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## Testimony to Joint Committee on Environment, Natural Resources and Agriculture in support of H995

### An Act to require transparency and disclosure by materials recovery facilities

June 22, 2021

### Background:

The solid waste managers of our seventeen Member Towns have worked together as the South Shore Recycling Cooperative, a government organization, since 1998.

For many years, municipalities and MRFs worked as partners to put residents' recyclables back into circulation, instead of up in smoke or in the landfill.

In 2017, the China Sword put a strain on the whole system, as too many unrecyclable materials found their way into recycling carts and commodity bales. The market disruption has resulted in lopsided processing contracts that put nearly all risk on municipalities.

Our nine towns that collect mixed "single stream" recycling (SSR) from their 60,000 households have found themselves in contracts over which they have essentially no control. This is due to a lack of competition and oversight of Material Recovery Facilities (MRFs). Those towns paid over **\$1.5 million in 2020** of taxpayer and ratepayer money for recyclables processing alone, about **quadruple what it was in 2017**. Statewide, the figure is likely in the \$40 million range.

Municipalities that provide SSR service are in contracts in there is no way to verify many of the variables used in determining pricing. H995 would create a more even field by requiring verifiable terms in municipal contracts.

Contracts can be summarized as follows: "We'll probably take your material. We'll probably recycle it. We'll probably charge you by an index- and composition-based formula plus a processing fee. If our profits aren't adequate, we will change any or all billing components at our discretion."

Last year, **fourteen Southeast Mass. towns** that collect SSR from their residents' sought **more fair terms** in a multitown Request for Proposals. Four regional professionals including myself worked on this for months, using a template developed by a consultant to MassDEP, and directly engaged nine MRF operators. We received **only one totally unresponsive bid**. This and follow up discussions with potential bidders demonstrated that municipalities have no leverage in negotiating recycling contracts.

## How recycling contracts are manipulated:

There are **3 main components** to determining the cost per ton to sort and sell paper, cardboard, bottles, cans and containers:

1. Commodity composition: the relative proportion of each commodity in a ton of mixed material (i.e. 30% paper, 20% glass, 2% plastic #1,...)
2. The market value of each commodity
3. The cost to receive, process, sell and dispose of the inbound material (processing fee)

H995 addresses **the first 2 components**, so a more fair comparison of processing costs (3) may be made in the rare case that there is more than one MRF interested in bidding.

The **commodity compositions** used in many contracts is set by the MRFs. They are **implausible** based on reports published by the Northeast Recycling Council (NERC)<sup>1</sup> from nineteen public facilities that process these materials. Valuable materials appear to be under-counted and vice versa. For instance, our towns' contracts use 22% as the proportion of glass in determining SSR Blended Value. The NERC study puts it at 12%. At a cost of \$72/ton, this costs towns **\$7.20/ton**. For 10,000 households, that amounts to about \$25,000/year.

On the other side, the value of Natural HDPE (i.e. milk jugs) has averaged \$1400/ton for the past year. Our contracts peg it at 0.6%. NERC reports 1%. The Blended Value difference is **\$5.60/ton**.

Thus, inaccurate commodity composition numbers are costing towns a lot of money.

The use of **independent third party index prices** in determining value is also key to fair contracts. Many MRFs use internal "Actual" values, without providing documentation. SSRC Member town contracts use index values when they suit the MRF. If the MRF doesn't like the pricing, it can substitute "Actual value" without notice or documentation.

Ten years ago, the index price for residential paper hit a high of \$130/ton. From May 2018-April 2020, its value was 0 to NEGATIVE \$10/ton according to two indexes. In March of 2020, my towns' single stream processor put the actual value at -\$51/ton. This contributed to an overall cost to our towns of \$110/ton, more than disposal. The MRF declined requests to provide corroborating documentation.

Further, paper is listed as being 45% of the single stream, where NERC has it at 32%. This resulted in an additional cost of **\$18.63/ton** in March, the month with the biggest delta.

Our MRF is also imposing punitive costs of nearly triple the actual disposal cost (\$250/ton) for municipalities whose residents place more than 10% non-recyclables in their recycling.

<sup>1</sup> Report on Blended MRF Commodity Values in the Northeast Q4 2020

<https://nerc.org/documents/MRF%20Blended%20Commodity%20Values%20in%20the%20Northeast%20February%202021.pdf>

Contamination is an issue that concerns us all, but most municipalities have very limited capability for controlling their residents' behavior.

## How H995 would improve recycling:

H995 requires MRFs to:

1. report audited inbound commodity composition, and tonnages of outbound materials by commodity. The reporting of commodity composition for inbound and outbound materials may be required by MassDEP. Over a year ago we requested that MassDEP add this to its reporting requirements, but they have not indicated whether they will do so. If this is required it will not only help municipalities receive more fair and transparent pricing, it would demonstrate the quality of sortation, and show the quantity of recyclable commodities that are being disposed in the residuals.
2. report the composition of disposed residuals to ensure they comply with the Disposal Bans (310CMR 19.017).
3. disclose the destinations by location of outbound material.
4. use reported inbound commodity compositions and third party indexes in municipal contracts, to ensure that public money is being spent properly. For residuals and items for which an index doesn't exist, documentation must be provided to justify costs.
5. Report outbound commodity prices to the index they use in contracts, to address their objection that the indexes don't reflect their market experiences.
6. Limits contamination surcharges to 150% of the actual cost of disposal.

It also requires that MassDEP make commodity values available to municipalities to ensure they are being billed properly.

**Please enable municipalities to bid and negotiate fairer recycling contracts, and report H995 out favorably.** I and possibly other participants on the multi-town processing bid would be happy to meet to discuss this with you.

Thank you for taking the time to read this testimony.

Respectfully submitted,



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South Shore Recycling Cooperative