

PUBLIC COMMENTS ON METRO ADMINISTRATIVE RULES FOR 2022 WET WASTE TONNAGE ALLOCATIONS

Public comments on Metro Administrative rules for Wet Waste Tonnage Allocations were received by email and online between May 13 and June 11, 2021, and at an Oral Hearing on June 9, 2021.

The following table lists the commenter, medium, and date when each public comment was received:

Commenter	Medium	Receipt Date
Pride Recycling	Email	June 8, 2021
Republic Services	Oral hearing and email	June 9 (hearing) and June 10 (email), 2021
City of Portland	Email	June 10, 2021
Washington County	Email	June 11, 2021
City of Hillsboro	Online (web-based form)	June 11, 2021
City of Wilsonville	Email	June 11, 2021

Below is a summary of these comments by commenter **in bold font** as well as Metro responses to those comments *in italicized font*.

Many of the public comments received contained questions. Answers to these and other questions can be found in the Responses to Questions document posted on the [Metro Tonnage Allocations Public Notice web page](#). This document will be updated regularly as new questions are received. Staff are available individually to discuss and clarify answers.

Industry

Public comments from two transfer station operators, Pride Recycling and Republic Services, were received, one in written form and one in both oral testimony and written form. Each is an in-region transfer station eligible to apply for goals-based wet waste tonnage. The following comments were made in both statements:

1. A suggestion that Metro consider total compensation in the wages criteria.

Metro response:

Staff recognize the narrower scope of hourly wage measures and are pursuing total compensation measures for this goal in the future. Using total compensation would require additional time to implement as it necessitates additional data, engagement, and coordination with related programs to define a clear, consistent criterion that will result in the desired outcome. Compensation such as bonus pay outside of hourly wage is less systematic and does not ensure consistent and racially equitable compensation.

In order to implement this goal in 2021 and 2022 per Council's direction, the proposed rules use an hourly wage approach that is consistent with Metro's DEI team recommendations, Metro's work in the construction sector, and federal and state minimum hourly wage law. Staff suggest that implementing a minimum hourly wage for this criterion is a small but symbolic first step in committing to and advancing the Regional Waste Plan's compensation-related goals.

2. A suggestion not to make major changes to goals on a short timeline, particularly those that involve equipment, to give transfer stations more time to plan their capital investments and operations.

Metro response:

Metro recognizes that implementing the goals-based approach beginning mid-year 2021 as directed by Council creates time pressure that may be challenging for those criteria that may need longer-term investment decisions. Staff worked to mitigate those challenges by designing criteria that were achievable in the initial 2021 goals-based allocations. Because the criteria must also advance goals meaningfully, the 2021 criteria are not sufficient to stand for a longer term and, for the 2022 plan, staff advanced select criteria for two goals.

The environmental (equipment-focused) goal referenced in the comment can be met by implementing one of three options, the first of which has not changed from 2021 – that is the option to use R99/alternative diesel for long haul transport. This option requires no modifications to engines or equipment. The other two options changed from the 2021 plan to the 2022 plan by increasing in the minimum amount of on-site equipment that either utilizes low emissions fuel or engine technology.

Staff are committed to working toward a 2- to 3-year horizon for setting criteria and establishing allocations in the future.

3. A suggestion that Metro return to the 2021 version of the Goal 14: Affordable Rates criterion by allowing stations to charge up to 5 percent above Metro's rates in 2022 to allow for financial challenges unique to private transfer stations including taxes, diseconomies of scale, and private sources of capital funding. Additionally, both facilities' letters stated that some of Metro's services such as Household Hazardous Waste (HHW) and self-haul are funded separately and should not be used to justify wet waste tonnage at Metro stations or appropriate commercial tip fees at private transfer stations.

Metro response:

These and other comments in this vein are often based on generalizations, and certain assumptions are not valid. Metro is committed to fiscal transparency and clarity in its rates and funding mechanisms by offering the following details:

- a. Metro's rates increased by 17 percent on July 1, 2021, and, based on historical patterns, staff expect that some or all private transfer stations will mirror that increase. The Metro rate increase provides room for private transfer stations to increase their rates to cover costs that may stem from changes in the tonnage allocation methodology.*
- b. Metro acknowledges differences between private and public transfer stations' costs and services, but these differences do not constitute a demonstration of burden in meeting Metro's rates. The net impacts of these differences depend upon unique characteristics of the station and services provided, and private transfer stations have not shared this information. Metro's understanding of private transfer station costs is limited to publicly available information, estimates, and models, **not** verified data.*
- c. Metro stations are not guaranteed tonnage; by Code, Metro allocates up to 60 percent of the forecast tons to private transfer stations. If actual tonnage is less than the forecast or if private facilities receive more than their original allocation, Metro may receive less than 40 percent of the regional tonnage.*
- d. Metro funds its public solid waste facility services and regional programs through a combination of service revenues and the Regional System Fee (RSF).*

Metro generally sets:

- self-haul rates to cover direct program costs,*
- solid waste disposal rates to cover facility operations costs, and*
- the RSF to cover regional programs and services costs including Household Hazardous Waste (HHW),*

but is not required to fund these independently. Metro does not use Excise Tax revenue to fund solid waste programs and services except by Council action.

- e. Affordable self-haul and HHW are valuable public services not offered elsewhere. (HHW depots are required by ORS 459.413 to be operated by Metro.) These services are co-located at the Metro transfer stations as a public convenience and therefore share certain costs with waste transfer operations such as site-level capital investment, traffic control for mixed commercial and private customers, and site maintenance. Providing public services in the transfer station requires greater investment in staff time, traffic management, equipment, and maintenance to effectively manage waste and ensure the*

safety of staff and customers. In this way, commercial tonnage received at Metro stations generates revenue which supports the provision of co-located self-haul and HHW services.

- f. Metro offers the opportunity to apply for goals-based tonnage where transfer stations find that it makes financial sense to do so but does not require that transfer stations meet goals-based criteria to receive an annual base allocation.*
- g. Comments received from multiple local government agencies support the removal of the 5% tolerance above Metro's rate for the 2022 goals, citing concerns about rising costs to ratepayers, and the lack of oversight and transparency of private transfer rates.*

For these reasons, the proposed 2022 criterion remains benchmarked to Metro's July 1, 2021, rate as the maximum.

