

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, August 9, 2017
Place: Metro Regional Center, council chamber

Members in Attendance:

Mike Leichner, Pride Disposal
Bruce Walker, City of Portland
Theresa Koppang, Washington County
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
Adrienne Welsh, Recycling Advocates
Keith Ristau, Far West Recycling
Matt Korot, Metro

Members Absent:

Alando Simpson, City of Roses Disposal/Recycling
Mark Ottenad, City of Wilsonville

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.

Mr. Korot also provided an update to the Health Impact Assessment of the Waste-to-Energy facility option presented by Rob Smoot at the July meeting. Mr. Smoot presented the same findings and opinions at the Metro council work session on August 8. All councilors expressed their appreciation for the work done by staff and the participation of stakeholders. They shared the opinion that the waste-to-energy facility is not the right option for the region at this time but asked to make sure this option is revisited in the future as technology advances.

3. Consideration of SWAAC Minutes for July 12, 2017

The minutes of the July SWAAC meeting were approved with no changes.

4. Material Recovery and Conversion Technology Facility regulatory changes

Dan Blue provided background information and recapped the process for the Material Recovery and Conversion Technology Facility (MRF/CT) regulatory changes that were recommended by the SWAAC subcommittee. (This subcommittee had been charged with determining 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.)

The subcommittee determined that Metro has the authority to establish operating standards for MRF/CTs and has the authority to exempt certain recyclers or materials from fees and taxes. Mr. Blue explained the subcommittee had recommended changes to Metro code 5.00 in adding definitions for "conversion technology" and "specific material recycler."

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The changes to Metro code 5.01 were:

- Remove exemption from Metro authorization for source separated recyclables and material recovery facilities
- Establish exemptions for “specific material recyclers”
- Establish exemptions for certain CT facilities
- Update references to “administrative rules”

Mr. Blue noted that the code changes have completed the 60-day comment period phase as of July 14 and Metro staff has crafted responses to those comments. The comment period included two stakeholder workshops that were held at Metro Regional Center. The majority of feedback was centered around the administrative rules and little in regards to the code changes. Comments that were received regarding the code were from the conversion technology sector, the specific material recycler sector and the source-separated material recovery facilities. The comments that related to the code changes as related to MRFs were process related, requested clarifications to proposed definitions, opposed solid waste licensing in general and were concerned about the impacts on existing businesses. The comments related to CT facilities asked for more specifics in definitions.

Mr. Blue shared many comments were concerned about Metro’s future intentions with information gleaned from the license or franchise process. He noted that this process was endorsed by both SWAAC and the Council.

One change was made to the code definitions as a result from the feedback received and that was concerning the clarity of the term specific material recyclers. Mike Leichner asked for clarification on how single stream recyclers will be categorized (for example, if material is attached to scrap metal at metal recycling facility). Mr. Blue responded that there will be facility specific variances and exemptions. The history of the facility will come in to play when determining licenses and regulations. Mr. Leichner reiterated his concerns about Metro’s response and positions in relation to EFI’s comments, specifically in regards to when a business is buying a commodity from another source. He also raised questions regarding interstate purchases of materials and whether Metro has the legal authority to regulate those channels of material acquisition. Mr. Korot responded that the Office of Metro’s Attorney has deemed there is adequate legal authority and that was previously discussed at length, however Mr. Leichner is still concerned that courts will be involved should this move forward as stated.

Theresa Koppang noted that the phrase “this exemption” as stated in the code 5.00 definition has no context and perhaps does not belong in the definition. Mr. Blue noted the suggestion.

Mr. Blue reiterated the received comments regarding the draft administrative rules were much more substantive and would be addressed in a second public comment period. The next steps for the code changes include a Metro council work session on September 5th and if chosen to move forward, Metro Council meetings on September 21st and 28th. If ratified, licensing effective dates for new facilities would be implemented on January 1st, 2018 and existing facilities on January 1st, 2019.

