

# A G E N D A

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METRO

**MEETING: RATE POLICY SUBCOMMITTEE**  
**(SWAC Subcommittee on Solid Waste Rate Policies)**

**DATE: Thursday, January 5, 2006**

**TIME: 12:15 p.m. – 1:45 p.m.**

**PLACE: Room 370, Metro Regional Center**

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**I. 20 min. Call to Order..... Rod Park**

- a. Consideration of November 17 and December 15\* meeting minutes.
- b. Distribution of November 10 meeting minutes.
- c. Confirm summary of Self-Haul Policy Recommendations developed on December 15.\*
- d. Q&A on the four issues before this subcommittee (by request of members).\*

**II. 45 min. Private Facility Regulation: Who Should Pay?\* ..... Rod Park/All**

*Outcome: Address the policy questions raised by the Rate Review Committee.*

**III. 20 min. Introduction to the Regional Rate Issue**

*The issue and questions defined..... Doug Anderson*  
*Discussion..... Rod Park/All*

**IV. 5 min. Other Business & Adjourn..... Rod Park**

*Set agenda for next meeting (Thursday, January 19, 2006).*

\* Materials are enclosed. (The November 17 minutes were distributed at the previous meeting.)

All times listed on this agenda are approximate. Items may not be considered in the exact order listed.

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**METRO**

600 NE Grand Ave.  
Portland, OR 97232-2736

**MEETING SUMMARY**  
**Solid Waste Advisory Committee**  
**Rate Policy Subcommittee**  
Metro Regional Center, Room 270  
December 15, 2005

**Members Present:**

Councilor Rod Park, Chair  
Mike Hoglund, Director, Solid Waste & Recycling, Co-Chair  
Ralph Gilbert, East County Recycling (ECR)  
Dave White, Oregon Refuse & Recycling Association (ORRA)  
Dean Kampfer, Waste Management  
Dave Garten, Portland State University (PSU)  
Glenn Zimmerman, Wood Waste Reclamation

Mike Miller, Gresham Sanitary  
Jeff Murray, Far West Fibers  
Mark MacGregor, Clean It Up Mark  
Ray Phelps, Allied Waste  
Michelle Poyourow, Public Power Council  
Matt Korot, City of Gresham  
Bruce Walker, City of Portland

**Members Absent:**

Ted Kyle, Clackamas County  
Mike Leichner, Pride Recycling

**Metro Staff:**

Doug Anderson, SW&R, Financial Mgmt. & Analysis Div. Mgr.  
Roy Brower, SW&R Regulatory Affairs Division Mgr.  
Tom Chaimov, Sr. Solid Waste Planner, SW&R

Kathryn Sofich, Metro Council Office  
Gina Cubbon, Administrative Secretary

**Guests:**

(None)

**I. Call to Order ..... Councilor Park**

Councilor Park convened the meeting, thanking ECR’s Ralph Gilbert for flying in from Maui specifically for this meeting. Minutes from the November 10 meeting were still in preparation. The summary of the November 17 meeting was handed out. Approval was postponed pending the subcommittee’s review.

**II. Self-Haul Policy Options .....All**

Councilor Park said that staff had found answers to some of the Committee’s questions from the last meeting regarding self-haul. “One of the things I’d like to raise as you’re thinking about [the self-haul issue],” the Councilor remarked, “...is that it breaks down to three things: Do you want a neutral policy about it, do you want to encourage it, or do you want to discourage it?” That recommendation is what will go on to the Rate Review Committee.

He turned the proceedings over to Mr. Anderson, who explained to the group that self-haul was one of the issues from last year’s RRC discussions. The starting point was Metro’s commitment to staying open longer hours to ensure the public had access to self-haul options. The question was: do these extra hours provide a broad regional benefit? If so, should the extra hours be paid by everyone; meaning, funded from the Regional System Fee? Or, should the extra hours be borne by public customers only? (Right now,

we're in the middle: the cost of the hours is borne by Metro customers, not the system fee. But the cost is averaged across all customers, so the big commercial traffic—which tend to cost less to process through the facility—end up subsidizing the self-haul customers.) The RRC then decided that the regional policy toward self-haul needed to be clearly decided in order to design a rate that supports that. He noted that most of the RRC members were also in this subcommittee, and asked if his characterization of last year's proceedings matched their recollections. They nodded agreement.

Councilor Park asked the group to consider the basic question: Is self-haul a policy Metro should continue to allow? Michelle Poyourow asked for some information about the price differences between a load that is self-hauled and one that is picked up by a hauler. Examples were given by several members which showed that commercial hauling is more expensive because haulers have to pay for the truck, the driver and so forth—costs the self-hauler can discount or ignore.

