

Metro response to public comments

Proposed license for Grimm's Fuel Company

Metro response to public comments received during the comment period in October through November 2018 regarding proposed license conditions for Grimm's Fuel Company.



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BACKGROUND

Grimm's Fuel Company (Grimm's), is a locally-owned and operated Metro-licensed yard debris composting facility that primarily accepts yard debris for composting. In general, Metro's licensing requirements for a composting facility set conditions for receiving, managing, and transferring yard debris and other waste at the facility. The Oregon Department of Environmental Quality (DEQ) also has distinct yet complementary requirements for composting facilities and monitors environmental impacts of facilities to protect air, soil, and water quality. Metro and DEQ work closely together to provide regulatory oversight of solid waste facilities such as Grimm's.

On October 22, 2018, Metro opened a formal public comment period for several new conditions of the draft license for Grimm's. The public comment period closed on November 30, 2018. Metro also hosted a community conversation during that time to further solicit input and discuss next steps. During the formal comment period, Metro received 119 written comments from individuals and businesses (attached). Metro received an additional six written comments via email after the comment period closed at 5 p.m. on November 30, which did not become an official part of the record.

After the comment period closed, members of the Tualatin community requested that Metro extend the term of Grimm's current license for an additional two months to allow the public an opportunity to review the new proposed license in its entirety before it is issued. On December 21, 2018, Metro extended the term of Grimm's current license by two additional months. The current license (L-043-18A) expires on February 28, 2019.

This memo summarizes the written comments that Metro received during the formal comment period and provides Metro's response to those comments. All of the written comments that were received are summarized by topical categories and the full text of each comment is attached. Grimm's also submitted to Metro a general response to the comments, which is also attached.

PUBLIC NOTICE AND OPPORTUNITY TO COMMENT

On October 22, 2018, Metro issued public notice of the proposed license conditions and provided an opportunity for the public to submit comments. A notice was mailed to 1,646 property owners, businesses and residents located within approximately one mile of the Grimm's facility. Notice was also posted on the Metro website and emailed to a list of Metro-area stakeholders that have a general interest in solid waste issues, as well as all individuals who have submitted to Metro an odor, dust or other report about Grimm's in the last five years. The public comment period ended on November 30, 2018. Additionally, Metro staff discussed the proposed license conditions at a Metro-hosted community conversation event held on October 30 at the Juanita Pohl Center in Tualatin. Approximately 50 people attended the event. Metro received 119 written comments from 113 individuals during the public notice period (see attached). Thirty-one of the above-mentioned comments specifically endorsed position

statements of the neighborhood advocacy groups, Clean Air Safe Environment (CASE) and Oregon Air. Metro has worked with CASE since 2017 to better understand its position and address its questions and concerns. Metro has worked in a similar manner with Oregon Air upon its establishment in June 2018.

In response to the input that Metro received during the public comment period, Metro revised its draft license conditions and will release a proposed license in its entirety for public review and comment before it is granted. This public review period for the proposed license will begin on January 4, 2019, and end on February 5, 2019. During that time, Metro will host another meeting with community leaders and DEQ to review the proposed license. Additionally, Metro will participate in an upcoming DEQ public engagement meeting in Tualatin to discuss modifications to Grimm's DEQ permit in early 2019.

In response to the feedback received during the public comment period which commenced in October, Metro revised the draft conditions that were initially released. The new draft license is available on Metro's website at www.oregonmetro.gov/grimms, as of January 4, 2019. Metro is proposing specific additional changes in the new license which include:

- Increasing the minimum oxygen level required in aerated static piles (ASPs) to ten percent at all times;
- Requiring immediate corrective action if the oxygen levels drop below the ten percent threshold; and
- Requiring the complete conversion of the site to the aerated static pile composting method by July 1, 2020.

In addition, the license sets certain penalties if Grimm's does not comply with timeline requirements. For example, if Grimm's does not convert to the aerated static pile composting method by July 1, 2020, then Metro may suspend or restrict Grimm's authorization to accept incoming feedstocks until the aerated static pile system is in place, in addition to any monetary penalties.