The administrative rules are on a separate timeline and will be released in early October with the comment period beginning on October 15th, 2017. A public hearing would then be held, and the administrative rules would be adopted by the Chief Operating Officer or her designee after that.

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Reba Crocker asked why new facilities will be required to adhere to rules before existing facilities. Mr. Blue responded that existing facilities may need to make changes to current operations and are looking to make the transition as feasible as possible. Mr. Korot asked for a formal approval to move forward with the definitions as is to the Metro council; there were no objections. Multiple members of SWAAC voiced their appreciation for the work being done and understood this is an extensive and extended process. The stakeholder engagement opportunities were very valuable and appreciated. Keith Ristau mentioned that this process needs to be undertaken and special care needs to be given to ensure the recycling system remains intact, vibrant and robust.

5. Solid Waste Fee and Tax Exemptions Subcommittee: Meeting 3 Update

Rick Winterhalter provided background information on the Solid Waste Fee and Tax Exemptions subcommittee and their role to determine reduced fees or exemptions for certain material types and operations. He noted the meeting on July 25th was focused on alternative daily cover (ADC) and the operations of landfills. Bill Carr from Waste Management gave a presentation on landfills and how they work. A key note of this presentation was the idea that landfills are on-going construction projects and require all types of materials to remain operational.

Mr. Winterhalter stated DEQ also gave a presentation informing the committee of the current rules and regulations regarding ADC and how these are enforced. It was a significant point that not every material is approved as ADC and eligibility is determined on a site-by-site basis. There is a 12-month application and testing process for new types of ADC and the exemption is not granted lightly.

Mr. Winterhalter also shared the discussion led by the consultant, RRS, which covered the comments heard from industry and the committee that were formally submitted. He noted that while no changes resulted from the comments, the consultant felt these were valid notes and should be passed forward to SWAAC and Metro council.

The next meeting will be on August 31st and will cover the history of exemptions and fees. Mr. Winterhalter wanted to note that he appreciates the opportunity to bring all stakeholders to the table for this discussion and allowing everyone to clearly state their concerns. Everyone wants to see recovery succeed in this region and the issue of ADC is coming to the forefront of many conversations. He mentioned main concerns are in the actual value of the material, should it have exemptions or reduced fees, or should ADC remain revenue neutral?

There were no comments or questions from SWAAC members.

6. Commercial Food Scraps Recovery

Jennifer Erickson and Mr. Blue began their presentation on the status of the Food Scraps Recovery policy work Metro has undertaken. Ms. Erickson began with background information about why the region is focusing on food waste. She noted that 40 percent of all food produced in the United States is wasted and food scraps make up a large portion of the Metro region's waste stream. Food scraps are unique as they are a recoverable portion of the waste stream and can provide an economical and environmental benefit to the region. Recovery of food waste can also lead to a reduction in greenhouse gases (GHG) and methane emissions which are key factors of environmental impact in the solid waste system. A key bi-product of this recovery could be a supplement for the agricultural industry which makes up a large portion of Oregon's business.

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Ms. Erickson also noted while food donation and waste prevention are key to this work, this policy is focused on commercial non-edible (egg shells, bones, etc) food waste. This stream will provide cleaner, source-separated feedstock for any facility built to process the material. Currently 28,000 tons of food waste are recovered through voluntary programs and are being sent to Junction City or Corvallis for recovery.

Metro is now seeking a long-term, stable solution for a food waste processing facility to handle the volume recovered as a result of this policy. Ms. Erickson reiterated the October 2016 Council direction that Metro move forward with a policy for businesses to separate this material from traditional waste and eventually a ban on commercial food waste in the region, determine how to efficiently collect and deliver food scraps for processing, and secure a local processing facility. Ms. Erickson informed the committee that an RFP for the facility was released and closed on July 26th. She noted that six (6) proposals were received and in the process of being evaluated.

