

## Metro | Agenda

Meeting: Solid Waste Alternatives Advisory Committee (SWAAC)  
Date: Wednesday, August 9, 2017  
Time: 10:00 a.m. to Noon  
Place: Metro, Council Chambers

*The purpose of the Solid Waste Alternatives Advisory Committee is to develop policy options that, if implemented, would serve the public interest by reducing the amount and toxicity of waste generated and disposed, or enhancing the effectiveness and sustainability of the system through which the region's solid waste is managed.*

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| <b>10:00 AM</b>  | <b>1.</b>    | <b>CALL TO ORDER AND DECLARATION OF A QUORUM</b>                                   | <b>Matt Korot, Chair</b>                            |
| <b>10:02 AM</b>  | <b>2.</b>    | <b>COMMENTS FROM THE CHAIR AND SWAAC MEMBERS</b>                                   |   |
| <b>10:07 AM</b>  | <b>3. **</b> | <b>CONSIDERATION OF SWAAC MINUTES FOR JULY 12, 2017</b>                            |   |
| <b>10:10 AM</b>  | <b>4.</b>    | <b>SOLID WASTE FEE AND TAX EXEMPTIONS<br/>SUBCOMMITTEE: MEETING 3 UPDATE</b>       | <b>Rick Winterhalter,<br/>Clackamas County</b>      |
| <b>10:20 AM</b>  | <b>5. **</b> | <b>MATERIAL RECOVERY AND CONVERSION TECHNOLOGY<br/>FACILITY REGULATORY CHANGES</b> | <b>Dan Blue, Metro</b>                              |
| <p><u>Purpose:</u><br/>Update SWAAC on public comments and Metro responses regarding the proposed changes to Metro code Title 5.00 and 5.01 related to source separated material recovery facility and conversion technology regulation.</p> <p><u>Outcomes:</u></p> <ul style="list-style-type: none"><li>• Knowledge of the comments and responses.</li><li>• Support from SWAAC to take proposed changes to a Council work session.</li></ul>   |              |  |   |
| <b>10:35 AM</b>  | <b>6. **</b> | <b>COMMERCIAL FOOD SCRAPS RECOVERY</b>   | <b>Jennifer Erickson, Metro<br/>Dan Blue, Metro</b> |
| <p><u>Purpose:</u></p> <ul style="list-style-type: none"><li>• To share the: (1) draft policy for increasing the recovery of commercial sector food scraps through a required collection program; and (2) draft options for mitigating program costs to generators.</li><li>• To solicit SWAAC's input on these drafts.</li></ul> <p><u>Outcomes:</u></p> <ul style="list-style-type: none"><li>• Input from SWAAC members on the proposed food scraps policy and cost mitigation options.</li><li>• Understanding of next steps in the development and potential implementation of these options.</li></ul> |              |  |   |

*Continued on back...*

**11:45 AM      8.      CITIZEN COMMUNICATIONS**

**11:55 AM      9.      PREVIEW OF THE NEXT MEETING'S AGENDA AND FINAL COMMENTS      Matt Korot, Chair**

**10.      ADJOURN**

- \*      Material available on the Metro website.
- \*\*      Material will be distributed in advance of the meeting.
- #      Material will be distributed at the meeting.

Upcoming SWAAC Meetings:

- Wednesday, September 13, 2017 from 10 a.m. to 12 p.m. (noon) at the Metro Regional Center
- Wednesday, October 11, 2017 from 10 a.m. to 12 p.m. (noon) at the Metro Regional Center

For agenda and schedule information, call Matt Korot at 503-797-1760, e-mail: [matt.korot@oregonmetro.gov](mailto:matt.korot@oregonmetro.gov).  
To check on closure or cancellations during inclement weather please call 503-797-1700.

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# Meeting minutes



**Metro**

600 NE Grand Ave.  
Portland, OR 97232-2736

Meeting: Solid Waste Alternatives Advisory Committee (SWAAC)  
Date/time: 10:00 a.m.-noon, Wednesday, July 12, 2017  
Place: Metro Council Chambers

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## **Members in Attendance:**

Mike Leichner, Pride Disposal  
Bruce Walker, City of Portland  
Theresa Koppang, Washington County  
Mark Ottenad, City of Wilsonville  
Peter Brandom, City of Hillsboro  
Rick Winterhalter, Clackamas County  
Paul Downey, City of Forest Grove  
Audrey O'Brien, Oregon DEQ  
Reba Crocker, City of Milwaukie  
Alando Simpson, City of Roses Disposal/Recycling  
Matt Korot, Metro

## **Members Absent:**

Adrienne Welsh, Recycling Advocates  
Keith Ristau, Far West Recycling

### **1. Call to Order and Declaration of a Quorum**

Matt Korot brought the meeting to order and declared a quorum.

### **2. Comments from the Chair and SWAAC Members**

Mr. Korot reviewed the meeting agenda and how citizen communications would be structured.

### **3. Consideration of SWAAC Minutes for May 10, 2017**

The minutes of the May SWAAC meeting were approved.

### **4. Solid Waste Fee and Tax Exemptions Subcommittee: Meeting 2 Update**

Rick Winterhalter provided an update on the Solid Waste Fee and Tax Exemption subcommittee. The subcommittee reviewed the report and recommendations from the consultant, RRS. Mr. Winterhalter noted the consultants pared the list down to the top four ranking options and those options were discussed at length at the meeting. The resulting recommendation was for option one, which centers around a two-tier system exemption and focuses on material types, not their use. The final version of the consultant's report will be presented at the next meeting on July 25, 2017.

### **5. Health Impact Assessment (HIA) of Landfill and Waste-To-Energy Options**

Rob Smoot of Metro, the project manager, presented the context for this assessment as part of the Solid Waste Roadmap's Long-Term Management of Discards project. Mr. Smoot shared that Metro is undertaking this project to explore the viability of options other than landfills for managing approximately one-sixth of the region's discards after the current contract with Waste Management for landfill expires at the end of 2019. The intent is to determine whether more resource value can be gained from the discards from systems other than landfills.

Mr. Smoot noted the project's major phases:

- Researching and assessing 14 technology options

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- Narrowing those options to five
- Issuing a Request for Expressions of Interest to get more detailed information from companies that operate facilities with those five technologies
- Reducing the options to two (in addition to landfill) based on their applicability to our region and waste stream: advance material recovery and waste-to-energy.

Metro staff reviewed the two technologies and, with Council's input, set aside the advance material recovery option until the food scraps enhancement program has matured. Council asked Metro staff to explore if there is enough added value from utilizing waste-to-energy (WTE) to offset its significantly higher cost (approximately \$60 per ton) than landfills.

To help answer this question, Metro conducted a "rapid" HIA to determine the possible health and environmental impacts of sending 200,000 tons of waste per year to the Covanta WTE facility in Marion County and to a generic landfill in eastern Oregon. An HIA utilizes a systematic process with a broad array of data sources and analytic methods, as well as input from stakeholders.

In a rapid HIA, the work relies on existing research and data; no new site-specific data gathering was undertaken. For this project, the research focus was scoped with the input of stakeholders that included public health experts, advocates in the field of toxics reduction and environmental justice, a representative of Physicians for Social Responsibility and a Marion County staff person. The scoping work led to identification of 40 determinants of health for assessment, including air quality, greenhouse gas emissions, soil and water impacts, and limited social and economic factors, including political involvement, potential employment, public safety and employment impacts related to both options. Metro's assessment of this 200,000 tons per year scenario is not transferable to other regions of the state or to individual companies within the Metro region.

Mr. Korot elaborated on the rationale for using a rapid HIA. A full HIA is a huge investment of time and effort and staff wanted to calibrate the level of work to provide enough information to enable Council to make a decision on whether to move onto the next phase of assessing the feasibility of WTE without investing a significant amount of time and resources from Metro and the community.

The main HIA findings were:

- More energy from WTE
- Fewer miles traveled for WTE
- Inconclusive greenhouse gas modeling results
- Negligible impacts on health risks
- 10 additional jobs for WTE and two for landfill

Feedback from the HIA stakeholder group was:

- Consider that regulatory limits do not equate to protection of public health
- Current environment in the region is one of heightened concern about air quality standards and monitoring
- Equity and Environmental Justice needs to be more fully addressed
- Conditions that support WTE (e.g., lack of land for landfills or expensive power) are not present
- No compelling case to do anything differently

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In response to Council's question of whether there would be enough added value from sending 200,000 tons of Metro region waste per year to WTE to outweigh the higher costs, Mr. Smoot said that staff's answer is "no."

Moving forward, staff will discuss this information to Council on August 8, 2017. Staff anticipates providing three options for Council to choose from:

1. Go no further with the work on WTE
2. Conduct more in-depth study of health, environmental and equity impacts
3. Begin negotiating a financial proposal with Covanta

Mr. Smoot asked committee members for their input in advising Council. Mr. Korot asked that the committee respond with questions first and then comments.

Mr. Winterhalter asked for clarity on the WTE cost and asked if this included transportation. Mr. Smoot responded it did not include transportation.

Reba Crocker asked if both options impact surface and ground water. Mr. Smoot responded both options do impact ground water but they impact it in different ways.

Theresa Koppang asked if this project would be an expansion for Covanta. Mr. Smoot responded yes, but would not be a land expansion. Covanta's current site has been permitted for future expansion, requiring no new permits. Covanta would only be adding additional equipment. Ms. Koppang also asked if the desire to diversify is what drove the initial process. Mr. Smoot responded yes. Mr. Korot added that Metro believes it's a good practice to look at its options following expiration of the 30-year landfill contract.

Peter Brandom asked if the capacity of the facility determines the limitation of 200,000 tons. Mr. Smoot responded capacity was a partial factor; the other was to not lose flexibility by having a significant amount of waste go to this one facility.

Bruce Walker offered compliments to Mr. Smoot on the project and asked if the staff recommendation to Council will be to go no further. Mr. Smoot responded staff position is to present these options to Council, informed by staff's response to Council's guiding question.

Paul Downey asked how confident staff was with the \$60 per ton cost of WTE. Mr. Smoot responded there was a range of cost for WTE with \$60 being the lowest estimate and \$90 being the top cost given in the RFEI. Mr. Downey asked if the \$25 per ton cost is in range. Mr. Smoot responded no, it is an estimated cost based on the current contract price with Waste Management.

Mr. Simpson asked who defines the values, the public, staff, Council? Is it solely contingent on economic value? Mr. Korot responded that for this discussion with Council, the values are based on what we found through the HIA. Answering that question is based on what we found on air toxics, GHGs, community benefits and burdens.

Mark Ottenad inquired as to Metro council having funding and authority to order more environmental study data. Mr. Smoot responded yes, the Metro council could ask staff to provide additional study data. Mr. Korot added that if extended data were requested, Metro would coordinate with state and local authorities.

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Mr. Downey asked why staff did not choose a mid-point for the estimated cost for WTE. Mr. Smoot responded the lower end cost was chosen to present a positive perspective as opposed to the higher end that would be more negative. From there they considered the risk to be able to achieve the lower end cost. In addition, the \$90 cost included other services not specifically requested by Metro in the cost estimate. Mr. Korot added this is not a formal cost estimate, but information to help Metro council make a decision. Mr. Korot also stated that staff would share with Metro council the WTE cost range.

Ms. Koppang asked if this report will be going before MPAC. Mr. Korot responded it would not. Ms. Koppang asked if MPAC would be engaged if Council directed further work be done on assessing WTE. Mr. Korot responded it could, depending on the nature of that work.

Audrey O'Brien asked why the focus is on best available control technology and if the consultant looked at hazardous air pollutants. Mr. Smoot responded there is some information on hazardous air pollutants in the study. Ms. O'Brien also asked if an increase of 200,000 tons would trigger an additional air pollutant study. Mr. Smoot responded that he anticipates that would be the case.

Mark Ottenad suggested that the \$60-\$90 range be presented to Council. Mr. Smoot stated that Metro Council is familiar with that range from prior staff reporting. Mr. Korot stated that he and Rob hear and understand the concern from Mr. Downey and Mr. Ottenad that Council receive the full range.

Mr. Winterhalter stated he appreciates the conclusion staff has reached and feels it is the right decision to go no further.

Mr. Walker said the stakeholder feedback seemed to lay out an accurate assessment. He stated that the HIA raised a number of concerns for him and his recommendation would be go no further.

Mr. Brandom stated he believes there is value to this work and it is justified as there is now more data. He also stated he does not see any justification to spend a half million dollars to go any further with research.

Ms. Koppang stated her staff reviewed the report and they were impressed with the caliber of the work. She also stated she would hate to think Metro council would jump to the third option (begin negotiating financial proposal) without doing a much more thorough engagement of people who live around the facility.

Ms. O'Brien stated DEQ supports Metro in its recovery and waste prevention efforts and Metro's recommendation to go no further. She noted she felt the report's inconclusive evaluation for greenhouse gas should be stated as additional information is needed. If Metro does move further, DEQ would support Metro staff recommendations 14 and 15.

Ms. Crocker suggested option number 3 should be removed as an option for Council and agrees that Metro should go no further. Mr. Smoot stated the option was not intended as a stand-alone one, but rather to loop back to option 2. He noted that it was not clear and he would adjust it for the Metro Council presentation.

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Mr. Ottenad stated he agreed with the observation of other committee members and Metro staff to go no further on the WTE.

Mr. Downey stated he agreed with going no further.

Mr. Korot asked for any additional comments from the committee, there were none. He invited citizen comments to the HIA report.

## **6. Citizen Communications to Agenda Item 5**

Matt Marler (Covanta) stated he felt the report did a disservice regarding analysis done on greenhouse gases. He stated Covanta has sent a letter to Mr. Korot, Mr. Smoot and Paul Slyman (Director of Property and Environmental Services). Mr. Marler stated he felt it was unfair to look at the models presented in the report and not make any conclusions. He stated his view of the difference between the Decision Support and WARM analytic models. He also stated he understood the cost concerns surrounding WTE and appreciated Metro's work on this issue. Mr. Marler made it clear he was not disagreeing with the situational decision for this instance, but objected to the greenhouse gas findings. He requested that all committee members have the chance to review the responses Covanta made to the report in its letter. Mr. Korot stated the letter Matt Marler referred to came in at 9:30 this morning and that he would distributed it to committee members following the meeting.

