



**METRO**

## A G E N D A

MEETING: **REGIONAL SOLID WASTE ADVISORY COMMITTEE**  
DATE: Wednesday, September 20, 2000  
TIME: 8:30 a.m.—10:20 a.m.  
PLACE: Room 370, Metro Regional Center, 600 NE Grand Avenue, Portland

- I. **Call to Order and Announcements** *Ed Washington*
- 5 min. \*II. **Approval of the May 17 and June 1 minutes** *Ed Washington*
- 5 min. III. **REM Director's Update** *Terry Petersen*
- 20 min. \*IV. **SWAC Work Plan** *Terry Petersen/Doug Anderson*  
*A work session on upcoming agenda items for SWAC.*  
*Discussion, comments and recommendations for additional agenda items.*
- 15 min. \*V. **Organics Tip Fee** *Doug Anderson/Jennifer Erickson*  
*Information on a rate for "compostable organic waste" delivered to Metro Central or Metro South transfer stations. The Rate Review Committee has considered this issue and recommended approval to Metro Council.*
- 60 min. \*VI. **Facility Recovery Rates: "What Counts?"** *Doug Anderson/Bill Metzler*  
*The new minimum 25% recovery requirement for solid waste facilities takes effect October 1. REM has been asked to investigate whether the recovery rate for the Regional System Fee credit program is appropriate for the minimum requirement.* *Work session; no action requested*
- 5 min. VII. **Other Business and Adjourn** *Ed Washington*

\* Materials for items are included with this agenda.

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

Chair: Councilor Ed Washington (797-1546)  
Alternate Chair: Councilor Susan McLain (797-1553)  
Staff: Meg Lynch (797-1671) or Doug Anderson (797-1788)  
Committee Clerk: Connie Kinney (797-1643)

Agenda Item No. II  
**May 17, 2000 and June 1, 2000 Meeting Minutes**  
Solid Waste Advisory Committee  
Wednesday, September 20, 2000

## **Metro Solid Waste Advisory Committee (SWAC)**

### **Meeting Minutes**

Meeting, May 17, 2000

#### **Members / \*Alternates**

Councilor Ed Washington, Chair  
Ralph Gilbert, East County Recycling (disposal sites)  
David White, Oregon Refuse & Recycling Association (at-large haulers)  
Steve Schwab, Sunset Garbage Collection (Clackamas County haulers)  
John Lucini, SP Newsprint (recycling end users)  
Merle Irvine, Willamette Resources, Inc. (disposal sites)  
Tanya Schaefer, Multnomah County citizen  
JoAnn Herrigel, City of Milwaukie (Clackamas County cities)  
Susan Keil, City of Portland  
Dave Hamilton, Norris & Stevens (business ratepayers)  
Mike Misovetz, Clackamas County citizen  
Glenn Zimmerman, Wood Waste Reclamation (composters)  
Jeff Murray, Far West Fibers (recycling facilities)  
Sarah Jo Chaplen, City of Hillsboro (Washington County cities)  
Mike Leichner, Pride Disposal (Washington County haulers)  
Lynne Storz, Washington County  
Rick Winterhalter, Clackamas County  
\*Tam Driscoll, City of Gresham (East Multnomah County and cities)  
Mike Miller, Gresham Sanitary Service (Multnomah County haulers)  
\*Dean Kampfer, Waste Management (disposal sites)  
Tom Brewer, Tanasacres Nursey (business ratepayers)

#### **Non-voting Members Present**

Chris Taylor, Oregon Department of Environmental Quality  
Terry Petersen, REM  
Kathy Kiwala, Clark County, Washington  
Doug DeVries, STS

#### **Metro and Guests**

Councilor David Bragdon	Vicki Kolberg, REM
Councilor Rod Park	Tim Raphael, Celilo Group
Leann Linson, REM	Eric Merrill, Waste Connections
Doug Anderson, REM	Joe Wonderlick, Merina, McCoy & Co.
Meg Lynch, REM	Adam Winston, Waste Management, Inc.
Tom Chaimov, REM	Cherie Yasami, ASD
John Houser, Metro Council	Ray Phelps, Ray Phelps Consultants
Vince Gilbert, East County Recycling	Bill Metzler, REM
Easton Cross, Easton Cross Consulting	Tom Wyatt, Allied/BFI
Greg Nokes, The Oregonian	Michele Adams, REM
Doug Drennen, DCS	Roy Brower, REM
Steve Kraten, REM	Chuck Geyer, REM
Diana Godwin, Allied/BFI	Bob Hillier, REM

Loreen Mills, City of Tigard  
Jim Watkins, REM  
Kent Inman, Columbia Resource

Tom Imdieke, City of Tigard  
Dean Large, Columbia Resource

### **Call to Order and Announcements**

There were no announcements.

### **Approval of the Minutes**

A motion was made and seconded to approve the April 12<sup>th</sup> and April 19<sup>th</sup> minutes. The committee voted unanimously to approve both sets of minutes.

### **Director's Update**

Mr. Petersen asked Ms. Storz to provide a brief update on the recent court case in Washington County. Ms. Storz said Washington County and the City of Beaverton were the defendants in a lawsuit brought by AGG Enterprises on violation of the Commerce Clause and violation of the Equal Protection Clause. The trial began in early March; Judge Garr M. King, U.S. District Court, issued his opinion in early April. King found that the defendants were not in violation of the Commerce clause, so local government still has the ability to regulate; King did find that the defendants' ordinances were preempted by FAAAA. (No decision was made on the Equal Protection Clause.) King issued the permanent injunction in early May. Ms. Storz offered copies of the injunction (see Attachment A).

Ms. Storz said the court's decision preempts Washington County and the City of Beaverton from regulating "the price, route or service of the plaintiff in transporting source-separated loads of recyclable materials and mixed loads containing solid waste and recyclable materials for single-generator non-residential accounts to manufacturers, recycling facilities or materials recovery facilities (but not to a transfer station or landfill)."

Mr. Petersen said that there was also a ruling May 10<sup>th</sup> on the lawsuit that Waste Connections had brought against Metro, wherein Waste Connections argued that Metro acted illegally in restricting interstate commerce by preventing the flow of waste from the Portland area to Clark County. Metro argued that Metro was not in violation of the Commerce Clause and that Waste Connections had failed to demonstrate that it had actually been harmed. Judge Donald C. Ashmanskas found that Metro was not guilty. Mr. Petersen offered copies of the ruling (see Attachment B).

In other information, Metro is hosting a Hazardous Waste Conference May 21- 26 at Edgefield Manor in Troutdale. Training for hazardous waste employees will be provided, as well as information sessions on hazardous waste topics and issues.

Chair Washington briefly commented about an article regarding Metro enhancement funds that were not spent at the facility in Forest Grove.

### **Transfer Station Service Plan**

Mr. Anderson stated that he is asking for a recommendation from the SWAC on the concept and wording of a proposal, which would be forwarded to Council within the next month, for recommendations regarding the implementation of plans for new regional transfer stations.

Mr. Anderson said the ruling on the AGG case might have some effect on what Metro will do, with regard to the definition of Metro Regional and Local Transfer Stations (small and large transfer stations). He said the language of the permanent injunction says that if loads are hauled to a transfer station, they are not counted as property. Mr. Anderson asked the committee for a discussion about the implication of Metro proceeding forward with the regulatory scheme that labels solid waste facilities as "transfer stations," when in fact some of them may have some dry waste recovery components in them.

Mr. Anderson said the basic recommendations of the subcommittee are to:

- Change the framework of the Solid Waste Management Plan to allow Metro to consider authorizing new transfer stations.
- Require material recovery at transfer stations, which includes (a) establishing 25% recovery rate from dry waste, and (b) extending that minimum recovery rate to other solid waste facilities, including materials recovery facilities, and disallowing transfer to other facilities not under the 25% recovery umbrella.
- Require regional transfer stations to provide full service to the public, i.e., accepting all public customers, providing drop-site collection for recyclables and offer household hazardous waste collection.
- Distinguish among obligations and entry criteria for reloads, local transfer stations and regional transfer stations.
- Maintain existing recovery levels and increase efforts toward achieving state recovery goal.

