

PUBLIC COMMENTS ON REVISED METRO ADMINISTRATIVE RULES FOR WET WASTE TONNAGE ALLOCATIONS, JUNE-JULY 2022

Wet Waste Tonnage Allocation public comments were received by online form and email during the public comment period that was open from June 28, 2022, through July 27, 2022. No public comments were received during the oral hearing on July 20, 2022. This report summarizes comments received and offers Metro staff responses.

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

Commenter	Medium	Receipt Date
City of Hillsboro (local government)	Email	July 5, 2022
City of Portland (local government)	Online form	July 20, 2022
Pride Recycling & Disposal Company (industry)	Email	July 27, 2022
Oregon Refuse and Recycling Association (ORRA), on behalf of five in-region transfer stations and one out-of-region transfer station (industry)	Email	July 27, 2022

Below is a summary of these comments by commenter as well as Metro responses to those comments *in italicized blue font*. The comments have been numbered and grouped by source and then by administrative rule. Several comments were not specific to the administrative rules posted for public comment but are nonetheless included in the report below for the purpose of broader clarification of the goals-based tonnage allocation plan.

Local Government

CITY OF HILLSBORO:

1. Rates charged by the private facilities should be regulated by Metro, and fully justified based on costs incurred and set in a transparent way.
2. Private operators should not be allowed to charge any more than the rates charged at the public facilities.

STAFF RESPONSE:

The goals-based tonnage allocation program is voluntary, and it does not include rate regulation by Metro. Comments about rate regulation fall outside of the proposed changes to administrative rules for 2023 wet waste tonnage allocations and should not affect the adoption of these rules. To ensure that this program delivers on our goals in the future and is shaped by a wide range of voices in the community, Metro staff are preparing to launch a broader engagement to inform the 2024 tonnage allocation goals, criteria and implementation plan. This engagement will include consideration of regional efforts to advance Regional Waste Plan goals

including rate review and assessment and outcomes of the Garbage and Recycling System Facilities Plan.

To the second point, the proposed administrative rules establish criteria that provide a tonnage incentive for private operators to not exceed Metro transfer station fees. In order to meet the criteria for tonnage allocation under Goal 14, Rates, a transfer station's total charge (inclusive of the rate plus any additional fees and charges) charged to commercial customers must be no more than Metro's garbage disposal fee for an equivalent load at the Metro public transfer stations.

CITY OF PORTLAND:

3. This communication is in support of the proposed revised administrative rules regarding wet waste tonnage allocation. The City of Portland and Metro share common values and interests reflected by the communities that have called for change. In particular, the City staff would like to highlight the areas of the proposed rule changes we support and will continue to advocate and work toward reductions in emissions and racial equity in our communities. The following targets for improvement that support and strengthen these values include:
 - Higher wages for employees
 - Health insurance for employees
 - Emissions reduction
 - Community investment
 - Consistent rates at transfer stations

STAFF RESPONSE:

Staff acknowledge the comments of support for the revised administrative rules. Revised administrative rules include specific criteria by which this program will ultimately advance goals of higher wages and employee benefits, reduced emissions, community investment and consistent rates.

Industry

Public comments from Pride Recycling Company and the Oregon Refuse and Recycling Association (ORRA) on behalf of Canby Transfer & Recycling, Inc., Gresham Sanitary Service, Pride Recycling, WM Forest Grove, WM Troutdale, and Willamette Resources Inc. were received in written form.

AR 5.01 – 1352: Reporting and Implementation for “Increase Diversity in Workforce” Goal

PRIDE:

4. We have overall concerns about what we’re being asked to share regarding this goal. In 2021, in order to qualify for tonnage allocation in this goal area, we were required to submit data for employees who do not work for Pride Recycling Company. We have been more than willing to submit this data for Pride Recycling employees, but we should not be obligated to provide data for employees of Pride Disposal Company, a company which hauls

waste to the facility. Pride Disposal is a separate company that is not regulated by Metro, does not contract with Metro, and is not applying for tonnage under this program.

The proposed language also adds a line of work category for “collection.” When we asked for clarification on this proposed change, we were told that Metro has a goal to advance racial equity through the region and the solid waste industry and that goal is best advanced with diversity data for all solid waste industry positions. We were also told that local governments have a desire to better understand this data. Our local government partners regulate our hauling company, Pride Disposal, and can ask for and access this data through that regulation if they have a desire to do so.