A number of individuals testified that Metro should not utilize WTE because of its greenhouse and air toxic emissions and expressing their agreement with the staff conclusion that the cost of WTE is adequately offset by other value. These individuals were:

- Laurie Dougherty (350 Salem, 350.org)
- Jim Schepke (350 Salem, 350.org)
- Joe Miller (Oregon Physicians for Social Responsibility)
- Patricia Bellamy (Northeast Portland)
- Damon Mote-Storey (Oregon Physicians for Social Responsibility)
- Sharon Miller
- Regna Merritt (Oregon Physicians for Social Responsibility)

## **7. 2030 Regional Waste Plan Values**

Marta McGuire stated that the purpose of her presentation is to update the committee on the work of the 2030 Regional Waste Plan and the outcomes of Phase 1: Values. Ms. McGuire is also asking for feedback and input before staff presents to Metro council.

Ms. McGuire began with a refresher on the 2030 Regional Waste Plan and reiterated the waste plan development phases:

- Phase 1 – Values
- Phase 2 – System scenarios and vision
- Phase 3 – System analysis and goal setting
- Phase 4 – Building strategy
- Phase 5 – Plan adoption

She covered the process being used for Phase 1 and noted that the Equity Work Group portion has been completed and discussing the draft values with SWAAC and MPAC are the final steps before Council review.



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Ms. McGuire provided a high-level list of the values, noting that they are meant to be broad and will be refined as the process continues.

1. Protect and restore the environment and promote health for all
2. Conserve natural resources
3. Advance environmental literacy
4. Foster economic well-being
5. Ensure operational resilience and adaptability
6. Provide excellent service

She also listed the draft guiding principles that are intended to highlight the racial equity elements that tie each of the values together. These were developed by the Equity Work Group:

1. Community restoration
2. Community partnerships
3. Community investment

Mike Leichner asked for explanation or clarification of the third value relating to educational literacy. He was unclear if this involve educational outreach or going in to schools? Ms. McGuire noted it may involve both. Mr. Leichner specified his question to if Metro will be funding some schools education programs? Mr. Korot clarified that this is something Metro currently does. He explained that Metro provides presentations and curriculum, but what this value would look like in practice in the future is still a question.

Mr. Brandom appreciates the challenge of broader visions and narrowing them down to actions. He requested more specificity with value 6. He suggested the addition of access to program services and infrastructure. Mr. Brandom suggested this wording: "excellent service for equitable system access for all of the region's communities."

Mr. Ottenad added that Wilsonville is focusing on multifamily recycling and felt it was worth noting or calling out multifamily communities. He pointed out these communities are not historically as well integrated in infrastructure and education aspects of the solid waste system.

Mr. Simpson asked why for the first guiding principle it doesn't identify specifics regarding actions that will be taken related to diversity in staff, management and executive positions at Metro. He also noted that the principles and values are vague on how this work will be done in relationship with the private sector. These things need to be explicit in equity conversations. Mr. Korot responded that Mr. Simpson's comments were very helpful.

Ms. McGuire thanked the members for their comments and promised an updated and refined version of these values after the Metro Council work session on August 1, 2017.

## **8. Citizen Communications**

Mike Lindberg (consultant to compostable serviceware industry) asked how does the HIA conclusion affect the anerobic digester process discussed at prior meetings? Mr. Korot explained that Mr. Smoot's presentation was solely regarding the management of discards after everything has been recovered. Metro is simultaneously looking at food scraps recovery, which is where the anerobic digester fits in the system. The RFP currently open is for dealing with commercial food



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scraps. He clarified the two projects are interrelated, but distinct from one another.

## **9. Preview of the next meeting agenda and final comments**

Mr. Korot shared that the next meeting will be on August 9, 2017 and primarily devoted to the food scraps work (policy and the RFP).

**Material Recovery Facility & Conversion Technology Facility Project (MRF/CT)**  
**Compilation of Feedback Received, Metro Response, and Actions Taken**  
**Topic: Proposed Changes to Title V, Chapters 5.00 and 5.01**  
**August 1, 2017**

On May 12 2017, Metro opened a 60-day public review and comment period to solicit input on proposed changes to Metro Code Chapters 5.00 and 5.01 related to the regulation of certain material recovery facilities (MRFs) and conversion technology (CT) facilities. The public comment period closed on July 14, 2017. At that time, Metro also posted preliminary drafts of two proposed administrative rules associated with the Code amendments for informal review and comment. If Metro Council were to adopt amendments to Metro Code, then Metro would subsequently open a formal public review and comment period for the proposed administrative rules as provided in Metro Code Section 5.01.280.

The following is a summary of the written comments that Metro received during the public comment period and Metro's responses to those comments related specifically to the proposed changes to Metro Code. All comments were received in writing by email. A copy of each comment received is also attached to this document.

All documents related to this project are located on Metro's website here:

<http://www.oregonmetro.gov/regional-leadership/metro-advisory-committees/solid-waste-alternatives-advisory-committee/material>

*For questions or concerns regarding the project please contact Dan Blue at 503-797-1863 or [dan.blue@oregonmetro.gov](mailto:dan.blue@oregonmetro.gov).*

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**NOTE:** Due to the length and varied nature of the comments received and for clarity, pertinent sections of the comments are italicized. Responses to those comments are in *bold and are italicized*. Copies of all comments received are attached to the end of this document.

**Scott Farling (SF) representing Agilyx, by email on July 13, 2017:**

**Comment 1.** *5.01.030 (b) should include "conversion to petrochemical products" along with reuse and recycling as accepted means of disposal for source-separated recyclable materials. (Note: 5.01.040 (b) refers back to 5.01.030 (a), (b), (d), and (f).)*

***Metro Response: This suggested change is outside the scope of the current proposed changes to 5.00 and 5.01. No change made.***

**Comment 2.** *5.01.040(a)(4) should include the information under the heading "Characteristics of CT Facilities Exempt from Obtaining a Metro License" from page 10 of the MRF-CT Recommendations for SWAAC Final.*

CT facilities that receive feedstocks that have already been extracted from mixed solid waste and otherwise processed to conform to prescribed specifications and largely resemble commodity feedstocks (material streams) for direct introduction into a conversion technology process may have the following characteristics:

- The facility does not accept unprocessed, mixed solid waste from collection trucks/containers, reload facilities, or other solid waste generators.
- A majority of feedstock material is used productively in conversion process.
- Feedstock specifications are prescribed to conform to the specific conversion technology industrial process requirements.

- Shredding, mixing, right-sizing or other similar treatment of already sorted and processed feedstocks typical in a manufacturing process does not constitute “processing of solid waste”.
- The facility’s receipt and processing of the feedstock presents low potential risk to the environment, or to neighboring businesses and residential communities (e.g., odors, dust, noise, vectors, litter, fire safety etc.).

***Metro Response: The “Characteristics of CT Facilities Exempt from Obtaining a Metro License” were developed to inform the discussion and deliberation of the MRF/CT Subcommittee which led to the Subcommittee’s subsequent recommendations to Metro’s Solid Waste Alternatives Advisory Committee (SWAAC). While this language helps to clarify what types of facilities would be exempt under the proposed code changes, Metro staff does not concur that this level of specificity is needed in the Code and recommends that the proposed code language is sufficient. Metro staff will consider including this level of detail in the draft administrative rules should Council elect to modify the Code as proposed. No change made.***

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**Matt Cusma, Representing Schnitzer Steel, by letter sent by email July 14, 2017:**

Schnitzer Steel Industries appreciates the opportunity to submit these comments on the proposed amendments to Metro Code Chapters 5.00 and 5.01 dated May 12, 2017. The proposed amendments are the result of many months of effort by the Solid Waste Alternatives Advisory Committee’s MRF/CT Subcommittee, other stakeholders, and Metro staff. Schnitzer believes this collaborative approach and deliberate effort to involve stakeholders in the Metro Solid Waste Code revision process improved on the code revisions originally proposed in 2015. Schnitzer commends Metro on this renewed commitment to collaboration and stakeholder engagement at the outset of any discussions regarding whether changes to Metro’s Solid Waste Code are necessary and, if so, what those changes should be.

One purpose of the proposed amendments is to clarify that recyclers that receive and process non-putrescible recyclable material that holds intrinsic value in established reuse and recycling markets (e.g., scrap metal, plastic, paper, and similar commodities) will remain exempt from Metro’s solid waste license and franchise requirements. See Proposed Sec. 5.01.040(a)(5). This exemption appropriately recognizes that these types of recyclable materials are managed as valuable commodities, not waste, and present little risk of harm to human health or the environment. Much of this recyclable material never enters the solid waste stream because of its recycling value. Based on these considerations and others, Metro has long recognized facilities that process such materials as a unique type of commercial recycling facility and has exempted them from solid waste facility licensing requirements. The proposed amendments appropriately codify a specific exemption that covers these types of facilities: the “Specific Material Recycler” exemption.

Schnitzer fully supports the clarification of the Specific Material Recycler exemption, but believes the proposed language is unnecessarily narrow. As drafted, the exemption applies to: “Specific material recyclers that receive and process a single type of nonputrescible recyclable material that holds intrinsic value in established reuse and recycling markets such as scrap metal, plastic, paper, or other similar commodities.” But for recyclers that receive recyclable materials with intrinsic value and manage those materials as valuable commodities, it should not matter whether the recycler receives and processes only a single type of material. That is, eligibility for the exemption should depend on the type of material accepted by the recycler (i.e., recyclable materials that hold intrinsic value in established markets), not whether the recycler accepts more than one type of such material.

**Comment 1.** To address this issue, Schnitzer urges Metro to remove the phrase “a single type of” from the exemption, so that the exemption would apply to specific material recyclers that receive and process “nonputrescible recyclable materials that hold intrinsic value in established reuse and recycling markets, such as scrap metal, paper, or other similar commodities.” The phrase “a single type of” would also need to be removed from the definition of “specific material recycler,” which Metro is proposing to add to Section 5.00.010.

This limited expansion of the Specific Material Recycler exemption would be consistent with the purposes of Metro's solid waste facility regulations. See Sec. 5.01.010(a). Because Schnitzer's proposed changes would not expand or change the types of materials that would fall within the exemption, the proposed changes would not undermine Metro's ability to protect and preserve the health, safety, and welfare of its residents. See Sec. 5.01.010(a)(1). Moreover, the proposed changes would create additional incentive for facilities that receive and process recyclable materials with intrinsic value to reduce the volume of solid waste disposal. See Sec. 5.01.010(a)(4). Schnitzer would welcome the opportunity to discuss this proposed revision to the Specific Material Recycler exemption with Metro staff.

***Metro Response: Use of the phrase "a single type of" is intended to distinguish between a facility that predominately receives multiple homogeneous types of source-separated recyclable materials from a facility that receives commingled source-separated recyclables from curbside commercial and residential collection programs. Staff finds that removing the phrase "a single type of" from the definition of Specific Material Recycler may cause confusion for facility operators as to which types of facilities would be exempted, and which would not. Staff has revised the proposed definition of Specific Material Recycler to include the following statement for additional clarification: "The exemption does not apply to facilities receiving commingled source-separated recyclables collected through curbside residential or commercial collection programs." Staff will also consider providing further clarification of this distinction as part of administrative rule.***

***As such, the proposed definition in Metro Code Section 5.00.010 has been revised to read: "Specific material recycler" means a facility that processes a single type of non-putrescible recyclable material that holds intrinsic value in established reuse or recycling markets. These materials include, but are not limited to, scrap metal, plastic, paper, or other similar commodities. The exemption does not apply to facilities receiving commingled source-separated recyclables collected through curbside residential or commercial collection programs.***

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**Jeff Murray, Representing EFI, by letter send by email July 14, 2017:**

EFI has an interest in and would be effected by the Proposed Ordinances because EFI is located within the Metro Region and receives significant volumes of Commercial Commingled Recyclables collected by EFI trucks and licensed refuse haulers from businesses located inside and outside the Metro Region. A majority of the recycling that EFI processes at its facility on Swan Island is source segregated recyclables (ie OCC, Office Paper and other various grades of recyclables separated by the generator by grade). *Competitors that only receive and process source segregated recyclables will not be subject to licensing by Metro and the requirements associated with licensing, placing EFI in a competitive disadvantage with these facilities.*

**Comment 1.** *EFI opposes the Proposed Ordinances because it is a dramatic change in Metro Code that violates a stated policy in the Metro RSWMP and is in violation of Oregon State Statute (ORS 459A.075).*

***Metro Response: Metro has thoroughly discussed and evaluated the need for this ordinance with a stakeholder subcommittee, SWAAC, the public and Metro Council over the last two years. While EFI states its opposition to this ordinance, Metro staff finds that the proposed amendments to Metro Code are in the public interest. Metro staff has found that many in the solid waste industry, local government officials, and the public are in support of these changes. The 2008 Metro Regional Solid Waste Management Plan (RSWMP) states that certain facilities including those that exclusively handle source-separated recyclable materials "are not required to obtain authorization from Metro to operate." That statement is found in the section of the***

***RSWMP entitled “Current System,” which is intended to simply describe Metro’s current solid waste system. It is a factual statement and not intended to be a policy statement or a prohibition on future regulation.***

***The state law exemption in ORS 459A.075 is not relevant to the proposed Code change. To enjoy this exemption, the recyclable material must be “Purchased from or exchanged by the generator for fair market value for recycling or reuse.” The source-separated recyclable materials covered by the proposed Metro Code changes and administrative rules are not “purchased from or exchanged by the generator for fair market value.” Accordingly, commingled source-separated recyclables from residential and commercial curbside collection programs do not align with this exemption because the collection hauler, under the terms of a solid waste franchise or license with the local government, is providing that collection service and transporting that material to a recovery facility for further processing. There is no direct exchange or purchase from the generator for fair market value for recycling or reuse. Finally, Metro’s definition of solid waste includes source-separated recyclables. No change made.***

***Comment 2. Past reports by staff have downplayed the potential negative impacts of the Proposed Ordinances and we have deep concerns that licensing can place facilities, such as EFI, that handle commingled recyclables and that are located within the Metro Region at a strong disadvantage to those outside the Region.***

***Metro Response: Metro is responsible for and has broad regulatory authority over all solid waste within the region and, in particular, has identified concerns about potential nuisance, odor, litter and dust generated by some facilities. Metro currently issues licenses or franchises to over 30 solid waste facilities within the region to ensure that the region’s solid waste is managed appropriately and that nearby residents and business are not adversely impacted. Currently some MRFs inside the region are subject to Metro authorization while others are not. The proposed legislation would establish similar and consistent requirements for solid waste facilities performing similar functions. No change necessary.***

