid waste facility or disposal site located outside of the Metro jurisdictional boundary may be part of Metro's solid waste system. If Metro Council designates a facility as part of the system, the Chief Operating Officer is authorized to execute an agreement between Metro and the facility that allows the facility to accept waste generated from within the region and collect the regional system fee and excise tax on Metro's behalf. Metro Code Chapter 5.05 prohibits the disposal of Metro area waste in a "limited capacity landfill" which is defined as a landfill that has sought a site

development plan amendment for the expansion of the landfill capacity from DEQ, and has not received approval from DEQ by May 25, 2017. If approved, this resolution would authorize the Chief Operating Officer to remove any disposal site that is now, or later becomes, a limited capacity landfill from the list of designated facilities without requiring further Metro Council action.

There are currently nine designated facilities located outside of the Metro jurisdictional boundary. This proposed resolution seeks to add six facilities to the designated facilities list. If approved, the designated facilities list would be amended as shown in Exhibit A to this staff report.

The current designated facilities list includes:

- Coffin Butte Landfill, Benton County, Ore. – Republic Services
- Columbia Ridge Landfill, Gilliam County, Ore. – Waste Management
- Cowlitz County Headquarters Landfill, Cowlitz County, Wash. – Cowlitz County
- Finley Buttes Regional Landfill, Morrow County, Ore. – Waste Connections
- Hillsboro Landfill, Washington County, Ore. – Waste Management
- Roosevelt Regional Landfill, Klickitat County, Wash. – Republic Services
- Tualatin Valley Waste Recovery, Washington County, Ore. – Waste Management
- Wasco County Landfill, Wasco County, Ore. – Waste Connections
- Canby Transfer & Recycling, Inc., Canby, Ore. – Kahut Waste Services

The proposed designated facilities list, as shown in Exhibit A, includes all nine of the facilities listed above and the following:

- Chemical Waste Management of the Northwest, Inc., Gilliam County, Ore. – Waste Management
- Covanta Marion, Marion County, Ore. – Covanta Holding Company
- Dirt Hugger, Klickitat County, Wash.
- Divert Albany Processing Facility, Albany, Ore. – Divert Inc.
- Recology Organics – Aumsville, Aumsville, Ore. – Recology Inc.
- Recology Organics – North Plains, Washington County, Ore. – Recology Inc.

The Applicants

A. Chemical Waste Management of the Northwest, Inc.

ChemWaste is a hazardous waste treatment, storage and disposal facility that has operated in Gilliam County since 1976. The landfill is permitted to accept hazardous waste and non-hazardous solid waste. The site is located adjacent to the Columbia Ridge Landfill, a general purpose landfill and Metro designated facility that is permitted by Oregon Department of Environmental Quality (DEQ) to accept municipal solid waste. Both of these landfills are owned and operated by Waste Management. ChemWaste has applied to become a designated facility so that it may receive non-hazardous solid

waste from the Metro region. In its application, ChemWaste indicated that the landfill has an estimated 41 years of capacity remaining with an estimated closure date of 2062. Metro does not regulate hazardous waste and Metro has not issued any non-system licenses to transport other types of waste to this disposal site.

The facility is regulated by the Environmental Protection Agency Region X and DEQ to ensure protection of human health and the environment. The facility operates under Resource Conservation and Recovery Act (RCRA) guidelines and holds a DEQ hazardous waste permit and a DEQ simple air contaminant discharge permit.

In March 2019, DEQ notified ChemWaste that it was required to participate in the Cleaner Air Oregon (CAO) risk assessment process. Cleaner Air Oregon is a health-based permitting program that regulates emissions of air contaminants from facilities based on risk to nearby communities. Facilities in the program are required to report toxic air contaminant emissions, assess potential health risks to people nearby and reduce toxic air contaminant risk if it exceeds legal limits. The facility is complying with all DEQ requests which are publically available on the Cleaner Air Oregon website.