SUMMARY OF WRITTEN PUBLIC COMMENTS AND METRO'S RESPONSE

The comments that Metro received are summarized in ten general categories. Metro's responses address each general category in no particular order.

1. Land Use – Metro received a range of comments about land use issues including that:

- Grimm's was operating before residential housing came into the area and it should be allowed to continue.
- Compost facilities should not be allowed near residential housing.

Metro's response #1 – Land use:

Metro is tasked with planning, management, and oversight of the region's solid waste system. It has an obligation to the public to ensure that the waste intended for reuse, recycling and other purposes is handled properly and sent to appropriate markets, and that all other waste is safely managed and disposed. In carrying out its oversight responsibilities, Metro balances the need to preserve yard debris composting capacity in or near the region with the needs of the local communities that live and work

near these facilities. Metro primarily relies on local governments, such as the city of Tualatin, for land use determinations and DEQ for environmental oversight.

According to the city of Tualatin, Grimm's is located in a "Heavy Manufacturing" zone and it holds the necessary land use approval for yard debris composting operations. Grimm's began its composting operations in Tualatin in the 1970s. Some nearby homes were there prior to being annexed into the City and were included into a subdivision and a mobile home park development. Over time, the residential density increased while Grimm's operations intensified by accepting larger volumes of yard debris. Grimm's site was annexed into the City before that of the neighboring subdivision, mobile homes, and apartments. In the 1990s, the city of Tualatin allowed residential uses near the Grimm's site at the request of a land developer.

2. Grimm's is a good neighbor, or should be a good neighbor.

- Some neighbors have reported a largely positive relationship with Grimm's.
- Other neighbors have reported that livability in nearby adjacent areas has decreased due to Grimm's.

Metro response #2 – Neighbor:

Grimm's management performs regular odor monitoring, and investigates or otherwise responds to all odor complaints received by the facility from Metro or DEQ in a timely fashion. Historically, Grimm's has attempted to wait for optimal weather conditions to schedule activities that are more likely to generate odor. Grimm's also attempts to provide notice to the local community when piles are scheduled to be turned or other off-site odor impacts are likely to occur.

In the draft of the new proposed license, Metro requires that Grimm's take additional steps to engage with the local community in a more proactive manner. In particular, the license requires Grimm's to develop a "Community Engagement Plan" to outline how it will engage nearby residents and businesses during the conversion of the site to aerated static pile composting and into the future. A Community Engagement Plan must be submitted to Metro by May 1, 2019. To further develop the plan, Metro has shared some resources with Grimm's for developing and implementing a plan, including contact information for a professional mediator, Good Neighbor Agreements between other facility operators and their communities, and Green Mountain Technology's (GMT's) report which describes recommendations for community engagement.

3. The proposed license conditions were too stringent and difficult to meet in the time frame proposed.

- The timeline for implementation of a new composting system are unrealistic considering engineering, permitting, construction, and availability of equipment and workers.
- Grimm's is being treated unfairly.

Metro response #3 - Proposed license conditions too stringent:

To better inform any potential license changes, Metro relied on GMT to independently assess Grimm's composting operations and identify best management practices and recommendations for malodor mitigation opportunities. GMT was chosen by a review committee that included representatives of Grimm's, government agencies and the local community. In addition to hiring a third party expert to

evaluate Grimm's operation, Metro participated in a series of public and individual meetings with community groups in an ongoing effort to understand and respond to the needs of the community.

Metro solicited comments from several unaffiliated compost facility operators about the draft general performance requirements. Metro used all these sources, in addition to the legal counsel of the Office of Metro Attorney to propose practical conditions in the Grimm's license. Metro provided technical assistance to Grimm's by using GMT to consult for operational improvements. In consideration of all of this input, Metro is proposing a six-month extension to the timeline for Grimm's to achieve a 14-foot maximum pile height (extending the timeline to July 1, 2020) and requiring that Grimm's fully complete an aerated static pile composting system by that time. If Grimm's does not meet this timeline, Metro may prohibit or limit the acceptance of incoming feedstock, or take other enforcement action as appropriate. The proposed date was selected, in part, based on the construction timeline submitted to Metro by GMT during the public comment period (see attached). GMT has been hired by Grimm's to design an aerated static pile composting system.