***Comment 3. The Proposed Ordinances would, through licensing, allow Metro to impose unnecessary requirements on source separated recycling facilities, including design requirements, operating requirements, performance standards and reporting of detailed, confidential account information.***

***Metro Response: No performance standards are being proposed at this time. Operating, design and reporting requirements are being proposed with the full and unanimous support of the MRF/CT Subcommittee and SWAAC and are contained within the draft administrative rules that accompany the proposed Code amendments. No change necessary.***

***Comment 4. To this point there has only been discussion related to already existing administrative rules.***

***Metro Response: Metro does not currently have administrative rules related to the operation or regulation of MRFs that receive source-separated recyclables (SSR). The preliminary administrative rules that staff posted for public review are proposed in draft form for information only.***

***Metro will not adopt an administrative rule related to regulation of SSR MRFs unless the Metro Council first adopts Code amendments that authorizes regulation of SSR MRFs. To date Metro staff has engaged with stakeholders in a variety of ways to solicit input on potential operating requirements for SSR MRFs including initiating an “informal” public comment process related to proposed administrative rules.***

***As part of the public engagement process, the proposed amendments to Code, and preliminary drafts of administrative rules, were provided to SWAAC, MRF/CT Subcommittee members and interested parties on May 2, 2017 and discussed at the May 10, 2017 SWAAC meeting. A stakeholder workshop was held on May 31, 2017 to discuss proposed changes to Code chapters 5.00 and 5.01 as well as draft administrative rules. A second public workshop was also held on June 12, 2017.***

***If the Metro Council adopts the proposed Code changes and requires that SSR MRFs obtain authorization from Metro, then Metro will subsequently open a formal public comment process and hold a public hearing for any proposed administrative rules as provided in Metro Code Chapter 5.01. No change necessary.***

**Comment 5.** *We have two specific concerns related to the administrative rules: 1) Are there more administrative rules to come specifically related to source separated commingle facilities?*

**Metro Response:** *Much useful input was received on the draft administrative rules for both CT and for SSR MRFs during the two stakeholder workshops on May 31 and June 12, 2017 as well as the initial “informal” public comment period on the rules that closed July 14, 2017. If the Metro Council adopts the proposed Code amendments, then staff will revise the draft administrative rules based on the preliminary stakeholder input that has already been provided and will open another public comment period on a revised set of administrative rules as provided in Metro Code Chapter 5.01. No change necessary.*

**Comment 6.** *2) If there are more administrative rules, will there be a committee established to help developed these rules before Metro Council votes on the Proposed Ordinances? Without finalized Administrative Rules, we do not yet know what the full implication of licensing will mean to our business.*

**Metro Response:** *The proposed administrative rules that will accompany the Code amendment package will be open to a formal public review period and hearing process if the proposed Code changes are adopted by Metro Council. Adoption of any subsequent amendments or new administrative rules would be considered as provided in Metro Code Section 5.01.280. No change necessary.*

EFI may be harmed and the regional refuse / recycling system as a whole may suffer unintended consequences by the Proposed Ordinances for the following reasons:

- 1) Within the City of Portland, recycling facilities in the appropriate zones have outright use. Solid waste facilities are not allowed within some of the zones and need conditional use in the limited number of zones that they are allowed.

**Comment 7.** *In the event that EFI became a licensed solid waste facility, we may need conditional use to make any significant changes to our facility. This is particularly troubling if Metro were to require the changes.*

**Metro Response:** *Metro staff has researched this issue, which was raised and discussed in the MRF/CT Subcommittee and with city of Portland officials. Metro has not received any evidence suggesting that local land use decisions would, or have been, influenced by the issuance of a Metro solid waste license. The actual “use” of EFI’s property remains unchanged regardless of Metro’s proposed licensing requirements. Because land use regulations are based on “use” of the property, then a Metro requirement to license a facility should not automatically change any land use decisions affecting that property if the use remains the same. As indicated in the referenced “attachment A” Table 140-1 (a City of Portland planning document) “Industrial Service (Includes Recycling)” is an outright approved use. No change made.*

- 2) Currently, most of the commingled recyclables collected in the state of Oregon are received and sorted at facilities within the Metro region. In the event that Metro were to license commingle recycling facilities within the region the following may happen:

**Comment 8.**

- a. *Commingled recyclables collected outside the region that are currently delivered to facilities within the region may travel to facilities currently outside the region. This would raise the cost per ton to receive and sort the material that continues to be delivered to the facilities*

*within the Metro region. Fewer commingle tons also raises the per ton cost to handle source segregated recyclables (separated by type), placing EFI at a competitive disadvantage on our segregated portion of our business.*

- b. Commingled recyclables collected in the region may be delivered, or reloaded and delivered to facilities outside the region. There is a commingled recycling facility located in Salem, OR that may draw commingle material from the south end of the region and there are a number of facilities in the Puget Sound area that are currently running under capacity. The facilities in the Puget Sound market are much closer to the port. A few dollars difference in pricing and more stringent controls on the commingled material may be enough to send the material north to facilities owned by haulers that also provide collection service in the metro area.*
- c. Licensing of commingle recycling facilities in the Metro region may cause recyclers currently in the region to relocate outside the region.*

***Metro Response: The concerns outlined in a – c above are speculative. Metro’s intent in this Code change package is to ensure that nuisance, odor, vector, dust and litter impacts for residents and businesses located nearby MRFs and CT facilities are minimized. There is no evidence to suggest that the proposed changes to Code are likely to result in any of the impacts outlined above (comments a. – c.) for facilities that are already meeting the minimum standards proposed in the rules. No change necessary.***

**Comment 9.** *The result of Metro licensing facilities that handle commingled recycling may result in giving Metro and local governments less information about and control over the source separated commingled recyclables collected in the region.*

***Metro Response: This is both speculative and contrary to the expected outcome of the proposed changes. Staff believes that adoption of these changes will result in a much better understanding of the regional solid waste system and that many information gaps will be filled in that will better inform future policy choices and planning efforts. No change made.***

#### **Metro’s Authority to Regulate Solid Waste**

**Comment 10.** *EFI does not question Metro’s authority to regulate solid waste; however, we do not agree that source separated recycling and / or source separated commingled recycling are solid waste, therefore Metro does not have the authority to license source separated recycling facilities. The primary document that gives Metro its authority over disposal and solid waste also exempts source separated recyclables that meet specific, yet broad criteria.*

**459A.075 Exemptions.** *Nothing in ORS 459.005, 459.015, 459.035, 459.250, 459.992, 459.995 and 459A.005 to 459A.665 applies to recyclable material which is: (1) Source separated by the generator; and (2) Purchased from or exchanged by the generator for fair market value for recycling or reuse. [Formerly 459.192]. The source separated recycling described above is exempted from all pertinent sections of 459 and 459A.*

***Metro Response: Metro staff recommends the following passage of the Oregon Recycling Opportunity Act in 1983 as a point of reference. In 1984, the Oregon Department of Environmental Quality (DEQ) sought legal advice from the Oregon Attorney General as to whether recyclable material was still considered “solid waste” for regulatory purposes under state law. The specific question was whether facilities “that receive only source separated recyclable materials [were] now exempt by definition, from the Department’s solid waste management rules?” (See Oregon Department of Justice letter to William Dana, DEQ, dated June 21, 1984.) The Oregon Department of Justice unequivocally stated that “recyclable material” is considered “solid waste” for regulatory purposes. The Attorney General’s Office further explained:***



***“The overall policy of the Act, the expressed concerns of individual legislators, and the specific language of particular sections all indicate that the Legislative Assembly intended that ‘recyclable material’ continue to be a sub-category of ‘solid waste,’ and that facilities for collecting and sorting recyclable materials continue to be regulated as ‘disposal sites.’***

**\* \* \***

***[I]t appears to be the intent that DEQ continue to have power to regulate materials which meet the definition of ‘solid waste,’ whether such materials are recyclable or not.”***

***For similar Oregon Department of Justice interpretations, see Memorandum from Assistant Attorney General Larry Edelman to DEQ, dated February 27, 1996, and Letter from Assistant Attorney General Larry Edelman to Mark Morford, dated November 4, 2002.***

***In addition, ORS 268.317(8) gives Metro explicit statutory authority to “Receive, accept, process, recycle, reuse and transport solid and liquid wastes.” This statute indicates that the legislature considers “recyclable materials” as a sub-category of “solid waste.” Further, the definition of “Solid Waste Management” in ORS 459.005 (25) references “recycling” from “solid waste.”***

***Finally, it is not entirely clear what is meant by the comment: “The primary document that gives Metro its authority over disposal and solid waste also exempts source separated recyclables that meet specific, yet broad criteria.” Metro’s sources of solid waste legal authority are its home rule Charter, the Metro Code, the RSWMP, Oregon Revised Statutes (ORS) Chapters 268, 459 and 459A.***

***NOTE: The state law exemption in ORS 459A.075 is not relevant to the proposed Code change. To enjoy this exemption, the recyclable material must be “Purchased from or exchanged by the generator for fair market value for recycling or reuse.” The source-separated recyclable materials covered by the proposed Metro Code changes and administrative rules are not “purchased from or exchanged by the generator for fair market value.” Accordingly, commingled source-separated recyclables from residential and commercial curbside collection programs do not align with this exemption because the collection hauler, under the terms of a solid waste franchise or license with the local government, is providing that collection service and transporting that material to a recovery facility for further processing. There is no direct exchange or purchase from the generator for fair market value for recycling or reuse. No change made.***

### **Why Regulate Commingle Recycling Facilities?**

The answers that we have been given by staff were primarily related to storage of recycling and “house-keeping”. Local regulators had concerns that certain recycling facilities were stock-piling large volumes recyclable materials outside. In a few cases, for extended period. This caused a concern that the facilities were becoming nuisances and that the material would degrade and become unmarketable. There was also a general concern related to the house-keeping at these same facilities. Before the MRF / CT Subcommittee held its last meeting, the electronics recycler in Washington County was cited by DEQ and closed its doors shortly thereafter, and a commingle facility that was of concern shuttered its business.

**Comment 11.** *Metro has stated in the 2008 RSWMP: “Certain facilities, such as those exclusively handling inert wastes or source-separated recyclable materials, are not required to obtain authorization from Metro to operate. However, Metro retains the authority to inspect and audit these operations to periodically confirm compliance with Metro Code.” Similar language also existed in the 1995 RSWMP. EFI asks the following questions: 1) When and how often has Metro exercised this Authority?*

**Metro Response:** *Metro staff have periodically visited SSR MRFs over the years to determine if they meet the exemption criteria provided in Metro Code Section 5.01.040(a)(3) i.e. exclusively accepting source-separated recyclable materials. However, under current Code requirements, such visits are typically pre-scheduled with the operator and performed for the purpose of determining whether the facility exclusively receives source-separated recyclable materials for reuse or recycling. Currently, SSR MRFs are not subject to licensing or franchising requirements and Metro does not have any authorization mechanisms in place to establish and enforce operating conditions at these types of facilities.*

**Comment 12.** *2) What has the response been by facilities that handle commingled recyclables when Metro has informed the facility operators that the facility is out of compliance?*

**Metro Response:** *As explained in Metro's response above, SSR MRFs are not subject to licensing or franchising requirements under current Metro Code. Metro does not have any authorization mechanisms in place at this time to establish and enforce operating conditions at these types of facilities. As stated earlier, Metro's intent with these proposed changes is to minimize nuisance, odor, vector, litter and dust from these operations, and to avoid material degradation due to improper handling. Given that local, national and global commodity markets ebb and flow, it is critical that periodic unannounced, random site visits are conducted to reduce undue impacts on communities.*

**Comment 13.** *3) Has any facility that handles source separated commingled recyclables turned down a request by Metro to enter the property or to respond in a positive manner when metro staff has recommended / requested a change to improve their operation?*

**Metro Response:** *As explained in Metro's response above, Metro staff have periodically visited SSR MRFs over the years to determine if they meet the exemption criteria provided in Metro Code Section 5.01.040(a)(3). Currently, such visits are typically pre-scheduled, limited in scope, and subject to approval by the operator. Metro staff has found that SSR MRF operators have generally accommodated Metro's requests to allow site access over the years. However, Metro does not have any authorization mechanisms in place to require site access or other operating conditions at these types of facilities.*

**Comment 14.** *Regulation of commingle facilities will have little if any positive impact on the quality of the outgoing product from commingle facilities.*

**Metro Response:** *Improving the quality of outgoing materials is not an objective of this proposed Code change. However, the proposed regulations will likely have a positive impact in those cases in which source-separated recyclable materials are either stored or mishandled in such a way as to lead to significant degradation of that material (as Metro staff has observed at one MRF in the region) making that material unmarketable. Additionally, the proposed regulations will likely have a positive impact on the people living and working nearby these types of facilities in that it will result in establishing operating requirements that will help minimize nuisance conditions such as litter, dust, and vectors.*

#### **Material recovery facility (MRF) and conversion technology (CT) Subcommittee**

EFI has several concerns regarding the process followed in developing the final draft recommendations. A primary concern is that the end product is no different than what was presented at the end of summer, 2015.