Mr. Anderson said that if Council approves the above suggested language, REM staff will conduct research to allow enforcement, audit and inspection of the various types of facilities described.

Mr. Anderson asked the committee to discuss the five recommendations and vote whether it agreed or not to the concept or the draft wording of either the plan or the code.

*Recommendation No. 1. Allow Metro to authorize additional transfer stations.* The subcommittee concluded that the region as a whole still has enough capacity, but accessibility to transfer sites continues to be a problem. Reloads, primarily due to siting problems, are probably not a solution to the accessibility issue. Additional transfer stations would be okay if they provided a net benefit to the regional system. The commitment to materials recovery was reiterated.

Mr. Gilbert commented that Recommendation No. 1 should be moved to No. 5. Mr. White said the subcommittee suggested that if No. 1 did not go forward, the rest of the recommendations were a moot point.

Chair Washington asked for a show of hands to signify that everyone from the subcommittee is in agreement. Mr. Anderson asked if the show of hands could be deferred until all of the recommendations have been presented. Chair Washington agreed.

*Recommendation No. 2. Establish minimum recovery standards at transfer stations and materials recovery facilities.* Subcommittee members were concerned about the potential for existing MRFs to convert from recovery to disposal. Post-collection recovery in the region accounts for 10% regional recovery, the balance being source-separated or curbside recycling. The solution to the concern was to require, as an obligation of becoming a regional transfer station, 25% minimum recovery from dry waste handled by both local transfer stations and materials recovery facilities.

Mr. Vince Gilbert commented that the above language was severely limiting the admission of a “new” transfer station and allowing only an existing facility to become a regional transfer station. Mr. Anderson replied that because the accessibility problem is not being addressed by the current plan, we are saying let’s take this approach, not that reloads should not or will never happen.

Mr. Anderson asked for a show of hands as to acknowledgement of the concept for Recommendation No. 2.

Mr. Ralph Gilbert recommended that language be added to the code indicating enforcement and penalties for regional facilities not meeting the 25% minimum recovery. Mr. Anderson replied that this was a consideration currently being recommended under Recommendation No. 5, the details to be planned after Council approval.

Mr. White asked if the Metro facilities were still not required to meeting the 25% minimum recovery level, because they are disposal of last resort. He continued that since all regional transfer stations would be prohibited from rejecting any load, this may become a hardship. Mr. Anderson replied that the sense of the subcommittee was that other transfer stations would be vertically integrated (with collection) and could direct poor loads to Metro transfer stations.

Mr. Leichner said he understands Metro’s problems with regard to accepting any and all loads, but he believes that all facilities, including Metro facilities, should be required to meet the same criteria. He said we shouldn’t grandfather in some and not others.

Mr. Vince Gilbert said Metro Central and South should be grandfathered in, with regard to requiring the same level of recovery. If not, then you have the rulemaker and the police competing with you.

Mr. Ralph Gilbert said that as long as the Metro facilities are designed to handle garbage only, then grandfather them in. If the facilities are severely modified, then apply the same requirements to them.

Mr. Irvine said that he agrees with Mr. Vince Gilbert. He could see Metro as policeman/regulator competing with other facilities for materials.

Mr. Vince Gilbert said that we should grandfather Forest Grove in, too.

Mr. Kampfer commented that Metro Central is already recycling as much as possible; Metro South recycles as much as the facility accommodates, but the facility was not designed to do that, nor was Forest Grove. Grandfathering these facilities is the only answer.

Mr. Miller commented that he has reservations about grandfathering Metro facilities with regard to the 25% minimum recovery.

Mr. White said that he believed the subcommittee made a trade-off – removing the 50,000-ton cap delivered to transfer stations in exchange for a mandatory 25% recovery of materials passing through a facility. He said the benefit to the hauler is that they will have access to a closer transfer station so they will save in travel time and fuel. He said this is one solution that covers multiple goals, which may not be perfect, but it is a start.

Mr. Petersen added that Metro's goal is to try to meet the 25% recovery level at , and certainly Central is already towards that goal. He said the recovery is already at 7% of all waste.

Chair Washington said he believes he is hearing a majority of the committee agreeing to Recommendation No. 2, but Mr. Miller and Mr. Leichner do have some concerns that need to be looked into.

Mr. White said he would be comfortable with a yes vote with regard to Recommendation No. 2, with the proviso that we review the situation in a year. If the three regional transfer stations are not meeting the 25% recovery rate at that time, we ask why and how can they change things to meet that goal.

Chair Washington said he wanted a footnote to the Council asking that we come back and visit this issue in a year and see just where Metro's transfer stations stand with regard to the 25% minimum recovery to review that it is doing what it was designed to do.

Chair Washington stated that what was on the table was a proposal that all solid waste facilities have mandatory 25% recovery rate from the dry side, with the exception that Metro South and Metro Central not be explicitly subjected to that requirement and that Forest Grove be treated as Metro facility until its franchise is up for renewal (*in about 8 years*). A policy statement will accompany this mandate requiring a review of this plan after one year.

The committee, by a show of hands, agreed to this policy statement.

*Recommendation No.3. Require regional transfer stations to commit to providing full service to the public.* If Metro authorizes a franchise to exceed the 50,000-ton-cap, that facility will take all customers, accommodate hazardous waste collection (events run by Metro) and maintain a drop site for recycling.

A show of hands by the committee affirmed agreement with this recommendation.

*Recommendation No. 4. Distinguish among entry obligations and entry criteria for reloads, local transfer stations and regional transfer stations.* Because Metro Code does not directly address the responsibilities of large regional transfer facilities, the subcommittee recommended that Metro be very clear that at a certain scale, a level of regulations and obligations attach to the facility. A reload (as a vehicle-to-vehicle feeder to the regional system) is basically exempt from Metro regulation. A local transfer station, is limited to 50,000 tons or fewer per year disposal, and falls within the 25% mandatory recovery requirement. These local transfer stations are not required to, but may accept waste from the public. Regional transfer stations are full-service facilities, with no limits on disposal and with full public obligations (consistent at least with Metro Central and Metro South). The rules and regulations are to be set forth precisely and clearly in the Code.

Chair Washington asked why a "local transfer station" is required to meet the 25% mandatory recovery, since it is not written in the document, is it just understood?

Mr. Anderson directed Chair Washington to the language in the agenda packet material, on page 13, (c) . . . "In addition to the requirements of (a) in this subsection . . .," where you are directed to an asterisk reciting the requirement of a 25% mandatory recovery.

Mr. White observed that it looks to him as though the definitions have missed a multiple-hauler small facility, whose loads are reloaded and only go to a transfer station.

Mr. Anderson said he would try to place language in the definitions section that addresses that area. He committed staff to work with Mr. White and Tri-C to clarify the language.

With the exception of the question of whether a reload can be exempt and still have multiple haulers, SWAC agreed with Recommendation No. 4. The committee agreed.

*Recommendation No. 5. Maintain existing recovery and increase new recovery.* The subcommittee discussed the inclusion of oversight auditing inspection by Metro to ensure that obligations and responsibilities are being met. Language currently says if the Council passes these ordinances, Metro will work with the subcommittee to develop the necessary language for this action, pending authorization by the Council for the above four recommendations.

Mr. Anderson asked SWAC members to show their hands if that was an acceptable approach for Recommendation No. 5. SWAC agreed.

Mr. Anderson asked for a general recommendation (or motion) from the committee on the above-set of five recommendations coming from the subcommittee, incorporating the clarifications above made, as the committee just discussed them.

Mr. Winterhalter reminded the committee that we are defining transfer stations, which have a very distinct meaning potentially in the AGG permanent injunction language. REM staff needs to think through that implication, and that the subcommittee meet with regard to



Recommendation No. 4's language. This will be a parallel process with moving the recommendations.

Mr. Kampfer made a motion that the committee agree to the concept of the proposed recommendations, and the subcommittee will further define the four facility definitions as they have been discussed above. The motion was seconded by Mr. Winterhalter. The committee voted unanimously in favor of the motion.