In addition, the Republic letter stated:

- 4. That Metro is not transparent about its wages, subsidizes public transfer station wages, and is basing its criterion on an equivalency to contracted work in which the provider is guaranteed a specific return.**

Metro response:

Metro has been transparent about the wages paid at its transfer stations. The lowest wage is currently \$17.50 per hour, which is the amount set in the related 2021 goals-based criterion for tonnage allocations to the private stations. Metro issued separate Requests for Proposals to operate Metro Central and Metro South, and then negotiated contracts with Recology, the top-ranked respondent to each RFP. Under the contracts, Metro's payments to Recology cover the negotiated costs of operation, including labor. After signing the contract, Metro determined that, all employees, whether Metro or Recology, should be compensated at a base wage of at least \$17.50 per hour in order to retain staff and begin advancing the racial and workforce equity goals in the Regional Waste Plan for front-line essential employees. As those higher costs had not been built into the negotiated contract, Metro agreed to increase its payments to Recology to cover those costs. Adjusting multi-year contracts to address new circumstances and increasing wages to keep up with the cost of living are common business practices.

Metro's criterion is not based on an equivalency or any assumptions about comparative costs and returns. Metro is proposing that, in absence of information about the impacts of increasing or redistributing salaries to pay all facility employees a minimum of \$17.50 per hour, this wage is a reasonable minimum hourly wage as an initial action to support RWP goals.

5. Four outstanding questions related to Metro’s own accountability, knowledge of private facility financial information, and previous studies.

Answers to Metro actions and criteria accountability questions have been provided in public forums and are addressed in the current Responses to Questions document available on the [Metro Tonnage Allocations Public Notice web page](#). Metro reiterates that it does not have access to private facility financial information and will respond to this and other questions in more detail in the Responses to Questions document on Metro’s website. One new question about previous studies was addressed at the May 12, 2021, stakeholder meeting and at the May 20, 2021, RWAC meeting and will be added to the online Responses to Questions document.

Local Governments

Three local jurisdictions provided the following comments, all broadly in support of the proposal:

- 6. The City of Portland stated support for the Metro Wet Waste Tonnage Allocation proposed rules and suggested that working with private transfer stations to increase workforce diversity and reduce environmental impacts is a significant step for making meaningful changes in the region's solid waste system.**
- 7. The City of Hillsboro and Washington County stated, in addition, that they support efforts by Metro to ensure that regional garbage and recycling collection companies (and therefore rate payers) are being charged fair, reasonable, and appropriate rates for wet waste disposal at private transfer stations.**
- 8. The City of Hillsboro added that owners and operators of private transfer stations should be required by Metro to fully justify, in detail, the rates they charge at their transfer stations. They should not be allowed to charge any fees, inclusive of all costs to the customer, above those charged at the public/Metro transfer stations.**

Metro response:

Metro’s proposed 2022 goals and criteria are consistent with common sentiment in these comments.

The City of Wilsonville submitted a letter with the following comments:

- 9. Impacts of the new proposal are not well enough understood and allocations should be made to support public benefits, geographic equity, access to**

services, and a reduction in negative impacts. Impacts to the Community Enhancement Grant program and local solid waste rates are noted specifically.

Metro response:

Neither local government rate-makers nor Metro has full access to the details of private transfer station costs, nor have transfer stations provided to Metro the explicit costs that may stem from investments to achieve the proposed goals-based criteria relative to the reduced revenue from non-participation in this program. Without that information, Metro cannot analyze impacts of the proposed change, nor the impacts of the status quo, which is based on historical allocations that were not designed with Regional Waste Plan goals in mind.

10. The inherent tension between reducing tonnage allocations (which generate revenue) and requiring investments to meet goals.

Metro response:

Staff acknowledge that implementing programs that achieve many of the Regional Waste Plan goals will inherently come with costs and have designed criteria that balance cost impacts with meaningful progress.

11. Concerns about Metro’s position in collecting supplemental Community Investment fees.

Metro response:

The Community Enhancement Grant Program was established in 1986 by state law and is administered by Metro, local governments and locally established committees to ensure that grant funds serve the interests of the local community. The goals-based wet waste tonnage allocations criteria leverage that framework efficiently by collecting Community Investment fees in parallel, but not directly, as Community Enhancement Grant funds which are governed in State law and detailed in Metro Code.

12. Questions about the intent behind collecting diversity data, Metro’s own compliance with goals and criteria, and whether Metro intends to set rates and, if so, how it would support equity and engagement in that process.

These questions were received as public comments, and questions about wet waste tonnage allocations are answered in separate resources including the Responses to Questions document on the [Metro Tonnage Allocations Public Notice web page](#). Metro actions and criteria accountability is detailed in that document and has been shared in public forums. Other questions and answers will be added to the next update of this document. Metro staff are available individually to discuss and clarify information.

The letter from the City of Wilsonville included factual errors about the amount of tonnage to be allocated via different components of the allocation model. The allocation model has been shared in public meetings and documents and will be added to the online project resources. Specifically, The City of Wilsonville wrote:

“The City understands that Metro proposes beginning in the short timeframe on July 1, 2021, to allocate 30% wet waste on an equal basis (that is, the same number of tons going to each private transfer station regardless of location or size), and the remaining 30% is to be allocated using a new ‘goals-based’ methodology. Beginning in 2022, all of the remaining 60% is to be allocated using this ‘goals-based’ methodology that underpins the proposed administrative rule changes.”

The correct figures for each year are as follows: Beginning on July 1, 2021, Metro will determine goals-based allocations for up to approximately 15 percent of the regionally forecast wet waste, and, in 2022, approximately 30 percent would be available for goals-based allocations.”

Appendix: Public Comments as received



June 8, 2021

Re: Public comment regarding proposed 2022 tonnage allocation administrative rules

Thank you for the opportunity to provide public comment on the proposed administrative rules. Throughout the process, we have asked questions and voiced our concerns to staff, related to the below comments. Our comments, questions, and concerns are summarized below.