Ms. Erickson provided the context that four percent (or 2700) of the region's business would be affected by this policy and 1300 are already participating voluntarily. The policy proposed will require local governments in the Metro boundary to implement food scraps collection programs. These programs will affect medium to large sized food oriented business and will be phased in over a five year period. The goal of the policy is to provide clarity and consistency across the region while giving local governments the flexibility of enforcement and phasing. Ms. Erickson explained the current timeline is for the policy to be adopted by local governments in July 2018 and for the phase-in process to begin in 2019 and end in 2023.

Ms. Erickson stated there will be exemptions and waivers granted as the system comes online and will be in relation to the distance of a jurisdiction to an adequate processing facility. She was keen to note the details of this exemption/waiver program have not been finalized and distance may be determined in either time or miles. Ms. Erickson shared an aspect of the policy will also eliminate property managers to be a barrier to a business participating in the program.

Mr. Korot asked what are the weight thresholds used to determine when a business must become compliant and how are those thresholds determined. Ms. Erickson responded that the factor for the amount of waste generated will be tons per employee. She noted studies have previously found the most accurate calculation correlates waste generate to full-time employees at a particular business. There will also be a web-based tool for business to input their FTE and determine which phase they will be included in for compliance. Mr. Korot followed up this answer inquiring about verification tools. Ms. Erickson replied that verification will be up to the local jurisdictions. She also stated Metro and local jurisdiction representatives are working together to identify and verify businesses in operation before requiring compliance.

Ms. Erickson noted that business feedback was gathered during the discovery process and there were several key findings:

- Request for on-site assistance in training and setting up system
- Reliable collection system is crucial
- 90 percent of business were not opposed to a mandatory system as long as the playing field is level
- 45 percent are in favor of a mandatory program
- 30 percent had serious concerns around logistics, cost and smell

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- Phase in of the program is critical
- ORLA noted they are opposed to anything mandatory but will partner with Metro and local governments to assist with education and outreach

The next steps of the process for this policy are for Metro to secure a processing facility and continue stakeholder engagement. Letters are being drafted to be sent to Phase 1 businesses to alert them to the policy and its requirements. Ms. Erickson stated Metro is also working on solidifying cost-mitigation options to lessen the economic impacts. Local governments are developing consistent rates and service levels and will continue to participate in engagement and policy development. There will be efforts to bolster food donation and work to continue refining technical assistance programs.

Mr. Winterhalter asked if there was a timeline for evaluation process for the received RFPs. Ms. Erickson noted initial group review will begin August 24th and 25th but there is not intention to award the contract until early Fall.

Ms. Koppang noted this presentation was also given at Washington County's Board of Commerce August meeting there was general support for the policy. The distance waiver option was appreciated and she inquired if implementation by local governments for compliance was able to wait for proper infrastructure. Ms. Erickson responded affirming that statement.

Audrey O'Brien noted that is was heard DEQ and Metro were not providing consistent messaging on this issue and work has been done to remedy that. She noted DEQ's full support of food scraps recovery policy.

Peter Brandom also highlighted Hillsboro's support of the distance waiver and wanted to know if local governments will be given the opportunity to weigh in on what the waiver looks like. Ms. Erickson noted the exact language is still under review in the Office of the Metro Attorney and the team is still defining "reasonable distance." The goal is for the waiver to be sent for review in early September. Mr. Brandom asked if representatives will be given the opportunity to respond before going to Council. Ms. Erickson noted the ordinance is very straightforward and the majority of change will come in the administrative rules which will be given a separate comment period.

Mr. Walker noted the City of Portland has already implemented food scraps collection programs due to a firm push from Mayor Wheeler. He acknowledged participation in working groups and applauded Metro for proceeding in a positive and thoughtful manner. He also encouraged careful consideration of placement of the food scraps processing facility so not many distance waivers will be necessary.

