



**DATE:** May 13, 2021  
**TO:** Washington County Garbage and Recycling Advisory Committee  
**FROM:** Kathy Folsom, Senior Policy Coordinator  
**RE:** Proposed Franchise Agreement Renewal – Recology Oregon Compost, Inc.

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## **Background and summary**

Recology Oregon Compost, Inc. (Recology), owner and operator of the Recology Organics – North Plains compost facility disposal site (located at 9570 NW 307<sup>th</sup> Avenue, North Plains, Oregon), has submitted a solid waste facility application for the purpose of renewing its Franchise Agreement, and to continue to operate the facility in Washington County. Recology's current Washington County Franchise Agreement is scheduled to expire June 19, 2021.

Washington County Code (WCC) Chapter 8.08 directs the Garbage and Recycling Advisory Committee (GRAC or Committee) to make findings of fact related to Recology's solid waste facility renewal application. The criteria and proposed findings for Committee consideration are outlined in Attachment A to this staff report. The Committee's recommendation will be provided to the Washington County Board of Commissioners during its consideration of the renewal application.

The facility was awarded an Investment and Innovation grant from Metro for the purposes of making site improvements and implementing a mass bed composting process. Over the past year Recology has been conducting a demonstration project to test the mass bed composting approach finding positive results. The County has not received any additional complaints during the demonstration period and has reviewed other mass bed composting facilities to evaluate performance for due diligence. Staff have found these practices to be process improvements that do not impact Franchise Agreement considerations.

The facility is a permitted Solid Waste Disposal Site Composting Facility, under Permit No. 1445, issued by the Oregon Department of Environmental Quality (DEQ) on April 8, 2011.

During a franchise renewal process, applicants often propose significant changes to the agreement. However in this case, the agreement between Recology and Washington County is largely status quo. The changes that have been proposed are outlined in the Franchise Agreement Terms and Conditions section below.

## **Franchise Renewal Process**

The process for renewal of the franchise is outlined within WCC Chapter 8.08 Disposal Sites, Sections 180 through 300. This process requires applications for franchises to be made on forms provided by the County submitted with a non-refundable fee of one hundred dollars (\$100). Additionally, applicants for disposal franchises shall file in duplicate the information required by the Department of Environmental Quality for a solid waste disposal site permit as required by Oregon Revised Statutes Chapter 459.

## Solid Waste Facility Application

On January 27, 2020, and January 22, 2021, Recology filed a complete application for renewal of the Franchise Agreement authorizing its disposal site operation; the Recology Organics – North Plains compost facility. Information contained in this application specifically addressed Recology’s current compliance status with the provisions contained within WCC Chapter 8.08, within the existing Franchise Agreement, and within all associated permits issued under the authority of appropriate state and local agencies.

## **Review of Solid Waste Facility Application**

Provisions within WCC Chapter 8.08 require that applications for disposal franchises shall be reviewed by the following County departments: Health and Human Services (HHS), Land Use and Transportation, County Counsel, and other county offices designated by the board. Each of these departments has reviewed the application. The relevant department findings are outlined below.

### County Counsel

As a franchise agreement currently exists with the applicant for the property affected by the application, and the applicant has not proposed any significant change in the nature of the operation as part of the application, the application is considered a renewal.

### Land Use and Transportation Department

The Washington County Department of Land Use and Transportation (LUT) is the authority for land use decisions for the County. LUT has advised the Solid Waste & Recycling Division that:

*Casefiles 08-150-RC & the original casefile of 98-610-SU/D establish the pertinent standards for continuation of this use approved as a “Commercial Activity in Conjunction with Farm Use”.*

*The use remains consistent with the AF-20 District. On February 11, 2021, casefile L2100005-D, minor site alternations to the Recology facility were approved by LUT.*

### Department of Environmental Quality – Water Quality

While the Oregon Department of Environmental Quality (DEQ) is not a County department, the code requires that the applicant be in compliance with all applicable rules and regulations. DEQ’s Water Quality Division maintains two permits with Recology Organics – North Plains.

1. NPDES 1200-Z Industrial Stormwater Discharge Permit - Expires: 7/31/2022
2. NPDES 1200-C Construction Stormwater Control Permit - Expires: 12/14/2025

### Department of Environmental Quality – Solid Waste

DEQ’s Solid Waste Division maintains one permit with Recology Organics – North Plains.

1. Solid Waste Disposal Permit: Composting Facility - Expires: 3/1/2020. Recology has submitted to DEQ a permit renewal application. All permit conditions will remain in effect until such time as a renewed permit is issued by DEQ.