**Comment 15.** *The committee process did not address the initial concerns of the recycling community and local governments that brought about their initial support for oversight / regulation of these facilities.*

**Metro Response:** *The MRF/CT Subcommittee was charged with considering whether MRFs that process source-separated recyclable materials and facilities that convert waste to energy, fuel, or other products should be subject to authorization and inspection similar to other facilities and if so to identify which requirements were appropriate. The MRF/CT Subcommittee deliberated over the course of seven meetings*

*with the result being unanimous support for a set of recommendations that included authorizing material recovery facilities processing source-separated recyclables and establishing operating standards for those facilities. The MRF/CT Subcommittee, SWAAC, and Metro Council were clear that the scope of the subcommittee did not include performance standards (material quality) and that consideration of performance standards should be addressed through the upcoming regional waste planning process. No change made.*

**Comment 16.** *Further, I brought forward a motion to recommend Certification of Commingle Recycling Facilities as an alternative to licensing and staff interrupted the motion and later made their own. (Attachment B)*

**Metro Response:** *The MRF/CT subcommittee did receive a copy of Mr. Murray's certification proposal, and did discuss third-party certification as well as a Metro-issued certificate, license, or franchise. Through deliberation, the subcommittee elected to focus on a broader statement recommending that such facilities be subject to a Metro "authorization." Metro Code provides for two types of facility authorizations - solid waste license or franchise. Rather than creating a third type of authorization and developing an additional apparatus in Code, staff recommended removing the current licensing exemption for this type of facility. Therefore, Metro staff recommends using a solid waste license as the form of authorization for this particular class of facility. This approach is consistent with current Code, and Metro's current regulatory oversight of the region's solid waste system.*

**Comment 17.** *Why didn't Metro staff tell members at this second meeting that their list of issues would NOT be addressed in the sub-committee?*

**Metro Response:** *The deliberation of the Subcommittee, taken in whole, addressed many of the issues included in Mr. Murray's comment letter attached to this document. Those issues not specifically addressed in the subcommittee were identified to be better suited to the upcoming regional waste planning process.*

*This information was clearly articulated, as mentioned in these public comments, at the Subcommittee's March 17 meeting (Meeting No. 3). The summary notes for the above-mentioned meeting are available on the Metro website at: <http://www.oregonmetro.gov/regional-leadership/metro-advisory-committees/solid-waste-alternatives-advisory-committee/material>.*

*Mr. Murray began his presentation indicating that it had been mentioned many times in the Subcommittee that so called "clean mrf's" and "dirty mrf's" were similar now, and that his presentation was to show that they are still very different. Mr. Murray then showed a series of slides from both types of facilities indicating that dry waste facilities and SSR MRFs were indeed different in terms of the mixes of materials they receive and the composition of materials leaving the facilities (both to markets and to landfill). Mr. Murray showed a short video from a dry waste MRF and clarified that the outgoing residuals from the two different types of facilities were quite different with far more residuals going to landfill from the dry waste facilities than what comes out of the SSR MRF's.*

*During the same meeting Jeff made a motion to consider Certification as an option. The motion was interrupted by staff and staff asked if they could first give their presentation.*

**Comment 18.** *Jeff was not given another opportunity to present his motion.*

**Metro Response:** *At the May 20<sup>th</sup> meeting the various available options for "authorization" of these types of facilities was discussed. The Subcommittee discussed the certification option, and coalesced around the suggested language that ultimately became the key recommendation contained in the*

*MRF/CT Recommendation Memo. Mr. Murray's (and EFIs) focus on the certification is acknowledged and was well-represented in Subcommittee discussions, however the rest of the MRF/CT Subcommittee seemed comfortable with the broader term "authorization" for its recommendations going forward and reliance on staff to recommend the exact type of appropriate authorization. This position is further evidenced by the thorough review, editing, and subsequent adoption of the final MRF/CT Recommendation Memo dated October 5, 2016. Finally, it is Metro staff's recommendation that licenses are the appropriate legal form of authorization for this class of facility. Metro licenses can be developed to address conditions specific to a class of facilities. A Metro-issued certificate would only be a different name for a Metro-issued authorization – and it would not be any more restrictive or expansive than a license.*

**Has Metro Council and / or staff discussed the possibility of:**

**Comment 19.** *1) Building or utilizing an existing facility the purpose of sorting source separated commingled recycling collected within the Metro region?*

*2) Bidding out the processing of source separated commingled recycling collected within the Metro region?*

*3) Flow controlling source separated commingled recycling collected within the Metro region to either a publicly or privately-owned facility?*

**Metro Response:** *The three questions above are not relevant to the proposed changes to Metro Code Chapters 5.00 and 5.01 for which Metro has sought public comment. Metro entering into any of the activities described above would be the result of a policy decision. Policy direction comes from Metro Council. Metro Council has not directed staff to explore any of the three activities described in the questions above.*

**Comment 20.** *EFI requests that Metro re-instate the policy stated in Objective 4.3 of the Metro 1995 RSWMP in the RSWMP currently under development.*

**Metro Response:** *Thank you for this comment. It is, however, not related to the proposed changes to Metro Code. Please be sure to provide these comments through the Regional Waste Plan process. Information is available here: <http://www.oregonmetro.gov/public-projects/future-garbage-and-recycling>. No change made.*

**Conclusion**

In summary, EFI appreciates the opportunity to comment on the Proposed Ordinances. We request that Metro staff and Council give serious consideration to the concept of certification of source separated commingled recycling facilities. We continue to ask the question:

**Comment 21.** *Why does Metro need to license source separated commingled recycling facilities when they have not fully exercised their "authority to inspect and audit these operations to periodically confirm compliance with Metro Code."*

**Metro Response:** *While code provides "authority to inspect and audit these operations to periodically confirm compliance with Metro Code" the Code does not include sufficient details or operating requirements related to the operation of these types of facilities. The MRF/CT Subcommittee and SWAAC, have endorsed additional regulatory oversight including establishing design and operating standards as well as reporting for SSR MRFs. The proposed removal of the licensing exemption for*

***this class of facilities accomplishes the recommendations of the Subcommittee and SWAAC. No change made.***

**Administrative Rule Process:**

The comments received and responded to in this document were focused entirely on the proposed changes to Metro Code Chapters 5.00 and 5.01. When the proposed code changes were put out for public comment, Metro also posted preliminary drafts of two proposed administrative rules associated with the Code amendments for informal review and comment. Staff received comments on the draft administrative rules from the following:

- Keith Ristau, Far West Recycling
- Andy Kahut, KB Recycling
- Dave Claugus, Pioneer Recycling

If Metro Council adopts the proposed changes to Metro Code Chapters 5.00 and 5.01, Metro will subsequently adopt administrative rules as provided in Metro Code Section 5.01.280. Specifically, staff will post revised, draft administrative rules for public review and comment which will take into consideration the preliminary input that Metro received during the informal comment period that ended on July 14, 2017. At the conclusion of the next public comment period for the proposed rules, Metro staff will provide written responses to all comments received during the formal public comment period.

All project materials are located on Metro's website here: <http://www.oregonmetro.gov/regional-leadership/metro-advisory-committees/solid-waste-alternatives-advisory-committee/material>

Questions or concerns regarding the project can be directed to Dan Blue at 5023-797-1863 or [dan.blue@oregonmetro.gov](mailto:dan.blue@oregonmetro.gov).

Email from Scott Farling, Agilyx received July 13, 2017

Dan,

Attached please find Agilyx's comments regarding the proposed revisions to Metro Code Chapter 5.01.

5.01.030 (b) should include "conversion to petrochemical products" along with reuse and recycling as accepted means of disposal for source-separated recyclable materials. (Note: 5.01.040 (b) refers back to 5.01.030 (a), (b), (d), and (f).)

5.01.040 (a) (4) should include the information under the heading "Characteristics of CT Facilities Exempt from Obtaining a Metro License" from page 10 of the MRF-CT Recommendations for SWAAC Final.

CT facilities that receive feedstocks that have already been extracted from mixed solid waste and otherwise processed to conform to prescribed specifications and largely resemble commodity feedstocks (material streams) for direct introduction into a conversion technology process may have the following characteristics:

- The facility does not accept unprocessed, mixed solid waste from collection trucks/containers, reload facilities, or other solid waste generators.
- A majority of feedstock material is used productively in conversion process.
- Feedstock specifications are prescribed to conform to the specific conversion technology industrial process requirements.
- Shredding, mixing, right-sizing or other similar treatment of already sorted and processed feedstocks typical in a manufacturing process does not constitute "processing of solid waste".
- The facility's receipt and processing of the feedstock presents low potential risk to the environment, or to neighboring businesses and residential communities (e.g., odors, dust, noise, vectors, litter, fire safety etc.).

Please feel free to contact me with any questions or comments.

Best regards,

Scott Farling  
Agilyx Corporation



July 14, 2017

Metro MRF/CT Updates  
Attn: Dan Blue  
600 NE Grand Ave.  
Portland, OR 97232  
[dan.blue@oregonmetro.gov](mailto:dan.blue@oregonmetro.gov)

**SUBJECT:** Proposed Amendments to Metro Code Chapters 5.00 and 5.01

Dear Mr. Blue:

Schnitzer Steel Industries appreciates the opportunity to submit these comments on the proposed amendments to Metro Code Chapters 5.00 and 5.01 dated May 12, 2017. The proposed amendments are the result of many months of effort by the Solid Waste Alternatives Advisory Committee's MRF/CT Subcommittee, other stakeholders, and Metro staff. Schnitzer believes this collaborative approach and deliberate effort to involve stakeholders in the Metro Solid Waste Code revision process improved on the code revisions originally proposed in 2015. Schnitzer commends Metro on this renewed commitment to collaboration and stakeholder engagement at the outset of any discussions regarding whether changes to Metro's Solid Waste Code are necessary and, if so, what those changes should be.

One purpose of the proposed amendments is to clarify that recyclers that receive and process non-putrescible recyclable material that holds intrinsic value in established reuse and recycling markets (e.g., scrap metal, plastic, paper, and similar commodities) will remain exempt from Metro's solid waste license and franchise requirements. See Proposed Sec. 5.01.040(a)(5). This exemption appropriately recognizes that these types of recyclable materials are managed as valuable commodities, not waste, and present little risk of harm to human health or the environment. Much of this recyclable material never enters the solid waste stream because of its recycling value. Based on these considerations and others, Metro has long recognized facilities that process such materials as a unique type of commercial recycling facility and has exempted them from solid waste facility licensing requirements. The proposed amendments appropriately codify a specific exemption that covers these types of facilities: the "Specific Material Recycler" exemption.

Schnitzer fully supports the clarification of the Specific Material Recycler exemption, but believes the proposed language is unnecessarily narrow. As drafted, the exemption applies to: "Specific material recyclers that receive and process a single type of nonputrescible recyclable material that holds intrinsic value in established reuse and recycling markets such as scrap metal, plastic, paper, or other similar commodities." But for recyclers that receive recyclable materials with intrinsic value and manage those materials as valuable



commodities, it should not matter whether the recycler receives and processes only a single type of material. That is, eligibility for the exemption should depend on the type of material accepted by the recycler (i.e., recyclable materials that hold intrinsic value in established markets), not whether the recycler accepts more than one type of such material.

To address this issue, Schnitzer urges Metro to remove the phrase “a single type of” from the exemption, so that the exemption would apply to specific material recyclers that receive and process “nonputrescible recyclable materials that hold intrinsic value in established reuse and recycling markets, such as scrap metal, paper, or other similar commodities.” The phrase “a single type of” would also need to be removed from the definition of “specific material recycler,” which Metro is proposing to add to Section 5.00.010.

This limited expansion of the Specific Material Recycler exemption would be consistent with the purposes of Metro’s solid waste facility regulations. See Sec. 5.01.010(a). Because Schnitzer’s proposed changes would not expand or change the types of materials that would fall within the exemption, the proposed changes would not undermine Metro’s ability to protect and preserve the health, safety, and welfare of its residents. See Sec. 5.01.010(a)(1). Moreover, the proposed changes would create additional incentive for facilities that receive and process recyclable materials with intrinsic value to reduce the volume of solid waste disposal. See Sec. 5.01.010(a)(4). Schnitzer would welcome the opportunity to discuss this proposed revision to the Specific Material Recycler exemption with Metro staff.

Thank you again for providing us with the opportunity to comment on the proposed amendments to Metro’s Solid Waste Code. We appreciate the role Metro plays in regulating the solid waste management and disposal system for the region, and we look forward to ongoing discussions and engagement with Metro to ensure that Metro can achieve its mission without placing unnecessary burdens on the recycling industry. Please contact me at 503.265.6339 with any questions or concerns.

Respectfully,

SCHNITZER STEEL INDUSTRIES, INC.



MATHEW J. CUSMA  
Director, Environmental Remediation

# SWAAC

## MRF/CT Draft Code Changes – Public Comments/Responses

Dan Blue, Solid Waste Compliance  
August 9, 2017

# Purpose of Today's Discussion

1. Review Process to Date
2. Review comments received related to proposed code changes.
3. Seek your input.
4. Seek support from SWAAC to proceed with project.

# MRF/CT Subcommittee Charge

**Purpose:** Consider whether MRFs that process source-separated recyclable materials and facilities that convert waste to energy, fuel or other products should be subject to licensing and inspection similar to other facilities. If so, identify which requirements are appropriate?