Regarding allowing self-haul, ORRA's Dave White commented, "Yes, absolutely. I don't think it should be prohibited at all. ...It is certainly something people want to do, and I think if you were to try to ban it, you would have an uprising." Mike Miller agreed, and other members nodded their concurrence as well.

Councilor Park then moved discussion to the earlier question of whether Metro should take a neutral stance towards self-haul, encourage it, or discourage it. Far West Fiber's Jeff Murray recommended a neutral attitude: "The moment it becomes subsidized, it begins to compete with the private sector." Dean Kampf of Waste Management agreed, adding that self-haul should be handled at a cost-of-service rate, and that he disagrees that doing such would encourage illegal dumping.

Dave Garten said that he's called acquaintances about the self-haul issue, and did not find one person who knows what their hauler can supply. He himself called his hauler and found no information until having a very long and "arduous" conversation. "If we want to provide a viable alternative, the alternative has to be convenient," he stated. "One piece is the economics, one piece is the convenience. So in my case, there wasn't any convenience or awareness." Mr. Garten also spoke about the cost-of-service issue and subsidization: "It would mean that people who use the scales would pay more than haulers using the automated system. What happens to those people, does it encourage illegal dumping, or does it encourage them to call their hauler?" he said, noting that calling their hauler goes back to the maze situation he found trying to find help from his hauler. Mr. Kampf allowed that more information should be advertised.

Ms. Poyourow added, "I would feel a lot more comfortable with any talk about raising the self-haul price if we knew that people could avail themselves of the alternatives." She found the same obstacles as Mr. Garten, she said, trying to find out if / how her hauler would pick up (for instance) a couch.

Glenn Zimmerman commented that in his experience, illegal dumping "is a mind-set. If you charged fifty cents, they'd still go dump it [illegally] if that's their mind-set." He suggested that Metro shorten the hours at their transfer stations to save money, saying that people will find a way to haul during business hours. Agreeing with Mr. Zimmerman's assessment of illegal dumping, Mr. Gilbert advocated raising the transaction fee by \$3 or \$4 at certain hours to recover costs.

Mr. Phelps, too, agreed with the idea of Metro taking a neutral position on self-haul, saying that "self-haul is a reality," but it should be priced so that private facilities have a better chance to attract that customer. Parity between public and private facilities is important, Mr. Phelps maintained.

Mr. Murray said he's concerned that self-haul discourages recycling, though Mr. Gilbert added that self-haul loads coming into his facility are rich with materials his employees recover.

Representing the City of Gresham, Matt Korot concurred both that self-haul should be charged at cost-of-service, and that hours of operation should be reduced. He's unsure if illegal dumping will rise and would like to see that tracked for any changes.

Councilor Park addressed Mr. Phelps about Allied / BFI's contract to operate Metro's transfer stations: "Ray, as I recall there's a \$100,000 bonus you get at certain levels; I don't know where you put that in terms of subsidy," the Councilor said, referring to the materials recovery bonus within the operating

contract. If taking a neutral approach negatively affects the number of self-haul transactions at the Metro transfer stations, he mused, “the odds of Allied / BFI hitting that level will be reduced.” Mr. Phelps said he’s aware of that, “but that’s the way it goes.”

The subcommittee agreed on the concepts of cost-of-service for self-haul, reduced hours at the transfer stations, and increased education, Councilor Park summarized.

In answer to a question from Ms. Poyourow regarding who would be spearheading the educational portion, “to see that the haulers are communicating and marketing these services sufficiently,” and the pricing information, as well. The City of Portland’s Bruce Walker said that the local governments do that already to a degree. The problem is with individual bulky waste pickups, such as a couch. “I had one earlier this Fall – I called my hauler, and they came to get it, but you can’t collect it in the regular curbside truck [such items don’t fit in a standard side-load unit].” Therefore, the hauler had to come back with a different type of truck. In the City of Portland, Mr. Walker continued, haulers are required to offer this type of service, “but we do not set the price, and it would be something that depends on [the hauler’s] schedule, their ability. They’re going to make it so it’s cost effective for them, and if they only have one couch to go back and get, it may be too expensive. They could decline, indirectly, through pricing.” The City of Gresham, however, does set rates for bulky waste, Mr. Korot said. Still, he said, a much better job could be done regarding promoting the availability of the service.

Ms. Poyourow voiced that raising the self-haul rates, regardless of taking a “neutral” stance, “is going to discourage self-hauling. If some people don’t even have an option for getting rid of a couch, or if it’s not convenient, I think that’s a problem.”