5.01 – 1340:

We feel strongly that there needs to be consideration for overall compensation, beyond hourly wages. For example, it is our understanding that Metro transfer station employees contribute to their health insurance premiums, up to \$270 per month for a family. This is equivalent to approximately \$1.50 / hour. Pride Recycling's transfer station employees have their health insurance premiums paid for in full by the company.

There are likely other differences in our compensation packages as well. It is shortsighted to look at wage only. We understand this analysis is more complicated, but there can be significant value to the overall benefits package beyond only the hourly wage.

5.01 – 1355:

We have no comment on this goal as it currently stands for 2022. Our comments here are that if further changes are to be made to the 3 options in this goal (as they were from 2021 allocation to 2022 allocation), there needs to be more time and notice given to transfer station owners.

The 2021 goal in this area stated that for option 3 a transfer station could qualify if 1 piece of equipment met the Tier 4 engine requirement. For the 2022 goal, option 3 has shifted from 1 piece of equipment to 25% of equipment. This equipment is costly, and these kinds of capital expenditures need to be planned for. If further changes and advancements in this goal area are to be made, a 3-5 year plan should be developed and shared with private transfer station owners.

We don't want a situation where we've spent significant money to replace a piece of equipment only to find out that a criteria has changed and that new equipment does not meet the new standards that take effect in 6 months or less.

5.01 – 1365

The 2021 goal in this area allowed for a 5% variation from Metro's rate. We would like to see the same variation applied for the 2022 goals.

Metro has mandated in code that Metro facilities receive 40% of the region's tonnage, if our facility meets all of the proposed goals and receives full allocation, we would receive an allocation of approximately 10% of the region's tons. Our facility is not allowed the same economies of scale that the 40% allocation gives Metro. We have the capacity for additional tons but are not allowed by Metro to accept them. Metro has limited our wet tonnage base with which to spread our fixed costs across thereby hurting our ability to compete with Metro's price. In addition to a smaller base to spread our fixed costs, our company is subject to business expenses that Metro is not, such as property taxes, the corporate activity tax, and more. We also must raise our own funds for facility improvements and capital where Metro simply raises their taxes and fees imposed on us.

Often when this topic is discussed the discussion centers around the services that Metro provides at their facilities, which private facilities do not provide: public self haul and household hazardous waste (HHW). There are often comments made that imply that Metro is providing these costly services, so the Metro rate is a fair benchmark because private facilities are not. But it is my understanding that HHW is supposed to be fully funded by the regional system fees that all facilities pay to Metro. It's also my understanding that the public self haul tip fee those customers pay is supposed to fully cover the cost of those services. With that in mind, public self haul and HHW should have no bearing on what the commercial tipping fee is at Metro facilities nor at private facilities.

With all of the above considerations, we feel it is unreasonable to expect private facilities to match Metro's tip fee exactly. We request the reasonable 5% variation be reinstated for 2022 and moving forward.

Thank you for the opportunity to provide these comments.

Thank you,

Kristin Leichner
Vice President
Pride Recycling Company



Date: June 10, 2021

Re: Public comment from Republic Services regarding Metro's wet tonnage allocation

To: Marissa Madrigal, Chief Operating Officer, Metro

Roy Brower, WPES Director, Metro

Molly Vogt, WPES Analytics Manger, Metro

Submitted via email to molly.vogt@oregonmetro.gov

Thank you for the opportunity to provide public comment on Metro's proposed changes to administrative rules, regarding wet waste tonnage allocation. Throughout this process, we have provided Metro staff with comments, suggestions and questions, some of which remain unanswered. We are concerned that a shift in methodology will have an unintended impact on ratepayers. Our comments below are reflective of previous comments, suggestions and questions.

5.01 – 1340 Living Wages and Good Benefits

Metro is well-intentioned with this goal and it is a good starting point. However, we have requested that Metro consider total compensation in making this allocation. We provide both a living wage and good benefits to our employees. Additionally, there is a lack of transparency from Metro about the wages at the public transfer stations. We believe Metro subsidizes the contracted provider at the public stations to inflate wages. In addition, Metro is basing the allocations on an equivalency to what wages are at the public stations where the work is contracted and the provider is guaranteed a specific return, which the private stations are not guaranteed. More transparency about how wages are compensated at public stations is needed.

5.01-1355 Minimize Nuisance, Safety and Environmental Impacts

We do not have a comment regarding this goal, simply a request not to make major changes to goals on a short, rushed timeline, as has happened in 2021 to 2022. For 2021, the goal stated for option 3 was that one piece of equipment met Tier 4 engine requirement. For 2022, option 3 has changed from one piece of equipment to 25% of equipment. Capital investments are costly, and need to be planned for. If Metro changes this goal or option again, a long-term plan should be made, in consultation with the transfer station operators. We would not want to invest in new equipment only to find out less than a year later that there is new criteria and the new equipment no longer meets that criteria.

5.01 - 1365 Rate Adoption

In 2021, this goal permitted a 5% variation from Metro's rate. We would ask that Metro maintain this variation in 2022, as costs at private transfer stations differ greatly from Metro's public station costs in the following ways:

- Metro has mandated by code that it receives 40% of the wet waste in the region, which provides Metro with an economy of scale that allows the public transfer stations to keep costs down. We must cover our fixed costs with less tonnage.



- We currently operate at less than 50% capacity. We have more than enough capacity to take many more additional tons, but Metro limits the amount of tons we can take, so we cannot compete with Metro on price.
- Unlike Metro, we pay property taxes, the corporate activity tax and many other expenses that are unique to private transfer stations. We must raise our own funds to make capital and facility improvements whereas when Metro needs additional funds, Metro raises taxes and fees on private transfer stations.
- It has been noted that Metro provides services that private stations do not; namely, self-haul and household hazardous waste drop-off. Occasionally this has been used to justify Metro taking in additional tons, to cover the costs of these operations. However, hazardous waste drop-off is paid for by the regional systems fees that all facilities pay to Metro. Self-haulers pay a tip fee to drop off their waste, and that fee is supposed to cover the cost of that program. Therefore, these program costs should have no impact on facility costs, be they public or private.
- It has been suggested that because Metro provides these services and private stations do not, Metro's rate should be the benchmark. As demonstrated by the previous points, private stations need flexibility to cover costs not borne by Metro's public stations.
- We request that the 5% variation from Metro's fees remain in 2022 and in future.