# Source Separated Recyclables Material Recovery Facilities



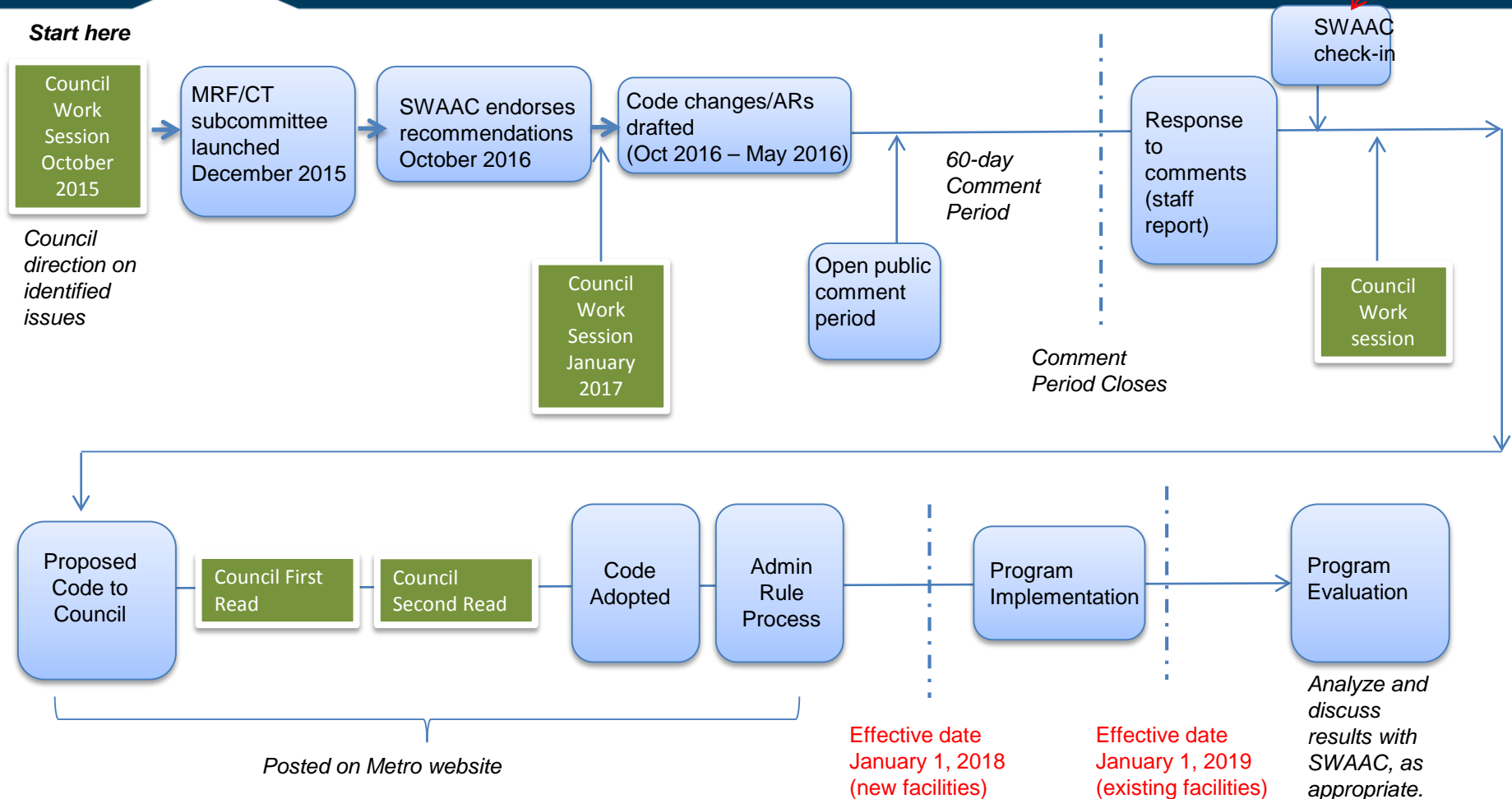
# Conversion Technology Facilities



# Policy Review Process

MRF &  
Conversion  
Technology

**Start here**





# SWAAC MRF Recommendations

MRFs... Metro should:

- ***authorize*** material recovery facilities processing source separated recyclables
- ***establish*** operating standards for these types of recovery facilities
- ***exempt*** certain “specific material recyclers” from obtaining a license

# SWAAC CT Recommendations

For conversion technology facilities Metro should:

- ***franchise*** facilities that convert putrescible waste
- ***license*** facilities that convert non-putrescible waste
- establish operating standards for both
- add a definition to code for “conversion technology”
- ***exempt*** certain facilities from obtaining a license

# Draft Changes to Code Chapter 5.00

## **Code changes include:**

- Adds a definition for “conversion technology”
- Adds a definition for “specific material recycler”

# Draft Changes to Code Chapter 5.01

## **Code changes include:**

- Removes exemption from Metro authorization for source separated recyclables material recovery facilities
- Establishes exemption for “specific material recyclers”
- Establishes exemption for certain CT facilities
- Updates references to “administrative rules”

# Public Comment Process

- 60 day public Comment period closed July 14
- two stakeholder workshops held
- received formal comments on Code
- received input on draft administrative rules
- staff responses to proposed Code changes
- staff review of comments on draft administrative rules
- should Council adopt Code changes, administrative rules re-released for public comment

# Public Comments Received

- 3 sets of comments from industry stakeholder on proposed Code changes.
  - Process related
  - Suggestions to clarify definitions in 5.00
  - Opposition to use of solid waste license
  - Impacts of license on existing business and business opportunities

# Public Comments Received

## **CT Facilities Related:**

- Include “conversion to petrochemical products” as an accepted means of disposal for source-separated recyclable materials.
- Add “Characteristics of CT Facilities Exempt from Licensing” to the definition of CT facilities in Metro Code 5.00.

## **Specific Material Recycler Related:**

- Remove “a single type” from the definition of Specific Material Recycler in Metro Code Section 5.00



# Public Comments Received

## **SSR MRF Related:**

- Concerns about MRF/CT process
- Opposition to use of solid waste license as authorization tool
- Contesting Metro's legal authority to regulate source separated recyclable material recovery facilities
- Concern that a license would impact land use
- Concern that a license may hurt business and force business out of region
- Questions regarding existing Metro authority to inspect
- Questions regarding Metro intentions regarding processing recyclables going forward
- Comments regarding Regional Waste Plan

# Changes Made

## Metro Code Chapter 5.00:

### 5.00 Definitions

“Specific material recycler” means a facility that processes a single type of non-putrescible recyclable material that holds intrinsic value in established reuse or recycling markets. These materials include, but are not limited to, scrap metal, plastic, paper, or other similar commodities. The exemption does not apply to facilities receiving commingled source-separated recyclables collected through curbside residential or commercial collection programs.

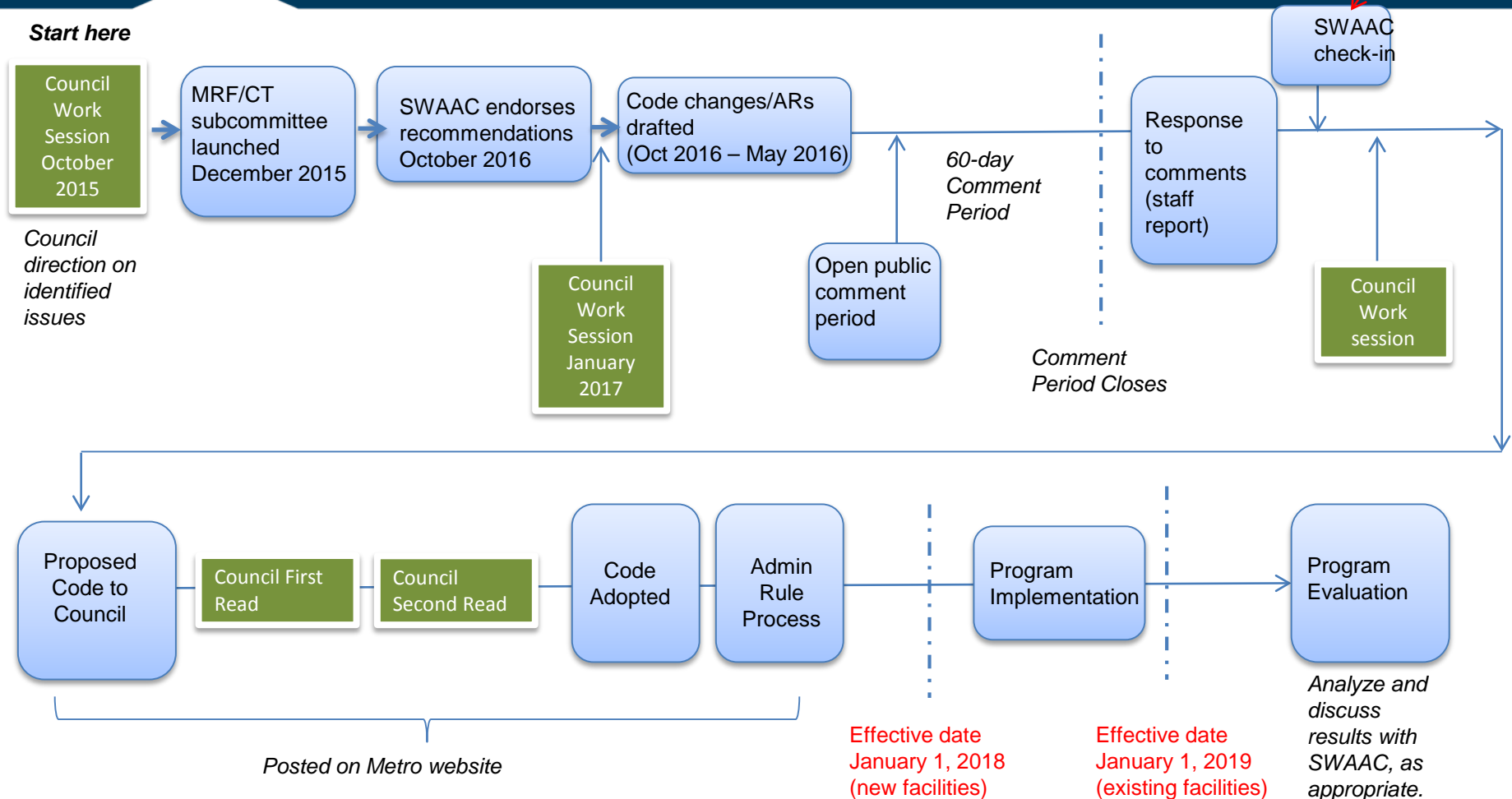
# Next Steps

- Council Work Session – September 5
- Council Meeting – September 21
- Council Meeting – September 28
  - License Effective Dates
    - January 1, 2018 (New Facilities)
    - January 1, 2019 (Existing Facilities)
- Administrative Rule Process
  - Draft Rules – October 1
  - Public Comment Period – October 15
  - Public Hearing – October 30
  - COO Rule Adoption – December 1

# Policy Review Process

MRF &  
Conversion  
Technology

**Start here**



# Questions for SWAAC Consideration

- Does SWAAC have any input related to public comments received?
- Does SWAAC support taking the proposed code changes to a Council work session?

*Thank you!*

[dan.blue@oregonmetro.org](mailto:dan.blue@oregonmetro.org)



Arts and conference centers

Garbage and recycling

Land and transportation

Oregon Zoo

Parks and nature

**[oregonmetro.gov](http://oregonmetro.gov)**



## Solid Waste Roadmap

### Food Scraps Project Q&A: Haulers

#### Public benefits of a regional solid waste system

Through its management of the regional solid waste system, Metro seeks to:

- Protect people's health
- Protect the environment
- Get good value for the public's money
- Keep our commitment to the highest and best use of materials
- Be adaptable and responsive in managing materials
- Ensure services are available to all types of customers

*About 40 percent of the food in the U.S. is wasted. That waste comes at all stages of the food system: at the farm, in transportation, at wholesalers and retailers, and at home. Despite our region's waste prevention and donation efforts, we still send to landfills the equivalent of 5,000 long-haul trucks full of nothing but food every year.*

#### Why collect food scraps?

- Food is the largest component of what the region throws out as garbage. It is 18 percent of our overall disposed waste. Businesses are responsible for over half of that total.
- The goal of collecting food scraps is to capture the environmental and economic benefits of turning that material into useful products, creating energy, supporting local agriculture and residential gardening while reducing the negative environmental impacts associated with disposal. Putting food scraps in the garbage is a missed opportunity to capture these benefits and make the most of our waste.
- This isn't just a local issue. The state of Oregon recognizes the importance of keeping food out of our landfills and established a wasted food recovery goal of 25 percent by 2020. In addition, the state recently amended existing recycling laws to encourage local governments to implement programs that increase the recovery of food scraps.

#### Why focus on businesses?

- Businesses in the region throw away approximately 100,000 tons of food per year, which represents 55 percent of the total food that is disposed in the Metro region.
- The overall greenhouse gas emissions benefit of recovering just half of that food waste is equivalent to removing 3,000 cars from the road or saving over 1.6 million gallons of gasoline.
- Food scraps from businesses tend to be concentrated in larger quantities and come from a smaller set of sources rather than spread across a broad population. For example, the majority of food scraps in the region are produced by about 2,700 businesses.

#### Why make it mandatory?

- Our voluntary program for collecting food scraps from businesses has resulted in slow growth and has not enabled the region to secure a stable, local processing facility. In order to create a sustainable business, processing facilities need a large and reliable supply of food scraps.
- Requiring certain categories of food-industry related businesses to separate and collect their food, coupled with other actions, is necessary to accelerate food scrap separation and collection.
- While population forecasts project slower growth as compared to the past 30 years, we still expect to see an increase of nearly 1.1 million people by 2060. This will in turn increase the amount of food that is manufactured, sold, and consumed.

**How will costs be covered?**

- Businesses will pay garbage and recycling companies for food scrap collection service. In franchised areas, local governments will establish rates for this service. In areas with open markets, garbage and recycling companies will set their own rates for the service.
- Metro will set the tipping fee for food scraps at their facilities. Metro is currently researching ways to reduce food scrap tip fees.

**How will this affect businesses?**

- Businesses in the region are already required to have systems in place to recycle items like paper and plastic, metal and glass containers. Metro is considering implementing a similar requirement for food scraps from medium and large-sized businesses that process, cook or sell food.
- Local governments provide technical assistance to hundreds of businesses a year to help set up waste reduction and recycling programs. We will continue and enhance that assistance for food businesses.

**Which businesses will be subject to the policy?**

- It is envisioned that if the mandatory program is adopted by the Metro Council, it will be phased in over a period of 4-5 years and likely affect about 2,700 businesses in the food industry within the Metro boundary.
- The first group of businesses to be affected is about 850 of the region's largest food producers such as grocery stores, large restaurants and cafeterias. Another 750 businesses will be brought in after a period of time, and then the last group of about 1,000. The actual number of businesses, dates and time frame between each group is still being refined in consideration of business needs and operations and our capacity to help each group get set up appropriately. It will take a few years.

**Will all businesses eventually have to comply?**

- Metro is considering a landfill ban on food scraps. This would apply to all businesses, and residences. The first group required to comply will be businesses. The tentative date of the ban is 2023.

**How many businesses currently participate?**

- About 1,250 businesses of all types and sizes are currently recovering food scraps. This number includes businesses that may not be required to participate in the proposed required program due to their size or the fact that they are not food businesses (such as offices).

**What opportunities do haulers have to comment on the policy?**

- Local governments will keep haulers informed of the policy process. Metro Council will discuss the draft policy with Metro Council early this summer. Metro will share the draft policy in advance of adoption scheduled for December of 2017. Garbage and recycling company input will be solicited.



**What role can haulers play in helping customers?**

- Haulers can continue to sign up food scraps customers in advance of policy adoption. Getting ahead of the compliance deadlines can ensure that your company has enough time to thoughtfully assist new accounts with service level selection, education and start-up troubleshooting.
- Haulers can use this time to make connections with their current customers to discuss adjustments to service levels and possible inclusion of food scraps service.

**What role are local governments playing in advance of the policy?**

- Local governments will continue to provide resources to haulers to help them with food scrap customers. New tools and resources are under development to help businesses succeed with food scrap collection.
- Once a timeline is established, local government will directly notify all businesses expected to comply. The phased approach will notify the larger businesses first and smaller businesses in subsequent years.

