

Metro | Meeting minutes

Meeting: MRF/CT Subcommittee Meeting #5 Summary Final
Date/time: Friday, May 20th, 2016; 1:00 p.m. to 3:00 p.m.
Place: Metro Council Chambers
Purpose: To continue discussion of issues related to potential regulation of source separated recyclables material recovery facilities (SSR MRFs) within the region.
Outcomes: The subcommittee will have heard an industry perspective on potential regulation, and will have provided feedback relating to a potential recommendation on SSR MRF regulation for SWAAC.

Attendees

Bruce Walker, City of Portland
Theresa Koppang, Washington County
Keith Ristau for Vinod Singh, Far West Recycling
Brian May, WRI Republic
Jeff Murray, EFI
Dylan de Thomas, Resource Recycling
Matt Marler, Covanta
Audrey O'Brien, Oregon Dept. of Environmental Quality
Mike Lafferty (by phone), Citizen Rep
Francisco Ibarra, Citizen Rep
Betty Patton, Recycling Advocates
Cory Hansen for Andy Kahut, KB Recycling
Roy Brower, Metro

Absent

Andy Kahut, KB Recycling
Mike Davis, Clark County Washington
Vinod Singh, Far West Recycling

Presenters & Staff:

Dave White, ORRA
Dan Blue, Metro
Kim Waxler, Metro
Warren Johnson, Metro

Guest list is available upon request.

1. CALL TO ORDER AND DECLARATION OF A QUORUM

Chair Brower called the meeting to order and declared a quorum.

2. COMMENTS FROM THE CHAIR AND SUBCOMMITTEE MEMBERS

Chair Brower welcomed members to the fifth meeting of the Material Recovery Facility and Conversion Technology Subcommittee (MRF/CT).

Chair Brower reviewed the agenda and indicated that Jeff Murray and David White would share industry perspectives information with the Subcommittee. Then the subcommittee would start to work through what could be considered elements of a MRF/CT recommendation on regulation of SSR MRFs for SWAAC. Chair Brower indicated that if you have comments/revisions to the meeting summary from the April MRF/CT Subcommittee meeting to get those to Dan Blue.

Chair Brower reviewed where the Subcommittee was in the process, and reminded the Subcommittee that Metro was seeking the best advice possible for a recommendation to SWAAC.

Metro's interest has to do with an update to the Solid Waste Code Title V that began last year and that during that process Council encouraged staff to go back and go through a more thorough process on the key questions. Metro recognized that these facilities have evolved over the years. There are similarities between classes of facilities from a facility impact perspective and a potential for operating standards at these facilities including vectors, odors, nuisance, litter etc. Metro's public interest is to protect:

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

Chair Brower reminded the Subcommittee further that Title V Chapter 5.01 of the Metro code states the purpose of Metro facility regulation which is to:

"...protect and preserve the health, safety and welfare of Metro's residents; to implement cooperatively with federal, state and local agencies the Regional Solid Waste Management Plan; to provide a coordinated regional disposal and resource recovery program and a solid waste management plan to benefit all citizens of Metro; and to reduce the volume of solid waste disposal through source reduction, recycling, reuse and resource recovery. The provisions of this chapter shall be liberally construed to accomplish these purposes."

Chair Brower indicated that the public interest combined with what is encapsulated in code, defined what Metro's interest is in the questions before the subcommittee.

3. INDUSTRY PERSPECTIVES, JEFF MURRAY AND DAVID WHITE

Mr. Murray began his presentation indicating that it had been mentioned many times in the Subcommittee that so called "clean mrfs" and "dirty mrfs" 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.

Mr. White of the Oregon Refuse and Recycling Association then spoke to the Subcommittee. Mr. White indicated that he may have been invited to speak because he had previously mentioned the concept of a third party certification concept related to potential SSR MRF regulation.

Mr. White indicated he was not there to provide an “industry perspective” because as the MRF/CT Discussions have progressed not all ORRA facility members are on the same page on the issues coming out of the Subcommittee. Mr. White then indicated that when that happens, ORRA would not take a position. Mr. White stated that he was not there to state ORRA’s position on industry regulation nor was he there to promote his previously mentioned idea of a 3rd party certification system.