DEQ's Solid Waste Division was queried regarding the current status of the permit it oversees. A public hearing for comment on the Recology Organics – North Plains proposed solid waste compost facility permit renewal and modification for their facility will be held on May 6, 2021. The draft DEQ evaluation report contains the following conclusions:

“RONP has submitted a complete permit renewal and modification application for the existing composting operation. Washington County Planning Department has approved facility site modifications. DEQ has reviewed the Mass Bed Pilot Project Report. DEQ has concluded, based on the information contained and referenced in this report, that the potential impacts to public health and the environment from their facility will be minimal as long as the facility continues to operate in accordance with their approved Operations Plan, all conditions and limitations contained in the proposed modified Solid Waste Composting Permit, conditions and limitations in the 1200Z Stormwater Permit and the Stormwater Pollution Control Plan.”

#### Health and Human Services Department, Solid Waste & Recycling Division

The HHS Solid Waste & Recycling Division has conducted a review of the Recology franchise agreement renewal application. WCC Chapter 8.08.290 Franchise Issuance requires that the Garbage and Recycling Advisory Committee (GRAC) make specific findings of fact related to the Franchise Agreement renewal application. These findings are based on specific criteria determined as a result of investigations of the Recology Organics – North Plains compost facility application. The criteria and proposed findings for GRAC consideration are outlined in Attachment A to this staff report.

Since November 2011, Washington County's Code Enforcement staff have conducted periodic inspections of the Recology Organics – North Plains compost facility and consider the facility to be in compliance with the current Franchise Agreement. No complaints were received by the County in 2020 and 2021 to date. The last complaint was received on September 30, 2019.

Recology continues the practice of forwarding to the County weekly odor complaints received directly by the facility. These complaint logs include notes on investigations and findings.

Based on these facility inspections and the proposed findings, included in Attachment A, it appears that the applicant meets the criteria for renewal. Periodic facility inspections will continue under the franchise agreement renewal.

#### **Franchise Agreement Terms and Conditions**

The draft agreement is largely a status quo document, with limited changes from the agreement that is currently in force.

#### Authorized Waste

The proposed language does not deviate from the current Agreement. Authorized Feedstock continues to be limited to Type 3 from residential sources *only* with incidental amounts of commercial self-haul allowed.

Currently, the Franchise Agreement contains a requirement for the County and the Board of Commissioners related to terminating the facility's authorization to accept residential Type 3

feedstock. The proposed Franchise Agreement continues to require that:

- Prior to termination of authorization, the County provides written notice describing the unacceptable odors, the dates when unacceptable odors have occurred and the approximate locations.
- The Franchisee develops, within TWENTY (20) days of notice, for County approval, a plan to remedy the cause of the unacceptable odors.
- The Board finds odors to be “unacceptable.”
- The Board finds that Franchisee made an “inadequate” response to remedying the odors.
- Should the Board terminate the authorization of the Franchisee to accept residential Type 3 feedstock, the Franchisee will cease accepting all Type 3 feedstock within TWENTY (20) days.

### Additional Conditions

The proposed Renewal Franchise Agreement’s Exhibit A, *Additional Conditions*, contains minor changes related to weather-related impacts and requirements for DEQ water quality test result reporting. The *Additional Conditions* continue to give the County the authority to control intake of materials if a malodor event occurs.

Additionally, the Franchisee is required to notify the County and the City of North Plains of any activities that may result in increased odor levels and to not accept any materials that lack the necessary properties to break down in its composting process. There is also a provision that County staff will continue to inspect the facility through periodic site visits.

### Remaining Edits

All additional edits do not make substantial changes to the current Agreement and should be considered “housekeeping” in nature.

### Staff Recommendation

Staff recommends that the Washington County Garbage and Recycling Advisory Committee favorably recommend that the Washington County Board of County Commissioners approve the renewal of the Washington County solid waste franchise agreement currently issued to Recology Oregon Compost, Inc. to operate the Recology Organics – North Plains compost facility solid waste disposal site for a term of five years, through June 19, 2026.

This recommended term is consistent with the current franchise term and pursuant to WCC 8.08.490.

### **Attachments and Exhibits:**

Attachment A: Staff Analysis and Findings

**Attachment A**  
**Staff Analysis and Findings**

**Washington County Code (WCC) Chapter 8.08.230 Requirements**

WCC 8.08.230 provides several requirements for consideration by the board in determining whether to approve an application for a solid waste facility. The following findings respond to each of those requirements.

**Criterion:** The applicant must show to the satisfaction of the board that it has available equipment, facilities and personnel to meet the standards established by this chapter, applicable state statutes, and rules and regulations

**Finding:** Recology Oregon Compost, Inc. currently maintains and operates a solid waste disposal site, specifically a compost facility, under DEQ permit and Franchise Agreement with the County. The applicant has made available the necessary equipment, facilities and personnel required to meet the standards established by this chapter, applicable state statutes and rules and regulations as they relate to the operation of the facility. Staff finds that this criterion has been met.