**What about enforcement? Will there be additional reporting requirements?**

- Local governments will be required to track compliance. Haulers will play a role in providing local governments with lists of businesses that have service so that non-participating businesses can be prioritized for outreach or enforcement, if necessary. Local governments will determine reporting requirements and reporting frequency.

**What do businesses think?**

- In September 2016, a series of interviews and surveys were conducted with businesses in the region outside of Portland. Interviews included businesses currently participating in food scraps collection, businesses that previously participated but stopped, and those that were offered the service but declined it.
  - Nearly 45 percent of businesses were in favor of a mandatory collection program that had all businesses participating; 15 percent had no strong concerns and would comply if required; 30 percent had some concerns about how it would work but were not opposed; and 10 percent were opposed.
  - On-site assistance, containers and training materials provided by county and city staff were highly valued by participants.
  - Cost neutrality, space constraints, labor and concerns about cleanliness were biggest concerns for non-participants.
  - Most commonly, businesses said they wanted to reduce the garbage sent to the landfill and do something good for the environment. Saving money was not a priority, but keeping costs close to neutral was important.
- Metro staff is talking with food industry businesses, trade groups and local government partners to inform our planning process and design a system to best meet the needs of businesses and local governments. Our goal is to reduce the barriers and address the concerns of affected businesses while ensuring we can keep as much of this valuable material out of landfills and put to better use.

**What about residential food scraps collection?**

- The focus for Metro right now is on recovering those concentrated amounts of food scraps coming from businesses. This does not detract from the importance of keeping all food scraps out of the landfill. A few local cities in the region either currently offer or are considering adding food scraps to yard debris collection programs. Residential food scraps and yard debris are typically composted at different facilities than the food scraps coming from businesses. Metro supports this effort.

**Do other communities have mandatory programs like the one being proposed?**

- Yes. Six states and 13 municipalities have some sort of mandatory food scraps collection program or a ban on the disposal of food in the landfill. We have learned a lot from studying these other programs. Aside from the environmental benefits, many programs have also seen other positive trends such as increased donations of good food to food banks.

**For more information, contact:** Pam Peck at [pam.peck@oregonmetro.gov](mailto:pam.peck@oregonmetro.gov) or Jennifer Erickson at [jennifer.erickson@oregonmetro.gov](mailto:jennifer.erickson@oregonmetro.gov)  
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## Solid Waste Roadmap

### Food Scraps Project Q&A: Businesses

#### Public benefits of a regional solid waste system

Through its management of the regional solid waste system, Metro seeks to:

- Protect people's health
- Protect the environment
- Get good value for the public's money
- Keep our commitment to the highest and best use of materials
- Be adaptable and responsive in managing materials
- Ensure services are available to all types of customers

*About 40 percent of the food in the U.S. is wasted. That waste comes at all stages of the food system: at the farm, in transportation, at wholesalers and retailers, and at home. Despite our region's waste prevention and donation efforts, we still send to landfills the equivalent of 5,000 long-haul trucks full of nothing but food every year.*

#### Why is Metro considering a food scraps collection requirement?

- Food is the largest component of our region's garbage. It is 18 percent of our overall disposed waste. Businesses are responsible for over half of that.
- Food waste has value. Collecting food scraps allows us to use that material to create clean energy as well as fertilizer and compost products that benefit local farms, nurseries and gardens. Putting food scraps in the garbage is a missed opportunity to capture these benefits and make the most of our waste.
- Sending food scraps to the landfill is also an environmental concern. Food scraps are a primary contributor to the production of methane in landfills. Methane has a greenhouse gas impact at least 24 times that of CO<sub>2</sub>.
- This isn't just a local priority. The state of Oregon recently established a goal to recover 25 percent of our wasted food by 2020. In addition, the state recently amended recycling laws to encourage local governments to increase the recovery of food scraps.

#### Why focus on businesses?

- Businesses in the region throw away approximately 100,000 tons of food per year, which represents 55 percent of the total food that is disposed in the Metro region.
- A relatively small number of businesses can make a big difference. The majority of food scraps in the region are produced by about 2,700 businesses. Food scraps from businesses can also be more easily kept free of contaminants like plastics.
- The overall greenhouse gas emissions benefit of recovering just half of the food waste from these businesses rather than sending it to the landfill is equivalent to removing 3,000 cars from the road or saving over 1.6 million gallons of gasoline.
- Many businesses in the region have had the opportunity to collect food scraps for several years, but growth in collection has been slow. With a bigger and more predictable supply of food scraps, our region can secure private investment in a stable, local processing facility that can provide economic and environmental benefit to our region.

#### How many businesses currently participate?

- About 1,250 businesses of all types and sizes are currently recovering food scraps. This number includes businesses that may not be required to participate in the proposed required program due to their size or the fact that they are not food-oriented businesses (such as offices).

**Shouldn't businesses donate food instead to feed the hungry?**

- Yes, wherever possible. Good food that has been stored properly and is fit for consumption should be donated, and that is always the preference. Local governments can help businesses set up donation programs at the same time as food scrap recycling. Metro's proposed collection requirement is focused on food scraps that are not edible and cannot be donated such as trimmings, bones, shells, coffee grounds, food prep waste and plate scrapings.

**How will this affect businesses?**

- Businesses in the region are already required to have systems to recycle paper and plastic, metal and glass containers. This requirement would add food scraps to the list for businesses that process, cook or sell food.
- Businesses subject to a food scraps recycling requirement would receive technical assistance from their city or county to establish food scrap collection. Such assistance is already provided to hundreds of businesses a year for garbage reduction and recycling.

**How many businesses will be affected?**

- It is envisioned that if the mandatory food scraps collection program is adopted by the Metro Council, it will be phased in over a period of 4-5 years and likely affect about 2,700 businesses in the food industry within the Metro boundary.

**How would businesses implement a requirement?**

- Although this program does not add any new material to a business' existing garbage system, it would change how materials are collected indoors by staff and outside by garbage collectors. Some businesses may have to adjust container sizes, placement and collection frequency. Implementing a new collection practice is also an opportunity to make sure the collection service fits a business' needs. Some may identify opportunities to get more value or reduce the size of garbage containers.
- Any change to existing business practices requires some adjustment. Like recycling, the goal is to make collecting food scraps routine.
- On-site assistance will be provided by city and county recycling staff and garbage collectors to help businesses find the most efficient and effective approach. Assistance will be designed to help ease the transition to new food scraps collection practices through staff trainings, follow-up visits, problem-solving and resources such as signage and containers.
- Whether it is placed in garbage containers or stand-alone carts, food waste can cause odors and attract insects and rodents. City and county technical assistance teams have experience troubleshooting to prevent or mitigate these problems.

**What will it cost?**

- As with any new program, there will be associated costs for collecting, transporting and processing food waste. Metro Council directed staff to look at the financial implications and evaluate ways to minimize cost burden. Metro and local governments are evaluating the costs and how they might be reflected in collection fees. This is a challenging process that will take some time to complete and costs may change as the system matures and stabilizes.
- Metro will examine its role in controlling costs such as what is charged when food scraps are delivered to transfer stations, where the food scraps are delivered and the fees charged by the processing facility.

### **What do businesses think?**

- In September 2016, a series of interviews and surveys were conducted with businesses in the region outside of Portland. Interviews included businesses currently participating in food scraps collection, businesses that previously participated but stopped, and those that were offered the service but declined it.
  - Nearly 45 percent of businesses were in favor of a mandatory collection program that had all businesses participating; 15 percent had no strong concerns and would comply if required; 30 percent had some concerns about how it would work but were not opposed; and 10 percent were opposed.
  - On-site assistance, containers and training materials provided by county and city staff were highly valued by participants.
  - Cost neutrality, space constraints, labor and concerns about cleanliness were biggest concerns for non-participants.
  - Most commonly, businesses said they wanted to reduce the garbage sent to the landfill and do something good for the environment. Saving money was not a priority, but keeping costs close to neutral was important.
- Metro staff is talking with food industry businesses, trade groups and local government partners to inform our planning process and design a system to best meet the needs of businesses and local governments. Our goal is to reduce the barriers and address the concerns of affected businesses while ensuring we can keep as much of this valuable material out of landfills and put to better use.

### **What kinds of products will get made from the food scraps collected and how will they be used?**

- Depending on the technology used to process our food scraps, products could include electricity, vehicle fuel, natural gas, liquid fertilizer, solid fertilizer and compost. Most of these products are of value to many industries including agriculture, construction, vehicle fleets and utilities. In addition, fertilizers and composts produced from food scraps can promote soil health, prevent erosion, and increase crop yields and productivity, supporting our agricultural economy.

### **Do other communities have mandatory programs like the one being proposed?**

- Yes. Six states and 13 municipalities have some sort of mandatory food scraps collection program or a ban on the disposal of food in the landfill. We have learned a lot from studying these other programs. Aside from the environmental benefits, many programs have also seen other positive trends such as increased donations of good food to food banks.

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# Solid Waste Roadmap

## Food Scraps Project Q&A: Elected Officials

### Public benefits of a regional solid waste system

Through its management of the regional solid waste system, Metro seeks to:

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*About 40 percent of the food in the U.S. is wasted. That waste comes at all stages of the food system: at the farm, in transport, at wholesalers and retailers, and at home. Despite the region's waste prevention and donation efforts, we still send to landfills the equivalent of 5,000 long-haul trucks full of nothing but food every year.*

### Why food scraps?

- Food is the largest component of what the region throws out as garbage. It is 18 percent of our overall disposed waste. Businesses are responsible for over half of that total.
- It's not only the quantity of food scraps that is driving the region's interest in recovering them. Landfills are significant emitters of greenhouse gases (GHG), and food scraps are a primary contributor to the production of methane in landfills. Methane is a very potent GHG—24 times that of CO<sub>2</sub>.
- The goal of collecting food scraps is to capture the environmental and economic benefits of turning that material into useful products, creating energy, supporting local agriculture and residential gardening while reducing the negative environmental impacts associated with disposal. Putting food scraps in the garbage is a missed opportunity to capture these benefits and make the most of our waste.
- This isn't just a local issue. The state of Oregon recognizes the importance of keeping food out of our landfills and established a wasted food recovery goal of 25% by 2020. In addition, the state recently amended existing recycling laws to encourage local governments to implement programs that increase the recovery of food scraps.

### Why focus on businesses?

- Businesses in the region throw away approximately 100,000 tons of food per year—which represents 55 percent of the total food that is disposed in the Metro region.
- The overall greenhouse gas emissions benefit of recovering just half of the food waste from businesses rather than sending it to the landfill is equivalent to removing 3,000 cars from the road or saving over 1.6 million gallons of gasoline.
- In addition, food scraps from businesses tend to be cleaner, concentrated in larger quantities and come from a smaller set of sources rather than spread across a broad population like with individual households. For example, the majority of food scraps in the region are produced by about 2,700 businesses. By comparison, residential food scraps are spread across the region's approximately 675,000 households.

### Why mandatory food scraps collection?

- Our voluntary program for collecting food scraps from businesses has resulted in slow growth and has not enabled the region to secure a stable, local processing facility. In order to create a sustainable business, processing facilities need a large and reliable supply of food scraps.

**Shouldn't businesses donate food instead?**

- Yes, definitely. Good food that has been stored properly and is fit for human consumption should be donated. Local governments can help businesses set up donation programs at the same time as setting up programs to collect scraps. Most businesses that donate food also have other food scraps--this requirement is focused on those food scraps that are not edible and cannot be donated such as trimmings, bones, shells, coffee grounds, food preparation waste and plate scrapings. The prevention of food waste and the donation of edible food are and will continue to be the region's highest priority.

**How will this affect businesses?**

- Businesses in the region are already required to have systems in place to recycle items like paper and plastic, metal and glass containers. Metro is considering implementing a similar requirement for food scraps from medium and large-sized businesses that process, cook or sell food.
- Local governments provide technical assistance to hundreds of businesses a year to help set up waste reduction and recycling programs. We will continue and enhance that assistance for food businesses.

**How many businesses will be affected?**

- The first group of businesses to be affected is about 850 of the region's largest food producers such as grocery stores, large restaurants and cafeterias. Another 750 businesses will be brought in after a period of time, and then the last group of about 1,000. The actual number of businesses, dates and time frame between each group is still being refined in consideration of business needs and operations and our capacity to help each group get set up appropriately. It will take a few years.

**How many businesses currently participate?**

- About 1,250 businesses of all types and sizes are currently recovering food scraps. This number includes businesses that may not be required to participate in the proposed required program due to their size or the fact that they are not food businesses (such as offices).

**What are the challenges for a business?**

- Many of the businesses that would be included in this requirement are operating on tight margins and are already affected by other regulations. Metro and local governments in the region will provide businesses with on-site assistance to help with training, provide containers and facilitate appropriate collection schedules to keep transition costs down.

**What will it cost?**

- As with any new program, there will be associated costs. Metro Council directed staff to look at the financial implications and evaluate ways to minimize cost burden. This is a challenging process, will take some time and costs may change as the system matures and stabilizes.
- Costs will also be determined by market conditions and city and county rate setting processes. It will be influenced by many factors, some of which include the number of participants, the distance to transfer stations, and processing fees.

- Metro will examine its role in controlling costs such as what is charged when food scraps are delivered to transfer stations, where the food scraps are delivered and the fees charged by the processing facility.

### **What do businesses think?**

- In September 2016, a series of interviews and surveys were conducted with businesses in the region but outside of Portland. The participants were businesses currently participating in food scraps collection service, businesses that previously participated but stopped and those that were offered the service but declined it.
  - Nearly 45% of businesses were in favor of a mandatory program that had everyone participating, 15% had no strong concerns and would comply if required, 30% had some concerns about how it would work but were not opposed, and 10% were opposed.
  - The on-site assistance, containers and training materials were highly valued by participants.
  - Cost neutrality, space constraints, labor and concerns about cleanliness were biggest concerns for non-participants.
  - Most commonly, businesses said they wanted to reduce the garbage sent to the landfill and do something good for the environment. Saving money was not a priority, but keeping costs close to neutral was important.
  - Larger businesses saw greater positive financial outcomes of participation.
- Metro staff is talking with food industry businesses, trade groups and local government partners to inform our planning process and design a system to best meet the needs of businesses and local governments. Our goal is to reduce the barriers and address the concerns of those affected while ensuring we can keep as much of this valuable material out of landfills and put to better use.