From previous communications sent to staff on 2/17/21, 3/30/21 and 5/11/21 the following questions about this process remain unanswered by Metro staff:

- When will the greenhouse gas efficiency study that states that there are up to 25% inefficiencies in the system be made available to the public?
- Metro, in February of 2019, published a report titled "Private Transfer Station Rate Transparency Report: rates and estimated costs at private transfer stations in the Metro region." Yet staff has indicated that they do not have any information about costs at private stations. What other information is Metro seeking to have a better evaluation of private station costs?
- Will Metro be increasing the community enhancement fees collected at public stations, as they are asking private stations to do, and how will this impact rates at Metro?
- Will Metro be making their own salary and diversity data public, as they are asking the haulers to do and as Council has asked?

Thank you for the opportunity to make this public comment.

Sincerely,

Jason Jordan
General Manager, Republic Services

Cc: Lynn Peterson, Metro Council President
Gerritt Rosenthal, Metro Councilor and Solid Waste Liaison
Mary Nolan, Metro Councilor and Solid Waste Liaison
Bob Stacey, Metro Councilor and Solid Waste Liaison



From: Walker, Bruce [mailto:Bruce.Walker@portlandoregon.gov]
Sent: Thursday, June 10, 2021 5:11 PM
To: Molly Vogt <Molly.Vogt@oregonmetro.gov>
Cc: Kolek, Jill <Jill.Kolek@portlandoregon.gov>; Pam Peck <Pam.Peck@oregonmetro.gov>
Subject: [External sender]Metro Wet Waste Tonnage Allocation - in support

The City of Portland Bureau of Planning and Sustainability supports the Metro Wet Waste Tonnage Allocation proposed rules.

Basing tonnage allocations that are in alignment with the Regional Waste Plan equity goals is a very positive step. Working with private transfer stations to increase workforce diversity and reduce environmental impacts is a significant step for making meaningful changes in the region's solid waste system.

It is also worth noting that considerable thought has been given to this subject and the responsiveness of Metro staff leading this project is impressive.

Thank you for the good work in this important area of our solid waste system,
Bruce Walker

Bruce Walker

City of Portland Bureau of Planning and Sustainability
Waste Collections Program Manager

503.823.7772

(he/him)

www.portland.gov/bps

Please note that I am working remotely due to the COVID-19 health crisis.

The City of Portland is committed to providing meaningful access. For accommodations, modifications, translation, interpretation or other services, please contact 503-823-7700 or use the City's TTY 503-823-6868.

From: Thomas Egleston [mailto:Thomas_Egleston@co.washington.or.us]
Sent: Friday, June 11, 2021 12:28 PM
To: Molly Vogt <Molly.Vogt@oregonmetro.gov>
Subject: [External sender]Public Comment - Wet Waste Tonnage Allocations
Importance: High

Hello Molly,

I wanted to share some quick comments.

We appreciate Metro's efforts to advance equity, diversity and inclusion through the wet waste tonnage allocation work and are supportive. Washington County shares Metro's equity, diversity and inclusion values and relies upon on Metro's regulation and oversight of the private solid waste transfer stations to achieve our shared regional goals in this segment of the solid waste system. We also support any efforts Metro can employ to ensure regional garbage and recycling collection companies (and therefore rate payers) are being charged fair, reasonable and appropriate rates for wet waste disposal at private transfer stations.

Thank you,

Thomas Egleston | Manager

Pronouns: he/him/his

Solid Waste & Recycling

503-846-3665

Wufoo Online Form Submission

Date: 2021-06-11 14:17:20 -0800

Name * Peter Brandom

Address 

150 E Main St
Hillsboro, OR 97123
United States

Comment on the proposed rules *

1. We feel strongly that owners/operators of private transfer stations should be required by Metro to fully justify, in detail, the rates they charge at their transfer stations. As you point out in the project materials, they have not done so.
2. Relatedly, owners/operators of private transfer stations should not and should not have been allowed to charge any fees above those charged at the public/Metro transfer stations.
3. Going forward, please require owners/operators of private transfer stations to fully justify the rates they charge in a transparent way.
4. Please clarify the definition of 'garbage disposal fees' to explicitly include any and all fees, taxes, surcharges or any other costs to the customer, so that the total cost for a given service to the customer may not be higher than what Metro allows.

Thank you,

Peter Brandom, on behalf of the City of Hillsboro

Email peter.brandom@hillsboro-oregon.gov



June 10, 2021

*Submitted via email to:
molly.vogt@oregonmetro.gov*

Marissa Madrigal, Chief Operating Officer
Roy Brower, Director, Property and Environmental Services
Molly Vogt, Analytics Manager, Waste Prevention and Environmental Services
Metro Regional Center
600 NE Grand Ave, Portland

RE: Comment on Metro's Proposed 2021 Tonnage Allocation Administrative Rules

Dear Ms. Madrigal, Mr. Brower and Ms. Vogt:

The City of Wilsonville appreciates the opportunity to provide public comment on Metro's Proposed 2021 Tonnage Allocation Administrative Rules.

The City has a vested interest on behalf of our community's 26,000 residents and 1,200 businesses that purchase optional garbage and recycling services under the purview of the City's solid-waste franchise agreement with Republic Services', operator of the Willamette Resources Inc. (WRI) transfer station in Wilsonville. As a community with a privately operated transfer station, the City participates in the Metro Community Enhancement Program that is funded by a tonnage surcharge on wet waste transferred at WRI. A City staff member has attended meetings hosted by Metro staff and the Regional Waste Advisory Committee over the past year when modifications to the administrative rules were being considered for implementing the 2030 Regional Waste Plan adopted by Metro Council in 2019.