**Criterion:** The applicant must show to the satisfaction of the board that it is registered with the State of Oregon Corporation Division and is duly authorized to conduct business within the State of Oregon.

**Finding:** Staff has reviewed the materials submitted as part of the application and reviewed the corporate records on file with of the Oregon Secretary of State Corporation Division. Staff finds that this criterion has been met.

**Criterion:** The applicant must show to the satisfaction of the board that it has sufficient personnel experienced in the operation of comparable disposal facilities considering the type, duration, volume of disposal, weather conditions, and methods of disposal to ensure an ability to comply with Chapter 459 ORS and rules and this chapter and the regulations thereunder.

**Finding:** The applicant has operated this facility at this location since its acquisition of the facility in 2009. The applicant will keep the necessary existing personnel and operations manager on site. These personnel represent an extensive level of experience in the field of solid waste disposal operations. Staff finds that this criterion has been met.

**Criterion:** The applicant must show to the satisfaction of the board that it has, as a condition of receiving a franchise, submitted to the county before issuance of the franchise, proof of financial assurance in a form and of a value sufficient to satisfy the provisions of ORS 459.272 and Metro Code 5.01.060(c)(4), as may be amended, if applicable, unless otherwise required by the board.

**Finding:** The applicant has submitted with its application a determination from the Oregon DEQ exempting it from the Financial Assurance Requirements in ORS 459 due to a finding that it is a “Low-Risk Solid Waste Disposal Site.” Applicant’s facility does not reside within the jurisdictional boundaries of the Metro Regional Government, thus the provisions of Metro Code 5.01.060(c)(4) are not applicable. Staff finds that this criterion has been met.

**Washington County Code Chapter 8.08.290. Franchise Issuance – Findings**

In addition, WCC Chapter 8.08 requires that the Garbage and Recycling Advisory Committee shall, upon the basis of the application, evidence submitted, and results of any investigations make specific findings of fact for the following:

**Criterion:** Qualifications of the applicant in the light of this chapter, statutes, rules and regulations.

**Finding:** The applicant has operated the current compost facility since its acquisition of the facility in 2009. Any major issues with odor were resolved in 2011 and 2012 when the authorization to accept commercial Type 3 feedstocks was removed. It was also required that the facility implement odor minimization measures at the site. Over the past year Recology has been conducting a demonstration project to test the mass bed composting approach, finding positive results. The County has not received any additional complaints during the demonstration period and has reviewed other mass bed composting facilities to evaluate performance for due diligence. The applicant continues to show a willingness to improve its odor mitigation practices and has invested sufficient resources into the facility to keep up with modern composting technology improvements.. Staff finds that this criterion has been met.

**Criterion:** The service, equipment and facilities are provided by the applicant.

**Finding:** The applicant has maintained and operated a solid waste disposal site under DEQ permit and Franchise Agreement with the County since its acquisition of the facility in 2009. During this time period the applicant has made available the necessary equipment, facilities and personnel required to meet the standards established by this chapter, applicable state statutes and rules and regulations as they relate to the operation of the facility. Staff finds that this criterion has been met.

**Criterion:** Conditions of service should be imposed, including but not limited to, whether the site should be open to the public and under what conditions, whether certain types of wastes, solid wastes or hazardous wastes should be excluded from the site or should be required to be accepted at the site.

**Finding:** Adequate provisions have been established by the applicant to ensure that the site be open to the public on a regular basis, in addition to commercial customers. The types of waste to be accepted at this site are regulated under the terms and conditions of its DEQ solid waste permit and Franchise Agreement with Washington County. Staff finds that this criterion has been met.

**Criterion:** Whether the site can be integrated with existing private, regional, county-owned or operated sites or proposed sites.

**Finding:** The Recology Organics – North Plains compost facility is part of a larger integrated network of solid waste disposal facilities that are located throughout the three-county metropolitan area and receives feedstock from various jurisdictions through Non-System Licenses. Recology has applied for a Designated Facility Agreement with Metro which, if approved, would authorize the facility to accept materials generated within the Metro boundary without further authorizations. Staff finds that this criterion has been met.

**Criterion:** Public utility facilities.

**Finding:** The Recology Organics – North Plains compost facility is currently served by all required public utilities. Staff finds that this criterion has been met.

**Criterion:** Location of facilities in relation to population centers within the county.

**Finding:** This facility is located on the southern edge of the City of North Plains and located directly adjacent to the Sunset Highway (U.S. 26). This facility is part of the recognized Regional Solid Waste Facilities network. The facility is located adjacent to some residential and commercial uses; however it has established a working relationship with many of its neighbors. Staff finds that this criterion has been met.

**Criterion:** Compliance with the Regional Solid Waste Management Plan.

**Finding:** This facility is inventoried within the Regional Solid Waste Facilities network and plays a critical role in regional solid waste disposal for residential food scraps collection programs. Staff finds that this criterion has been met.