In February 2020, the Oregon Department of Energy (ODOE) issued a Notice of Violation to ChemWaste for accepting 1,284 tons of radioactive materials between 2016 and 2019 from hydraulic fracturing activities (fracking) in violation of state rule and statute that prohibit the disposal of radioactive waste in Oregon. ODOE required the facility to conduct a risk assessment and develop a corrective action plan for the waste. The risk assessment concluded that the presence of these radioactive materials presents a low risk of future exposure and poses no risk of exceeding drinking water standards in the vicinity of the landfill. The landfill was designed to safely manage hazardous chemicals; therefore, ODOE determined that the best course of action in this instance was to leave the waste in place and continue to monitor potential risk by regularly testing groundwater and leachate at the facility.

In March 2021, ODOE issued a letter of determination accepting the facility's corrective action plan with amendments. The facility is required to install a radiation monitor to scan waste entering the facility to prevent a recurrence of this incident. ODOE has also requested that the facility review the active and recent waste streams to assess whether other noncompliant materials may have been disposed in Waste Management-owned landfills. Any noncompliant waste streams identified will be evaluated on a case-by-case basis.

In August 2020, DEQ notified ChemWaste that it was issuing a civil penalty of \$60,000 for the unauthorized disposal of radioactive waste at the landfill and for not screening for radiation as required in the hazardous waste permit. The final enforcement action had not been issued at the time of this staff report. Notwithstanding the above mentioned permit violation, DEQ staff has reported to Metro that the facility is otherwise in compliance with its hazardous waste and air permits. Metro staff notified Gilliam County of ChemWaste's application to become designated and the County has not expressed any concerns.

If the proposed resolution is approved, Metro Council will authorize the Chief Operating Officer to execute an agreement with ChemWaste that allows it to accept non-hazardous industrial waste and non-hazardous special waste generated within the Metro region.

B. Covanta Marion

Covanta is an incinerator located in Brooks, Ore. that is owned by Covanta Holding Company located in Morristown, New Jersey and operated by Covanta Marion Inc. The facility has been operating since 1987. The facility burns solid waste to produce steam in a boiler, and uses a turbine generator to produce up to 13 MW of electricity annually.

The facility has the capacity to process up to 186,000 tons of waste annually, of which 145,000 tons are contractually committed to Marion County through June 2021. The facility primarily accepts municipal solid waste but is also permitted to accept certain industrial and medical wastes, pharmaceuticals and illicit materials in conjunction with state and federal law enforcement agencies. The facility recovers ferrous and non-ferrous metals for recycling and the resulting ash is transported to Coffin Butte Landfill for use as alternative daily cover.

Metro has a longstanding practice of allowing Metro area waste to be disposed at Covanta. Currently, there are thirteen NSLs that authorize the transport of certain putrescible and non-recoverable waste to Covanta generated from commercial customers within the Metro region that have internal policies to seek disposal at Covanta instead of at a landfill. Two additional NSLs authorize the transport of confidential documents to Covanta for destruction. In calendar year 2020, licensees transported 1,629 tons of waste generated in the Metro region to Covanta.

Covanta currently holds a solid waste disposal permit, 1200-Z stormwater discharge permit, wastewater discharge permit, and a Title V air quality permit, all of which are issued by DEQ. DEQ staff has reported to Metro that Covanta is currently in compliance with all permits with no significant violations over the past three years. Metro staff notified Marion County of Covanta's application to become designated and the County did not express any concerns.

In August 2020, DEQ notified Covanta that it was required to participate in the Cleaner Air Oregon program. The facility is complying with all DEQ requests which are publically available on the Cleaner Air Oregon website.

If the proposed resolution is approved, Metro Council will authorize the Chief Operating Officer to execute an agreement with Covanta that allows it to accept putrescible waste, special waste, and other non-recoverable waste generated within the region by generators that seek material destruction or have implemented internal waste reduction programs such as zero waste-to-landfill policies.

C. Dirt Hugger

Dirt Hugger is a compost facility that has been operating in Dallesport, Wash. since 2015. The facility uses aerated static piles to process yard debris, yard debris containing residential food waste, commercial food waste and agricultural waste into a beneficial compost product that can be land applied. In 2019, the facility expanded its footprint increasing its annual inbound capacity to 62,700 tons.