ORRA:

5. The proposed administrative rule 5.01-1352 outlines reporting requirements for transfer stations with the goal of increasing workforce diversity within transfer stations. While we support diversity equity and inclusion and actively work to advance our work in this area, we have concerns about Metro’s expanded approach to this reporting. In particular, some members own and manage different entities apart from their transfer station. As a result, we are requesting Metro to acknowledge and clarify that Metro maintains regulatory authority of transfer stations while local government holds regulatory authority over collection activities.

STAFF RESPONSE:

The goals-based tonnage allocation program is voluntary and Metro does not require facilities to apply for any goal-based tonnage. The proposed changes to administrative rules are designed to ensure that employees whose labor supports wet waste transfer are included in the diversity data report. Staff agree that the way a company organizes and defines itself for business and legal reasons is its prerogative. However, it is staff’s understanding that employees of some collections-focused companies also support decisions and operations related to wet waste transfer at affiliated transfer stations. The intent of these criteria when originally established was to build understanding of the diversity of the entire workforce that supports regional putrescible waste transfer station operations, whether working on the station floor or in an office. The proposed language change clarifies this intent.

The addition of “collection” as a category of the type of work performed is intended to increase the completeness and precision of the reported data. Transfer stations are not required to provide data for employees who work only on collections, but, with the addition of this category, 1) companies with employees who support collection are able to include those employees if they choose to, and 2) companies with employees who serve in multiple roles including wet waste transfer and collections are able to include more complete and

accurate information about those employees' roles.

AR 5.01 – 1360 Criteria for “Invest in Communities” Goal

PRIDE:

6. If a private transfer station chooses option 5.01-1360a (add \$.50/ton supplemental community investment fee on all putrescible waste) and their disposal rate is then \$.50/ton more than Metro’s disposal fee (if Metro opts not to charge that \$.50/ton supplemental community investment fee), the transfer station would not be able to meet goal 5.01-1367 based on this language. This goal seems to be in conflict with 5.01-1360.

ORRA:

7. Our members are active in the jurisdictions they serve and support investing in communities. Naturally, we have members who may wish to implement actions to meet the criteria for investing in communities noted within proposed administrative rule 5.01-1365 (adding 50 cents per ton as a community investment fee on all putrescible waste). The problem is that this added 50 cents creates an added cost posing an increased challenge for our members to maintain an affordable rate which is a goal for the proposed rule 5.01-1360. This seems counter-productive as we are essentially being forced to choose between these two goals.

STAFF RESPONSE:

ORRA’s references to AR 5.01-1365 and 5.01-1360 appear to be reversed. AR 5.01-1365 defines the Rates criterion, while 5.01-1360 defines the Community Investment criteria.

*Comments about the option for collecting \$0.50 per ton on all putrescible waste fall outside of the proposed changes to administrative rules for 2023 wet waste tonnage allocations and should not affect the adoption of these rules. The proposed change to AR 5.01 - 1360 specifies that the **alternative** option, to collect a Community Investment Fee of \$1.00 per ton on non-putrescible waste, is available only to transfer stations that are equipped and authorized to perform material recovery on site.*

Furthermore, the goals-based tonnage allocation program is voluntary, and transfer stations receive a base tonnage allocation regardless of their decision to participate. They may also choose which goals they apply for. Metro has previously acknowledged the inherent challenge in moving forward with a multi-goal program. As noted in the May 5, 2021, [Metro Responses to Questions about Tonnage Allocations](#), Metro recognizes that it will cost time, money and efficiency to make changes that support our region’s critical goals of equity and environmental health. Metro does not expect to maximize on all values at once. Metro is advancing multiple goals simultaneously, including affordability, and it is inherent in all of

our work to strive for a reasonable balance between the competing dynamics of costs and benefits.

ORRA:

8. To meet criteria and achieve the 5.01-1360 goal, transfer stations owners are to collect and remit a “community investment fee.” We have questions about the specifics related to management, allocation, and necessary reporting related to these funds. The collection of fees began in 2021 and our understanding is that nothing has happened with them since. We collect these funds then remit them to Metro, but what is Metro’s intent for the funds; where do they go within Metro; what is the oversight and reporting; how much needs to be collected in order to start projects; and how would these funds be forwarded to metro area cities and counties?