Mr. Irvine requested that a special meeting of the SWAC be held immediately before the next Council meeting, because if the schedule for approval of the recommendations was followed, there would be no SWAC input before final approval by the Council on June 15<sup>th</sup>.

### **Excise tax**

Councilor Park stated that based on the input that was received, some technical amendments were made to the ordinance and he and Mr. Houser would like to present them to the Committee. He said the final draft is still forthcoming, which if approved today will be moved forward through the Council process.

Mr. Houser distributed the revised ordinance (Attachment C) and a memo describing amendments to the ordinance (Attachment D).

Chair Washington asked for five minutes to allow the committee members to read the proposed amendments.

The first amendment clarifies the allocation and use of any tax overcollection as a result of the change in the excise tax. There will be a three-part element to the allocation and use procedure: (1) Set the maximum account balance not to exceed 10% of total excise tax collections for the two most recent fiscal years. The account would be structured with the same kind of potential protection to Metro's General Fund that the Rate Stabilization Account provides to the Solid Waste Tip Fee. Expenditures from the account require Council Approval. (2) Any additional overcollections would be returned, as an additional excise tax credit, to facilities with 45% recovery. The total credit to a facility could not exceed the total amount of its total tax liability. (3) If there still remains an overcollection, those additional monies will be placed in the account created under Section 5 of the ordinance.

Mr. Murray commented that the committee had recommended that overcollection monies might be used for recycling-type programs within the agency.

Councilor Park commented that the amendment described was to eliminate any possibility of creating a perceived "slush fund" by the Council. He said mandating that any remaining monies be placed into the fund closes the loop, and ensures that any further spending of the fund would be brought before the Council in a public forum.

Mr. Murray replied that he was simply making the point that the committee had made a recommendation that any extra funds be used for additional recycling activities. Mr. Houser commented that Mr. Murray may not be aware that the Council, in review of next year's funding

for the REM department, recommended additional levels of funding for various kinds of recycling and waste reduction programs. He said that among those was a recommendation to give authorization to spend up to the full currently allocated amount in the Business Recycling Business Assistance Program for additional potential grants, raising that spending authorization from \$250,000 to \$500,000. An additional \$300,000 was included in the REM budget to fund a variety of pilot programs based on the initiatives that the organics, commercial and C&D work-groups proposed, thereby providing closer to a 100% funding level for those proposals. He said those were all taken out of existing solid waste resources, which were adequate to fund these programs. The Council also created an additional Senior Management Analyst position specifically for the purpose of working in the area of market development.

Councilor Park said if you have a "downfall", you need to have something on the General Fund side of the firewall to be able to backfill the shortfall, if it is on the solid waste side of the firewall, we can't convert those dollars into a general fund purpose without creating an excise tax first. That is why you have to have two funds on each side of the firewall in order to work within the procedures.

Mr. White said he understands the description for a) in the memo, and he also understands the need for b), but he seems to recall that SWAC had talked about an overcollection, using that as an offset against the next year's excise tax, which keeps Metro whole, but at some point, the people (customers) that are paying the "overage" in the excise tax, will get that money back. Sort of like the income tax credit, if you collect too much, you get some back.

Councilor Park said it would be a huge undertaking to try to predict how or when we will collect too much in excise tax. He said he viewed SWAC's job as being watchdogs to direct the Council to re-examine this. He believes it will take two or three years before we will need to look at it again.

There was continued discussion with regard to c) of the new amendment to the excise tax ordinance. Although SWAC basically agreed that the excess tax (if any) should stay within the purview of the "solid waste" finances, members were not in agreement with the way excess tax funds would be allocated. Among the suggestions were that excess funds should be spent to lower the next year's excise tax, used to enhance the credits returned to MRFs when they reach the upper levels of recycling, and used for additional recycling programs.

Councilor Park said he would like to be able to do all of the things the committee is suggesting, but since the future as yet is unpredictable, he is suggesting the committee try the ordinance as drafted for at least the next year and then re-evaluate the process. He would like to see where the economy is going to take it.

Mr. White said, that just for the record, it seems to him that what this ordinance fails to acknowledge the role of the generators or the haulers in achieving recovery, only the effort made by MRFs. He believes that haulers make choices every day working with their customers asking them to do some things that will reduce loads, or choosing to take a particular load to a particular facility that helps meet the goal. So when you say the excise tax is rolled into this fund and it goes into the facility, and it goes back into the fund, puts all our eggs into one basket. He stated

that he understands that it has an impact on the tip fee and it could drive the tip fee down. He said it implies that the generator is going to do a bad job, and there are a lot of generators who are trying really hard to recycle, and Mr. White knows his industry is trying really hard to recycle. You are putting on paper a policy that looks away from the efforts that others are making.

The testimony continued around the table with the same type of message.

Mr. Hamilton commented that Consumer Price Index adjustments have been mentioned on a couple of occasions and appear on the last page of the ordinance. He does not believe it is appropriate for an excise tax or any tax to have a CPI adjustment to it. He said the country has been lulled the past few years with very low single-digit increases in inflation, but he remembers a few years back (1980) when it was in the high double digits. He would prefer a set amount, say 3% every year, with a yearly or biannual review. He understands what the ordinance is trying to achieve, but disagrees with the ordinances built-in increases tied to the CPI.

Councilor Park replied that one of the reasons they are looking at the tax on a per-ton basis is to recognize that Metro is required by Charter to do certain things. And the Council is looking to stabilize the source for that particular fee, and at the same time, do as much as we can for recycling goals, so that the two are not in conflict. He said, as an example, if we stayed on a percentage basis and do all we can to recycle, we lessen the amount of money that Metro has available to accomplish its other Charter-mandated activities, thereby hurting our ability to accomplish those goals. Going to a set amount based upon the CPI, so that we wouldn't be "coming back to the pie," so to speak, would be our best course of action.

Chair Washington commented that his sense is that there are some overriding questions. The committee responded that was correct. Chair Washington suggested that a subcommittee of SWAC meet with Councilor Park, Mr. Houser, Mr. Petersen and himself within the next two to three days to discuss the concerns extensively and try to work them out.

Councilor Park commented that these philosophical differences are unlikely to be resolved in a separate meeting. He suggested that the committee work through the remainder of the recommendations and see if the group is comfortable enough with the package to move it ahead, recognizing that the transfer station part has to catch up with everything, and try to bring it all together. He said to Mr. White, with reference to the Council making a policy statement, that yes, Council is making a policy statement, but within the context of the rest of the RSWMP document. He said this is just one portion of how Council is dealing with it. He said we are trying to align our tax policy with what we are trying to accomplish so they are not in conflict. This is just a part of a greater portion of what we are trying to accomplish, and he said the real key is going to be recycling and the market development for those products.

Chair Washington requested the committee continue to go through the proposed ordinance.

Mr. Houser moved on to discuss Amendment No. 2. The current Metro Code provides an exemption for MRF facilities from collecting the Metro excise tax at the front door. The amendment would limit this exemption to only those types of facilities that would meet the

minimum qualifying standards for the excise tax credit in the proposed ordinance (facilities would have to reach a minimum dry waste recovery rate of 25% to qualify for the exemption).

Mr. Kampfer asked whether the excise tax was charged on the front or back door at a processing facility. Mr. Petersen answered that the excise tax, as he understands it, is a tax on users of solid waste facilities. He said Metro Code requires solid waste facilities to collect the tax from users on behalf of Metro; the exemption being discussed is one that is currently in place for facilities that do recovery, which are exempt from that requirement (i.e., their users are exempt). The facilities, however, become users when they take their residual to a landfill, where the excise tax is then collected. Therefore, the tax is collected on residual going out the back door.

Mr. Vince Gilbert stated that if a facility is recovering less than 25 percent, it's not a MRF, it's a transfer station.

Mr. Ralph Gilbert asked if, in the interest of moving ahead on the ordinance, SWAC members should show their hands.

Chair Washington asked SWAC members if they were comfortable with moving ahead. It was suggested that an extra SWAC meeting in the next two to three weeks would enable the excise tax issue to be more thoroughly discussed. Councilor Park and Chair Washington committed to such a special meeting of SWAC. The SWAC orientation session that had been planned to follow today's SWAC meeting will be postponed until a later date. The meeting was adjourned.