Mr. White reviewed “how we got here”. Mr. White went back to Metro Council October ordinance/report when Council gave the thumbs up for the MRF/CT Subcommittee. Mr. White feels that the MRF/CT objectives have evolved. Mr. White shared his perspectives on how the MRF/CT process had evolved, and referenced a handout that he provided to the Subcommittee membership (available on the Subcommittee webpage). Mr. White discussed the Metro staff report associated with Ordinance No. 15-1362 (Amending Metro Code Title V, Solid Waste) which sought to “remove the exemption for such operations and require facilities that accept and process multiple types of source separated materials to obtain a Metro solid waste facility license”.

Mr. White further discussed the content of the October 22 Council work session and concurred with staff that Council sought to have a more robust discussion about the issue via the subcommittee process which is how the MRF/CT Subcommittee was established. Mr. White reviewed the purpose of the Subcommittee which was to advise SWAAC on whether SSR MRFs should be subject to licensing and inspection by Metro similar to other facilities.

After reviewing the meeting summaries from the first few MRF/CT Meetings and seeing that the Subcommittee members had raised a number of concerns including:

- Lack of knowledge about what goes on in private facilities that are not regulated
- Without regulation, how do local governments achieve transparency
- The public thinks that government knows what is going on in these facilities, but LG’s don’t
- How LG’s maintain commitment to the highest and best use of recyclables across the system?
- LGs rely on private sector to deliver the services, LGs regulate hauling, but not the SSR facilities that haulers deliver to, LGs can’t control highest and best use of these resources
- LGS would like more information from SSR operators about contamination issues on a more routine basis
- And, how can LGs and industry work together better to deal with issues?

Mr. White indicated that in the initial MRF/CT meetings, there was no indication of staff’s specific focus on dust, litter, odors, vector and other housekeeping issues and Mr. White indicated that he didn’t feel that the membership concerns listed above had been addressed.

Finally, Mr. White discussed his opinion that the dry waste Administrative Procedures (APs) which he located on the MRF/CT Subcommittee webpage should be a document or template that the subcommittee should review and discuss in terms of the questions before the subcommittee related to facility standards.

Chair Brower asked if there were any questions for Mr. White or Mr. Murray. There were none.

Mr. Murray then presented an option in alternative to a solid waste license. Mr. Murray reiterated that there are considerable differences in operation of so called dirty MRFs and clean MRFs.

Mr. Murray made the following proposal which he hoped could be considered as a reasonable option but does not go as far as licensing:

“I move that the MRF/CT Subcommittee support a proposed certification process for commingled facilities that receive, reload, or process commingled recyclables collected on route by licensed refuse haulers within the Metro region.”

Mr. Murray then stated that examples of what may be included in the certification process may include minimum facility standards such as similar to what's already in code: *Covered receiving areas, adequate storage for incoming and outgoing materials, stormwater management (already overseen by LG or DEQ), and methods for containing potential litter etc.* Under Mr. Murray's proposal facilities would be subject to random periodic inspections, and it would go further by dealing with cross contamination of materials.

Under the proposal stakeholders would establish cross contamination limits set out on outbound materials and that these facilities would be subject to random and periodic testing periodically to verify that percentages of allowances on cross contamination would not be exceeded. There would be maximum percentage allowances set for containers in paper, paper in containers, plastic in metals, metals in plastic. Mr. Murray further proposed a system of 3rd party cert. verification. LGs would only allow haulers to take commingled materials collected by licensed refuse haulers to facilities that are certified and in good standing. Mr. Murray stated that this is just an initial concept for consideration and not yet fully detailed.

Mr. Murray indicated that that this proposal was not representative of all MRF operators, but does represent single stream recycler's like Schnitzer, Metro Metals, and plastics recycling facilities not handling commingling. Mr. Murray then stated that several facilities that do handle commingle materials support this and that they have come a long ways through the discussion. Mr. Murray stated that at the beginning of the Subcommittee process, some facilities didn't support any level of regulation, and through this process they have learned what Metro State and LGs and other concerns are. Finally that they have come to view it that there is an obligation that this material is handled right. It is a program material set up through state law. There should be a transparent process to reassure people that these (program) materials are being appropriately handled. Mr. Murray reiterated that they had come a long way. There is one facility that supports licensing, and some prefer something in between but there are a number that do support it (the proposal) and would leave it to the committee to discuss.

Chair Brower asked the Subcommittee if there were any questions from the membership. Prepared and indicated that he would provide some comments on the Mr. Murray's presentation before introducing Metro's draft recommendations. Mr. Marler asked what the benefits of a third party certification were. Mr. Murray stated that a third party could be industry experts, or it could be done by Metro staff or orchestrated by them, or contracted out and that the issue was of trust.