In addition, we understand that there are two different funds: the Community Investment Fund and the Community Enhancement Grant. Under the current system, the host communities with whom we work receive funding through the Community Enhancement Grant but not through the Community Investment Fund. We are curious about how this has been communicated to the host communities where the private transfer stations reside and if it has been communicated with those communities if they may or may not be receiving these extra (Community Investment Fund) monies or if they will be distributed elsewhere.

STAFF RESPONSE:

Questions and comments about Community Enhancement and Community Investment funds fall outside of the scope of the tonnage allocations program. These comments do not relate to proposed changes for 2023 wet tonnage allocations and should not affect the adoption of these rules.

Staff are currently developing the details of management, oversight and reporting of Community Investment Fund distribution that will align with 2030 Regional Waste Plan objectives. These include but are not limited to supporting community waste prevention, emphasizing resource allocation to underserved communities and meaningfully involving underserved communities in decisions about how funds are distributed. Staff are currently exploring options including integration into existing Community Enhancement programs and partnering with community-based organizations to distribute the investment funds.

One facility began collecting community investment fees in July of 2021 as part of its application for 2021 wet waste tonnage, while the other five facilities eligible for goals-based tonnage began collecting investment fees in January of 2022. Staff will reach out to stakeholders in the first half of FY 22-23 and expect to begin distributing investment funds in the second half of FY 22-23. Staff are available to answer specific questions about the Community Investment funds and distribution process which is managed separately from the tonnage allocations program.

5.01 - 1367 Reporting and Implementation for “Affordable and Consistent Rates” Goal

PRIDE:

9. Item 1 states that the rate criterion applies to all commercial loads that are less than or equal to 12 tons in weight. We believe this threshold should be set at 10 tons, not 12, as anything over 10 tons is considered overweight and is not a legal load.

ORRA:

10. The proposed rule language of 5.01-1367 part 1 applies to all commercial loads that are less than or equal to 12 tons in weight. We recommend changing the threshold to comply with the legal limit of 10 tons; loads weighing more would be considered overweight and are not a legal load.

STAFF RESPONSE:

The Oregon Department of Transportation (ODOT) is responsible for overseeing and enforcing transportation requirements. Vehicle weight limits are specific to the type of vehicle and number of axles and Metro relies on ODOT to ensure that commercial vehicles comply with applicable state transportation requirements. While many collection trucks may be prohibited from carrying loads greater than 10 tons, some trucks may legally carry larger loads to transfer stations.

Metro’s solid waste system facility data show that loads in excess of 10 tons are received regularly at transfer stations across the region. Staff maintain that 12 tons is a practical threshold because it captures 95% of the incoming loads at transfer stations. To set the weight limit at 10 tons instead of 12 tons would only reduce the number of loads subject to the rates criteria and thus weaken the value of these criteria in advancing Regional Waste Plan Goal 14.

PRIDE:

11. Item 3 requires 30-day advance notice of rate changes. We would propose this language be changed to “within 30 days” rather than advanced notice of 30 days. We recognize that Metro needs to receive notice of rate changes in a timely manner, especially if the rate change causes a transfer station to be out of compliance with this goal. As many of our rate changes are tied to fees charged by Metro, some of these timelines are outside of our control.

ORRA:

12. The proposed rule language of 5.01-1367 part 3 requires 30 days advance notice (emphasis added). We recommend changing this to “within 30 days” as there are times when factors outside our control can have impacts. We believe this language change would be a good

balance to providing Metro notice and enable transfer station owners to better meet this goal.

STAFF RESPONSE:

Staff maintain that it is reasonable for transfer stations to provide Metro with 30 days' advanced notice of any changes to posted rates because facilities typically revise their rates on a set schedule each year corresponding with the adoption of Metro transfer station fees that take effect on July 1. Metro provides more than 30 days notice of its fee changes by sharing changes in its transfer station fees in April or May. Advance notice of rate changes supports the implementation of Goal 14 criteria while also providing broader benefits of transparency and predictability to local governments, customers and rate payers.

Appendix: Public Comments as received

The following comment is excerpted from the email referenced below and dated July 5, 2022. Additional email conversation not intended for the public comment record has been removed for clarity and focus. The following has been confirmed as the intended comment for the record.