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**Metro Solid Waste Advisory Committee (SWAC)**  
Meeting Minutes  
Special Meeting, June 1, 2000

**Members / \*Alternates**

Councilor Ed Washington. Chair  
\*Dean Kampfer. Waste Management (disposal sites)  
Merle Irvine. Willamette Resources. Inc. (disposal sites)  
Ralph Gilbert. East County Recycling (disposal sites)  
Susan Keil. City of Portland  
John Lucini. SP Newsprint (recycling end users)  
Dave Hamilton. Norris & Stevens (business ratepayers)  
Sarah Jo Chaplen. City of Hillsboro (Washington County cities)  
Mike Leichner. Pride Disposal (Washington County haulers)  
Steve Schwab. Sunset Garbage Collection (Clackamas County haulers)  
Glenn Zimmerman. Wood Waste Reclamation (composters)  
Rick Winterhalter. Clackamas County  
Lynne Storz. Washington County  
David White. Oregon Refuse & Recycling Association (at-large haulers)  
Jeff Murray. Far West Fibers (recycling facilities)

**Non-voting Members Present**

Terry Petersen. REM

**Metro and Guests**

Councilor David Bragdon	Tim Raphael. Celilo Group
Councilor Rod Park	Cherie Yasami. ASD
Doug Anderson. REM	Tom Wyatt. BFI
Meg Lynch. REM	Dan Schooler. CRC
Tom Chaimov. REM	Jim Watkins. REM
John Houser. Metro Council	Roy Brower. REM
Easton Cross. Easton Cross Consulting	Leann Linson. REM
Greg Nokes. The Oregonian	Connie Kinney. REM
Doug Drennen. DCS	Estelle Mazurkiewicz. ASD
Steve Kraten. REM	Kent Inman. CRC
Jan O'Dell. REM	Pete Daly. RB Recycling. Inc.

Chair Washington opened the meeting by asking attendees to introduce themselves.

Chair Washington thanked the members of the SWAC for their attendance at this specially called meeting. He said the Council has been working diligently on revisions to the proposed ordinance in order to get a document that can be approved by SWAC and the Council. He then turned the meeting over to Councilor Park, who distributed the most recent version of the ordinance (*Attachment A*).

Councilor Park also thanked everyone for coming on such short notice. He said some revisions had been made to the ordinance since the SWAC met and discussed it at its May meeting. He wanted to make sure that everyone understood the technical pieces in the ordinance. He said there would be a hearing on the ordinance at the REM Committee meeting at 1:30 p.m. on June 7<sup>th</sup> and another on June 15<sup>th</sup> before the full Council. Councilor Park reviewed the basic goals the Council is trying to accomplish through the proposed ordinance: The same excise tax per ton of

garbage is paid by all citizens; additional recycling and recovery is encouraged and actually assisted; a simple method of calculating the annual tax rate is provided; and a tax credit for recycling facilities is established to encourage additional recycling.

Councilor Park asked committee members if they reviewed the draft ordinance and if they found the definitions clear and concise and did they understand how and when the tax is levied. Councilor Park pointed out that the tax on petroleum-contaminated soil (PCS) has been changed to a minimal amount. Councilor Park asked for comments from the committee.

Mr. White noted that the body of Section 7.01.020 talks about contract operator, and asked if that is Waste Management? He asked if we need to differentiate between “operator” and “contract operator”?

Mr. Fjordbeck agreed with Mr. White that a refinement should be included in the ordinance to define “contract operator.”

Ms. Godwin asked why the definition of Facility Retrieval Rate was removed, since that term is still used in the ordinance.

Mr. Fjordbeck replied this was an oversight, and the reference to facility retrieval rate should be removed in the new iteration of the ordinance.

There were no further questions with regard to the definitions section of the ordinance.

Mr. Chaimov was introduced and asked to explain how the excise tax rate of \$4.63 was determined. He said he would cover three items: how the new per-ton rate was calculated; why it is different from the previous estimates; and what the sensitivities are. Mr. Chaimov distributed a one-page handout (Attachment B).

Mr. Chaimov said the process would begin by taking FY 00-01 needs of \$5.7 million and dividing this by some tonnage base, in this case, 1,177,463 tons. He said the actual recovery rate of 43% can be used to infer the 1999 tonnage.

Ms. Keil questioned why there is a change in the excise tax figure on PCS. Mr. Chaimov replied that the Rate Review Committee recommended that the regional system fee portion for environmental cleanup be reduced by \$2.50 because it is perceived this will encourage the proper disposal of this waste.

Ms. Keil then asked why add back in other special waste, which was deducted above.

Mr. Chaimov replied that he was making an adjustment for aspirational recovery.

There was confusion on why the Metro tons were added back in and why Metro facilities did not pay the tax. Mr. Chaimov said Metro could not legally tax itself. Mr. Chaimov said that fundamentally, this is a tax on users.

Mr. Winterhalter asked if the calculation would be the same if we added regional transfer stations? Mr. Chaimov replied that he was not too familiar with the Service Plan, but it actually depended on whether or not they were subject to the 25% recovery minimum.

Mr. Petersen replied, trying to clear up the confusion, that although the new tax is not the easiest to explain and/or understand, basically the facilities were treated the same as they have always been treated insofar as the excise tax is concerned. The only difference is that the minimum recovery rate has been set at 25% on all facilities, other than Metro facilities, which have been exempted because they are the disposal of last resort.

Mr. White commented that the hauling industry is under the impression they are paying both at the front door and the back door; in other words, being "double" taxed. Mr. White said that he is being put in the position of defending or explaining a system that he is not sure he understands. On the one hand, he understands what is being taxed, and on the other hand, he is confused as to whom and when it is being taxed.

Mr. Kampfer asked where in the ordinance it explained about the concept of the 25% minimum recovery? Mr. Kampfer asked if staff were confident it was properly linked so that the reader was properly informed. Mr. Fjordbeck said he was comfortable with the way it was presented in this legislation.

Chair Washington asked Mr. Petersen to have staff develop some language to aid the reader as it involves the 25% minimum recovery.

The discussion turned to concerns about how the tax would affect Metro's facilities and whether or not the calculation actually used Metro's facility tonnage inappropriately. Mr. Winterhalter and Mr. White stated their apprehension about whether all players were treated equitably under the new taxing system. Mr. Winterhalter commented that equity would dictate that the Metro tons go back into the tax equation.

Chair Washington stated he wanted the record to reflect Mr. Winterhalter's concern on the equity issue.

Mr. Chaimov, continuing with his explanation of the tax computation, said the per-ton changed, not because the amount needed for the budget (\$5.7 million) changed, but because that \$5.7 million is distributed over a larger tonnage base.

Ms. Keil said the most troublesome part of the equation is the fact that actual tonnage figures (for each year) are not used, whereas local governments use actual tonnage figures to set rates.

Mr. Hamilton questioned why the idea of tying the rate to the Consumer Price Index was not abandoned. Mr. Hamilton said the way they are recommending to set the tax, policy and procedure are divided, without checks and balances. He said he doesn't believe that is appropriate and he doesn't think they are actually intending to do that. He believes the CPI process, left unchecked, should be more carefully looked at and there should be a cap.

Councilor Park said the Metro Charter places a cap of 10% on the total amount of excise tax that can be imposed. He said that Mr. Hamilton is concerned about an issue we don't have control of. He said that a CPI, depending on the growth rate, is less than if we were to convene and check every 6 months. We are putting on a cap as to what Metro needs in funds to fund the mandates listed in the Charter.

Chair Washington said Mr. Hamilton's concerns are so noted, and that perhaps they could go over the question in a later meeting.

Councilor Park stated he thought they had covered the relevant points in the ordinance that was of concern to the committee and asked if there were further discussion points.

Mr. White said that while they had covered the definitions, the body of the ordinance had not been discussed. Mr. White said it was of interest to him to know whether facilities outside the region that are taking in waste would be collecting the excise tax, and whether those recovering materials would be entitled to recovery credits, or whether that is limited to in-region facilities.