“In my opinion,” Mr. Walker said, “the curbside system works extremely well for the regular pick-ups throughout the region. But there is a big gap in terms of those hard-to-get-rid-of items that not only don’t go out to the curb on a regular basis, but they don’t really even fit unless you get a drop box. So how do you get those picked up?” The cost and “hassle factors” make haulers a little reluctant to deal with those situations, he continued. Continuing, Mr. Walker mentioned that on the East Coast (for instance, in New York, which has no self-haul options), pickup of all waste items is part of the tax base. While not recommending this, he pointed out that they do regularly pick up bulky waste items. The system for the Metro region is not set up to do that. Ms. Poyourow wondered aloud if low-priced self-haul has inadvertently helped make it easier to ignore the bulky waste issue. Perhaps raising the rates will force the issue to be dealt with.

Mr. Walker added that he thinks it’s less a price issue than a problem with how to dispose of bulky waste. Some people don’t have the right kind of vehicle – or any vehicle at all – to do self-haul, so it’s a problem. Mr. Kampfer again said that Waste Management can pick up bulky waste loads, adding that they have a flat-bed truck for such runs, “it is a special run by a special truck. We also offer two-yard and four-yard one-time cleanup containers,” that are dropped off and then picked up one week later. He said he thinks the system is in place and local governments could help.

Discussion continued. Mr. Zimmerman said the gap is being taken care of by companies such as 1-800 Got Junk, or various debris removal services. “I think that’s where you’re seeing some businesses showing up at self-haul. They’re not going after what the [larger or franchised] hauler would be doing, because they’re doing clean-up, not just picking-up.” Mr. Gilbert mentioned that over the years, regardless of rate, self-haul has been steady. Mr. White added that if self-haul is “priced correctly, there might be more demand for [haulers’] services. If there’s more demand for our services, our fixed costs can be spread over more events, and the cost to the individual could be lowered.”

Amidst further discussion, Councilor Park noted that the group seemed to have reached consensus. Mr. White brought attention to a phrase in the agenda packet (page 2, Service Delivery, second bullet), “...it is very difficult for commercial haulers to price-compete with self-hauling.” He suggested that be changed to

read, "...difficult for commercial haulers to price-compete with *subsidized* self-hauling." Mr. Anderson agreed to the change. However, Mr. Kampfer pointed out that even at a cost-of-service rate for self-haul, companies such as his would still need to subsidize self-haul.

Mr. Anderson wanted to be sure the group understood his use of the word "subsidy" in connection with rates at Metro's transfer stations. "None of the direct costs to handle self-haul are in the Regional System Fee," he explained. The "subsidy" in this case arises from the fact that we charge one transaction fee regardless of the cost to serve different customers. For example, commercial haulers using automated scale access generate billing costs, but almost no scale house costs. A public self-haul customer, on the other hand, has to use the scale houses, "...which is about \$1.2 - \$1.3 million a year in direct costs. Because *all* of these costs are averaged over *all* customers," Mr. Anderson continued, "the transaction fee on commercial customers using automated scales is higher than the cost to serve them, while the opposite is true for self-haulers: the transaction fee doesn't quite cover their costs." So the "subsidy" is internal, across customer classes within the transfer stations only. No "external" money from the system fee. There is also, he added, a bit of a subsidy on the capital cost of the public unloading facility at Metro South. This facility was paid out of reserve funds which are not being repaid from rates. Councilor Park noted that building the public unloading facility at Metro South has helped commercial haulers by lessening traffic there.

Mr. Murray remarked that hours of operation make a difference in whether the policy is actually neutral. He said that it's unfair for Metro stations to be open longer than other facilities. After some discussion between Councilor Park and Mr. Murray, however, Mr. Phelps countered that every company has to decide its own hours. "There may be a number of reasons that I [hypothetically] close at 5. Or it may be that I just don't want to be there. Nevertheless, that shouldn't hamper anybody else from running longer hours," he said. "If it's fairly priced, if it's priced competitively, that's all you can expect. From then on, how the service is provided is an individual decision."

Mr. Zimmerman asked that if hours were shortened, would the current rates cover the cost-of-service for self-haul? "You could condense those hours somewhat, and the savings from that would get you to actual cost of service without jumping the tipping fee," he said. Councilor Park said there would need to be internal conversation on the subject. Mr. Miller returned to Mr. Gilbert's earlier idea of variable transaction fees "that would fairly consider the cost to do that transaction," and could include the hour the transaction took place. Mr. Kampfer added that a \$3.00 rise in transaction fee for certain hours would likely cover it. Councilor Park said that the idea of a split rate and the hours issues could be presented to the SWAC and the Rate Review Committee.

Should Metro or local governments see to it that haulers provide the services, Ms. Poyourow asked. "I think you're running into a sensitive situation between where Metro's responsibility ends and local jurisdictions' begins." Councilor Park chuckled. "I know I am," Ms. Poyourow replied.

"I think private haulers are more sensitive to these turf issues than the local governments are," Mr. Korot commented, "because we all work very closely together and we consider ourselves having a common mission. I think we have a better job to do, and we recognize it's our responsibility to do that." He and Mr. Walker were comfortable with speaking for absent jurisdictions, in spite of differences in their solid waste systems. Councilor Park added that drivers don't really care who's in charge of the road they're on—it can be county, city, etc. The consumer, he continued, doesn't care either, as long as the service is there.