The City understands that Metro is proposing administrative rules to allocate a portion of regional waste tonnage to private transfer stations that meet a new set of regional waste plan goals. Furthermore, the City recognizes that these Metro Council-adopted goals include providing living wages, increasing diversity in the workforce and reducing environmental impacts at private transfer stations in the region. We appreciate that Metro seeks to conduct a transparent, fair and equitable process in developing the new wet waste goals-based allocation methodology.

The City agrees that these are commendable goals; however, there is concern that Metro has not fully evaluated the potential impacts on private transfer stations operations, specific local community benefit, and on residential and commercial rates for solid-waste

services. The proposed rules and rule-making process have not provided quantitative analysis of potential impacts that allow stakeholders and the public to understand the short- and long-term implications of the proposed changes in allocation methodology.

The City understands that Metro proposes beginning in the short timeframe on July 1, 2021, to allocate 30% wet waste on an equal basis (that is, the same number of tons going to each private transfer station regardless of location or size), and the remaining 30% is to be allocated using a new "goals-based" methodology. Beginning in 2022, all of the remaining 60% is to be allocated using this "goals-based" methodology that underpins the proposed administrative rule changes. Furthermore, the City understands that Metro intends to maintain a 40% wet-waste allocation for Metro's public transfer stations.

In order to determine potential impacts of the proposed administrative rules changes to the local WRI private transfer station operations, to the larger Wilsonville community benefit, and to the franchisee's solid waste expenses that impact rates, the City has consulted with the City's contracted solid-waste rate-review consultant Chris Bell, CPA, of Bell and Associates, and with the City's solid-waste collection and disposal franchisee, Republic Services.

The City's initial set of concerns or questions pertain to the ability of private transfer stations to comply with the proposed criteria of the administrative rules and potential impacts to community benefits, as well as concerns regarding equitable treatment of the private sector and the public sector.

Issue/Question 1: Metro proposes a 30/30 wet-waste allocation scheme that may contradict a solid waste plan goal.

A primary question becomes how is this 30/30 allocation scheme in compliance with the Metro solid waste plan goal 16.1, which states, "Locate garbage transfer stations and allocate material tonnage to them in a way that benefits the public, emphasizing geographic equity, access to service, and a reduction in environmental and human health impacts"?

Issue/Question 2: Goal 4.1, which mandates that a transfer station provide diversity-related data to Metro for all employees who support the operations of that facility, raises questions regarding future intention.

Is part of the objective of reporting employees' gender and race to establish a future quota requirement for privately owned companies? Would this kind of requirement potentially violate privacy laws? Does Metro have a preferred mix of employees?

Issue/Question 3: If Metro requires compliance with the goals of the solid waste plan by requiring private transfer stations to meet proposed standards, does Metro intend to do the same for public transfer stations?

That is, does Metro intend to commit to report, on a regular basis, by transfer station Metro's compliance with Goals 3, 4, 12, and 14? For Goals 4 and 12, will these reports also be generated by the Metro contractor (Recology) for the operations of the Metro transfer stations? These questions pertain to equitable treatment of private-sector and public-sector transfer stations.

Issue/Question 4: How will Metro meet Goal 14.2 of the solid waste plan that seeks to "Implement transparent and consistent annual rate processes for all facilities?"

Does Metro intend to comply with this goal by implementing an annual rate setting process with regional stakeholders for its transfer facilities? How might this process work in an equitable manner that provides meaningful engagement by all interested parties and the greater public?

Issue/Question 5: Reducing incoming waste tons to the private facilities not only increases their unit costs to provide service, it also reduces income necessary for capital replacement and investment.

Regional waste plan Goal 14.6 is to "Implement strong financial performance reporting standards to provide greater certainty on the financial viability of facilities serving the Metro region." Metro ensures its own financial viability by allocating 40% of the region's wet waste to Metro public transfer stations, but is Metro's current operation performance of its facilities in the best interest of the region? Metro generates an abundance of revenue with the 40% of all municipal solid waste (MSW) tons; however, reviews indicate that the dry waste sorting operations at both Metro facilities continues to perform poorly by diverting extremely low amounts of recoverable materials.

Local government is accountable to its constituency as clearly stated in Goal 14.5, which compels Metro, Cities, and Counties to "Evaluate alternative models for collection, processing, and transfer services to identify which would deliver the best environmental, financial, efficiency and equity outcomes."

The City understands that two of the private transfer stations, WRI and Pride Recycling, sort dry waste and have very good diversion levels. Metro should consider eliminating the poor performing operations at its facilities, which would reduce its revenue requirement and tonnage allocation, and utilize the six regional facilities (WRI, Pride Recycling, TVWR, Kahut Recycling, GreenWay, and Recology) that are operating at a

lower cost and higher recovery rates. In this manner, both the private sector and public sector stand to gain benefits favorable to their financial operations.

Issue/Question 6: Is it appropriate for Metro to compel private-sector transfer station operators to collect and remit a supplemental community investment fee?

Goal 13 obliges private-sector transfer station operators to collect and remit a supplemental community investment fee to support an effort to “Invest in communities that receive garbage and recyclables from the Metro region.” The City appreciates that Metro staff may be looking out for the best interest for the host communities of transfer stations that could see a reduction in wet waste transferred due to the allocation methodology process, and Goal 13 could help make up for a shortfall.

This proposal, however, does beg a question if Metro is transferring its public taxing or fee-making authority to a private-sector party. While the criteria for the goal indicate that private transfer stations should “voluntarily collect and remit to Metro supplemental enhancement fees,” is it clearly established that Metro has the authority to grant this kind of fee-making or taxation power to a private party? The allocation process has not demonstrated why CEP fees could not be collected as they are currently through a direct Metro CEP fee charge.

Republic Services has provide a list of concerns to the City, attached to this letter as an exhibit . The June 2, 2021, letter to the City from Jason Jordan, Republic Services General Manager, regarding “Potential impacts of changes to wet tonnage allocations” raises a number of issues of concern that the City seeks to verify with Metro to better understand the potential impacts on local transfer operations, community benefit and customer rates.

Issue/Question 7: Potential impacts to the Community Enhancement Program are not addressed in the proposed administrative rule changes.

