



Meeting minutes

Meeting: Regional Waste Advisory Committee (RWAC) Meeting
Date: Thursday, July 16, 2020
Time: 8 a.m. to 10 a.m.
Place: Zoom meeting
Purpose: *The purpose of the Regional Waste Advisory Committee is to provide input on certain policies, programs, and projects that implement actions in the 2030 Regional Waste Plan, as well as to provide input on certain legislative and administrative actions that the Metro Council or Chief Operating Officer will consider related to implementation of the 2030 Regional Waste Plan.*

Members in Attendance:

Roy Brower, Metro
Joe Buck, Small business owner
Sharetta Butcher, North by Northeast Community Health Center (NxNE)
Marilou Carrera, Portland Resident
Thomas Egleston, Washington County
Alondra Flores Aviña, Student
Jill Kolek, City of Portland
Shannon Martin, City of Gresham
Christa McDermott, Community Environmental Services, PSU (PSU)
Audrey O'Brien, Oregon Department of Environmental Quality (DEQ)
Eben Polk, Clackamas County
Jenny Slepian, City of Lake Oswego
Beth Vargas Duncan, Oregon Refuse and Recycling Association (ORRA)

1. CALL TO ORDER & MEETING OVERVIEW

Roy Brower (Metro) brought the virtual meeting to order at 8:02 am.

2. CONSIDERATION OF RWAC MINUTES FOR June 18, 2020

Roy Brower noted that Theresa Koppang's name as a committee member needed to be removed and Thomas Egleston needed to be added to the June meeting minutes. With this edit, the June 2020 minutes were approved by the committee.

3. POTENTIAL RATE INCREASE

Mr. Brower presented an overview of what the solid waste rates are and what they fund. Mr. Brower noted a growing tension between the timing of the rate increases, the relationship of the rates to Metro's solid waste budget, the impact of Metro's rates on curbside rates, the timing of local government rate-making and industry. Metro has not had significant rate increases for about a decade (a dollar or two from time to time). For the past few years, rate adjustments have been done at the start of the fiscal year (July of each year).

Mr. Brower shared that the current rate is \$97.45/ton and increased by \$0.90/ton in July due to the excise tax. The proposed increase for October 2020 is an increase of \$8.85/ton. The reason Metro did not increase rates in July was due to the COVID-19 pandemic. There was reluctance to raise costs with the economic uncertainty. Tonnage has shifted from commercial to more residential since more people are working from home/staying home.

Metro has taken many budget reductions for both fiscal year (FY) 19-20 and FY 20-21. There are fewer tons currently, which is the first this has happened in some time. The rates are intended to cover essential services in operations, such as at the transfer stations, purchasing fuel, etc. which is \$45 million each year. Metro also runs regional programs such as partnerships with community groups, grants to local governments, regional programs like education, regulation and planning. These programs cost roughly \$36 million each year. The final area covered by the rates is general government which is covered by the excise tax and costs roughly \$18 million each year. This helps support general services of the agency: Council office, research center, finance, human resources, etc. The total needed is roughly \$99 million each year for all these costs.

Mr. Brower explained the different ways that rates are applied: Metro customers, all rate payers (disposed tonnage), and all transfer stations (incoming tons). Mr. Brower explained the solid waste reserve balance which currently has a reserve of \$53 million as of July 1, 2020. There are restricted funds of about \$10.6 million allocated for landfill closure and pollution remediation. The other assigned reserves are capital reserves (\$6 million), renewal & replacement (\$5 million), rate stabilization (\$3 million) and operating reserves (\$11 million).

Eben Polk (Clackamas County) asked a clarifying question about the projected July 2021 reserves which is \$36 million, meaning that there is an anticipated \$17 million in reserves that Metro anticipates spending.

Thomas Egleston (Washington County) asked for explanation about raised rates and how the pause on the rate increase from July to October is impacting the proposed rates. He wanted clarification on how Metro is making up for the rate increase freeze from July to October and whether that should be baked into an ongoing rate.

Brian Kennedy (Metro) explained that the financial model looks at a twelve month period of the costs the solid waste system will incur for both the transfer stations (tons received) and costs of regulation, education programs, etc. Next year, Metro doesn't look at the rate from the previous year, but rather uses the financial model each year to do an analysis to ensure Metro is not over collecting for that year.