Mr. Petersen said that the Regional System Fee Credits apply only to those facilities within the Metro boundary. He said that it is important to remember that some of those facilities were not meeting the 25% minimum recovery level.

Mr. White said this appears to him to be another equity question.

Mr. Petersen said staff could look at that issue again.

Mr. White directed his next comment to Page 8, Section 6 (1) and said that he was under the impression that it was 10% of the amount under solid waste excise tax. He said this does not have a subsection (c), which is the amount of tax we are paying; it looks like the total tax paid by the zoo and the rest of the agency.

Mr. Fjordbeck said that is exactly what it says. Mr. Fjordbeck said they would look to amend that section and add a subsection (c).

Mr. Drennan (from the gallery) said he wanted to echo what Mr. White said about out-of-region facilities. He said he represents Lakeside, which it is required to collect the tax, but can't participate in the credit program, and they indeed do a lot of recovery. He would like this to be seriously looked at as an equity question.

Mr. Irvine, referring to Page 8, Section 6 asked if we have a definition or some criteria on how we will spend that money?

Councilor Park stated that the Rate Stabilization Account is set up to ensure that if Metro sees either a jump in the tonnage or a decrease in the tonnage, we have enough money in reserves to cover our expenses in dealing with that problem.



Chair Washington again stated the important dates for consideration and public hearing of the Ordinance: June 7, REM Committee; and June 15, full Council. He said he urged anyone having questions with regard to computing the excise tax to contact Mr. Chaimov. He said if they want to testify or submit a change, please contact Mr. Houser in the Council Office. He urged that changes to the ordinance be submitted before June 7<sup>th</sup> REM Committee meeting.

Ms. Godwin (from the gallery) asked if an amended ordinance would be sent out before June 7<sup>th</sup> REM Committee hearing? Mr. Fjordbeck said his office would endeavor to get an updated draft out quickly. He could not guarantee when it would be ready, but it will be before the REM Committee hearing.

Ms. Keil said it was her understanding that a 90-day advance notice must be made before a new rate could be made. Councilor Park said that was correct, but that the rate in the ordinance was not set to go into effect until December 1, 2000.

Ms. Keil suggested that with as much difficulty as the committee is having understanding the proposed ordinance perhaps more time should be spent in discussion. Ms. Keil also wondered if there was anything that could be done to simplify the ordinance.

Mr. Schwab agreed with Ms. Keil and commented he didn't understand why this was on such a fast track when it was such a complicated matter. He also agreed that the tax should be figured using actual tonnage figures from the previous year. He stated that Metro needs a contingency fund.

Councilor Park said he realized this is a very complicated issue, but due to the way our tax system is set up, the calculations would remain complicated. He said he hoped the committee would work with the Council in implementing this ordinance, and give it a year to see how it will work.

Mr. Irvine commented that he would like a document pointing out what parts of the ordinance are being changed, and what parts are staying the same.

Mr. Murray said he agreed with Mr. Schwab, that Metro needs a contingency fund for those times when extra revenue is needed, but he also agrees with Mr. Schwab that he doesn't believe a huge pool of money should be set aside with no stated purpose.

Mr. Gilbert said he would also like to see the equation simplified, and in fact would like to know the definition of the word "core" in Figure 3 on Mr. Chaimov's handout, because he has never seen an accounting acronym such as that.

Ms. Keil said that in defense of this review, she agrees with Councilor Park, that this ordinance and tax equation can be revisited in a year to see if it is successful and make changes or not as appropriate.

Chair Washington stated that a particular councilor cannot tie the hands of future councilors. He said that everyone's suggestions have been noted and will be addressed and asked if there were any further questions on the body of the ordinance.

Mr. Irvine said he would like a commitment from the Council that it will revisit a review of the tax equation at a future date.

Chair Washington said the Council can and will do that.

Mr. Hamilton asked whether a review date could be incorporated into the ordinance.

Chair Washington said it could and staff would work on language to be inserted in the ordinance. Chair Washington adjourned the meeting.

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Agenda Item No. IV  
**SWAC Work Plan**  
**Discussion Items**  
Solid Waste Advisory Committee  
Wednesday, September 20, 2000

Regional Solid Waste Advisory Committee  
SWAC Agenda through December 2000 and Beyond  
Discussion Draft

September 20, 2000

REM is seeking comment from SWAC and the REM Committee on agenda items for SWAC during the remainder of the fiscal year. The attached schedule contains a list of potential agenda items through December 2000.

REM is interested in comments on priorities for the agenda items below and whether they should be brought before SWAC; and also, other items that are not on the list, but should be brought to SWAC.

In the past, members of SWAC have made suggestions for topics that should be brought to the regional forum. Examples have included:

- (a) State-wide issues that affect the Metro region, such as changes in the state or wasteshed recovery goals;
- (b) Recent court decisions that impact the collection and recycling of solid waste;
- (c) Extended producer/product responsibility (EPR) in general; and recovery of electronics equipment in particular.
- (d) Status report on commingled curbside recycling.
- (e) Status report on St. Johns Landfill.

REM also intends to keep SWAC informed of additional projects and issues, through Director's updates and/or inclusion with the agenda packet. Examples include:

- Public unloading area at Metro South
- Maintenance of KFD landfill
- FY 2001-02 Metro tip fee
- Review of Metro reserve accounts
- Hazardous waste fee policies
- RFP for 10% of the region's waste
- Closure permit for St. Johns Landfill
- Transfer station franchise applications
- Organics facility regulation

Discussion Draft  
 SWAC Agenda, Through December 2000 and Beyond  
 September 20, 2000  
 Page 1 of 2

“Action” Key      I:      Informational update on the agenda. Typically includes discussion and SWAC comments.  
                           W:      Work session. Designed to generate discussion, comments and options.  
                           A:      Action item. Formal or informal vote by SWAC, typically a recommendation to REM or Metro Council

<u>Month</u>	<u>Item</u>	<u>Action</u>	<u>Summary</u>
September			
	1. SWAC Work Plan	W	Agenda items that Metro sees coming to SWAC through the end of the year, together with discussion, comments and recommendations for additional agenda items.
	2. Organics tip fee	I	Establishment of a fee for “compostable organic waste” delivered to Metro Central or Metro South stations. The Rate Review Committee has considered this issue and recommended approval to Metro Council
	3. Facility Recovery Rates: “What Counts?”	I	The new minimum 25% recovery requirements for solid waste facilities take effect October 1, 2000. REM has been asked to investigate whether the recovery rate for the Regional System Fee credit program is appropriate for the minimum requirement, or if any revisions are necessary.

Discussion Draft  
 SWAC Agenda, August—December 2000 and Beyond  
 September 20, 2000  
 Page 2 of 2

“Action” Key      I:      Informational update on the agenda. Typically includes discussion and SWAC comments.  
                           W:      Work session. Designed to generate discussion, comments and options.  
                           A:      Action item. Formal or informal vote by SWAC, typically a recommendation to REM or Metro Council

October

- |    |   |   |  |
|----|---|---|--|
| 1. | Market Development  | I | Status report on the new market development program, including criteria for the Recycling Business Assistance program of grants and loans.   |
| 2. | Consideration of the need and extent of Regional Solid Waste Plan amendments. | I | A status report on any amendments to the Regional Solid Waste Management Plan that are induced by the New Initiatives in Waste Reduction and other changes. Any ordinance would come back to SWAC at a later date. |
| 3. | Year 12 Waste Reduction Framework Plan  | I | Presentation of the draft framework plan for annual local government-Metro waste reduction programs. This presentation kicks off the public process.   |
| 4. | Metro regulatory code changes   | W | A review of Metro’s solid waste facility regulatory code in light of the authorization of new transfer stations and other changes in the solid waste system.   |

November

- |    |                                   |   |  |
|----|-----------------------------------|---|--|
| 1. | Metro regulatory code changes     | A | SWAC recommendation on an ordinance amending the Metro regulatory code.  |
| 2. | Business media campaign           | I | REM & local governments are developing ads and spots designed to generate calls for additional information and assistance from the new commercial waste reduction initiative           |
| 3. | Out-of-District Recycling Credits | I | REM has been asked to review a policy to extend Regional System Fee credits and excise tax credits to out-of-district recovery facilities that receive waste from the tri-county area. |

December

- |    |                                  |
|----|----------------------------------|
| 1. | Carryover items and/or new items |
| 2. |                                  |

Agenda Item No. V

**Organics Tip Fee**

**Information on a rate for "compostable organic waste"  
delivered to Metro Central and/or South Transfer Station**

Solid Waste Advisory Committee

Wednesday, September 20, 2006

**EXECUTIVE SUMMARY**  
**Ordinance No. 00-876**

**PROPOSED ACTION**

- Recommend that Metro Council pass Ordinance No. 00-876, which amends Metro Code Chapter 5.02 to establish a tip fee for “compostable organic waste” delivered to Metro Central or Metro South transfer stations.