Republic Services' June 2 letter notes two issues related to the Community Enhancement Program (CEP):

- “Firstly, any reduction in a tonnage cap at WRI will negatively impact the City of Wilsonville, because it will reduce the amount of dollars directed to the Community Enhancement fee. In 2022, this could mean a reduction of \$22,000.”
- “Metro has given private transfer stations an option to increase Community Enhancement Funds by 50 cents per ton, for wet waste. WRI could choose this option and the City would gain \$30,000 in Community Enhancement fees....but only if we are able to bring in volume at an increased gate rate.”

Republic Services indicates that the proposed methodology may result in a decrease in allocation that would impact CEP. However, if WRI implements Goal 13.0, than an increase in CEP funds may occur. The City's concern is that neither the allocation process nor the proposed administrative rules have provided any analysis of the potential impacts on CEP of the new methodology. The seven Metro-area cities that participate in the CEP do not have information to understand the potential impacts, both potentially positive and negative, of the proposed methodology change.

Issue/Question 8: Potential impacts local solid waste rates based on alternative allocation are not analyzed in in the proposed administrative rule changes.

Republic Services' June 2 letter notes three aspects of the proposed allocation methodology pertaining to increased operation costs and impacts on residential and commercial customer rates for solid waste services that are not analyzed or modeled in the proposed administrative rule changes:

- "Any reduction in tonnage has the potential of a domino effect: it could push tons to alternate disposal sites, which would increase route times. Increased route times increase other costs: fuel, maintenance, labor, not to mention additional carbon emissions. An increase in route times may require additional routes to be added, and may require unbudgeted capital equipment."
- "We (WRI) have invested into equipment and improvements based on a stable level of inbound tonnage, as in previous years. We believe that a decrease in tonnage such as above may require further increases in gate rates to cover fixed expenses. However, we are limited by Metro as to what we may charge at the gate."
- "Any increase in disposal costs are passed on to the hauler, and ultimately, the ratepayer."

Republic Services raises several issues, including concerns over increased VMT and GHG emissions through transportation of wet waste tonnage to transfer stations based not on physical proximity of waste-collection point in relation to location of waste-transfer site, but on non-waste-related goals. Reduced allocations result in greater costs per unit of solid waste collected and processed that ultimately leads to overall costs increases and subsequent residential and commercial solid-waste collection and disposal rates.

The allocation process and proposed administrative rules do not directly address these concerns, nor has there been an analysis to understand how the new methodology may impact rates. It is important to remember that garbage service is optional, and that rate increases more greatly impact lower-income populations that may be inclined to opt-

out of collection services in favor of no-cost dumping, which is becoming a greater problem in the Portland metro region.

The City appreciates the effort extended by Metro staff to implement Metro Council-adopted goals that include providing living wages, increasing diversity in the workforce and reducing environmental impacts at private transfer stations in the region. However, in implementing a new methodology for wet waste allocation, the City is concerned that Metro has not fully evaluated the potential impacts on private transfer stations operations, specific local community benefit, and on residential and commercial rates for solid-waste services. The proposed rules and rule-making process has not provided quantitative analysis of potential impacts that allow stakeholders and the public to understand the short- and long-term implications of the proposed changes in allocation methodology. The City recommends that Metro work further with regional stakeholders to clarify and provide some level of analysis of the impacts of the proposed new methodology on private transfer station operators, the community benefit and solid waste collection and disposal rates.

Thank you for your time and attention.

Mark Ottenad, Public/Government Affairs Director
City of Wilsonville
Direct: 503-570-1505
Email: ottenad@ci.wilsonville.or.us

Encl (1)

cc: The Honorable Lynn Peterson, Metro Council President
The Honorable Gerritt Rosenthal, Metro District Three Councilor
The Honorable Mary Nolan, Metro Council Solid Waste Liaison
The Honorable Bob Stacey, Metro Council Solid Waste Liaison
Metro Regional Waste Advisory Committee



EXHIBIT

To: Mark Ottenad, City of Wilsonville
From: Jason Jordan, Republic Services
Re: Potential impacts of changes to wet tonnage allocations
Date: 2 June 2021

Dear Mr. Ottenad,

As you know, the Metro Regional Government has changed its policy regarding how it allocates wet tonnage to private transfer stations, including WRI in Wilsonville. Currently, Metro directs 40% of wet tonnage within the region to their own transfer stations. Previously, they allocated the remaining 60% to the private stations based on the location and size of the station. Beginning on July 1, 2021 Metro will allocate 30% on an equal basis (the same number of tons going to each private transfer station, regardless of location or size), and the remaining 30% will be allocated using a “goals-based” methodology. Beginning in 2022, all of the remaining 60% will be allocated using this “goals-based” methodology. This change has potential to impact residents of the City of Wilsonville in several ways:

1. Firstly, any reduction in a tonnage cap at WRI will negatively impact the City of Wilsonville, because it will reduce the amount of dollars directed to the Community Enhancement fee. In 2022, this could mean a reduction of \$22,000.
2. Any reduction in tonnage has the potential of a domino effect: it could push tons to alternate disposal sites, which would increase route times. Increased route times increase other costs: fuel, maintenance, labor, not to mention additional carbon emissions. An increase in route times may require additional routes to be added, and may require unbudgeted capital equipment.
3. We (WRI) have invested into equipment and improvements based on a stable level of inbound tonnage, as in previous years. We believe that a decrease in tonnage such as above may require further increases in gate rates to cover fixed expenses. However, we are limited by Metro as to what we may charge at the gate.
4. Metro has given private transfer stations an option to increase Community Enhancement Funds by 50 cents per ton, for wet waste. WRI could choose this option and the City would gain \$30,000 in Community Enhancement fees...but only if we are able to bring in volume at an increased gate rate.
5. **Any** increase in disposal costs are passed on to the hauler, and ultimately, the ratepayer.

As you can see, the “goals-based” methodology creates many challenges, which may impact the residents of the City of Wilsonville. We remain a committed partner to the City as we navigate these Metro -mandated changes.