Joe Buck (Small business owner) asked a clarifying question about the differentiation of all the rates. This transitioned to the next part of the presentation looking at the various components of the rates.

Mr. Brower noted that the recommendation is to increase the tonnage fees and the regional system fees. Tonnage fee is the charge on each ton of waste coming through the Metro facilities and covers the operation of the transfer stations (\$16 million), waste disposal (\$9 million), transport/fuel (\$13 million) and organics/compost (\$3 million). There is also an increase of \$4 million at Metro South Station due to new operating contract. The current recommendation is a \$5.10 increase to the tonnage charge (from \$64.41 to 69.51). The regional system fee is a charge on all tons regardless of where they are generated. The recommended increase is \$3.75/ton (from \$18.58 to \$22.33/ton). Mr. Brower also noted that there are fees collected for transactions at the transfer stations which may increase: increasing the transaction at the automatic scale from \$2 to \$2.50 per transaction and the staffed scale from \$10 to \$13 per transaction. Also being proposed is increasing the minimum load charge from \$28 to \$32 per load at the transfer stations.

Mr. Brower noted that there are three rates that won't increase: excise tax which increased in July, the DEQ fees which are set by the state, and enhancement fees (\$1.00/ton). The new total tip fee would be \$107.20 which is approximately a 9% increase. The impact on curbside rates is roughly \$0.57/month from \$32.55 to \$33.12 which is roughly 1.7% increase to rates at the curb. The

increase to the tonnage charge will cover a few new activities: \$4 million for operations at Metro South, \$1 million for traffic control at Metro South, and \$500,000 for the new R99 green fuel program. The regional system fee will cover \$3 million for Innovation & Investment grant program, \$9 million in capital for future facility sites, \$4 million for capital for the food processing equipment at Metro Central Station, and \$2 million in grants, partnerships, staff, and implementation of the Regional Waste Plan.

Beth Vargas Duncan (ORRA) asked for the slides and PowerPoint after the meeting. Notice of these rate increases has only just been shared with her members. The timing is enormous. ORRA members have already done their rate increase for the year and so these rate increases will have a big impact on haulers. She asked that Metro seriously consider moving these increases out further in time. She asked to be informed of who is the point person at Metro for this topic and wants updates on other future meetings, public comment periods, etc.

Mr. Brower said that Metro will lay out the process and future engagement on this.

Mr. Kennedy noted that Metro Council is on recess until September and this topic will most likely not go before Council until the end of September or early October.

Mr. Polk appreciated that there will be more opportunity to discuss this topic in the future. He also pointed out that private transfer stations can raise their rates like Metro, but they do not have the same investment costs that Metro has planned. He asked Metro to speak to that. He also asked for Metro to share what is now being postponed/cut due to budget cuts.

Mr. Brower shared that the increases to the budget were mostly tied to the implementation of the Regional Waste Plan: increases to grants, to community services, Investment & Innovation grant program, land purchase and design and build of new facilities, and general contractual services for education programs and equity program.

Mr. Buck echoed Beth Vargas Duncan's comments on the timing. It would be difficult for haulers to go to local governments without having this information about rate increases. He also asked about the audit to private transfer stations who charge more than the Metro rate and if an audit has occurred. He asked about Metro's auditor and if there is any current reporting available for the solid waste system.

Mr. Brower noted that the audit has not yet been done. It is a process with the local governments and the transfer stations to make the rates more transparent. The first step is to make the Metro rates more transparent, second is making the private transfer station rates more transparent based on publically available information, third is hiring a contractor/auditor to review the financial books, and the fourth step would be to regulate private transfer station rates. Mr. Brower shared that the Metro auditor is more of a performance auditor. For example: currently the auditor is looking at the service equity in the services Metro provides. Mr. Brower noted that Metro's auditor has a website and all the reports are publically available there.

Mr. Kennedy also noted that Metro is audited annually by an independent external auditor. Metro's internal auditor is an independent elected official. Metro cannot direct their audits. Metro can make requests of the auditor but it is up to the auditor to determine schedule and audit areas.

