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Metro Council Members  
Warren Johnson  
600 NE Grand Ave.  
Portland, OR 97232

Re: Metro Solid Waste Code Updates

Dear Council Members and Mr. Johnson:

GreenWay Recycling would like to comment on the proposed Solid Waste Code Updates as follows:

**Metro Code Chapter 5.00 (Solid Waste Definitions)**

**“Recoverable Solid Waste”** attempts to define products based upon their acceptance or rejection by Metro’s facilities without regard to the marketplace and competing facilities abilities to quite frankly “do a better job” than Metro’s facilities. This definition should be expanded to include all system licensed or franchised facilities.

**Metro Code Chapter 5.01 (Solid Waste Facility Regulation)**

**5.01.040 (a) (D)** Comment A16 “Remove licensing exemption for wood waste processing operations and facilities.” Under Council guidance the SWAC has formed a subcommittee which is charged with recommending to Council whether or not “clean MRF’s” and other source-separated recycling facilities should be regulated by Metro. It would seem that Staff is circumventing the process assigned by Council to the subcommittee. This subject should be reviewed by the SWAC subcommittee as part of their process.

**5.01.080 (e)** Comment A52 “Remove automatic granting of a license if the Chief Operating Officer does not act on the application within 120 days.” This removal removes accountability and surety that the Chief Operating Officer will act reasonably and expeditiously on applications. Yes, there is appeal to the Council President, however that appeal at minimum adds substantive time to the application process and at maximum causes the application to “die in process” due to lack of Council President action. This

creates a situation of uncertainty for businesses which is unacceptable and contrary to the concept of responsible, respondent government.

**5.01.280** “Authority of Chief Operating Officer to Adopt Rules, Standards, Procedures, and Forms.” Conceptually, the movement of Metro toward the type of government with administrative rulemaking similar to that of State and Federal government is a good move. However, this process should be transparent. It is understood that certain administrative rules may not garner attention worthy of the cost and effort necessary for public hearing, but leaving the determination if a proposed rule is worth public hearing solely up to the Chief Operating Officer is outside the bounds of transparent government. The Chief Operating Officer is a person and subject to fault and error. There should be a “trigger” with which the public can force public hearings on proposed rulemaking, regardless of the opinion of the Chief Operating Officer. Further, there should be recognition that Metro is different than State Government, unique in the United States and elsewhere. Because of this uniqueness, Metro should adopt the good parts of Administrative Rulemaking and then look past to new levels of transparency and accountability. In doing so, Council should provide an appeal process through which decisions made by the human and therefore fallible Chief Operating Officer can be fully vetted and either affirmed or negated by the Council should adequate affected persons request such.

#### **Metro Code Chapter 5.02 (Disposal Charges and User Fees)**

**5.02.170** “Authority of Chief Operating Officer to Adopt Rules, Standards, Procedures, and Forms.” Please refer to 5.01.280 above.

#### **Metro Code Chapter 5.05 (Solid Waste Flow Control)**

**5.05.200** “Issuance of Required Use Orders.” The removal of the ability and right of waste haulers and other persons to choose a facility to patronize based upon cost, service, products offered, and convenience is not non-substantive as purported by Staff. What this does is it removes any surety that a business which is well run and provides a superior services can be assured of market success. This is a terrible idea which should be eliminated.

#### **Summary**

Primarily, the proposed Code updates are timely, well written and to comprise necessary housekeeping. There are a few areas which need some changes, however, in general it is a good, solid effort.

Sincerely,

Terrell Garrett  
Managing Member