In 2020, private facilities transported 25,412 tons of residential yard debris containing food waste generated in the Metro region to Dirt Hugger under the authority of three NSLs. Recology Portland Inc., the contracted operator for Metro South and Metro Central transfer stations, also transports material to Dirt Hugger as needs arise.

The facility operates under the authority of a Klickitat County solid waste permit and a Washington Department of Ecology notice of construction approval order (air permit). Compliance checks by Metro staff concluded that the facility is in compliance with both of its permits with no significant violations over the past three years. Metro staff notified Klickitat County of Dirt Hugger's application to become designated and the County did not express any concerns.

If the proposed resolution is approved, the Metro Council will authorize the Chief Operating Officer to execute an agreement with Dirt Hugger that allows it to accept commercial food waste and yard debris containing residential food waste generated within the Metro region.

D. Divert Albany Processing Facility

Divert is a food waste processing facility that has operated in Albany, Ore. since 2017. It is owned and operated by Divert Inc. headquartered in Concord, Mass. Divert accepts packaged and unpackaged food waste that cannot be donated from grocery distribution centers. Prior to processing the waste, Divert uses RFID tracking and data analytics to identify opportunities for source reduction and donation opportunities at the store level. The facility's processing equipment separates food waste from packaging to produce two outputs: (1) a nutrient rich liquid slurry that is further processed at an anaerobic digestion facility near Corvallis, and (2) non-recoverable residual waste that is disposed at Coffin Butte Landfill. Divert reports that residual waste accounts for about 30% (by weight) of the incoming material it receives from the Metro region.

In 2020, two grocery store distribution centers transported 6,126 tons of commercial food waste generated in the Metro region to Divert under the authority of NSLs. The facility operates under the authority of a DEQ solid waste disposal permit and a City of Albany wastewater discharge permit. DEQ and the City of Albany have reported to Metro that the facility is in compliance with its permits with no significant violations over the past three years. Metro staff notified the City of Albany of Divert's application to become designated and the city did not express any concerns.

If the proposed resolution is approved, the Metro Council will authorize the Chief Operating Officer to execute an agreement with Divert that allows it to accept packaged and unpackaged commercial food waste generated within the Metro region.

E. Recology Organics – Aumsville

Recology Aumsville is a compost facility that was acquired in 2009 by Recology Inc. based in San Francisco, Calif. and operated by Recology Oregon Compost. The facility processes yard debris, commercial food waste and yard debris containing residential food waste into a beneficial compost product that can be land applied. Recology Aumsville currently uses aerated static piles and is in the process of converting to mass bed technology which, when complete, will increase efficiencies in operation, reduce the potential for odors that may impact neighboring properties, and increase the annual capacity of the facility by 19,000 tons to 50,000 tons. In 2019, Metro awarded the facility a \$750,000 Investment and Innovation grant to support this conversion project. The agreement requires that Recology Aumsville apply to become a designated facility and, once the conversion to mass bed is complete, maintain a minimum of 25,000 tons annual capacity for yard debris and food waste generated from within the Metro region until January 31, 2027.

In 2020, two Metro-licensed facilities transported 78 tons of yard debris containing residential food waste generated in the Metro region to Recology Aumsville under the authority of NSLs. Recology Portland Inc., the contracted operator for Metro South and Metro Central transfer stations, also transports material to Recology Aumsville when capacity is available.

The facility currently operates under the authority of a DEQ solid waste disposal permit, a DEQ industrial stormwater discharge permit and a city of Salem wastewater discharge permit. DEQ received one odor complaint in 2018 that has since been resolved and the facility self-reports complaints to DEQ when they occur, typically in the summer months. DEQ and city of Salem staff have reported to Metro that the facility is currently in compliance with all of its permits with no significant violations in the last three years. Metro staff notified the city of Aumsville of Recology Aumsville's application to become designated and the city did not express any concerns.

If the proposed resolution is approved, the Metro Council will authorize the Chief Operating Officer to execute an agreement with Recology Aumsville that allows it to accept commercial food waste and yard debris containing residential food waste generated within the Metro region.