4. Economic impacts

- The proposed requirements will have a negative economic impact on Grimm's, such as causing the facility to close.
- The proposed requirements will result in increased costs for residential and/or commercial customers of Grimm's.
- Metro needs to provide financial resources to facilitate the conversion of the facility to an aerated system and/or take on the management of the region's yard debris.
- Grimm's provides economic benefit to the community as an employer, benefactor to non-profits such as Home Owner Associations and Boy Scouts, and local recycling infrastructure.
- Concerns regarding home values due to Grimm's negative neighborhood impacts.

Metro Response #4 - Economic impacts:

It is not Metro's intent to cause any facility to close — including Grimm's — due to regulation. Yard debris composting is valued as an important method to recover and recycle organic materials. Grimm's currently processes about 60 percent of the Metro region's yard debris, so it plays a very important role in the region's composting system. Metro balances the needs of the people of the region with the need to preserve composting capacity in or near the region. This is one of the reasons Metro hired GMT to objectively assess Grimm's operation and recommend operational improvements. The solid waste system in the Metro region is made up of facilities that are owned and operated by public agencies (like Metro Central and Metro South Transfer Stations) and others that are privately owned and operated, (like Grimm's). At this time, Metro does not regulate rates that private facilities charge their customers, and is working to increase rate transparency at all facilities and throughout the region.

The functions of regional solid waste system are implemented by Metro, cities and counties, and many private for-profit businesses and non-profit organizations. This sharing of responsibilities means that Metro has a strong interest in the success of the private sector at creating, expanding, preserving and broadening efforts that advance waste prevention, reuse, recycling and energy recovery. In December 2017, the Metro Council established a new Investment and Innovation grant program to support this interest through the granting of funds to businesses and non-profit organizations involved in these efforts and to help foster economic opportunities for people who have historically been left out of the garbage and recycling system, particularly communities of color. Metro staff encourage Grimm's to apply in 2018 for the first round of grants. Grimm's submitted a pre-proposal and was invited to submit

a full proposal, but withdrew its full application before it could be considered, stating that it was “not prepared to enter a competitive proposal for this funding cycle.” Metro is planning on awarding grants again in 2019 and 2020, and Grimm’s may apply for funding during those grant cycles. For more information visit: www.oregonmetro.gov/investmentandinnovation

5. The proposed license conditions needed to be stronger or needed to be supplemented with additional requirements. Suggestions for requirements included the following:

- Require more stringent oxygen action levels.
- Require zero tolerance for offsite odors and dust.
- Reduce incoming feedstocks until the new system has met odor and dust requirements for one year.
- Require the operator to monitor, track and record the air flow rate and pressure drop on all air blowers at the facility.
- Increase penalties for operator being out of compliance.
- Increase performance monitoring requirements.
- Set objective, measureable criteria in performance and odor monitoring.
- Require a third-party odor monitoring service and/or provide the equipment and training for local residents to perform odor monitoring.
- Concerns that not all of GMT’s recommendations being implemented.
- One or more of the proposed license conditions need to be implemented within a shorter timeline.
- Reduce term of license.

Metro’s response #5 - proposed license conditions need to be more stringent:

Grimm’s current large static pile method of composting is insufficient to control odors as was documented by GMT and noted by the community. While the decomposition of organic material will always generate some odor, it is difficult to quantify the composition of odors to any high degree. Therefore, Metro’s licensing of compost facilities, including Grimm’s, requires operators to control and minimize these odors. Metro intends to evaluate whether regulatory standards should be established for off-site malodors and consider their imposition at a later point in time. Based on a review of comments, Metro recommends the following modifications to the new proposed license:

- Increasing the oxygen level requirements that should be maintained from five percent to ten percent minimum or when a corrective action must be taken.
- Significantly increased performance monitoring requirements, and penalties for noncompliance.
- Requiring the complete conversion of Grimm’s entire active composting operation to the aerated static pile composting method by July 1, 2020.
- Requiring ongoing continuing education of Grimm’s employees to ensure that qualified operators are implementing current industry best practices.
- Issuing Grimm’s license for nearly a five-year term. It is critical to provide a stable regulatory status in order for Grimm’s to demonstrate longevity to secure financing or loans for operating expenses and making the significant capital improvements required by this license.