Sincerely,

Jason Jordan, Republic Services General Manager

Wet Waste Tonnage Allocations Oral Hearing Transcript
June 9, 2021, 9:00am – 10:00am

Matt Korot:

So good morning. I'm Matt Korot, I'm a program director with the waste prevention and environmental services department at Metro. And I'll be serving as the hearing officer. Today, I'm joined by two colleagues, who many of you've already met Janet Edwards, who managed the technical functioning of this Zoom hearing, and Molly Vogt, who is the tonnage allocation project manager. And so I called this meeting to order.

Matt Korot:

As you just saw, this meeting is being recorded and comments will be transcribed and I'll make some comments in a couple of moments about notes from the public comment period. So I'm going to take a few minutes to just kind of give a formalized introduction to this public hearing. Before we go into the comment period. This is an opportunity to provide oral input on proposed administrative rules regarding tonnage allocations for [inaudible 00:00:58] or wet waste that is delivered to private solid waste transfer stations.

Matt Korot:

This public hearing is part of a public comment period that began on May 13th and ends at 5:00 PM on June 11th. If you wish to provide written comments rather than speak today, you may do so through the link that is in the chatbox right now that Janet put in. It's also on the slide in front of you. You may also send comments directly to Molly by email and her email address should be on the screen as well. Through that same link, you can also access the proposed rules themselves as well as a document that contains Metro's responses to frequently asked questions.

Matt Korot:

This is a public hearing for Metro to receive comments. Metro staff will not present on the proposed administrative rules nor respond to input or substantive questions and comments. Molly led an interactive public meeting on the draft rules on May 12th. She's with us in this hearing to answer any questions you may have about the rulemaking process and timeline that I don't adequately cover in these opening remarks.

Matt Korot:

So let me basically summarize, or generally summarize that process and timeline now. As I noted, the public comment period ends at 5:00 PM on June 11th, which is this Friday. On June 23rd, Metro will post a report on its website, documenting the oral and written comments that it received on these proposed administrative rules. That report will be available through this same link that I referred to and it's on the screen.

Matt Korot:

On June 29th, Molly, and Metro's chief operating officer Marissa Madrigal, will update the Metro Council on the rulemaking process and on the public input. That discussion will take place at the council work session, excuse me. KJ that nine o'clock thing is coming home to roost for me.

Matt Korot:

That discussion will take place at the council work session. It's scheduled to begin at 2:00 PM. Meeting information will be available on the Metro webpage, oregonmetro.gov. Enter the word council in the search bar or utilize the calendar function to get to the meeting materials.

[6/23/2021 update: The Council meeting date has changed to July 8, 2021.]

Matt Korot:

And then at some time following that council meeting, the chief operating officer will determine whether to adopt the proposed administrative rules. So let's move into the public comment period. Once again, the purpose of this hearing is for Metro to receive input on proposed administrative rules for allocating regional wet waste tonnage to private transfer stations. These rules include allocating a portion of that tonnage based on meeting certain defined regional waste plan goals.

Matt Korot:

The aims of those goals include providing living wages, increasing diversity in the workplace, and reducing environmental impacts at private transfer stations. If you wish to comment in a moment, I'll ask you to indicate whether you want to do so by clicking the reactions button at the bottom, and then the hand icon. I will call on you in order to the best of my ability.

Matt Korot:

Given the number of folks that we have on the call, I'll give each person up to five minutes for their comments. If, for some reason, we have a slew of people join us late. Then that may be reduced down to around three minutes as the meeting progresses so that everyone has a chance to speak. We're aiming to finish by the scheduled time of 10:00 AM. If we run out of commenters before our 60 minutes conclude, I'll keep the hearing open, but turn off my video and mike as will, Janet. And Janet, and I will monitor for people joining the meeting.

Matt Korot:

You're welcome to stay on and do work behind the scenes, of course. Okay. So if you would please indicate that you'd like to comment by going to the reactions button again at the bottom of the screen and clicking on the hand icon. And when I call on you, please give your first and last name and the name of your organization if you're representing one.

Matt Korot:

So if I'm seeing correctly, I see KJ and I think that's the only person I see so far. Is that correct? Molly's nodding her head. Okay. KJ the floor is yours.

KJ Lewis:

Exciting. Thanks, Matt. Thank you everyone for the opportunity to provide public comment to Metro's proposed changes to administrative rules regarding what wastes tonnage allocation. I'll also be submitting written comments. Throughout this process since 2019, we have provided Metro staff. Sorry. Let me back up. I'm KJ Lewis with Republic Services. Throughout the said process, we've provided Metro staff with comments, suggestions, and questions. Some of which remain unanswered. We're concerned that a shift in methodology will have unintended impact on ratepayers.

KJ Lewis:

My following comments are reflective of previous comments, suggestions, and questions. Regarding administrative rule 5.01-1340, living wages and good benefits. We believe Metro is well-intentioned with this goal and it is a good starting point.

KJ Lewis:

However, we have requested that Metro consider total compensation in making this allocation. At Republic Services we provide both a living wage and good benefits to our employees. Additionally, there's a lack of transparency from Metro about wages at the public transfer stations. We believe Metro subsidizes the contracted provider at the public stations to inflate wages.

KJ Lewis:

In addition, Metro is basing the allocations on an equivalency to what wages are at the public stations, where the work is contracted and the providers guaranteed a specific return, which the private stations are not guaranteed. More transparency about how wages are compensated at public stations is needed. Regarding 5.01-1355, minimize nuisance safety and environmental impacts. We do not have a comment regarding this goal, simply a request not to make major changes to goals on a short rush timeline as has happened in 2021 to 2022.

KJ Lewis:

For 2021, the goal stated for option three was that one piece of equipment met tier four engine requirements. For 2022 option three has changed from one piece of equipment to 25% of equipment. Capital investments are costly and need to be planned for. If Metro changes the school or option again, a long-term plan should be made in consultation with a transfer station operators.

KJ Lewis:

We wouldn't want to invest in new equipment only to find out less than a year later, that there's new criteria and the new equipment no longer meets that criteria regarding 5.01-1365 rate adoption. In 2021, the rule permitted a 5% variation for Metro's rate. We would ask that Metro maintain this variation in 2022, as costs of private transfer stations differ greatly from Metro's public station costs in the following ways. Metro has mandated by code that it receives 40% of the wet waste in the region, which provides Metro with an economy of scale that allows the public transfer stations to keep costs down.