**WHY NECESSARY/DESCRIPTION**

- Allows for a rate to be posted at the transfer station for such materials and allows them to be accepted and managed separately from other solid wastes.
- Helps to implement the Organic Waste Management Work Plan adopted by Metro Council as Resolution No. 99-2856, by increasing the region’s ability to accept, stage and recover such materials.

**ISSUES**

- In order for the transfer stations to fill a critical role in organic waste recovery, they must be able to accept source-separated organic waste from third party haulers.
- The Metro Code currently has provisions for special user charges for other Recoverable Solid Waste. Organic materials already covered by these provisions include yard debris and wood waste.
- An established tip fee for compostable organic materials is an important price signal for developers of organics collection and recovery infrastructure.
- The proposed changes to Metro Code simply allow REM to charge a different rate for compostable organic wastes, but do not change their status as “solid waste” for regulatory and legal purposes. For example, the Code changes do not establish a new class of “source-separated organics.”
- This Ordinance will allow REM to charge a reduced rate for “compostable organic waste” up to 3 years. The Budget Advisory Committee recommended that: (1) REM set a reduced rate up to 3 years, in order to allow the industry time to develop (or to signal that it won’t develop); (2) the reduced rate be based on costs that are expected to prevail after the industry becomes established. In this way, long-run price signals are not distorted, and the transition from a subsidized rate to an unsubsidized rate should be relatively smooth.

**BUDGET/FINANCIAL IMPACTS**

- None. The rate for Recoverable Solid Waste covers all Metro costs of managing such waste at the transfer stations. Any additional management, such as for processing, testing and marketing, are encompassed by the Organic Waste Management Work Plan. Both the Organics Plan and its budget have already been approved by Metro Council, so there is no additional fiscal impact.



## **STAFF REPORT**

**Ordinance No. 00-876**, For the purpose of amending Metro Code Chapter 5.02 to create a disposal charge for compostable organic waste at Metro transfer stations and making related changes to the Metro excise tax and Metro Code Chapter 7.01.

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September 7, 2000

Presenter: Terry Petersen

### **BRIEF DESCRIPTION OF ORDINANCE**

This Ordinance amends Metro Code Chapter 5.02 to establish a rate for organic wastes that are delivered in a form suitable for making compost. This allows a rate to be posted at the transfer station for such materials, and allows them to be accepted and managed separately from other solid wastes. This fact increases the region's capacity to accept, stage and recover such materials; an important goal of the Organic Waste Management Work Plan, adopted by Metro Council as Resolution No. 99-2856.

### **EXISTING LAW**

Establishment of a rate for compostable organic waste requires an amendment of Metro Code Chapter 5.02. Any amendment of Metro Code requires an ordinance approved by Metro Council, pursuant to Metro Charter section 39(1).

### **BACKGROUND**

In December 1999, a three-year Organic Waste Management Work Plan developed by an intergovernmental team was adopted by the Metro Council (Resolution No. 99-2856). This plan provides for a three-track approach to the recovery and diversion of the region's organic wastes. The plan emphasizes waste prevention, recovery of food for human use, diversion of food for animal feed and the development of processing infrastructure for organic materials not suitable for other uses.

Pilot projects for the collection and processing of organics and the development of infrastructure to handle such materials are key elements of the Organics Plan. The Metro transfer stations will play a critical role in the development of the region's ability to recover and manage organic wastes. In addition, Metro is developing a Request for Proposals (RFP) for disposal of 10% of the region's waste. The RFP includes provisions for commercial organics processing. The RFP incorporates the use of Metro transfer stations for staging, reloading and possibly on-site processing. A rate for organic material will be necessary to accommodate these activities.

In implementing the new Organics Plan, it becomes necessary to accept organic material from "third-party" haulers. This requires that Metro post a fee and manage organics separately from mixed solid waste at the transfer stations. The Metro Code currently has provisions for special user charges for Recoverable Solid Waste. Some organic wastes are already covered by these provisions; specifically, yard debris and wood waste. By including a definition and rate for "compostable organic waste," REM can establish fair and equitable rates for delivery to and

management of organic waste at Metro's transfer stations. The amendments in this ordinance were unanimously recommended for Council approval by the Rate Review Committee on July 12, 2000.

A cost-driven rate formula for compostable organic waste is proposed. This rate structure is patterned after the "recoverable solid waste" rate formula presently in Metro Code. The specifics of the ordinance incorporate recommendations from the Budget Advisory Committee. Among these recommendations are: (1) foregoing the Regional System Fee and Metro excise tax on "compostable organic waste" consistent with Metro's fee policies toward recoverable materials, and (2) provision for a temporarily-reduced organics rate to help get the collection and recovery infrastructure up and running.

This Ordinance will allow REM to charge a reduced rate for "compostable organic waste" up to 3 years in the event that a temporarily reduced rate is required to help develop an organics infrastructure. This recommendation emerged from the Budget Advisory Committee (BAC) in recognition of the fact that any cost-driven rate is likely to be higher than the MSW rate while the industry is still in its infancy. The BAC recommended against an artificially low subsidized rate, because this could distort the market, and would cause significant disruptions if the subsidy is ever eliminated. The BAC also recommended against a permanently subsidized rate, because this too distorts the market. The BAC recommendation that is implemented in the proposed Code revisions are: (1) REM may set a reduced rate up to 3 years, in order to allow the industry time to develop (or to signal that it won't develop); (2) the reduced rate is based on costs that are expected to prevail after the industry becomes established. In this way, long-run price signals are not distorted, and the transition from a subsidized rate to an unsubsidized rate should be relatively smooth.

## **BUDGET IMPACT**

### Budget Impact, FY 2000-01

*Solid Waste Revenue Fund.* No further budget impact. The Compostable Organic Waste Disposal Charge covers all Metro costs of managing such waste at the transfer stations. Any additional management, such as for processing, testing and marketing, are encompassed by the Organic Waste Management Work Plan. The dollar amount needed to subsidize a reduced Compostable Organic Waste Disposal Charge (pursuant to Section 2[d] of the ordinance), if any, is also covered by the budget for the organics work plan. Metro Council has already approved both the Organics Plan and its budget, so there is no additional fiscal impact.

*General Fund.* During FY 2000-01, REM expects most organic wastes to be delivered under a pilot project within the Organic Waste Management Work Plan. For these cases, there is no budget impact on the General Fund. If, however, any organic wastes are diverted from the non-exempt waste stream to compostable organic waste and delivered outside the pilot, then the excise tax revenue on the diverted tonnage would be foregone. However, REM believes that the probability of organic wastes delivered outside the pilot during FY 2000-01 is very remote; and even if such organic wastes are delivered, the amount would be small in any case.

Budget Impact after FY 2000—01

None. Metro does not lose revenues when anticipated amounts of recyclable, recoverable or compostable materials are exempted from the regional system fee or Metro excise tax. Rather, the fee and tax rates are raised, and revenue formerly derived from exempted materials is obtained from solid waste that continues to be disposed.

**EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends approval of Ordinance No. 00-876.

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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING ) METRO ORDINANCE NO. 00-876  
METRO CODE CHAPTER 5.02 TO )  
CREATE A DISPOSAL CHARGE FOR )  
COMPOSTABLE ORGANIC WASTE )  
AT METRO TRANSFER STATIONS )  
AND MAKING RELATED CHANGES ) Introduced by:  
TO THE METRO EXCISE TAX AND ) Executive Officer Mike Burton  
METRO CODE CHAPTER 7.01 )

WHEREAS, The Regional Solid Waste Management Plan identifies the recovery of organic materials as a primary area for focused and intensive waste reduction and recovery program initiatives; and

WHEREAS, The Metro Council approved an Organic Waste Management Work Plan in Resolution No. 99-2856; and

WHEREAS, Key elements of the Organic Waste Management Work Plan would be realized if compostable organic wastes could be accepted at Metro Central Transfer Station, separated from other municipal solid waste; and

WHEREAS, The delivery of compostable organic materials could be encouraged by a user charge for compostable organic materials that is separate and distinct from the charge for mixed solid waste; and

WHEREAS, Compostable organic materials could be kept separated from other municipal solid waste if delivered to Metro Central Transfer Station in a form suitable for recovery; and,

WHEREAS, The proposed changes presented in this Ordinance were brought before, and unanimously approved by the Rate Review Committee on July 12, 2000; and

WHEREAS, This ordinance was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.02.015 is amended as follows.

5.02.015 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Acceptable special wastes" means those special wastes that are approved for disposal at Metro South Station or Metro Central Station by the Metro Regional Environmental Management Department in the form of a special waste permit. Unacceptable waste, as defined in this section, is expressly excluded.

(b) "Cash account customer" means a person who pays cash for disposal of solid waste at Metro South Station or Metro Central Station.

(c) "Commercial customer" means a person primarily engaged in the business of collection or transportation of solid waste who is authorized by any federal, state or local government to perform such collection or transportation.

(d) "Compost" shall have the meaning set forth in Section 5.01.010 of this Chapter.

(e) "Compostable Organic Waste" means organic wastes delivered in a single transaction at Metro Central Station or at Metro South Station in a form suitable for making Compost, notwithstanding the presence of incidental amounts or types of non-compostable materials.

(fd) "Conditionally exempt generator (CEG)" means a Conditionally Exempt Small Quantity Generator as defined in 40 CFR 261.4 (b) (1).

(ge) "Credit account customer" means a person who pays for disposal of solid waste through a charge account at Metro South Station or Metro Central Station.

(hf) "Direct-haul disposal charge" means that fee which pays for the direct unit costs of disposal of solid waste under the disposal contract between Metro and Oregon Waste Systems, Inc. The Direct-haul Disposal Charge is levied on solid waste that is generated or originates within the Metro boundary and is delivered directly to Columbia Ridge Landfill under Metro's disposal contract with Oregon Waste Systems, Inc. by persons other than Metro. The Direct-haul Disposal Charge is equal to the disposal component of the Disposal Fee.

(ig) "Disposal fee" means those fees which pay the direct unit costs of transportation and disposal of general purpose solid waste. Major cost components are the long haul transport contract and the Oregon Waste Systems, Inc., disposal contract.

(jh) "Enhancement fees" means those fees collected in addition to general disposal rates that are used to pay for rehabilitation and enhancement projects in the areas immediately surrounding landfills and other solid waste facilities.

(ki) "Facility Retrieval Rate" means the percentage expressed by dividing the sum of all tonnage recovered at a solid waste facility, including all Source-Separated Recyclable Materials, by the sum of the tonnage recovered at such facility, including all Source-Separated Recyclable Materials, and the total solid waste destined for disposal from the facility.

(lj) "Household hazardous waste" means any discarded, useless or unwanted chemical, material substance or product that is or may be hazardous or toxic to the public or the environment and is generated by households which may include, but is not limited to, some cleaners, solvents, pesticides, and automotive and paint products.

(mk) "Limited purpose solid waste" means construction, demolition, process residue, land clearing waste and non-hazardous industrial dust.

(nl) "Metro Central Station" is the Metro solid waste transfer and recycling station located at 6161 NW 61st Avenue, Portland, Oregon 97210.

(om) "Metro disposal system" means Metro South Station, Metro Central Station, Columbia Ridge Landfill and such other facilities, or contracts for service with Metro which transfer or cause solid waste to be disposed at the Columbia Ridge Landfill or other disposal facility.

(pn) "Metro Facility Fee" means those fees which pay for direct management costs of the Metro disposal system and for capital items directly related to such facilities. This fee is imposed upon all solid waste delivered to Metro Central Station or the Metro South Station.

(qe) "Metro South Station" is the solid waste transfer station owned and operated by Metro and located at 2001 Washington, Oregon City, Oregon 97045.

(fp) "Metro waste management system" means all associated Metro solid waste services related to management of the whole recycling, processing and disposal system

(sq) "Non-commercial Customer" means a person who is not primarily engaged in the business of collection or transportation of solid waste and who is not authorized by any federal, state or local government to perform such collection or transportation.

(tr) "Person" means any individual, partnership, association, corporation, trust, firm, estate, joint venture or any other private entity or any public agency.

(us) "Processing Residual" means the non-putrescible solid waste destined for disposal which remains after recyclable materials have been removed from such non-putrescible solid waste.

(vt) "Recoverable Solid Waste" means wood waste, yard debris, or tires, whether Source-Separated or commingled, and delivered in a single transaction at Metro Central Station or at Metro South Station in a form suitable for mechanical extraction of useful materials, notwithstanding the presence of incidental amounts or types of other contaminants.

(wu) "Recovery Rate" means the percentage expressed by dividing the sum of tonnage recovered at a solid waste facility, excluding Source-Separate Recyclable Materials, by the sum of the tonnage recovered at such facility, excluding Source-Separate Recyclable Materials, plus the Processing Residual at such facility.

(xv) "Recyclable Material" has the meaning specified in ORS 459.005(19).

(yw) "Regional System Fee" means those fees which pay the cost of the Metro Waste Management System.

(zæ) "Regional transfer charge" means those fees which pay the direct unit operating costs of the Metro transfer stations. This fee is imposed upon all solid waste delivered to Metro disposal system facilities.

(aay) "Regional transfer station" is a transfer facility that accepts putrescible and non-putrescible wastes from a wide variety of commercial and public users; and includes as ancillary activities: collection of household and conditionally exempt generator hazardous waste, recycling drop center, and resource recovery.

(bbz) "Solid waste" means all putrescible and nonputrescible wastes, including garbage, rubbish, refuse, paper and cardboard, commercial, industrial, demolition and construction waste, home and industrial appliances.

(ccaa) "Solid Waste Disposal Transaction" means the usage of Metro transfer station disposal facilities by a customer for the purpose of delivering for disposal a single load of solid waste during a single visit from a single vehicle (whether or not accompanied by, or transporting, one or more trailers), and shall be determined to occur upon a customer's entrance to Metro transfer station facilities.

(ddb) "Source-Separate" has the meaning specified in ORS 459.005(26).

(eeee) "Special loads" means all loads of household hazardous waste that are 35 gallons or more in the aggregate or loads that contain any acutely hazardous waste.

(ffdd) "Special waste" means any waste (even though it may be part of a delivered load of waste) which one or more of the following categories describes:

- (1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 and 11 of this definition below.
- (2) Waste transported in a bulk tanker.
- (3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid (Method 9095, SW-846) test or includes 25 or more gallons of free liquid per load, whichever is more restrictive.
- (4) Containers (or drums) which once held commercial products or chemicals, unless the containers (or drums) are empty. A container is empty when:
  - (A) All wastes have been removed that can be removed using the practices commonly employed to remove materials from the type of container, e.g., pouring, pumping, crushing, or aspirating.
  - (B) One end has been removed (for containers in excess of 25 gallons); and
    - (i) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or
    - (ii) No more than 1 percent by weight of the total capacity of the container remains in the container (for containers up to 110 gallons); or



(iii) No more than 0.3 percent by weight of the total capacity of the container remains in the container for containers larger than 110 gallons.

(C) Containers that once held acutely hazardous wastes must be triple-rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers that once held substances regulated under the Federal Insecticide, Fungicide, and Rodenticide Act must be empty according to label instructions or triple-rinsed with an appropriate solvent or cleaned by an equivalent method. Plastic containers larger than five gallons that hold any regulated waste must be cut in half or punctured, and be dry and free of contamination to be accepted as refuse.