4. CODE VERSUS ADMINISTRATIVE RULE

Shane Abma (Metro) began his presentation with the definition of administrative rule: any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency. Code

language is adopted by ordinance with the Metro Council. Code is the policy and rules should not create or change policy. Rules provide more flexibility than code provisions to adapt to changing circumstances. Administrative rules are adopted by an agency, department, or director following rulemaking process in the code.

For Metro, Council has authorized the Chief Operating Officer (COO) to adopt rules. Metro code requires Metro to publish draft administrative rules for public comment for at least 30 days. After comment period ends, Metro's COO can either adopt, reject or modify the draft rules. If the COO wishes to substantially modify the draft rule, Metro must provide another 15-day comment period. Mr. Abma outlined what kind of notice Metro must give when considering a new rule. Temporary rules can be adopted in emergency situations and can only remain in effect for 180 days.

Mr. Abma noted that as a government body gets larger, it becomes cumbersome to have everything in code which is why larger governments utilize administrative rules. He shared that rules can be challenged after adoption and shared examples of how a rule can be challenged. He also noted that administrative rules have the same force as laws.

Mr. Egleston noted that Washington County also has both code and rules and thought that Metro could have more involvement not just in code but also with the rules and their adoption.

Mr. Abma responded that it is unusual for a governing body to be involved in rule making.

5. REGIONAL SERVICE STANDARDS PART III

Jennifer Erickson (Metro) recapped from the May and June meetings that with the adoption of the 2030 Regional Waste Plan in 2019, Metro Code and Administrative Rules need to be updated to reflect the new plan. Today's presentation covers the proposed changes to the Administrative Rules which is where the details reside. Since it is an administrative process, rules allow Metro to react more swiftly to changing conditions. Some existing Code chapters never had rules associated with them—all the detail was built into Code, making it hard to interpret and challenging to adjust as conditions changed.

The major changes to the single-family residential are in chapter 2000. This is one of the Code chapters that did not have associated rules so all of the detail was in a lengthy and confusing section of Code. Metro has taken that detail, updated it, and developed this new chapter of Rule. Metro used to have an arduous process for local governments to receive approval to deviate from the weekly recycling standard called the Alternative Program. This entailed local governments conducting sampling and studies to demonstrate that their alternative approach met the standard of weekly programs. This process was hard to manage and only some local governments complied with the requirement. Once approved, these programs had additional conditions such as providing an extra recycling cart to residents at no charge and providing additional education and outreach.

In 2015 Metro conducted a regional study that compared the performance of existing every-other-week (EOW) programs with weekly. In general, programs were on par with the exception of those that collected glass on a monthly basis. Based on that information, Metro eliminated the alternative program and all EOW programs in place as of 2019 are in compliance with the regional service standards. The only exception is monthly glass. As it stands now, these programs will need to shift to at least EOW glass collection to be in compliance. **Addition from Jennifer Erickson: Metro has removed this requirement from the rules since the July 2020 committee meeting.**

Since the Code was written, many jurisdictions have added food mixed with yard waste to residential service. Metro has updated the rules to include food as an optional service with a minimum of EOW collection. Metro also added stronger language to reinforce that property owners

have the responsibility of ensuring that garbage and recycling service is provided to renters occupying their properties.

Ms. Erickson shared that the most significant changes are ensuring that residents of multifamily communities receive better service. These minimums do not bring them on par with single family residential, but are a big step forward. The two key changes are the development of collection volume and frequency minimums and the development and implementation of container color standards and a regional decal so that are consistent throughout the region. These changes are a direct response to community input heard during the Regional Waste Plan development as well as a study to review service levels and needs at multifamily properties.

Sara Kirby (Metro) shared that Metro is proposing a seven year deadline for container color standard implementation. The seven year deadline was identified as the cost-effective timeline for a color standard implementation. It gives haulers, who all have equipment/bins of variable color, type and condition the most flexibility in meeting the requirement. It also takes advantage of the seven year equipment depreciation schedule already built into local government franchised commercial rates. Metro looked at a cost-neutral timeline which could vary from seven to over fifteen years depending on equipment variables. A phased approach resulted in higher, less consistent impacts year to year and a nine year deadline for full implementation.

Ms. Kirby noted that minimum service volumes should not result in additional costs. For franchised commercial areas most commercial rate structures already provide for an equivalent level of recycling service included as part of the garbage service rate (multifamily communities are considered commercial accounts). Annual rate reports submitted by franchised haulers to local governments show most commercial/business customers have a one to one ratio of collection service, but multifamily communities do not.