Throughout this discussion, Mr. Anderson had been noting the key points on the white board. After brief further discussion, the group agreed to forward the white board notes on to SWAC.

### III. Funding Metro Regulation of Solid Waste Facilities..... Doug Anderson, Councilor Park, All

Councilor Park explained the background of this agenda item, which represents \$464,000 in the Solid Waste & Recycling Budget. This item includes inspection of transfer stations and “dirty” MRFs that pay RSF, but also clean MRFs, composting facilities, organics, and other facilities which pay little or nothing into the RSF. “The policy question,” the Councilor said, “...is that a cost of service, or a public good that is just part of the cost of doing business? Also, if you could say it’s a cost of service item, what would be the mechanism you’d use to collect it, and how would you distinguish it from some of the things we’ve already exempted?”

Mr. Phelps replied first, saying that his opinion on the subject has taken a significant turn. The crux of the matter comes down to whether all franchised and/or licensed facilities in the Metro region are going to “bear their financial impact on the system,” he said. That, he continued, would in turn drive how to fund the program. However, Mr. Phelps added, “...for other policy reasons – such as recycling, yard debris, composting, *et cetera* – it may not be financially feasible for some of those operations to pay the kind of money it’s going to take to adequately fund the regulatory process. So now I’m kind of moving back to a Regional System Fee, depending on how that branch divides (or doesn’t). Concluding, Mr. Phelps said, “The over-arching interest I have – and I know other people who make a living in this business have – is that we have a well-run system that is regulated. It’s probably the only cost component in the Metro budget I never have a concern about. I often times think you don’t spend enough... The Regulatory Affairs [Division] should be in a position that they have the unfettered discretion to go examine whatever it is that needs to be examined, regardless of what it’s going to cost.” Mr. Kampfer added that inspection adds credibility to the system, because it assures the region’s citizens that their curbside materials are being handled responsibly.

Mr. Anderson handed out an excerpt from last year’s Rate Review Committee materials (attached) as Roy Brower, Regulatory Affairs Division Manager, spoke to the group. Mr. Brower explained that some numbers have changed since April 2005, when the document was written. There are now more facilities that are regulated, he said, and explained that the number of inspections done annually is not static, but depends on the need. Additionally, there are situations in which unauthorized facilities begin taking waste and need to be shut down or brought into the system legitimately.

In answer to a question from Ms. Poyourow, Mr. Anderson detailed which types of facilities pay into the Regional System Fee. In addition to private facilities, Metro transfer station customers and users of out-of-district landfills also pay the RSF. Local transfer stations and dry waste processors pay only on tonnage that is landfilled, and these facilities are also eligible for credits against the RSF. Even facilities that are exempt from having a license have to pay on what goes to the landfill, Mr. Brower said. “The only [facilities] truly exempt from having to pay anything on landfilled waste are tire processors – they still have to pay a disposal charge, but they’re exempt from the Regional System Fee and Excise Tax.” There was further discussion about regulation and licensing, and the history behind some of the exemptions, such as yard debris. Regarding inspections, Mr. Brower said that some are planned, some in response to nuisance complaints.

Is there other information the subcommittee would like for background on this issue, Councilor Park asked. Mr. Miller said he didn’t need any other information, “It seems you have to make a decision on whether or not those folks who are being regulated should pay for it in some way or another. Obviously there’s some cost, and personally I think everyone should come under the umbrella.” There is a value to having inspections and to ensuring that “everyone’s doing things in the manner they should be doing them,” Mr. Miller commented, adding that a cost is incurred by inspections and so everyone should be paying some fees. The cost always comes down to the generator, whether they’re paying more at the facilities or through their garbage rates, he concluded.

Mr. Zimmerman maintained that if composters, yard debris, roofers, etc. are going to be paying fees, then clean MRFs and other recyclers should pay – or leave things the way they are now. Mr. Kampfer agreed with Mr. Miller that the consumer ends up paying (usually within the garbage rate), but those such as landscapers would be impacted.

“It’s important to understand,” Mr. Murray commented, “that at this time, the costs for dirty or clean MRFs - other than a fee that you pay for your license – there’s no difference. You pay proportionately on what goes out the back door as garbage. That’s how the system was set up, whether it’s yard debris or what. You’re encouraged to do the best you can to recover and recycle, and you get rewarded for doing that by paying less, not having to pay at the front end for those fees. This would be a dramatic shift in policy.”

