

Summary of Proposed Housekeeping and Other Revisions to Metro Code Chapter 5.02

July 26, 2019

In an ongoing effort to make Metro's solid waste code (Metro Code Title V) easier to read and understand, Metro staff is seeking to revise and improve Metro Code Chapter 5.02 with updates and housekeeping changes.

Why Housekeeping Changes to Chapter 5.02 are Needed

The current Metro Code Chapter 5.02 (*Disposal Charges and User Fees*) sets forth Metro's transfer station rates as well as the regional system fee. The chapter is confusing because it blends the regional system fee (which is for the use of the region's waste system and is assessed at the time of disposal) with Metro's own transfer station fees (which are only applicable to Metro's customers). It is likewise confusing because it uses the terms "user fees," "fees," "charges," "surcharges," and "rates" somewhat interchangeably.

To provide more clarity regarding the relationship between the regional system fee and Metro's own transfer station fees, Metro staff proposes to separate Chapter 5.02 into the following new chapters:

- 1) Chapter 5.02 (*Regional System Fee*) will continue to govern the regional system fee.
- 2) Chapter 5.03 (*Solid Waste Fees at Metro Transfer Stations*) will govern Metro's own transfer station fees.
- 3) Chapter 5.08 (*Administrative rulemaking Authority for Title V*) will govern Metro's administrative rulemaking process for the solid waste code.

In addition to the proposed new chapters and revisions described above, some current code sections would be transferred into administrative rules to allow Metro to more quickly address changing market conditions when those conditions may affect the circumstances applicable to those fees. The proposed administrative rules would be posted for public comment and an oral hearing if the Metro Council were to adopt the proposed changes to Chapter 5.02.

Finally, the proposed changes also include revisions to a few definitions in Chapter 5.00 for clarification and to reflect the changes in Chapter 5.02.

Tracking the Changes to Chapter 5.02

There are several reasons why it is difficult to show all the housekeeping changes in a "tracked changes" document. First, a substantial amount of text has been moved to new Chapters 5.03 and 5.08 and into administrative rules. Second, some current chapter sections have been moved and renumbered within the chapter to establish a more logical flow. Third, some exceptionally lengthy sections that address many topics under one heading have been split into shorter sections with more descriptive headings to assist the reader.

Rather than attaching a "tracked changes" document, the following summary describes the housekeeping changes.

Housekeeping Changes to Chapter 5.02

- General language updates to remove legalese, passive voice, nominalizations and lengthy sentences.
- Split the current Chapter 5.02 (*Disposal Charges and User Fees*) into separate chapters to clarify that the regional system fee applies to *all users* of the regional waste system, whereas Metro's disposal fees apply *only* at Metro's own transfer stations (Metro Central and Metro South).
 - The current Chapter 5.02 has been renamed *Regional System Fee* and it only governs the regional system fee.
 - A new Chapter 5.03 has been created to only govern fees applicable to Metro South and Metro Central customers (*Solid Waste Fees at Metro Stations*).
- Move all administrative rulemaking procedures to a new Chapter 5.08 (*Administrative rulemaking Authority for Title V*) that will govern the administrative rule process for the entire solid waste code.
- Authorize Metro's Chief Operating Officer to establish additional fees when necessary for a new waste stream or when emergency circumstances exist, provided that any such fee is effective for no more than 120 days unless the Council affirms or modifies it.
- Certain lengthy code sections have been split into shorter, separate sections for ease of reading. For example, rather than have one lengthy code section with the general heading "Regional System Fees," that section has been split into several discrete parts with more descriptive headings:
 - *Regional System Fee Requirement*
 - *Regional System Fee Applied to Mixed Waste Loads*
 - *Exceptions to Regional System Fee*
 - *Regional System Fee on Cleanup Material*
 - *Special Exemptions and Waivers from Regional System Fee*
 - *Collection and Payment of Regional System Fee*
 - *Due Date of Regional System Fee*
- Establish the uniform term "fee" to describe all of Metro's fees, user fees, charges, surcharges and rates. At times the current code language interchangeably uses the terms "user fee," "charge," "surcharge," "fee" and "rate" to mean the same thing. The use of these different but somewhat similar terms is confusing.
- Some code sections that are applicable to certain Metro Station fees have been moved to administrative rules so that Metro can be more nimble in establishing the circumstances for when these fees should apply. These include:
 - Litter Control Fee
 - Household Hazardous Waste Management Fee
 - Recoverable Solid Waste Fee
 - Special Waste Fee
 - Christmas Tree Fee
- Remove the vague term "user fee" and replaced it with "regional system fee" to more accurately reflect the nature of the fee. Although the current Chapter 5.02 is entitled *Disposal Charges and User Fees*, the term "user fee" is used only once in the chapter and that term has

been replaced with the term “regional system fee” for many years. Thus, the “user fee” terminology is confusing.

- Remove specific dollar amounts in Code and instead publish a “Fee Schedule” with all fees listed.
- Remove the requirement that Metro fees and the regional system fee be set by ordinance. Council can now establish these amounts by resolution and they can take effect 30 days after adoption. This avoids the need to wait 90 days for rates to take effect and allows the Metro Council to be more responsive to changing market conditions that may require modified or new rates.
- Remove code sections that are no longer applicable. For example, the “Direct Haul Disposal Charge” was designed to reimburse Metro when someone delivered waste directly to Columbia Ridge Landfill, because that delivery charge was initially placed on Metro’s disposal contract account. Metro would then seek repayment from the hauler. This code section is no longer necessary with Metro’s new disposal contract because that contract does not mandate the use of Columbia Ridge Landfill by private parties.
- Move the “Account Policies at Metro Transfer Stations” code section into administrative rule to better reflect that *internal* account policies for Metro’s transfer stations should not be housed in the Metro Code.
- Remove the requirement that Metro Council review its rate setting criteria every *three* years to instead allow the Council to review its criteria at any time it deems prudent.

Definition Changes in Chapter 5.00

The following definitions were updated to conform with changes made to Chapter 5.02 (and the new Chapter 5.03):

- Revise the definitions for the terms “rate” and “regional system fee” for clarification and consistency with Metro Code chapters.
- Shorten the term “solid waste disposal transaction” to “transaction.”
- Change the term “transaction charge” to “transaction fee.”

What Has Not Changed

Importantly, there are no major procedural changes as to how the fees are set and reviewed. The Metro Chief Operating Officer will still establish provisional fees that must be reviewed by an independent expert to ensure they comply with Council’s stated fee criteria and rate-setting policies. The independent expert reviewer will still be required to submit a written report documenting the expert’s findings.

The Metro Council will still establish the regional system fee and Metro’s transfer station disposal fees each year based on the Chief Operating Officer’s recommendations and the independent expert’s report.

Additionally, the housekeeping changes do not affect any current regional system fee and excise tax exemptions for solid waste. Further, the proposed changes do not affect any aspect of the solid waste excise tax or the community enhancement fee, both of which are governed by separate Code chapters.