KJ Lewis:

We must cover our fixed costs with less tonnage. We currently operate at less than 50% capacity. We have more than enough capacity to take many more additional pounds, but Metro limits the amount of tons we can take. So we cannot compete with Metro on price. Unlike Metro, we pay property taxes, the corporate activity tax, and many other expenses that are unique to private transfer stations.

KJ Lewis:

We must raise our own funds to make capital and facility improvements. Whereas when Metro needs additional funds, Metro raises taxes and fees on private transfer stations. It has been noted that Metro provides services and that private stations do not namely self-haul and household hazardous waste

drop-off. Occasionally, this has been used to justify Metro taking in additional tons to cover the cost of these operations.

KJ Lewis:

However, hazardous waste drop-offs are paid for by the regional system's fees that all facilities pay to Metro, and self-haulers pay a tip fee to drop off their waste. And that fee is supposed to cover the cost of that program. Therefore, these program costs should have no impact on facility costs. Be they public or private as they're a self-sustaining.

KJ Lewis:

It has been suggested that because Metro provides these services and private stations do not, Metro's rate should be the benchmark. As demonstrated by the previous points, private stations need flexibility to cover costs, not borne by Metro's public stations. We, therefore, request that the 5% variation for Metro rates remain in 2022 and in future.

KJ Lewis:

And I have additional questions that I will submit by a written comment from previous communications that were sent on February 17th, March 30th and May 11th, that just remain unanswered, but I will submit those, by written comments. Thank you.

Matt Korot:

Thank you, KJ. Very much appreciate that. Okay. Anybody else like to comment at this time? Okay then, I'll repeat what I said earlier, because some of you, may have missed it. We'll keep the hearing open until 10 o'clock understanding that some folks may not have been able to get here at the beginning. We're going to turn our cameras, and audio off, but continue to monitor who joins the meeting. And so you're welcome to do the same.

Matt Korot:

And as I see new folks join or Janet sees new folks on, we'll welcome them. Ask if they'd like to comment and explain where we are. Does it make sense to folks? Thumbs up, head nod? Okay, great. Okay. So I expect, I'll probably see your faces go away and your name show up and see you again before the end of the time.

KJ Lewis:

Thanks, Matt.

Matt Korot:

Thank you.

Speaker 3:

Thank you. (silence).

Matt Korot:

Hi, Kristin. Good morning?

Kristin:

Good morning.

Matt Korot:

Kristin, I just wanted to let you know that among the people already on the call, we already finished with their public comments, so we'll keep the public comment period open till 10, and just come on board, back into it as new folks want to comment. Would you like to make a public comment this morning?

Kristin:

I submitted some written comments yesterday and so I will leave it at that, thank you.

Matt Korot:

Okay. Well, Kristin, you're welcome to do with the rest of us are doing, which is just keeping screens and mics off and we'll keep an eye on who joins the meeting and I'll repeat what I just said to them. And if we have no others by 10 o'clock, then you'll get a bit of work done in the background. And once we do, then we'll bring them on.

Kristin:

Perfect. Thank you. My morning meeting ran late, so sorry to have missed everybody else's comments.

Matt Korot:

No worries. It was KJ who made the comments and I know you guys have had a chance to chat I'm sure. Thanks, Kristin. I'm glad you could be here though. (silence).

Matt Korot:

Hey, Mike. Good morning. Just wanted to let you know where we are in the process. We're just on pause right now. We didn't have any pending public comments but the hearing lasts until 10 o'clock. So we're just monitoring for new folks who come in, who would like to comment. Mike, would you like to make oral comments this morning? I'm just watching your connection happening, Mike. Let me know when you're on.

Kristin:

Hi Matt. I popped my head in Mike's office. He's having some audio issues, but I confirm he does not intend to give out public comment verbally today.

Matt Korot:

Kristin, thank you. I appreciate that. (Silence). Hey Armando, this is Matt from Metro. Just wanted to let you know where we are. We're in the middle of the public hearing and didn't have any more folks who wanted to comment. So we've just paused the meeting turned off our videos and mics to do work until we have more folks who'd like to comment. Armando, are you interested in giving comments this morning? Or oral comments?

Armando:

Can you hear me now?

Matt Korot:

Yeah. I can, Armando.

Armando:

Not at this time. Thank you.

Matt Korot:

Okay. Thanks. (silence). All right, folks, I'm going to go out on a limb here and say that I don't expect anyone else to join us this time and testify. So before I close out this hearing just want to go over a couple of dates again and give anybody a chance to pipe up if they wish with comment.

Matt Korot:

So just a reminder, the public comment period as a whole of which this hearing is a part. Public comment period ends at 5:00 PM on this Friday, June 11th. So if you haven't or are planning at this point to get your written comments in today or tomorrow, make sure you get them in Friday by five o'clock through the submission on the website or through a direct email to Molly Vogt.

Matt Korot:

And then on June 23rd, Metro will post a report on its website, documenting the oral and written comments that it received, and that report will be available through the link that was on the slide still is on the slide I believe, and also in the chat. And then on June 29th, we'll have a discussion with the Metro Council on the rule-making process and the public input. And that'll be at the council work session that starts at 2:00 PM on June 29th and you can get meeting information off of oregonmetro.gov.

Matt Korot:

And then following that council meeting, chief operating officer will determine whether to adopt the proposed administrative rules, and then that will wrap up the period related to these rules. So any last comments or questions before we close the public hearing? And you don't have to come on screen, if you don't have them, I'll just pause for a moment and see.

Matt Korot:

Okay, well with that, this public hearing is closed and I thank you all for joining in today. KJ, thank you for making your comments. We appreciate that. And we'll see you soon. And as many of you have done throughout the process you can reach out to Molly Vogt. If you have any questions or things you'd like to discuss. KJ, I saw you... Okay. Thank you.

KJ Lewis:

I just wanted to say thank you. Have a great day.

Matt Korot:

Okay. You too. Take care all. See you soon.

Speaker 3:

Thank you.

Kristin:
Thanks.

Armando:
Bye.