Councilor Park began to wrap up the day’s proceedings. “If you could [change the current roster of who pays, is exempt, etc.], would it move the dials very much or at all.... or do you just increase the overall cost, trying to chase after how to assign the dollars,” he asked rhetorically. Other options, he continued, might be to increase franchise / licensing fees. “The big piece I get the most nervous about,” the Councilor said, “is that if you do change the philosophy, the biggest shift is going to be in the organics. There’s already been a policy decision made by the Council to exempt organics from fees and taxes. This would – given some of the things we talked about – bring that back underneath that. Philosophically, [Mr. Murray] is right – the hit has always been on anything that gets buried [in the landfill]...”

Mr. White asked that the next meeting include clearer information on the difference between inspection and regulation.

Councilor Park adjourned the meeting at 2:02 pm, wishing the group happy holidays.

**Next meeting:**  
Thursday, January 5, 2005  
Room 370

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Attachment  
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Rate Policy Subcommittee  
Introduction to Regulatory Issues  
December 15, 2005

Current regulatory framework established in 1998:

- Enforce performance standards on nuisances, material recovery, etc.
- Ensure fair and correct solid waste system fees are paid.
- The cost of the regulatory system should be shared by all.

Options considered for paying for regulation:

- Generally funded (*e.g.*, through Regional System Fee)
- Paid by regulatory community only.

The choice of general funding (*i.e.*, costs in the RSF) was driven by:

- A finding that enforcing standards has a broad public benefit.
- Practical matter: the ability to pay varies by facility type; could threaten the viability of some emerging recovery industries.
- Concerns about equity if some facilities had to pay, others didn't.
- General concerns about any industry funding its own regulation.

The "third fee" (*i.e.*, a license or franchise fee) arose with the Rate Review Committee's recent recommendation that Metro move toward rates that reflect "cost-of-service."

- "Cost of service" implies that facilities should pay for the costs they induce.
- All of the issues raised in 1998 (above) remain unresolved
- Design of the fee itself remains an issue, even with the RRC



Rate Policy Subcommittee  
December 15, 2005

Excerpt from Rate Review Committee materials, April 5, 2005

*Boxed numbers indicate tonnage that is subject to Metro solid waste fees and taxes.*

**Regulatory Classification**

Number of Facilities (Approx. Count)		Approximate Annual Tonnage	Metro Inspections (FY05-06 Planned)	Notes
<b>Facilities Subject to Metro Regulation</b>				
<b>... and actually regulated</b>				
1	Private Regional Transfer Stations	143,005	6	
3	Local Transfer Stations	254,182	18	
4	Dry Waste Processors	105,110	30	incl. Aloha, KB, W'tech, ECR
7	Non System Licensees	66,513	6	NSL destinations listed below
13	Compost/Yard Debris Facilities	250,000	93	
3	Roofing Processors	50,000	17	
	Subtotal		170	(67% of total)
<b>... but exempt from regulation</b>				
6	Sludge Processors*	50,000	31	
2	Tire Processors	50,000	4	incl. out of district tires
10+	Other Specialized Processors	200,000	9	Hog fuel, drywall, etc.
6	Clean MRFs	450,000	0	
8	Concrete & rubble Processors	1,000,000 +	0	
	Subtotal		44	(17% of total)
<b>Facilities Not Subject to Metro Regulation</b>				
2	Metro Transfer Stations	565,202	0	
10	Other Private Landfills	?	0	industrial wastes, inert mat'ls.
<b>... but have an arrangement w/ Metro</b>				
2	Limited Purpose Landfills	219,058	22	Lakeside, Hillsboro
5	General Purpose Landfills	6,914 **	18	CR,CB,FB,Roos,Wasco
1	Mass incinerator (waste-to-energy)	12,022 ***	0	
	Subtotal		40	(16% of total)

*Boxed values sum to 1,359,985 tons.*

Notes: Tonnage figures rounded to the nearest 10,000 are approximate; throughput at these facilities is either not measured and/or is not reported to Metro.

Non-system licensees deliver waste to two Waste Connections transfer stations in Vancouver, Wash. and to the Marion County incinerator, and small amounts of waste are delivered under NSLs to Wasco Landfill and to a Weyerhaeuser landfill in Longview, Wash. Not included in the licensee tonnage total, WRI hauls its waste under an NSL to Coffin Butte Landfill, owned by its parent, Allied Waste; and Pride Disposal (and to a lesser degree Troutdale Transfer Station) haul waste to WMI's Riverbend Landfill in McMinnville.

\* One sludge processor, Thermo Fluids, is licensed by Metro.

\*\* General purpose landfills accept virtually all the putrescible waste and dry waste residual from the above facilities. The small number of tons shown here represent mainly special wastes transported directly from the Metro region to the landfill without transfer.

\*\*\* Most of the incinerator tonnage is already counted in Metro's (9,100 t) and WRI's (2,700 t) totals.

