



METRO

METROPOLITAN SERVICE DISTRICT

527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

MEMORANDUM

Date: July 15, 1982
To: Mike Burton, Metro Councilor
From: Andy Jordan, General Counsel *Andy*
Regarding: Mandatory Source-Separation of Waste

I have reviewed your request for an ordinance mandating in-house source-separation of recyclable waste for curbside collection. Before preparing an ordinance, the following comments should be considered.

First, and most important, I do not believe we have adequate statutory authority to do what you contemplate. Our authority is restricted to disposal and flow of waste. Though we have authority to recycle waste ourselves, we haven't authority to require recycling of others except through disposal franchises. Under that authority we may be able to require that waste be source-separated when it enters the disposal facility. But that would place the burden of separation on the haulers rather than on their customers. The haulers might be able to pass the burden along to their customers, but they may be precluded from doing so by the terms of their local collection franchises.

Another issue is that a requirement that people separate waste does not assure that haulers will keep it separated. Haulers could just throw the separated waste in the truck and dump it. Since we have no collection authority, we could not prevent haulers from commingling separated waste.

In considering either course of action, we should carefully consider the issue of enforcement. What is the penalty to a homeowner who fails to separate waste? Must the hauler refuse service? Does Metro fine the homeowner? Do we require that the collection rates for non-separated waste be higher? What other mechanisms exist?

Perhaps the best alternative would be to seek legislative authority. We could ask the Legislature for the authority to require in-house source-separation and curbside collection. Otherwise, any ordinance we adopt will certainly be challenged by litigation and our chances of success would be slim.

Memorandum
July 15, 1982
Page 2

In summary, I advise against preparation of an ordinance at this point, though I will prepare one if you still wish. Rather, I suggest we meet and discuss the matter to determine the most fruitful course of action.

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