F. Recology Organics – North Plains

Recology North Plains is a compost facility that was also acquired in 2009 by Recology Inc. based in San Francisco, Calif. and is operated by Recology Oregon Compost. The facility processes yard debris and yard debris containing residential food waste into a beneficial compost product that can be land applied. Recology North Plains currently uses aerated static piles and is in the process of converting to mass bed technology which, when complete, will increase efficiencies in operation, reduce the potential for

odors that may impact neighboring properties, and increase the annual capacity of the facility by 24,000 tons to 80,000 tons. In 2019, Metro awarded the facility a \$750,000 Investment and Innovation grant to support this conversion project.

The property has operated as a compost facility since 1998 and was formerly known as Nature's Needs until 2016 when the facility became known as Recology Organics – North Plains. Two Metro-licensed facilities and six companies with collection franchises in cities within the Metro region currently hold NSLs that authorize the transport of yard debris containing residential food waste from the Metro region to Recology North Plains. In 2020, these eight licensees transported 47,081 tons of yard debris containing residential food waste generated in the Metro region to Recology North Plains.

The facility operates under the authority of a DEQ solid waste disposal permit, a Washington County franchise agreement and a DEQ industrial stormwater discharge permit. In its application, the facility self-reported six odor complaints received from January through November 2020. All complaints were investigated internally with two resulting in confirmed odor attributed to Recology North Plains operations. Washington County received one odor complaint in September 2019 that could not be substantiated by code compliance staff. DEQ has also received odor complaints and the facility proactively adjusts operations when possible to reduce the likelihood of offsite impacts. DEQ and Washington County staff have reported to Metro that the facility is currently in compliance with all its permits with no significant violations in the last three years. Metro staff notified the city of North Plains of Recology North Plain's application to become designated and the city did not express any concerns.

If the proposed resolution is approved, the Metro Council will authorize the Chief Operating Officer to execute an agreement with Recology North Plains that allows it to accept yard debris containing residential food waste generated within the Metro region.

Legal Antecedents

Metro has solid waste management authority under the Oregon Constitution, state law and the Metro Charter. With respect to designated facilities specifically, the Council considers the factors described in Metro Code Section 5.05.070(b) when determining whether to add a facility to the designated facilities list.

The proposed resolution seeks to add six facilities to Metro's designated facilities list. These include two disposal sites (ChemWaste and Covanta), three compost facilities (Dirt Hugger, Recology Aumsville, and Recology North Plains), and a food waste processing facility (Divert). The following factors to be considered by Metro Council are addressed by facility groupings or an individual facility basis as pertinent to the circumstances.

(1) The degree to which Metro had knowledge of prior facility users and waste types accepted at the facility and the degree to which those wastes pose a future risk of environmental contamination;

All of the proposed facilities are well known to Metro and hold the necessary permits from DEQ or its equivalent authority in Washington.

In regard to the proposed disposal sites, ChemWaste is a permitted RCRA Subtitle C landfill and the operations at this facility are highly regulated under the DEQ hazardous waste permit. The landfill meets strict EPA and DEQ guidelines and includes a leachate collection system, monitoring wells and a leak detection system. As mentioned previously in this staff report, the facility accepted 1,284 tons of radioactive materials from hydraulic fracturing activities (fracking) between 2016 and 2019, in violation of its DEQ permit, resulting in a Notice of Violation from ODOE and a civil penalty from DEQ. As part of the corrective action plan, the facility is required to install a radiation monitor to scan waste entering the facility to prevent a recurrence of this incident. ODOE has also requested that the facility review the active and recent waste streams to assess whether other materials may have been disposed in Waste Management-owned landfills. Any noncompliant waste streams identified will be evaluated on a case-by-case basis. The landfill was designed to safely manage hazardous chemicals; therefore, ODOE determined that the best course of action in this instance was to leave the waste in place and continue to monitor potential risk by regularly testing groundwater and leachate at the facility. The risk assessment required by ODOE concluded that the acceptance of these radioactive materials presents a low risk of future exposure and poses no risk of exceeding drinking water standards in the vicinity of the landfill.