**Rate Policy Subcommittee**  
**Self-Haul Policy Recommendations**  
**Developed December 15, 2005**

The Subcommittee may wish to review and confirm the following “white board” results from the discussion on December 15. These recommendations will be considered by SWAC for transmittal to the Rate Review Committee in February-March 2006.

**Policy Recommendations**

- Self-haul options should be part of the regional solid waste system.
- Public policy should be neutral toward self-haul, neither encouraging or discouraging it.

**Action Recommendations**

- Local governments and haulers should work together to raise awareness of hauler-provided services.
- Metro should examine options for reducing the cost of providing service to self-haulers.  
*For example, could the current long hours of operation be reduced without significantly affecting accessibility?*
- Metro and local governments should track system responses to change, in order that future policy choices will be better-informed.  
*For example, does illegal dumping increase when self-haul prices rise?*

**Rate Policy Subcommittee**  
**The Subcommittee's Four Issues**  
**January 5, 2006**

*At the December 15 meeting, members requested that the subcommittee's charge—the four issues identified by the Rate Review Committee—be re-stated. The following summary is taken from the SWAC meeting on July 28, 2005.*

**Policy Issues Identified by the Rate Review Committee**

Who should pay for:

1. Sustainable purchasing
2. Hours of operation
3. Regulatory costs
4. System tip fee issues:
  - Metro fiscal impacts of tonnage shifts
  - Private facility economics
  - Local government rate-making

*Sustainable Purchasing/Sustainability Leadership.* Should Metro's customers alone bear the additional costs of policies with a positive benefit such as sustainable purchasing, or should these costs be borne by the broader set of regional beneficiaries?

*Public Customer Access to Disposal Services.* Metro has made a policy choice to stay open long hours at the transfer stations to ensure convenient access for the public. Should Metro's customers alone bear the additional cost of operations, or should this cost be shared?

*Regulatory Costs.* Metro regulates some classes of facilities specifically to meet a widely-shared public interest (e.g., yard debris facilities). Should private facilities alone bear regulatory and enforcement costs, or should this cost be shared among the broader regional beneficiaries?

## System Tip Fee Issues:

*Fiscal Impact of Tonnage Shifts.* The sensitivity of the tip fee to tonnage shifts is directly related to the allocation of costs among the disposal charges at the transfer stations. The resulting fiscal impact may weigh directly into decisions on increasing tonnage authorizations at existing private facilities, and approving new transfer and/or material recovery facilities.

*Private Facility Economics.* The allocation of costs among Metro fees directly affects the economics of private facilities. These economics improve with rise in the tip fee and/or a drop in the Regional System Fee, even in the absence of any other change in cost or service to the private facility. (The reverse is also true: if the tip fee falls and the system fee rises, private facility economics erode, all else equal.) The RRC believes it may be a matter of public concern that private facilities can be so affected in a manner that is unrelated to changes in cost, competition, or level of service.

*Local Government Rate-Making.* In current practice, local governments allow solid waste haulers to recover disposal costs up to the Metro tip fee regardless of which disposal facility is used. With this practice, local government regulators are concerned about authorizing revenue for private facilities that may not be directly related to costs or service.

**Rate Policy Subcommittee**  
**A Guide to the Discussion of**  
**Private Facility Regulation: Who Should Pay?**  
**January 5, 2006**

Suggested Outcomes for Today's Meeting

Today's discussion should produce basic policy guidance to the Rate Review Committee on the question of direct funding of regulatory activities. This could take the form of answers to the following questions:

1. Should regulatory costs be borne directly by the regulated community, or more generally by all ratepayers? What is the policy basis for this decision?
2. If this Subcommittee recommends moving forward with direct funding:
  - What kinds of costs should be covered?
  - What should the fee structure be? Flat, per-ton, etc.
  - What classes of facilities (*e.g.*, transfer stations vs. MRFs vs. composters, etc.) should be subject to the fee(s)? Should fees vary by class?

Discussion of the Issue

At present, most of Metro's costs to regulate solid waste facilities are recovered from the Regional System Fee. This means that the public costs of regulation are shared by all regional ratepayers. This funding choice, made in 1997-98, was based explicitly on:

- A finding that Metro's regulatory system is designed to serve regional policy interests and provide broad public benefits.
- Concerns about equity if some facilities had to pay, others didn't.
- A practical matter: the ability to pay varies by facility type, which could threaten the viability of some emerging recovery industries.
- General concerns about any industry funding its own regulation.

In 2004, the Rate Review Committee recommended that the cost of regulating private facilities be borne by the regulated facilities directly, through a "3rd Fee"—a license/franchise fee or similar charge. This recommendation is philosophically consistent with the RRC's general recommendation that Metro move toward a "cost-of-service" approach in its rate-making. A key principle of cost-of-service pricing is that persons who cause a cost should pay for that cost. Under this principle, private facilities that generate public regulatory costs should pay for those costs.