### **Isn't the methane gas emitted from the landfill being captured and used to generate electricity? Why do we need to treat our food separately if we are already capturing the methane?**

- Yes, landfill methane capture systems are in many landfills. However, these systems vary greatly in their efficiency and ability to capture gases. Even among landfills with the best gas collection systems, some methane escapes to the atmosphere, where it contributes to climate change. Methane is a very potent greenhouse gas (34 times more powerful than carbon dioxide over a 100 year time horizon).
- The Oregon Department of Environmental Quality completed a comprehensive study in 2014 on the climate, energy and soils impacts of four different food scraps management systems (composting, digestion technology, in-sink disposals, and landfill). In all but one of six evaluation category, landfill ranked lowest. It ranked second lowest in energy production and capture.

### **Will building more compost facilities result in more odor issues?**

- Compost facilities, like many other types of natural and industrial processes do produce odors. The goal of this work is to attract the development of a food scraps processing facility suitable for an urban or suburban environment, meaning it is highly unlikely that there will be any new outdoor food scraps composting facilities built in the Metro region. It is more likely that our food scraps will be processed in an anaerobic digester which is an industrial facility that uses an enclosed tank system to capture and store gas for energy and produces a liquid and solid fertilizer that can be used in agriculture.



- Metro is in the process of procuring a facility to serve the region over the long term. Nine companies have been pre-qualified for this important work. We expect to know what kind of facility this will be and where it will be located by the end of 2017.

**What kinds of products will get made from the food scraps collected and how will they be used?**

- Depending on the technology chosen to manage our food scraps, products could include electricity, vehicle fuel, natural gas, liquid fertilizer, solid fertilizer and compost. Most of these products are of value to many industries including agriculture, construction, vehicle fleets and utilities. In addition, the natural fertilizers and composts help to retain our rich soil health, prevent erosion, increase crop yields and productivity which help support our important agricultural markets.

**What about residential food scraps collection?**

- The focus for Metro right now is on recovering those concentrated amounts of food scraps coming from businesses. This does not detract from the importance of keeping all food scraps out of the landfill. A few local cities in the region either currently offer or are considering adding food scraps to yard debris collection programs. Residential food scraps and yard debris are typically composted at different facilities than the food scraps coming from businesses. Metro supports this effort.

**Do other communities have mandatory programs like the one being proposed?**

- Yes. There are six states and 13 municipalities that have some sort of mandatory program or ban on the disposal of food in the landfill. Metro has learned a lot from studying these other programs. Aside from the environmental benefits, many programs have also seen other positive trends such as increased donations of good food to food banks.

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Metro

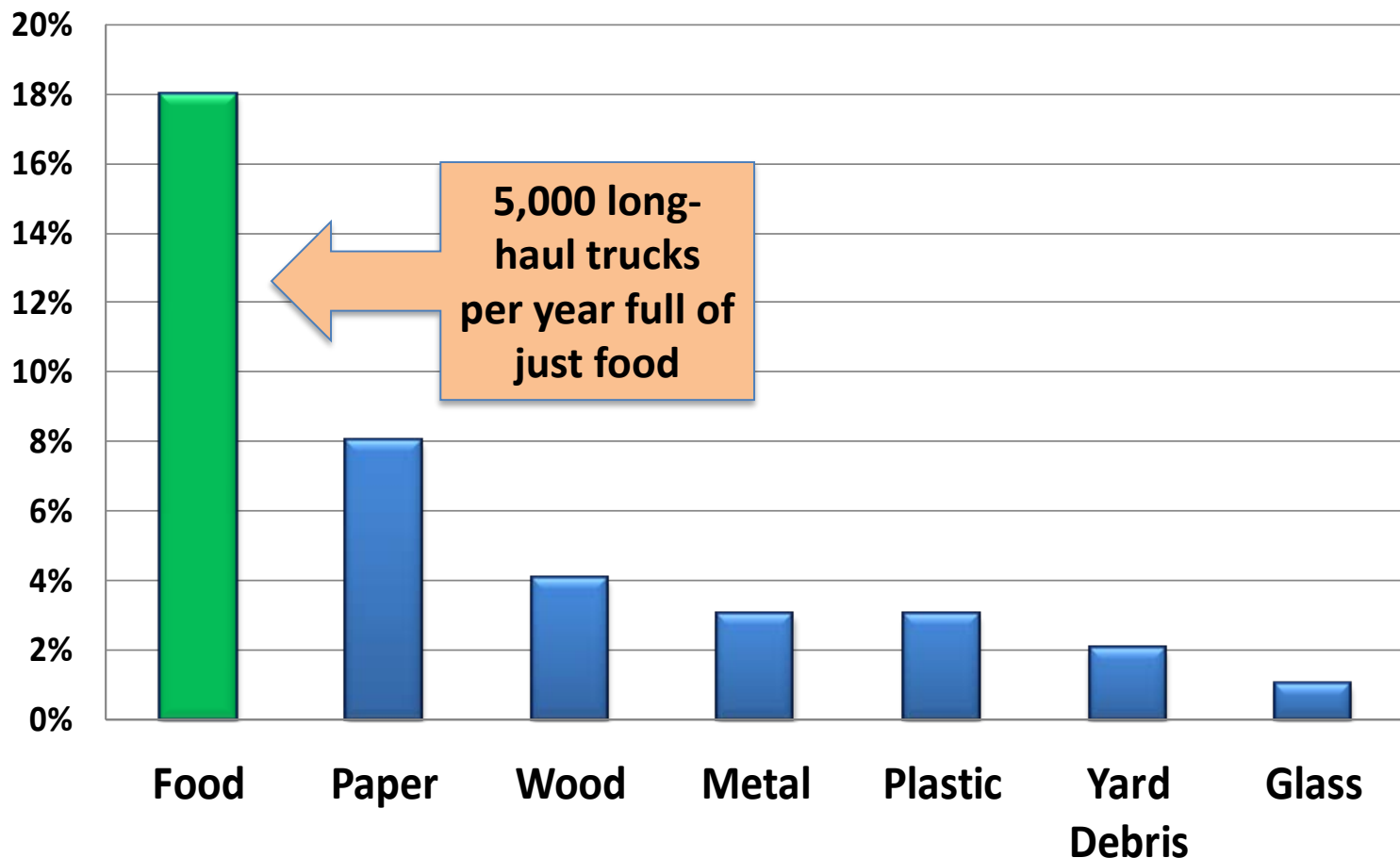
# Regional Food Scraps Policy Overview

Metro Solid Waste Alternatives Advisory Committee

August 9, 2017

# Why Food?

## Metro Region Disposed Recoverables





# Why Food?



# Commercial not Residential



These food  
scraps



Not these



# This work isn't new

- 1993: Metro workshop to develop strategies for Organic Waste
- 1994: Metro conference follow up to 1993 workshop
- 1995: RFP for Phase I Food Waste Collection & Processing
- 1996: RFP for Phase 2 Food Waste Collection & Processing
- 1999: AOR Organics Forum: Portland discusses mandatory
- 2000: Metro & Portland convene processing roundtable, Metro RFP
- 2001: City of Portland issues RFP
- 2002: Metro matching grant program & site search
- 2003: Metro Organic Waste Infrastructure Development Grant
- 2004: RFP for combined transportation & processing services
- 2004-present: Metro provides funding to support local program development
- 2005: Food scraps collection program begins in Portland
- 2010: SWAC engagements specific to Food System
- 2009: PRC begins accepting food scraps
- 2010: Recology takes over contract for processing
- 2010: Nature's Needs begins accepting food scraps
- 2011: SWAC recommends the region move to mandatory if benchmarks not met
- 2012: Roadmap Food Scraps Project begins
- 2013: Nature's Needs closes to commercial food scraps
- 2013: JC Biomethane begins processing the region's food scraps

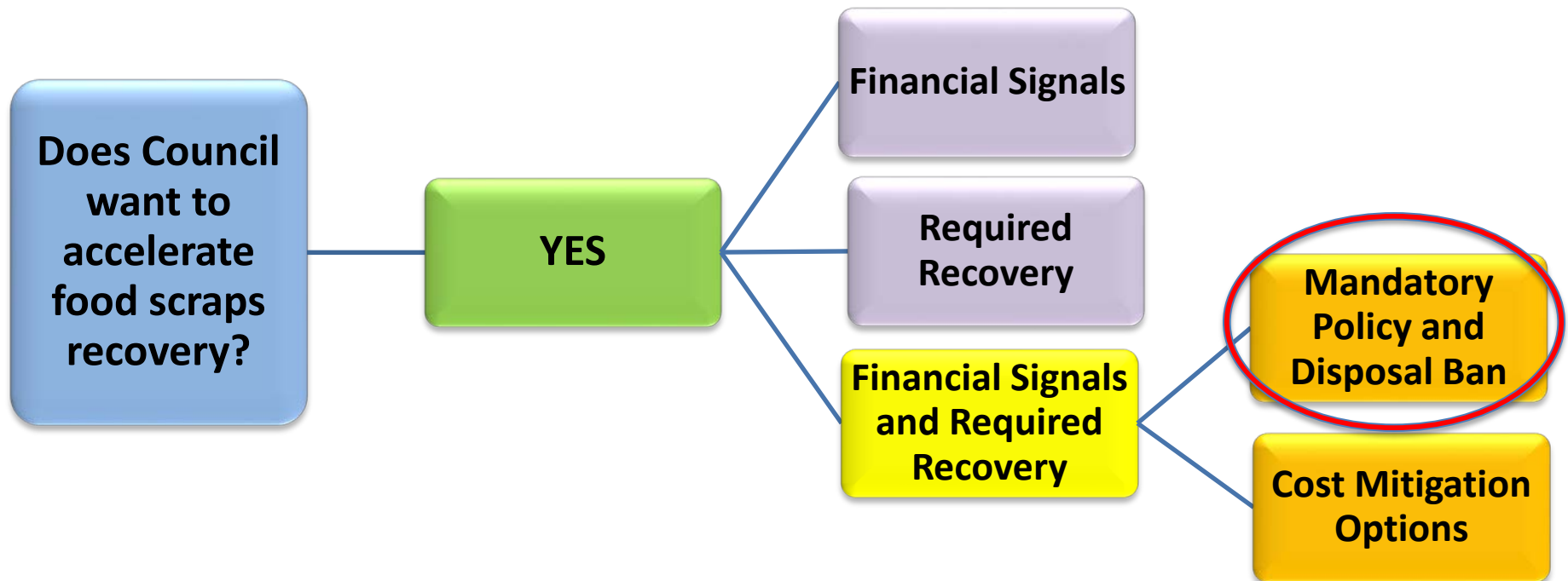


# Metro Council Direction

To achieve the objectives of increasing recovery and attracting stable, local processing capacity:

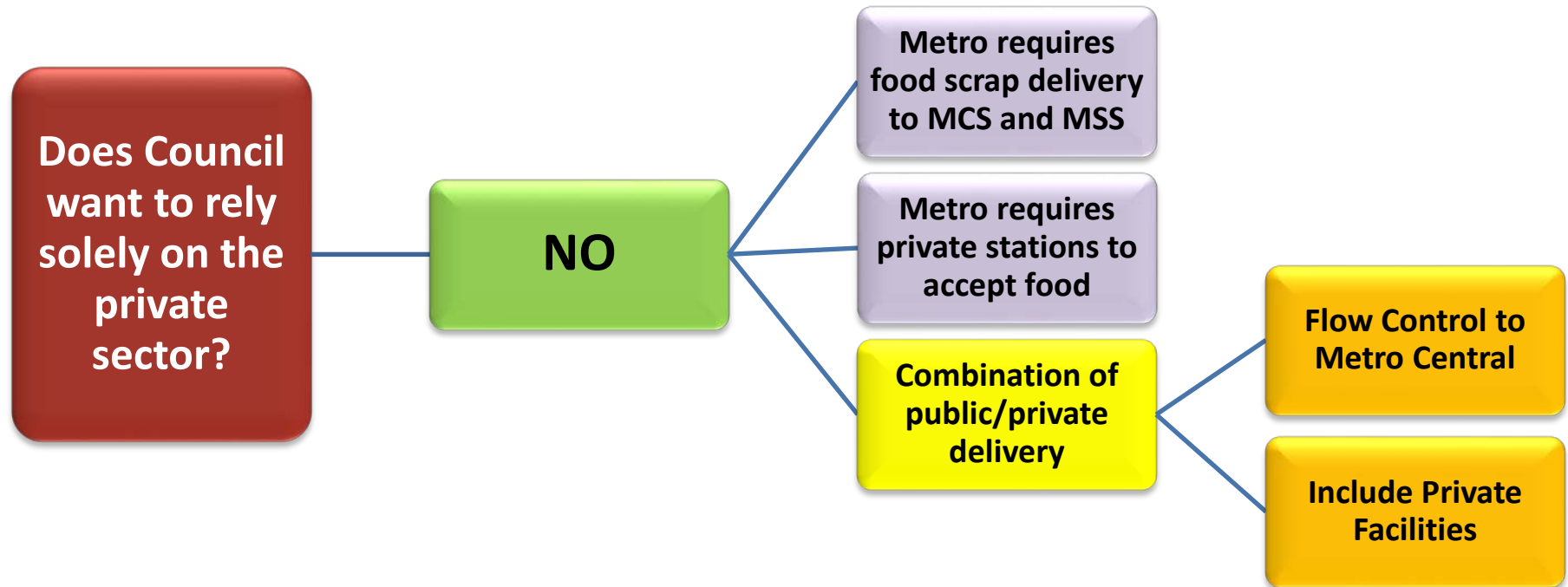
1. Require certain businesses to separate their food scraps for recovery, eventually ban disposal of food.
2. Determine how to efficiently collect and deliver food scraps for processing.
3. Secure local and stable processing capacity.

