

CHAPTER 5.08

ADMINISTRATIVE RULEMAKING AUTHORITY FOR TITLE V

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5.08.010 Purpose

The purpose of this chapter is to set forth consistent, transparent and objective procedures for adopting administrative rules that further implement the obligations and requirements of Metro Code Title V.

5.08.020 Chief Operating Officer May Adopt Rules

The Chief Operating Officer may adopt or amend rules to implement any provision of Title V (Solid Waste). Any rule adopted or amended under this chapter has the same force and effect as any other chapter provision in Title V.

5.08.030 Public Comment Opportunity Required

Before the Chief Operating Officer adopts or amends a rule, the Chief Operating Officer must provide an opportunity for written public comment for a period of at least 30 days. The Chief Operating Officer will provide notice of the public comment period in a manner reasonably calculated to reach interested parties. The notice will include a brief description of the proposed rule; the location at which a person may obtain a copy of the full text of the proposed rule; the method for submitting public comments; and the deadline for submitting public comments.

5.08.040 Oral Hearing; Requirements

- (a) In addition to written public comments, the Chief Operating Officer will also hold an oral hearing on any proposed rule or amendment to an existing rule during the written comment period. Metro will give notice of and schedule the oral hearing at the same time that it makes available the proposed rules, provided that the oral hearing cannot be scheduled less than 10 days from the notice date. The notice will include the time,

place, and purpose of the oral hearing, a brief description of the proposed rule, and the location at which a person may obtain copies of the full text of the proposed rule.

- (b) During the oral hearing, the Chief Operating Officer will receive any offered written or oral testimony regarding the proposed rule, in addition to any written comments received during the written public comment period.

5.08.050 Adoption of Administrative Rules

- (a) After the written public comment period is closed, the Chief Operating Officer may adopt the rule as originally proposed, adopt a modified version of the proposed rule, or reject the proposed rule.
- (b) If the Chief Operating Officer intends to adopt a substantially modified version of the proposed rule, the Chief Operating Officer must provide a notice of opportunity to comment on the proposed modifications along with a copy of the text of the new proposed changes to each person who has provided contact information and has either submitted written comments on the proposal, testified at the oral hearing, or asked to receive a notice of proposed modifications. Metro must also post the notice on its website. The public has 15 days from the notification date to provide written comment on the proposed modifications, but no further public hearing is required. After the 15-day comment period ends, the Chief Operating Officer may adopt the proposed rule.

5.08.060 Effective Date of Administrative Rules

- (a) Any rule adopted under this chapter takes effect 30 days after the Chief Operating Officer adopts it, unless the Chief Operating Officer specifies a later effective date.
- (b) Notwithstanding Sections 5.08.030 (Public Comment) and 5.08.040 (Oral Hearing), the Chief Operating Officer may adopt a temporary rule without prior public notice, written comment or hearing upon a written finding that a failure to act promptly will result in serious prejudice to the public interest or the interest of an affected party. The Chief Operating Officer must include the specific reasons for the serious prejudice. Any rule adopted pursuant to this subsection expires no later than 180 days from its effective date.

5.08.070 Agency-wide Rulemaking Procedures Supersede this Chapter

If the Metro Council establishes rulemaking procedures that are applicable agency-wide, then the rulemaking procedures set forth in this chapter are superseded by the agency-wide procedures.

5.08.080 Writ of Review; Final Decision

For purposes of ORS 34.020, any rule adopted by the Chief Operating Officer under this chapter is considered a final decision.

5.08.090 Prior Rules, Performance Standards and Forms Remain in Effect

Any form, performance standard, or administrative rule (formerly known as an “administrative procedure”) that is in effect on the date when this chapter is adopted continues to remain in effect unless otherwise repealed or amended.

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