Mr. Marler asked what the difference between what Mr. Murray proposed was and a Metro license. Mr. Murray indicated that a license is much heavier handed and that once issued it

could be changed by staff. The proposal by Mr. Murray would allow stakeholders to establish the rules (and Metro would be one of the stakeholders) and that those rules could be changed by committee.

Ms. Patton asked about what kind of pushback markets provide to MRFs regarding contamination in the material streams. Mr. Murray said that if material streams get too dirty, markets won't buy the material. Mr. Murray indicated that there has been significant change from 10 years ago when newsprint was 70% of the curbside material. Currently a residential process only has 15% or less of newspaper in the stream. Mr. de Thomas and Mr. Ristau indicated that newsprint as of June 1 was no longer a specified paper grade in the market place. Mr. Murray indicated that his proposal would allow LGs and others to better understand what is going on with material streams.

Mr. Ristau said that markets do function as "the inspector" and provide that feedback and if there is too much contamination then markets won't buy the materials.

4. MOVING TOWARDS A RECOMMENDATION ON SSR MRFs

Chair Brower asked to move on and discuss the recommendation before the subcommittee. He suggested that rather than talk through Jeff's proposal, that the Subcommittee use Jeff's proposal and add onto the recommendation contained in the powerpoint. Chair Brower indicated that Metro was trying to make a distinction between facility impacts and backdoor material quality standards or contamination standards which may come up in another venue, but not this venue.

Mr. Brower indicated his desire that the Subcommittee would accomplish a higher level prospective and not grind through the administrative procedures and individual standards. Chair Brower shared that there would be plenty of additional opportunities to provide additional stakeholder input on the subject of whether SSR MRFs should be authorized by Metro and how.

Mr. Blue then reviewed proposed characteristics of facilities that the subcommittee might consider recommending to come under a Metro authorization and those that the subcommittee might consider recommending to remain exempt from licensing and inspection. (Please see the slide deck for this meeting on the Subcommittee webpage for details of this). Mr. Blue clarified that if a facility exhibited a preponderance of the characteristics under either column, (regulated or exempt) then that facility would likely be treated as such though every facility would be analyzed independently.

Mr. Blue then provided an overview of the types of authorizations Metro currently has available, or could consider using to authorize SSR MRFs. Mr. Farling inquired about the various impacts on land use issues for these facilities between a license and a certificate. Mr. Blue and Chair Brower responded that there are no known issues with land use approval based on issuance of a solid waste license and that when a facility is proposed for authorization, Metro does check in with the local government.

Discussion ensued between Mr. Murray and Chair Brower regarding the extent to which Metro Council charged the subcommittee with discussing issues related to SSR MRFs. Chair Brower contended that the scope of work was to consider authorization of these facilities for the purposes of ensuring that they meet certain operating standards as have been discussed throughout the Subcommittee meetings. Mr. Murray contended that a broader discussion regarding commingled material issues including so called back of the house material quality should be part of the Subcommittee's work.

Membership of the subcommittee then discussed a number of issues around Mr. Murray's proposal including clarification of the differences between a solid waste license and a certificate, and also what a third party certification would look like in contrast to a license or certificate issued by Metro.

Mr. Blue revisited again the Subcommittee's focus on operating standards versus performance standards, just to ensure the Subcommittee was clear on what the proposed recommendation would address.

Mr. Blue presented a set of proposed operating standards for SSR MRFs based on the totality of discussion in previous Subcommittee discussions. They were presented as follows:

- (1) **Environment.** Facilities should be designed and operated to preclude the creation of undue threats to the environment e.g., stormwater or groundwater contamination, air pollution, and improper acceptance and management of putrescible waste, hazardous waste, asbestos and other prohibited wastes.
- (2) **Health and Safety.** Facilities should be designed and operated to preclude the creation of conditions that may degrade public health and safety e.g., fires, vectors, pathogens and airborne debris.
- (3) **Nuisances.** Facilities should be designed and operated to preclude the creation of nuisance e.g., litter, dust, odors, and noise.
- (4) **Material Recovery.** Facilities should be designed and operated to assure materials are recovered in a timely manner to maintain material quality and avoid degradation.
- (5) **Record-keeping & Reporting.** Facilities should keep and maintain complete and accurate records of the amount of all solid waste and source separated recyclable materials received, recycled, reloaded, and disposed and periodically report data as required by its regulatory instrument.

Chair Brower asked if there were questions or comments, there were none.