Ms. Erickson shared that minimal changes were made to the existing Business Service Standard rules. Metro combined all business sector requirements into one chapter and removed obsolete dates or requirements that were met years ago.

Due to the impacts of COVID 19, the initial implementation date requirement of the business food waste requirement will be delayed by one year (from March 2020 to March 2021). A temporary rule change was already issued by Metro's Chief Operating Officer to delay by 6 months, but we've decided to delay by a full year. Metro is getting that formal date change process underway immediately to give our partners ample time to adjust.

Ms. Erickson reminded the committee that a general education section has been added in Code to cover all of the basic outreach and education required to be provided to all customers (residential and business). This chapter also reiterates provision of outreach and education required under state law. As noted in the draft rules, Metro has removed the requirement for local governments to provide customers with information on the components of their garbage bill. After closer review of the Regional Waste Plan, this element was not intended to be put in Code and Rule, but to be part of cooperative agreements between Metro and Local Governments. This requirement is not going away, instead it will be implemented through a different mechanism. Metro will be developing guidance documents with partners to provide the detailed information needed to meet these new outreach standards. This includes working with community partners to provide more clear guidance and shared understanding of what comprises culturally-responsive outreach and education.

Ms. Erickson shared the next steps of the process. First, Metro will make any needed revisions to Rules based on this committee's feedback. These changes are also being presented to Metro's

Committee on Racial Equity (CORE) this evening and at their September meeting. Next will be public comment and additional stakeholder engagement with the goal of having the Code to Metro Council this winter and the Rules to the Chief Operating Officer at the same time.

Mr. Egleston commented that what he finds challenging to understand is that the plan is to freeze the ability of programs to adjust their recycling to EOW when there is proof that EOW recycling programs perform as well as weekly. He also noted that there should be a clarification about the verbiage that recycling and garbage should be picked up on the same day, and it should be clarified to say the same day of the week – since some services are weekly and some are EOW. He asked a question about yard debris and food and why there are different expectations depending on whether food is also being collected.

Ms. Erickson appreciated Mr. Egleston's comments and she plans to look back at the rules to clarify.

Jenny Slepian (City of Lake Oswego) noted that she is glad there will be a longer period for compliance swapping out carts. She has concerns about the cost associated with new carts and the impact on the rate. The cart question at multifamily is her biggest concern and supports more outreach to multifamily tenants.

Marilou Carrera (Portland resident) shared that she struggles with the documents that were shared. As someone not in the industry, she shared that the material feels inaccessible: who is a customer? What is a guidance document? Etc. She felt that if the language isn't accessible, then it is hard to have meaningful engagement with the public.

Alondra Flores Aviña asked about the enclosures.

Ms. Kirby shared that the work on enclosures is being moved to a future year but it is a key area to making that spaces safe and accessible. It is being moved a little further out in time due to the recent budget reductions.

Jill Kolek (City of Portland) was glad to see the rate transparency component removed and anticipates further conversation and work on this but is glad to see that it isn't being put into the code and rules.

Beth Vargas Duncan appreciated and echoed comments from Mr. Egleston and Ms. Slepian.

Christa McDermott (PSU) asked why compost and food waste collection at multifamily units isn't a part of minimum service standards. She thinks it should be and this is a noticeable absence.

CORRECTION (remove): In single family collection, why is food waste collection only optional and not required? CORRECTION (add): Food waste collection is available to many single family households and will be required for food service businesses, which use many of the same commercial haulers as multifamily buildings. She supports the EOW shifts to take trucks off the road. She notes that the education and training **CORRECTION (remove): can be expensive CORRECTION (add): puts the burden on end-users** and so she supports more uniform standards which could help **CORRECTION (remove): with educating the public CORRECTION (add): reduce that burden.**

Ms. Kirby shared that food waste isn't included currently and explained that the feedback from multifamily residents was that the bulky waste was really the unaddressed need in multifamily units, more so than food waste collection. The bulky waste collection will be coming up in the near future. Some jurisdictions, like Portland, have voluntary food scraps collection at multifamily which work well.

Ms. Erickson noted that Metro has left it to local governments to decide whether or not to collect food waste with yard debris.

