

**Solid Waste
Administrative Rules**

AR 5.01-1200-T through 1215-T

**Administrative Rule of Metro Code Chapter 5.01
Administrative Rule Adoption Record and Findings**

**AR 5.01 – 1200-T through 1215-T
Exemption to Prohibited Activities**

These administrative rules are adopted under the authority of Metro Code Section 5.01.280(g), which authorizes the Chief Operating Officer to adopt an interim administrative rule without public notice, comment or a hearing upon a finding that a failure to act promptly will result in serious prejudice to the public interest or the interest of an affected party.

The Chief Operating Officer finds that in the last two years there has been a substantial change in the recycling markets, especially as they relate to China's tightening of acceptance standards and refusal to accept certain recyclable material from the United States after January 1, 2018. Metro Code Section 5.01.030(b) prohibits a person from disposing of source-separated recyclable material by any method other than reuse or recycling.

Where there is no viable market for recyclable materials, a prohibition on sending these materials to disposal may lead to stockpiling of previously-recyclable materials and may impact the ability of material recovery facilities to sort and market other materials. Stockpiling of materials creates potentially unsafe and unhealthy conditions, places pressure on processing capacity and may limit the ability to capture still-recyclable materials. Based on these facts, the Chief Operating Officer finds that a failure to act will result in serious prejudice to the public interest and to the parties that rely on recycling markets.

Accordingly, the Chief Operating Officer finds it necessary to adopt an interim rule related to the disposal prohibition outlined in Metro Code Section 5.01.030(b). **This interim rule will expire 180 days from the date of my signature below or upon adoption of a permanent rule if completed earlier than 180 days.**

The requirements of this administrative rule are in addition to all other requirements and provisions in Metro Code Chapter 5.01.

It is so ordered:



Martha Bennett
Metro Chief Operating Officer

March 15, 2019
Date

SOLID WASTE ADMINISTRATIVE RULES

AR 5.01 – 1200-T through 1215-T

Exemption to Prohibited Activities

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5.01 – 1200-T Exemption to Prohibited Activities in Metro Code Section 5.01.030

1. Metro Code Section 5.01.030(b) makes it unlawful for any person to “dispose of source-separated recyclable material by any method other than reuse or recycling.”
2. Metro Code Section 5.00.010 defines “recyclable material” as that which, among other things, “can be [] recycled.”
3. The term “can be recycled” implies that there are viable recycling markets for any particular recyclable material.
4. If there is no viable market for a material, it cannot “be recycled” and the prohibition on disposal does not apply to that material.
5. “No viable market” means that Metro has determined that either there is no actual market to which a material recovery facility may send the source-separated recyclables, or the costs associated with processing the recyclables and sending them to market outweigh the benefits from recycling these materials.

5.01 – 1205-T Definitions

Unless otherwise specifically defined in these rules, all applicable definitions are found in Metro Code Chapters 5.00 and 7.01.

5.01 – 1210-T Applicability of Exemption Rules

1. These administrative rules apply only to source-separated recyclable materials processed by a material recovery facility, generated by businesses and residences, and identified by Metro as allowed in business and residential collection programs as of March 1, 2019.
2. These administrative rules do not apply to yard debris, food waste or motor oil collected through business and residential collection programs.

5.01 – 1215-T Eligibility Process to Suspend Disposal Prohibition of Source-separated Recyclables

1. A material recovery facility may dispose of certain source-separated recyclables generated in the Metro region if approved by the Metro Chief Operating Officer. The Chief Operating Officer will identify the information that the material recovery facility needs to provide and the format through which the material recovery facility must provide it.
2. The Chief Operating Officer’s decision on whether to approve or deny the disposal of source-separated recyclables will be based on a determination of whether there is “no viable market” as described in 5.01 – 1200-T(5).
3. Recyclables approved for disposal by the Chief Operating Officer must be disposed at a designated facility.