The Metro Council postponed adoption of the 3<sup>rd</sup> Fee until staff and the RRC could work out the details with a broader stakeholder group. When the RRC returned to this issue in 2005, they wrestled with the following questions:

- Which of Metro’s regulatory costs should be recovered from the “3<sup>rd</sup> Fee”?  
*The RRC determined that inspection, audits and similar costs should be allocated to the 3<sup>rd</sup> Fee. But should regulated facilities pay for enforcing Metro Code against unlicensed facilities and other illegal activities? How should the cost of licensing new facilities be covered—through increases in application fees or other means?\**
- How should these costs be allocated among classes of regulated facilities?  
*The RRC found that regulatory effort is not the same across facilities. For example, when normalized for throughput, composting facilities (as a class) generate the greatest number of site visits; transfer stations the least.*
- What form should the fee take?  
*Options discussed included a flat annual fee, stratified annual fees, per-ton rates, a mathematical formula involving inspection frequency and impact; and other variations.*
- What impact would a new fee have on facilities not currently paying into the system?  
*The RRC found that regulatory effort is not correlated with the ability to pay. For example, composting facilities generate a high rate of site visits, but currently do not pay into the system, except for a nominal annual fee.*

These questions were sufficient for the RRC to seek broader policy guidance before making a recommendation. On the larger issue of the concept itself, the committee remained divided on whether a 3<sup>rd</sup> Fee would pass a cost-benefit test.

*The balance of this paper is information, mostly requested by the subcommittee.*

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## Overview of Metro’s Private Facility Regulation Program

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### Public Purposes

- Public health and safety  
*Addressing nuisances such as odor and dust; hazards such as runoff, material accumulation, etc.*
- Equity:
  - Establishing and enforcing performance standards;  
*Avoiding the “one bad apple spoils the batch” situation for solid waste facilities.*
  - Ensuring correct solid waste system fees are paid.

### Functions

- Licensing and franchising of new facilities; renewals.
- Monitoring and enforcing regulatory instruments (licenses & franchises) and exemptions.  
*Includes physical inspections and enforcing performance standards.*
- Monitoring financial compliance and auditing.
- Enforcing Metro Code.

For more detail on the Regulatory Program, see the *DRAFT Budget Narrative*, following.

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\* The net loaded cost of the regulatory program is \$980,000. By analyzing Metro’s regulatory activities, the RRC determined that approximately \$465,000—less than 40¢ on the RSF—relates directly to facility regulation.

# Appendix: Excerpt from the Draft FY 2006-07 Program Budget Narrative

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## Environmental Health Private Facility Regulation

Program Manager: Roy Brower

**Program Status:** Expanding

### Description of Program

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The primary purpose of the Private Facility Regulation Program is to ensure that the operation of privately-owned solid waste facilities meet environmental, regulatory, operational, and fiscal standards. The program enforces compliance with Metro Code, administrative procedures, performance standards, and Metro-granted authorizations (e.g. solid waste licenses and franchises), and flow control instruments (non-system licenses and designated facility agreements).

The program is comprised of three basic activities:

- Solid waste facility licensing and franchising, and administration of flow control agreements;
- Facility inspections and audits;
- Enforcement (including investigation and prosecution).

### Regulatory/Statutory Requirements

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- Assures collection of appropriate solid waste fees and taxes at private facilities
- Implements the regulatory elements of the Solid Waste & Recycling Department's Strategic Plan and Metro Code.
- Coordinates and cooperates with Oregon Department of Environmental Quality and local governments on implementation of certain solid waste standards.

### Interrelationships with Other Programs

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- Implements agency policies at solid waste facilities relative to imposition of standards for recycling, recovery, operations and load classification.
- The Solid Waste Reduction Program will rely on this program to monitor performance standards at post-collection recovery facilities ("MRFs") for its new dry waste recovery initiatives; and for continuing to monitor potential new standards on source-separated processing facilities (see Solid Waste Reduction Program for details).

### Relationship to Goals

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Metro's solid waste regulatory program helps the Council to meet its Goals and Objectives in several important ways. For instance,

- There are about 40 facilities licensed or franchised by Metro to conduct solid waste activities in the region. By establishing site-specific standards, monitoring facilities and responding to complaints, Metro helps assure that solid waste is safely recovered and managed and that environmental impact is minimized and environmental health is improved.

- Equitable monitoring of solid waste facilities keeps the industry economically strong and vital to the benefit businesses and ratepayers.
- Metro coordinates fully with local, state and federal governments to assure appropriate responses by all levels of government.

### Issues, Opportunities & Challenges

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As with the Disposal Services Program, the future of this program will be shaped by the Disposal System Planning Project ("DSP") and the Regional Solid Waste Management Plan ("RSWMP") update that will make recommendations on the means of delivering disposal services throughout the region. One possible DSP outcome is a recommendation that the region move to a comprehensive system of regulated private facilities. Such an outcome would have significant implications for this program.