Metro’s current and near term focus at Grimm’s is on requiring operational changes, including: reducing the amount of material on site, lowering pile heights, improving oxygen levels in the piles, using bio filters, and aerating composting piles. Metro believes that properly implemented operational changes made in a timely manner will result in less odor. It is critical to keep the Grimm’s operation focused on

implementing these operational changes and meeting the timelines set forth in the proposed license. In addition, it is premature to require the measurement of offsite odors or to rely on a particular olfactometer at this time. Metro and DEQ are responsible for regulatory oversight of composting facilities and will continue to perform facility inspections and complaint investigations in neighboring areas surrounding the facility. As further research is conducted, Metro may propose a regulatory enforcement standard in the future that could include a preferred olfactometer device.

In addition, Metro evaluated GMT's recommendations and incorporated all of them into the proposed license, with the exception of four recommendations:

- a. The license does not address relic objects at the site because Grimm's has already removed these objects to Metro's satisfaction prior to the release of the proposed license conditions.
- b. The license does not designate an odor monitoring tool at this time. Metro and DEQ are both aware of the limitations of the Nasal Ranger because of its use elsewhere near the region. It is premature to implement an odor standard or device until further evaluation is conducted.
- c. The license does not require Grimm's to adopt a mitigation strategy menu. While this document is a helpful resource for compost operators to diagnose issues, it is not an adequate regulatory tool.
- d. The license does not include a requirement about consistency of land use options because Metro does not normally make zoning decisions. That responsibility is generally the purview of local governments. In the case of Grimm's, Metro deferred to the city of Tualatin for land use determinations.

6. Composting capacity at Grimm's and in the Metro region.

- If Grimm's closes or limits incoming feedstock, increased transportation to deliver materials elsewhere will increase emissions and have greater negative health impacts.
- If yard debris is landfilled or burned rather than composted there will be increased negative environmental and health impacts.
- Tualatin and the surrounding areas suffer the impacts of Grimm's, if Grimm's closes other areas will bear increased burdens of impacts.
- There is limited composting capacity in or near the region and if it doesn't go to Grimm's, where will it go?

Metro Response #6 – composting capacity:

The Metro region is growing in population and increasing the demands on the recycling and solid waste infrastructure. Metro will be challenged to continue to manage yard debris locally as the population and density increases. Metro is committed to working with existing compost facilities to ensure they operate in a manner that is benefitting the community, and overseeing the public-private solid waste system for the region to achieve public benefits of the highest and best use of materials and, when needed, their safe disposal. Since early 2017, Metro has been working with communities across the region to develop the 2030 Regional Waste Plan as both a vision for greater Portland's garbage and recycling system and a blueprint for achieving that vision. For more information visit:

www.oregonmetro.gov/regionalwasteplan

7. Metro needs to renew Grimm's license:

- Grimm's provides a valuable service to residents and businesses.

- Grimm's facility causes odors that are minimal and/or do not negatively impact the commentator.
- Grimm's facility causes odors that are problematic but the proposed requirements, and in some cases stronger requirements, are expected to help.

Metro's response #7 – renew Grimm's license:

Metro is proposing new license conditions to better address community concerns, and is releasing the draft license in its entirety on January 4, 2019, for public comment before it is granted.

On December 21, 2018, Metro extended Grimm's current license for two additional months, to expire on February 28, 2019, with no additional changes. Metro will consider written recommendations it receives during the comment period to inform the new proposed license that will be issued to Grimm's in February with an effective date of March 1, 2019. The new proposed license has nearly a five-year term and is set to expire on December 31, 2023. Metro is proposing a five-year license term to provide greater authorization certainty in order for Grimm's to make the required operational changes.