- (5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, Laundromats or car washes.
- (6) Waste from an industrial process.
- (7) Waste from a pollution control process.
- (8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition.
- (9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition.
- (10) Chemical-containing equipment removed from service (for example: filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical containing equipment).
- (11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4, but not empty containers so marked.
- (12) Any waste that requires extraordinary management or special handling.

Examples of special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste

water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or by-products.

- (13) All loads of household hazardous waste that are 35 gallons or more in the aggregate.
- (14) Radioactive waste.
- (15) Medical waste.

(ggee) "Transaction Charge" means that fee which, for each transaction, serves to pay for related scalehouse costs at the Metro transfer stations.

(hhff) "Transfer Facility" means a solid waste disposal facility that receives solid waste primarily for reloading into different vehicles for transport to Metro South Transfer Station, Metro Central Transfer Station, a Metro licensed or franchised facility, or a Metro Designated Facility.

(iigg) "Unacceptable waste" means waste that is either:

- (1) Prohibited from disposal at a sanitary landfill by state or federal law, regulation, rule, code, permit or permit condition;
- (2) Special waste without an approved special waste permit. The executive officer may deny a special waste application if the special waste poses an unacceptable health and safety risk, or is likely to damage transfer station equipment.

(jj) "Waste" shall have the meaning set forth in Section 5.01.010 of this Chapter.

Section 2. Section 3 is added to and made a part of Chapter 5.02.

Section 3. Disposal Charge for Compostable Organic Waste

(a) There is hereby established a Compostable Organic Waste Disposal Charge for Compostable Organic Waste that shall be collected on all Compostable Organic Waste accepted at the Metro South Station or Metro Central Station.

(b) The Compostable Organic Waste Disposal Charge shall be Metro's actual costs for managing Compostable Organic Waste, based on the contractual price expressed on a per-ton basis paid by Metro to any contract operator of Metro South Station and Metro Central Station for recovering and processing Compostable Organic Waste.

Contaminated by Hazardous Substances, and (iv) compostable organic waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in sub-section (d) by the amount of solid waste tonnage which the Executive Officer reports to the Council under sub-section (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be the district's excise tax rate on solid waste during the subsequent Metro fiscal year.

- (e) (2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.

(f) By December 1, 2000 and by March 1st of each year thereafter, the Executive Officer shall provide a written report to the Metro Council stating the following:

- (1) For the twelve-month period ending the previous December 31; the amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to section 7.01.050(a) of this chapter, and
- (2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if the Regional Recovery Rates corresponding to each calendar year set forth on the following schedule had been achieved:

Year	Regional Recovery Rate
1999	43%
2000	46%
2001	48%
2002	50%
2003	52%
2004	54%
2005	56%

The result of such calculation by the Executive Officer shall be used to determine the excise tax rate under sub-section (e)(1).

(g) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(e)(1) for disposal of Processing Residuals from such facility. The Facility Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. Such credit shall be dependent upon the

Facility Recovery Rate achieved by such facility and shall be equal to the amount resulting from reducing the Excise Tax due by the percentage reduction corresponding with the Facility Recovery Rates provided on the following table:

Facility Recovery Rate		Excise Tax Credit
From Above	Up To & Including	
0%	25%	0%
25%	30%	4%
30%	35%	10%
35%	40%	20%
40%	45%	33%
45%	100%	45%

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

Agenda Item No. VI  
**Facility Recovery Rates: "What Counts?"**  
Solid Waste Advisory Committee  
Wednesday, September 20, 2000

**Regional Solid Waste Advisory Committee**  
**Facility Recovery Rates: "What Counts?"**  
**September 20, 2000**

The purpose of this agenda item is to seek SWAC's advice calculating recovery rates at solid waste facilities.

By the end of this year, the recovery rate at solid waste facilities will serve at least four different purposes:

1. It is the basis for Regional System Fee credits from Metro.  
Solid waste facilities receive a reduced fee from Metro on their residual from processing solid waste, based on the rate of recovery at the facility.
2. It is a new regulatory requirement.  
Last June, when Metro Council amended Metro's facility code, they included a new requirement that all solid waste facilities within the Metro area achieve a minimum recovery of 25% from mixed dry waste and solid waste delivered by public customers. This requirement begins its phase-in period on October 1.
3. It is the basis for Metro excise tax credits.  
Beginning in December, solid waste facilities will receive a reduced Metro excise tax on processing residual, based on the rate of recovery at the facility.
4. It is a basis for local government license charges to haulers.  
Solid waste haulers in the city of Portland are charged a fee on the amount of solid waste they handle. Fees are not charged on a portion of waste delivered to a recovery facility, based on the average recovery rate at the facility. A similar option is currently being examined by other local governments.

Because so many regulations and dollars are affected by the recovery rate, it is important that there be a clear understanding of "what counts" in the calculation of the rate. Also, for simplicity, Metro wishes to calculate one rate, and have this rate serve all four purposes above. Metro seeks advice from SWAC on whether this is possible or practical.

On the following pages, Metro's current method for calculating facility recovery rates is outlined. At present, this rate is used only to calculate RSF credits (usage #1 above). REM seeks SWAC's advice on whether this rate is appropriate for all four uses or whether it should be modified.

The attached background will form the basis of the discussion at the September 20 SWAC. REM staff will provide additional information at the meeting.

## Regional System Fee Credit Program Background

### The Regional System Fee Credit Program

Two years ago, when Metro Council reduced the tip fee, they also implemented a variable rate schedule for the Regional System Fee (RSF). Solid waste facility operators are eligible for reduced Regional System Fees on processing residual, and the fee itself depends on the facility recovery rate.

The original purpose of the variable-rate RSF was to restore the per-ton operating margin between the two prices that Metro controls (the Metro tip fee and the Regional System Fee) to the level that prevailed when investment decisions on MRFs were made; and to:

- Accomplish this in a manner that also encourages material recovery.
- “Make whole” only in a targeted range of recovery (approximately 35—40%).
- Encourage additional recovery by making “more than whole” in the 45—50% range.

### Implementation

Examples of differential Regional System Fees that depend on recovery performance are:

<u>Recovery</u>	<u>Regional System Fee</u>
0%	\$12.90
30%	9.90
40%	4.90

Note: for administrative purposes, the differential rate is implemented by collecting the full RSF then crediting back a portion of the fee. Hence, the *Regional System Fee Credit Program* (RSFCP). For a RSF of \$12.90, the credits that produce the schedule above are:

<u>Recovery Rate</u>	<u>RSF Credit</u>	<u>Effective Regional System Fee</u>
0%	\$0.00	\$12.90
30%	\$3.00	9.90
40%	\$8.00	4.90

As shown by the example above, the RSF credits depend on the facility recovery rate. In particular, this rate is defined as follows:

$$\text{facility recovery rate}^* = \frac{\text{recovery from mixed dry waste}}{\text{recovery from mixed dry waste} + \text{residual}}$$

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\* The formula as administered contains several additional components, but these are primarily to correct measurement issues, and are eliminated here to avoid notational clutter.

## What Counts Toward “Recovery” in the Recovery Rate Formula?

Under the RSFCP:

- Recovery from mixed dry waste (such as construction & demolition materials) and industrial process wastes are counted toward recovery. Any remaining unrecoverable waste must be included in “residual” in the denominator of the recovery rate formula. Inert materials such as bricks and concrete also count toward recovery, if they are processed from mixed waste.
- Incoming loads of materials that are known to be 100% inert (i.e., acceptable at an inert landfill) are not counted as mixed dry waste, and any materials recovered from these loads are not counted toward the facility recovery rate for purposes of RSF credit calculations.
- Source-separated recyclable materials do not count toward recovery for purposes of RSF credit calculations. (However, an allowance for residual from processing of source-separated materials is provided in the calculation of the rate.)
- Materials used for beneficial purposes at a landfill, such as for alternative daily cover or temporary roadbeds do not count toward the facility recovery rate. (However, the RSF is not imposed on beneficial-use materials that are accepted by a landfill at no charge.)