Chair Brower then presented a proposed set of recommendations before the Subcommittee based on the totality of discussion in the previous Subcommittee discussions. They are as follows:

Authorization: Material recovery facilities that receive and process commingled residential and commercial source-separated recyclable materials should be subject to Metro licensing and inspection similar to other material recovery facilities currently under a Metro authorization.

Operating Standards: This class of facilities should be subject to general operating standards similar to other material recovery facilities.

Exemptions: Facilities that receive and process single stream materials with intrinsic value in established markets such as scrap metal, plastics, papers, or other similar commodities, should continue to be exempt from licensing by Metro.

Chair Brower asked the members of the Subcommittee to individually weigh in on the recommendations above.

Mr. de Thomas, Resource Recycling Magazine, indicated his interest in better understanding why what appears to be reasonable recommendations are not acceptable to certain stakeholders at the table or those they represent.

Mr. Marler, Covanta indicated that Covanta does not have a specific interest in this fight, but as an industry representative, he'd like to also know why this is a sticking point for the industry. Bottom line it appears reasonable to him but there appears to be a sticking point that needs to be worked out.

Ms. Patton, Recycling Advocates indicated her support for the proposal suggesting that it appears reasonable, not overreaching or under-reaching.

Mr. May, WRI, indicated his support for this generally and that it would help ensure confidence in the system.

Mr. Ristau sought clarification on "improper acceptance" of putrescible waste in the standards, and also asked if there were any paper only facilities in the region. Mr. Ristau said that Far West Recycling is fine with additional oversight as long as it is reasonable and fair.

Mr. Farling, Agilyx, indicated that his firm was fine with the level of oversight proposed here.

Mr. Murray, EFI, said that if he was understanding people correctly, that members of the subcommittee were accepting the idea of licensing. Ms. Patton indicated that yes they were accepting the idea of a level playing field and oversight. Mr. Murray then commented that (the recommendation) is saying "*should be subject to Metro licensing*". Ms. Patton replied "(unintelligible) ... licensing or certification, whichever word fits the definition would not be overreaching (then unintelligible). Chair Brower then indicated that Metro was fine with amending the word licensing to "authorization" and that authorization is the broadest term. Mr. Murray clarified that "authorization" in the context of the conversation meant anything from certification to licensing. Chair Brower indicated that that was correct. Mr. Murray then indicated that in general terms the proposed recommendations make sense.

Mr. Ibarra, citizen rep, indicated that oversight was reasonable, and that it could be considered a certification.

Mr. Walker, City of Portland, indicated that the overall direction is very positive, and that he was very open to using oversight and certificate and supported inspections and oversight to create a level playing field not only for government for also for others. He supported this work.

Mr. Hansen, KB Recycling, indicated that defining commingled, and defining single stream will be important to establish oversight. For him, he felt everyone should be under the same umbrella.

Ms. O'Brian, DEQ, indicated that her agency is neutral at this time, and that she could not take a position for DEQ.

Ms. Koppang, Washington County, indicated her support for the recommendations proposed and that they seem reasonable.

Mr. Lafferty, private citizen, indicated his support for the recommendations as proposed as reasonable and would provide insights and benefits for Metro area citizens. Mr. Lafferty did express concerns about some of the facilities in the recommended exemption list such as scrap metal facilities which might have issues.

Chair Brower then reviewed next steps for the process, and reminded members that he would welcome additional discussions outside the subcommittee about these recommendations. Chair Brower indicated that Metro would draft a recommendation memo in the coming weeks, and that that recommendation paper would eventually get to SWAAC after full Subcommittee review and input. Chair Brower further indicated that he hoped to transition at the next meeting to a discussion about potential authorization of conversion technology issues.

5. **PUBLIC COMMENTS**

A legal representative from Black Helderline representing Jim Smith Excavating spoke about the proposal to remove the current exemption via code change for their business practices. Jim Smith Excavating produces hog fuel from clean wood waste. The legal representative indicated that there was no substantive discussion of the removal of the exemption for Jim Smith Excavating in this Subcommittee discussion. In the context of the Subcommittees conversation related to retaining an exemption for SSR facilities, the representative indicated that Mr. Smith's business would exhibit all of those characteristics suggesting that they are opposed to removal of exemptions for Jim Smith Excavating based on the subcommittee findings. (Chair Brower clarified that those changes were being addressed through a separate code change process and were not the subject of the Subcommittee).

Upcoming MRF-CT Meeting: Thursday June 16th, 9 a.m. City of Portland Bureau of Planning and Sustainability, 1900 SW 4th Ave, Portland. Room 2500A (2nd floor).

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