Mr. Polk anticipates that Clackamas County will submit written comments at some point.

CORRECTION (remove for vagueness): He noted that the document with the track changes in the edited document wasn't comprehensive. CORRECTION (add for clarity): Regional service standards documents that were shared at this meeting don't reveal all the changes from current code/administrative rule to what is proposed. So meeting attendees/members of the public wouldn't be able to get a picture of how things will change. Yet there were some track changes indicated in the document, which would tend to create the impression that what was presented showed the proposed changes.

Sharetta Butcher (NxNE) shared that the documents were heavy with industry language and that it's important that Metro use local resources like the master recyclers to get the word out on some of this content.

Shannon Martin (City of Gresham) noted that Gresham supports all the changes in the code. He noted that all this work comes at a cost. It will be critical that Metro work with local government to make these changes successful. Unfortunately, the east county jurisdictions have limitations to food scraps collection due to the local processor's proximity to the airport in Troutdale, which presents some inequities. They are working with DEQ to look at options and benefits of further transport distances for this material.

Mr. Buck asked if the business composting requirements extend to schools. Metro team shared that they do.

There could be a disconnect between schools and homes if the waste collection requirements are different in schools and in homes. With regard to the roll carts, Mr. Buck asked about the environmental impact of throwing away roll carts throughout the region. His other question related to rate setting and if there is guidance from Metro to encourage and reward people financially for generating less waste and incentivize folks to use less.

Ms. Kirby shared that carts are lasting longer than anticipated. The carts can be recycled and are also made of 30% recycled materials.

Audrey O'Brien (DEQ) shared that DEQ has no comments on the rule language. She appreciated hearing all the committee's comments on how to make rule language and changes accessible to the public. She wants to continue looking at options for how DEQ can support Metro through this process.

Ms. Erickson shared that Metro will keep the committee informed on the engagements planned for the remainder of the year.

Mr. Egleston shared that COVID19 has brought to light the need for critical examination of budget and costs and that it is an opportunity for Metro and local jurisdictions to look at priorities and objectives and how that impacts the most vulnerable communities. Also that maybe we need to think about more creative structures to support those who can't afford rate increases and how to share/reduce that burden. Possibly looking at a tiered rate structure. Something to consider for the future.

Mr. Brower opened the topic up to members of the public.

Kristin Leichner (Pride Disposal) was curious about EOW programs and that they are comparable to weekly programs. Also, monthly glass impacts three programs/jurisdictions and asked if Metro was engaging those impacted by this possible change. She also asked about yard debris service which has a mixture of weekly and EOW programs and if Metro is asking those programs to shift to weekly. She noted with regard to the roll cart replacement: if the decision is to color code the carts and not just the lids, they would be forced to replace every recycling and yard debris cart which is approximately 65,000 carts. And she noted that they last much longer than seven years.

With that comment, the public comment period ended.

6. INNOVATION & INVESTMENT GRANT PROGRAM UPDATE

Suzanne Piluso (Metro) shared that Metro is in the third year of the pilot program. The program has been scaled back significantly: from up to \$6 million to up to \$500,000 due to budget cuts related to COVID19, and limited to the program grants of up to \$50,000 each. The good news is the smaller grants from the last two years have had pretty great impact on waste reduction. Eligibility will remain with nonprofit organizations and private businesses. Part of the evaluation process will be to look at projects that foster economic opportunities and generate benefits for people who have historically been left out or negatively impacted by the garbage and recycling system, particularly communities of color. Proposals will be due in September and final decisions will be made in December. Metro is eliminating the match requirement for nonprofits. There is still a 20% match requirement for private businesses. For disbursement of the grants, half of the funds will be disbursed upon the signing of the contract and Metro will be accelerating the fund distribution.

Mr. Martin asked if this I&I funds should focus on food waste reduction – specifically the partnership with the Oregon Food Bank.

Ms. Piluso noted that Metro is actually looking at this specific topic and if a portion of the funds should focus specifically on food waste reduction.

MEETING AJOURNED at 10 a.m.

Next meeting

August 20, 2020 8:00 am – 10:00 am (virtual meeting)

Eben: administrative rule/code changes: looking at the docs – didn't show what the changes were
Christa McDermott emailed edit