8. Metro's community involvement in the regulation and enforcement of Grimm's needs to increase:

- Request that Metro provide the tools and resources needed for citizen odor monitoring.
- Citizen input being required for approval of both the initial Operating Plan and updates to the Operating Plan, and citizen representation required at all meetings between Metro and Grimm's.

Metro's response #8 – community involvement in regulation and enforcement:

Metro employs two full time solid waste facility inspectors who are trained in environmental compliance and tasked with monitoring the 50+ solid waste facilities authorized by Metro in and around the region. The inspectors generally perform seven or eight inspections of a facility annually. When greater attention at a facility is merited, Metro performs an increased amount of both announced and un-announced facility inspections and complaint investigations in neighboring areas surrounding the facility.

As described above, Metro's current and near term focus at Grimm's is on successful implementation of appropriate and timely operational changes which, if properly implemented, will result in fewer odors. It is premature to require the measurement of offsite odors and the use of a particular olfactometer to perform this task. Metro will continue to review and assess operating plans for effectiveness and retain approval authority. Metro will continue to meet with regulated entities, and invite public participation when appropriate. This includes, but is not limited to, public comment opportunities for new solid waste licenses and license renewals but does not normally include reviews of a facilities operations plan.

9. Metro needs to do more work to investigate the negative health impacts that could arise from operation of Grimm's under existing and/or the proposed requirements:

- Emissions from composting should be monitored.
- Odors generated at Grimm's and/or dust are a health concern.
- Odors generated at Grimm's and/or dust are exaggerated by a small group of people and/or people who are new to the area.

Metro's response #9 – health impacts of compost:

Metro has broad authority over solid waste and relies on its government partners to provide oversight for items beyond Metro's authority. Metro's authority at Grimm's is specific to the types and amounts of wastes (primarily yard debris) that Grimm's accepts and manages. In the case of health impacts from compost operations, Metro has relied on the Oregon Health Authority (OHA), Washington County Health Department, and DEQ to determine what, if any, health risks exist due to exposure to compost odors and/or dust. Metro understands that the local and state health agencies are planning to release a FAQ (Frequently Asked Questions) document within the next few weeks in response to some of the concerns raised by the community.

10. Comments describing odors:

- Odors coming from the facility are negatively impacting people near Grimm's, including embarrassment and health impacts or concerns (21 percent of all comments)
- Odors occur but are not negatively impacting people near Grimm's (18 percent of all comments)
- Odors have increased in the past 3 years or less because of Grimm's (8 percent of all comments)
- Odors and/or dust cause negative health concerns and/or impacts (8 percent of all comments)
- Odor complaints are exaggerated from a small vocal minority and/or people new to the area (32 percent of all comments)

Metro's response #10 - odors: Metro understands odors can cause emotional and physical responses which can be pleasant or unpleasant and that some people might be more sensitive to odors than others and have stronger physical or emotional response to bad odors. As stated previously, Metro is requiring the complete conversion of Grimm's to the aerated static pile composting method. Metro is further requiring Grimm's to participate in ongoing continuing education to ensure that it has qualified operators implementing current industry best practices for mitigating odors. Metro finds that Grimm's conversion to the aerated static pile composting method will significantly address the odor concerns raised about the facility's operation. Operational changes that are properly implemented in a timely manner will result in less odor, and the current emphasis is to require the successful implementation of these changes and meeting the timelines set forth in the proposed license.

STAFF RECOMMENDATION

The current license for Grimm's expires on February 28, 2019. It was extended by two months from its original expiration date of December 31, 2018 to allow additional time for the public to review and provide input on a revised, standard-term license. Metro will consider new and additional comments from the public during the comment period ending at 5 p.m. on February 5, 2019 to better inform the license conditions. Metro intends to make any necessary changes to the new proposed license and issue a renewed license in late February, 2019 with an effective date of March 1, 2019.

Attachment
HR
Queue