The other applicants are not landfills and therefore do not pose the same potential environmental risk from wastes delivered from prior users. However, Covanta produces ash residue that is disposed and used as alternative daily cover at Coffin Butte Landfill. DEQ requires that Covanta sample and test its ash residue quarterly using Toxicity Characteristic Leaching Procedure (TCLP) in accordance with federal EPA guidance documents. DEQ reported that both of these disposal facilities are in compliance with their permits.

With respect to the compost and food processing facilities, staff's investigation has not shown any history of accepting waste that could pose a risk of environmental contamination.

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

Metro does not regulate these facilities as they are all located outside of the Metro region. However, all of these facilities are well known to Metro staff. With the exception of ChemWaste, Metro has a longstanding practice of allowing waste from

the region to be transported to these facilities under authority of NSLs. Metro does not regulate hazardous waste and has not issued any NSLs for transporting other types of waste to ChemWaste.

Based on investigations by staff and the information provided by DEQ and other regulatory agencies, these proposed facilities are reported to be in compliance with all state and local permit requirements.

(3) The adequacy of the facility's operational practices and management controls;

Metro, state and local regulatory agencies consider the operational practices and management controls in place at each of these facilities to be adequate for their specific type of operation that are consistent with that of similar facilities.

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

The proposed compost and food processing facilities under consideration in this resolution are integral to Metro's efforts to increase food waste recovery rather than disposal in a landfill. Staff finds that designating these facilities creates a direct relationship between Metro and each facility, which provides Metro with greater oversight of the system's compost and food processing facilities to ensure that food waste is properly managed. In addition, designating these facilities makes it easier for food waste to be composted or otherwise processed because it reduces the need for users of these facilities to obtain an NSL from Metro.

The proposed disposal sites under consideration in this resolution, ChemWaste and Covanta, seek to receive types of waste from the Metro region that are likely non-recoverable (e.g., putrescible waste, industrial process waste, and special waste). Staff does not expect that the proposed action related to these facilities will impact the region's recycling and waste reduction efforts.

(5) The facility designation's compatibility with Metro's existing contractual arrangements;

Metro's existing contractual arrangements will not be affected by the designation of any of the six facilities.

(6) The facility's record of compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement; and

All of the proposed facilities are well known to Metro staff and their operators have a good record of cooperating with Metro regarding waste flow control matters. Staff also finds that the operators have generally been responsive to Metro's requests for information about their facilities and origins of the waste they receive. Staff has an effective working relationship with the facility operators and finds that they all have a good record of assisting and complying with Metro's requirements.

(7) Other benefits or detriments accruing to regional residents if Council designates the facility.

As previously mentioned, staff finds that designating the proposed facilities creates a direct relationship between Metro and each designated facility and provides Metro with greater oversight of the region's waste to ensure that it is properly managed and disposed. This direct relationship will reduce the need for the users of these facilities to apply for and maintain an NSL. The responsibility for reporting monthly tonnage and remitting fees and taxes will shift to the facility, significantly reducing the number of monthly reports received by Metro. These process improvements will result in a reduction in administrative work for Metro, transporters and generators.

Based on an evaluation of the above mentioned factors, staff finds that each applicant operates in a manner that meets Metro Code requirements. In addition, each facility is regulated by appropriate local and state authorities to minimize the potential for environmental risk associated with the use of each facility.

Financial Implications

The proposed resolution seeks to add six facilities to Metro's designated facilities list – five of which currently receive Metro area waste under NSLs. Staff does not expect any financial implications resulting from the proposed action. If approved, designated facility agreements will replace current NSLs and Metro will continue to collect the requisite regional system fee and excise tax on all solid waste at the time of disposal. Metro will also continue to allow a fee and tax exemption for food waste that is composted or otherwise recovered.

Known Opposition

There is no known opposition to the proposed actions described in this resolution.

ATTACHMENTS

- A. Exhibit A: Designated Facilities of Metro's Solid Waste System
- B. Exhibit B: Non-System licenses requiring six-month term extension
- C. Attachment 1 to Staff Report: Map of existing and proposed designated facilities