From: Peter Brandom

Sent: Tuesday, July 5, 2022 8:28 AM

To: Molly Vogt <Molly.Vogt@oregonmetro.gov>

Subject: RE: Metro Wet Waste Tonnage Allocations: 2023 information sessions and public comment | 2024 engagement update

The rates charged by the private facilities should be regulated by Metro, and fully justified based on costs incurred and set in a transparent way... private operators should not be allowed to charge any more than the rates charged at the public facilities.

Name *

Quintin Bauer

Address

1810 SW 5th Ave Suite 700

Portland, OR 97201

United States

Comment on the proposed rules *

Dear Metro Council and staff,

Thank you for opening the tonnage allocation amendments to public comment. The City of Portland appreciates your work to advance racial equity and emissions reduction throughout the Metro Region.

This communication is in support of the proposed revised administrative rules regarding wet waste tonnage allocation. The City of Portland and Metro share common values and interests reflected by the communities that have called for change.

In particular, the City staff would like to highlight the areas of the proposed rule changes we support and will continue to advocate and work toward reductions in emissions and racial equity in our communities. The following targets for improvement that support and strengthen these values include:

- Higher wages for employees
- Health insurance for employees
- Emissions reduction
- Community investment
- Consistent rates at transfer stations

Please pass these proposed changes. We look forward to continuing to partner with Metro staff to advance equity in our communities and decrease emissions to improve air quality for all residents of Portland while reducing climate impacts.

Sincerely,

Quintin Bauer
Waste Operations Manager
City of Portland Bureau of Planning and Sustainability

Email

quintin.bauer@portlandoregon.gov



July 27, 2022

Re: Public comment regarding proposed changes to the 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 – 1352:

We have overall concerns about what we're being asked to share regarding this goal. In 2021, in order to qualify for tonnage allocation in this goal area, we were required to submit data for employees who do not work for Pride Recycling Company. We have been more than willing to submit this data for Pride Recycling employees, but we should not be obligated to provide data for employees of Pride Disposal Company, a company which hauls waste to the facility. Pride Disposal is a separate company that is not regulated by Metro, does not contract with Metro, and is not applying for tonnage under this program.

The proposed language states "a transfer station must provide the following characteristics for all individuals who support putrescible waste transfer station operations or decisions about local facilities' operations and investments." Pride Recycling contracts with a trucking company to provide hauling to recycling markets and landfills. Pride Recycling has an outside accounting firm. Pride Recycling works with companies who support our operations such as companies that haul away metal recovered from the transfer station and companies that repair equipment at the facility. Metro is not entitled to data from those companies and is not entitled to data from Pride Disposal Company.

The proposed language also adds a line of work category for "collection." When we asked for clarification on this proposed change, we were told that Metro has a goal to advance racial equity through the region and the solid waste industry and that goal is best advanced with diversity data for all solid waste industry positions. We were also told that local governments have a desire to better understand this data. Our local government partners regulate our hauling company, Pride Disposal, and can ask for and access this data through that regulation if they have a desire to do so.

We understand this overarching goal that Metro has. And we do not think it is appropriate that Metro require data from non-transfer station entities, which Metro does not regulate, and that those requirements are tied to tonnage allocation.

5.01 – 1365

If a private transfer station chooses option 5.01-1360a (add \$.50/ton supplemental community investment fee on all putrescible waste) and their disposal rate is then \$.50/ton more than Metro's disposal fee (if Metro opts not to charge that \$.50/ton supplemental community investment fee), the transfer station would not be able to meet goal 5.01-1367 based on this language. This goal seems to be in conflict with 5.01-1360.

5.01 - 1367

We understand the need for additional clarity in this goal area and we have two proposed changes.

Item 1 states that the rate criterion applies to all commercial loads that are less than or equal to 12 tons in weight. We believe this threshold should be set at 10 tons, not 12, as anything over 10 tons is considered overweight and is not a legal load.

Item 3 requires 30-day advance notice of rate changes. We would propose this language be changed to "within 30 days" rather than advanced notice of 30 days. We recognize that Metro needs to receive notice of rate changes in a timely manner, especially if the rate change causes a transfer station to be out of compliance with this goal. As many of our rate changes are tied to fees charged by Metro, some of these timelines are outside of our control.

Thank you for the opportunity to provide these comments.