A separate but ongoing challenge is the growth in both scale, scope and complexity of the system of regulated solid waste facilities.

Solid waste facilities have or will soon increase by 15 new operations. Facilities tend to be more geographically dispersed, and of larger scale and are undertaking a greater diversity of activities than in the past. As new solid waste and recycling businesses enter the field, there will be more expectation on Metro to have clearly defined procedures and performance standards. As regional density increases, there will be more pressure on facilities located in or near residential neighborhoods to operate without creating nuisances. In addition, Metro will increasingly need to assure that waste generated within the region is managed properly at facilities outside the region. Metro will need to more closely monitor the constant shifting of waste between and among facilities to understand the interrelationships and industry trends. Metro will likely have to contend with illegal solid waste activities occurring just outside the Metro boundary in creative yet clear ways. Formal enforcement is increasing at facilities. More complex enforcement cases are being pursued and more enforcement actions are likely to be contested in future. Formal inspections will continue to look more closely at such issues as water quality, storm water quality, air quality and waste classification in the future. There will be more focus on establishing operational and site standards at certain types of solid waste facilities.

In order to address the expansion of regulatory scale and scope, Metro will need to add or shift resources to inspections and enforcement in order to maintain its current level of regulatory presence.

### Changes from Current Service Levels

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The Solid Waste Reduction Program's new demands (see "Interrelationships") will require an expansion of inspection activities. The degree of change from the current service level will depend on the nature of the standards placed on recovery facilities, which remains to be determined. However, this increase in inspections may be covered in whole or in part by a shift of resources from the Solid Waste Reduction Program, reducing or neutralizing the overall fiscal impact.

To address the general increase in scope and complexity of facility regulation, as well as the span-of-control of the current

# Appendix: Excerpt from the Draft FY 2006-07 Program Budget Narrative

manager, the proposed budget includes a new supervisory position at the Supervisor 2 level.

As the DSP recommendations are not due until later in 2006, there are no DSP-related changes from FY 2005/06 service levels in the proposed budget for this program.

## Performance Measures

- Provide timely review and staff recommendations for all Metro-granted authorizations
- Provide effective and timely regulatory guidance at regulated facilities.
- Effectively monitor compliance with solid waste regulations and Metro Code, so that corrective actions can be implemented in a timely manner.
- Conduct 125 comprehensive inspections per inspector.
- Conduct full financial compliance reviews for at least 9 facilities.
- Investigate violations of licenses, agreements and flow control.
- Deter violations of Metro flow control requirements.
- Provide timely and appropriate enforcement at non-compliant solid waste facilities.

### Performance Measures (detail)

	Target/Actual FY 2003-04	Target/Actual FY 2004-05	Projected FY 2005-06	Target FY 2006-07
Number of Facility Inspections/Site Visits	392/369	400/404	380	380
<i>Reduction in FY 05-06 Target due to paternity leave of one inspector.</i>				
Percent of Formal Enforcement Action Upheld on Appeal to Hearings Officer	100%/No Appeals Filed	100%/No Appeals Filed	100%	100%

## Budget Summary

Line	Private Facility Regulation	FY 2005-06 Adopted	FY 2006-07 Proposed
<b>PROGRAM-SPECIFIC RESOURCES</b>			
1)	Enterprise		
2)	Dedicated Reserves		
3)	Miscellaneous	15,000	
4)	<b>TOTAL PROGRAM-SPECIFIC RESOURCES</b>	\$15,000	\$0
<b>PROGRAM OUTLAYS</b>			
5)	Personal Services	552,519	
6)	Materials & Services	66,929	
7)	Capital	0	
8)	Debt Service	0	
9)	Department Administration & Support	121,137	
10)	Direct Service Transfers	23,248	
11)	Central Service Transfers	234,195	
12)	<b>TOTAL PROGRAM OUTLAYS</b>	\$998,028	\$0
13)	<b>NET PROGRAM REVENUE / (COST)</b> <i>(program-specific resources minus outlays)</i>	<b>(\$983,028)</b>	\$0
<b>NON-PROGRAMMATIC RESOURCES</b>			
14)	Excise Tax	0	0
15)	Current Revenue (RSF)	948,012	
16)	Unrestricted Reserves	0	
17)	Allocated & Other	35,016	
18)	<b>TOTAL NON-PROGRAMMATIC RESOURCES</b>	\$983,028	\$0
19)	<b>Resource Spin-Off / (Resources Needed)</b> <i>(Line 13 minus Line 18)</i>	<b>\$0</b>	<b>\$0</b>
<b>FTE (direct program personnel only)</b>		<b>5.5</b>	