# Staff Actions: Recovery

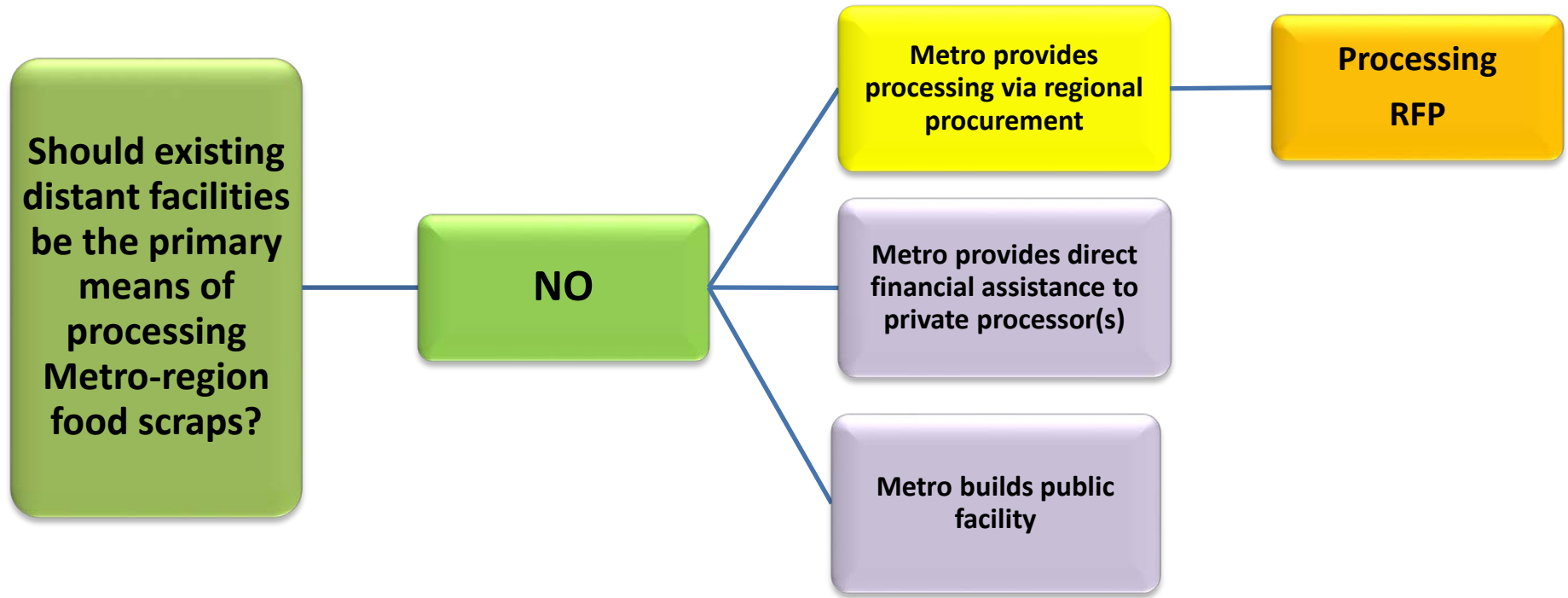




# Staff Actions: Material Flow



# Staff Actions: Processing



# Policy context

- There are approximately 67,000 businesses in the Metro region.
- About 7,000 of those are food-oriented.
- About 2,700 would be affected by the policy (4% of the region's businesses).
- Over 1,300 are participating already.

# What will this policy do?

- Requires local governments inside the Metro boundary to implement collection programs.
- Affects ~2,700 large to medium-sized food-oriented businesses.
- Phased in over 5 years.
- Will eventually prohibit the disposal of large amounts of food.



# Exemptions and Waivers

## For Local Governments:

- Outside the Metro boundary exemption
- Business quantity minimum threshold waiver
- Distance (to transfer or processing) waiver

## For Businesses:

- Temporary compliance waivers

# Policy elements

- Local Governments must adopt policy that meets the regional requirements and performance standards, including:
  - Prepare annual implementation plan
  - Send notice to affected businesses
  - Require businesses to separate food from other waste
  - Provide educational materials, program setup assistance
  - Ensure collection service is provided
  - Enforcement, grant waivers, reporting

# Policy implementation phases

- Local Government Adoption (July 2018)
- Phase 1 (2019)
- Phase 2 (2020)
- Phase 3 (2021)
- Disposal Ban (2023)



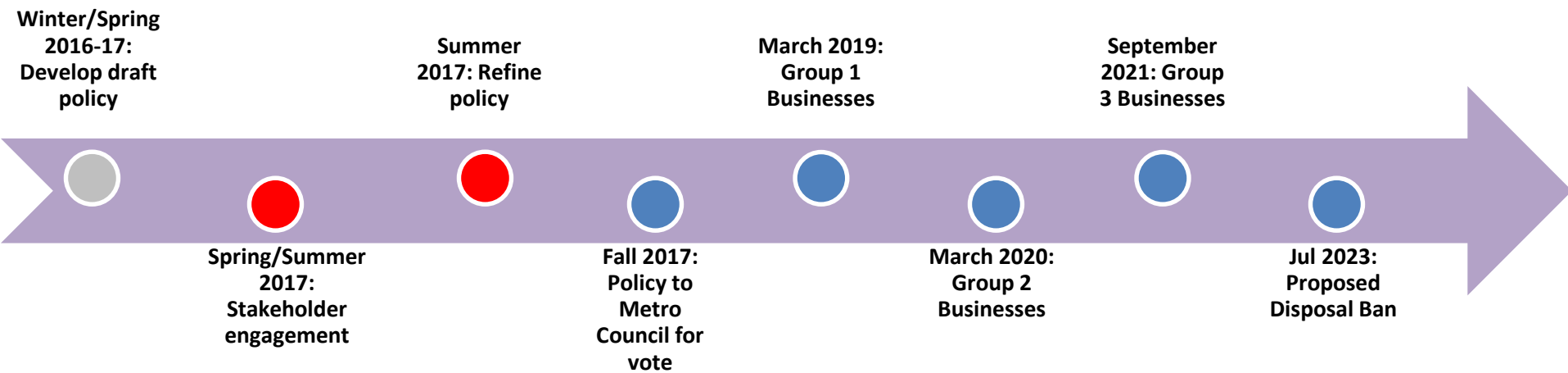
# What have businesses told us?

- On-site assistance is key, as is reliable collection service.
- 90% not opposed to a mandatory program.
- 45% in favor.
- 30% had some concerns.
- Phase-in is critical.





# Draft Timeline



# What's Next?

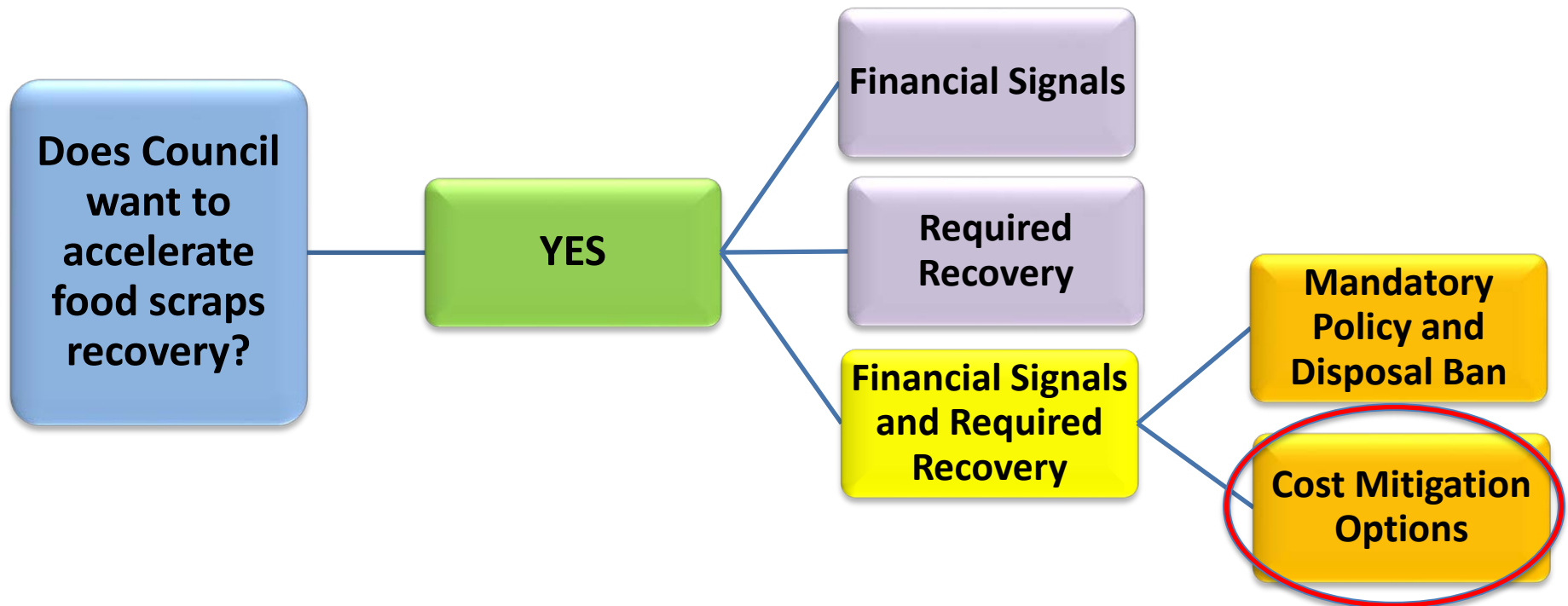
## **Metro:**

- Secure a processing facility.
- Continue stakeholder engagement.
- Public comment on Metro code and administrative rules.
- Solidify options to mitigate cost impacts.
- Continue to support local government technical assistance work.

## **Local Governments:**

- Consider consistent rates and service levels.
- Ensure collection service is more widely available.
- Participate in stakeholder engagement and policy development.
- Bolster food donation efforts.
- Continue refining technical assistance to businesses.

# Staff Actions: Recovery Cost Mitigation Options



# The Challenge

- Assess the rate impacts of a mandatory food scraps program on affected businesses.
- Identify options for mitigating rate impacts at both local government and Metro level.



# The Process

- Interviewed commercial food scrap haulers.
- Interviewed local governments.
- Reviewed other programs in other jurisdictions.
- Researched incentive program options.
- Calculated rate impacts on businesses.
- Developed options for going forward.

# What We Know

- Metro controls tip fees.
- Local governments set rates in franchise areas - Portland commercial is open market.
- Current FS tip fee is \$66.23.
- Current solid waste tip fee is \$96.25.
- Cost to run a truck for an hour in the region is about \$95.
- Collection efficiency and tonnage matter.

# What We Know: continued

- Voluntary, opt-in program.
- Rate setting formula for food scraps varies in region.
- Recent movement to “bundling” of collection rates.



# Food Scraps are Different

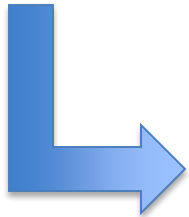
- Challenging commodity
- Messy
- Heavy
- Can have bad optics
- We all eat, so we are all part of the food system



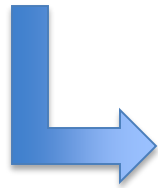


# What is in Collection Rates?

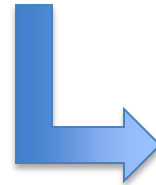
**Collection Costs**



**+ Tip Fees (Metro)**



**+ Local Gov. Decisions**



**= Rates Paid**

# Potential Rate Impact

## Rate Impact Example:

*Sit down restaurant w/4 yards of weekly garbage service, includes recycling:*

Current rate w/o food scrap service:	\$288
A. New rate with food scraps, costs spread across all commercial customers:	\$225
B. New rate with food scraps, costs applied only to food scrap customers:	\$560

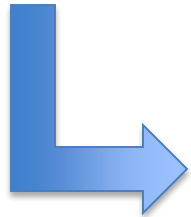
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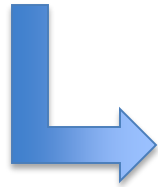
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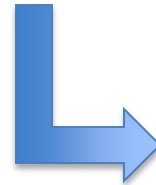
**Collection Costs**



**+ Tip Fees (Metro)**



**+ Local Gov. Decisions**



**= Rates Paid**

# Options To Consider

- A.** Metro spreads the food scraps processing costs across all solid waste tons in region and allows LGs to determine how those savings are used.
- A-1.** Metro spreads the food scraps processing costs and convenes LGs around consistent rate methodology and enter binding agreement.
- A-2.** Metro spreads food scraps processing costs and compels LGs to do the same.

# Options to Mitigate Impacts

	Pros	Cons
<b>Option A – Tip Fee Reduction</b> <ul style="list-style-type: none"> <li>- Set FS tip fee below cost</li> <li>- Raise RSF on all SW tons to cover additional processing costs</li> <li>- Check in after 5 years on buy down</li> </ul>	<ul style="list-style-type: none"> <li>-Metro action to mitigate impacts by spreading processing costs widely</li> <li>-Metro addresses major stakeholder concerns about costs</li> <li>- Conducive to bundling by LGs</li> <li>- RSF supports program implementation</li> </ul>	<ul style="list-style-type: none"> <li>-Modest increase in RSF possible</li> <li>-Portland customers may overpay until market adjusts</li> <li>-No guarantee that reduced rate is passed-through to businesses</li> </ul>
<b>Option A-1 Tip Fee Reduction/LG Agreement</b> <ul style="list-style-type: none"> <li>- Set FS tip fee below cost</li> <li>- Raise RSF on all SW tons to cover additional processing costs</li> <li>- Convene LGs around a consistent rate setting methodology such as “bundling”</li> <li>-5 year check in on tip fee buy down</li> </ul>	<ul style="list-style-type: none"> <li>-Metro action to mitigate impacts by spreading processing costs widely</li> <li>- RSF supports program implementation</li> <li>- Collection costs are spread by LGs, reducing impact on FS businesses</li> <li>- Metro and LG address major stakeholder concern about costs</li> <li>- Establish consistent rate method across region</li> <li>- Consensus buy-in from all LG stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>-Requires, coordination, convening, and consensus</li> </ul>
<b>Option A-2 – Tip Fee Reduction/LG Requirement</b> <ul style="list-style-type: none"> <li>- Set FS tip fee below cost</li> <li>- Raise RSF on all SW tons to cover processing costs</li> <li>- Compel LGs to spread costs across all commercial customers</li> <li>- 5 year check in on buy down</li> </ul>	<ul style="list-style-type: none"> <li>-Same as Option A-1 except program attributes are compulsory</li> </ul>	<ul style="list-style-type: none"> <li>-Likely pushback from LGs</li> <li>- requires complicated legal mechanism to implement</li> </ul>

# Questions for SWAAC

- Does SWAAC have input on the proposed policy?
- Does SWAAC have input on the proposed cost mitigation options?
- Does SWAAC support this approach to meeting Council's food scraps recovery directives?

# Thank you

**Jennifer Erickson & Dan Blue**

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