Thank you,

Kristin Leichner
Vice President
Pride Recycling Company

July 27, 2022

Ms. Molly Vogt
Analytics Manager
Waste Prevention and Environmental Services, Metro
600 NE Grand Avenue
Portland, OR 97232-2736

RE: Comments on Proposed Changes to Metro's Wet Tonnage Allocation Administrative Rules

Dear Ms. Vogt,

As you know, I am the Regional Director at Oregon Refuse and Recycling Association. Today with this letter I represent several member private transfer station facilities: Canby Transfer & Recycling, Inc.; Gresham Sanitary Service; Pride Recycling; WM Forest Grove; WM Troutdale; and Willamette Resources Inc. In that capacity, I am sharing comments regarding Metro's proposed administrative rules regarding wet tonnage allocation during Metro's open public comment period.

During this process we have had discussions and asked questions, which we greatly appreciate. We want to take this opportunity to ask some remaining questions, share specific concerns, and offer suggestions.

Reporting Non-Transfer Station Data – The proposed administrative rule 5.01-1352 outlines reporting requirements for transfer stations with the goal of increasing workforce diversity within transfer stations. While we support diversity equity and inclusion and actively work to advance our work in this area, we have concerns about Metro's expanded approach to this reporting. In particular, some members own and manage different entities apart from their transfer station. As a result, we are requesting Metro to acknowledge and clarify that Metro maintains regulatory authority of transfer stations while local government holds regulatory authority over collection activities. Specifically, it is the purview of local government to regulate and require reporting related to collection activities of franchised haulers. Metro's purported attempt to require reporting beyond the transfer station employees who perform activities for the transfer station may create issues from duplicative inefficient reporting to confusion regarding regulatory roles and authority.

Adding Clarity about Sharing Funds for the "Invest in Communities" Goal – To meet criteria and achieve the 5.01-1360 goal, transfer stations owners are to collect and remit a "community investment fee." We have questions about the specifics related to management, allocation, and necessary reporting related to these funds. The collection of fees began in 2021 and our understanding is that nothing has happened with them since. We collect these funds then remit them to Metro, but what is Metro's intent for the funds; where do they go within Metro; what is the oversight and reporting; how much needs to be collected in order to start projects; and how would these funds be forwarded to metro area cities and counties? In addition, we understand that there are two different funds: the Community Investment Fund and the Community Enhancement Grant. Under the current system, the host communities with whom we work receive funding through the Community Enhancement Grant but not through the Community Investment Fund. We are curious about how this has been communicated to the host communities where the private transfer stations reside and if it has been communicated with those

communities if they may or may not be receiving these extra (Community Investment Fund) monies or if they will be distributed elsewhere.

Attaining the “Invest in Communities” Goal without Sacrificing “Affordable and Consistent Rates” Goal

– Our members are active in the jurisdictions they serve and support investing in communities. Naturally, we have members who may wish to implement actions to meet the criteria for investing in communities noted within proposed administrative rule 5.01-1365 (adding 50 cents per ton as a community investment fee on all putrescible waste). The problem is that this added 50 cents creates an added cost posing an increased challenge for our members to maintain an affordable rate which is a goal for the proposed rule 5.01-1360. This seems counter-productive as we are essentially being forced to choose between these two goals.

Offering Two Edits for the “Affordable and Consistent Rates” Goal – 1) The proposed rule language of 5.01-1367 part 1 applies to all commercial loads that are less than or equal to 12 tons in weight. We recommend changing the threshold to comply with the legal limit of 10 tons; loads weighing more would be considered overweight and are not a legal load. 2) The proposed rule language of 5.01-1367 part 3 requires 30 days *advance* notice (emphasis added). We recommend changing this to “within 30 days” as there are times when factors outside our control can have impacts. We believe this language change would be a good balance to providing Metro notice and enable transfer station owners to better meet this goal.

Again, we recognize all of your work to communicate with us and respond to our questions through this process. We appreciate this opportunity to share our thoughts collectively. We convey our message and suggestions in the interest in advancing the successful attainment of all of these stated goals. We are hopeful that through this letter we are able to address and correct these remaining areas of concern to the benefit of all of us, but most importantly the communities we all serve.

Thank you,

Beth Vargas Duncan and
Canby Transfer & Recycling, Inc.
Gresham Sanitary Service
Pride Recycling
WM Forest Grove
WM Troutdale
Willamette Resources Inc.

C: Lynn Peterson, Metro Council President
Shirley Craddick, Metro Council
Christine Lewis, Metro Council
Gerritt Rosenthal, Metro Council
Juan Carlos González, Metro Council
Mary Nolan, Metro Council
Duncan Hwang, Metro Council