Paul Downey asked who will be sending the letters to the businesses and Ms. Erickson responded they will come from the local jurisdictions. Mr. Downey wanted to ensure local jurisdictions and Metro was consistent on what businesses are required to comply and who to contact if there is any questions on the program from industry. Ms. Erickson responded that local governments are providing the lists of which business to contact and the letter will include referral information. Mr. Lechner requested that haulers be provided with the same list to properly plan routes and encouraged the distance waiver to judged by time. He also noted it would be beneficial for this new waste stream to be included when planning new businesses or enclosures as these receptacles will likely be very heavy. Ms. Erickson acknowledged all of these suggestions.

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Mr. Blue then provided a report on the cost mitigation options available as this aspect was identified by Metro council as a key aspect. Mr. Blue set out to assess the rate impacts of a mandatory food scraps program on the affected businesses and identify options for mitigating those impacts at both the local government and Metro levels. This process involved interviewing haulers and local governments, reviewing similar programs in other areas, researching incentive options, calculating the rate impacts and then developing options for moving forward. Mr. Blue provided a baseline for the current system and identified key fees that make up rates. He also noted that fees and structures vary widely in different jurisdictions which were echoed by Mr. Winterhalter.

Mr. Blue pointed out if no cost mitigation is done there will be a higher impact to food processing businesses. Two options for helping mitigate costs are to spread the cost among all food processing businesses or to spread the cost of the program among every commercial business in the Metro region.

Ms. Crocker asked if the goal was to get all businesses on board and if local governments had the option to shorten the phase-in process. Ms. Erickson responded that Metro would encourage and offer services to all restaurants to voluntarily participate, but the availability of the service is a key aspect.

Mr. Winterhalter stated there needed to be a lot more clarity regarding costs and fees and advocated for the costs to be spread across the system as they are now. Mr. Blue responded that while Metro sets the tip fee, local governments are responsible for the rates.

Mr. Blue then presented the three options for cost mitigation to the committee.

- Option A: Metro spreads the food scraps processing costs across all solid waste tons in the region and allows local governments to determine how those avoided cost savings spread among their rate payers.
- Option A1: Metro spreads the food scraps processing costs and convenes local governments around consistent rate methodology and enters a binding agreement.
- Option A2: Metro spreads food scraps processing costs and compels local governments to do the same.

Mr. Blue encouraged any rate relief provided by Metro be shared at least to those businesses required to participate in the process. Mr. Korot agreed with this statement acknowledging that Metro council also believes the costs and relief need to be spread among businesses. Mr. Blue noted that he had reviewed all the pros and cons of each option and that councilors noted they will be interested in reevaluating the rate system in five to 10 years. He stated the importance of creating consistent rates and methods across the entire region.

Mr. Winterhalter commented that from a local government's perspective it made sense if the franchises had a reduced rate, it would be passed through to customers. He favored Option A. Mr. Walker noted the city of Portland does not set commercial rates but with more participation, businesses would have more room to negotiate. He is supportive of a tip fee reduction and a competitive market place but cautioned Metro not to overstate any guarantees of service or volumes.

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Mr. Brandom stated he appreciates the complexity of rate setting but asked why maintaining the status quo was not an option? Mr. Korot responded that Metro council directly requested options for mitigating the cost impact. Mr. Brandom acknowledged that and stated he would be opposed to Option A2 and being “compelled” to do anything; he supports Option A1.

Ms. Koppang offered that she was not prepared to officially comment as rate setting is an art as much as it is a science. She mentioned a big factor in the system would be efficiency and the number of available service providers needs to be considered as well. Mr. Blue responded that bundling provides an opportunity for an easy path of efficiency. Mr. Korot noted it would be beneficial for the local governments and haulers to give thought to creating the most efficient system and offer those solutions to Metro.

Mr. Downey stated the location of the facility will affect the cost mitigation rates and effectiveness of any program. He urged this to be considered when awarding the RFP for the processing facility.

7. Citizen Communications

None.

8. Preview of the next meeting agenda and final comments

Mr. Korot shared that the next meeting will be on September 13, 2017 and will have check-in on the Regional Waste Plan, potentially another presentation regarding Food Scraps and other agenda items to be determined.