

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 18-1426 FOR THE PURPOSE OF AMENDING METRO CODE TITLE V CHAPTERS 5.00, 5.01 AND 5.05 TO ESTABLISH A FRAMEWORK FOR ALLOCATING PUTRESCIBLE SOLID WASTE TONNAGE TO PRIVATE TRANSFER STATIONS BEGINNING IN 2020

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Ordinance No. 18-1426 proposes a more predictable and adaptable method for allocating the flow of wet waste tonnage to private transfer stations while ensuring that publicly owned transfer stations receive sufficient quantities of waste to provide critical public benefits. The ordinance, if adopted, will amend the following chapters of Metro Code Title V:

- Chapter 5.00 (Definitions) to add new definitions to clarify the new code provisions.
- Chapter 5.01 (Solid Waste Facility Regulation) to establish a framework for allocating putrescible (wet) solid waste tonnage to private transfer stations located **inside** the Metro regional boundary.
- Chapter 5.05 (Solid Waste Flow Control) to establish a framework for allocating wet solid waste tonnage to private transfer stations located **outside** the Metro regional boundary.

The ordinance is effective 90 days after it is adopted and will be implemented beginning January 1, 2020.

BACKGROUND

Oregon law (ORS 268.300 *et. seq.*) provides Metro with responsibility over the transfer and disposal of waste that is generated within its jurisdictional boundary. Metro exercises its broad legal authority to meet the following public benefits:

- Protect the public's health
- Protect the environment
- Get good value for the public's money
- Keep our commitment to the highest and best use of materials
- Be adaptable and responsive in managing materials
- Ensure services are accessible to all types of customers

Until 1991, the St. Johns Landfill, located in north Portland along the Columbia Slough, served as the region's primary disposal site for the many small local private haulers – many of whom have operated in the region since the turn of the century. These local haulers were allowed to dispose of waste directly at the landfill until it closed.

In 1983, the Metro South Transfer Station opened in Oregon City as a means for consolidating and transferring waste from the southern portion of the region to St. Johns Landfill. Whereas, Metro Central Transfer Station, located in north Portland, opened in 1991 in anticipation of the

closure of the St. Johns Landfill and the need to further consolidate and transport wet waste much longer distances for disposal at Columbia Ridge Landfill in Arlington. Metro's transfer stations have been transferring waste to the Columbia Ridge Landfill since the closure of St. Johns. Since the late 1990's, the regional transfer system has evolved to become a "hybrid" mix of publicly owned and privately owned transfer stations. Privately owned transfer stations are allowed to operate under a franchise granted by Metro and most originally began operating as post-collection material recovery facilities. In addition, since the local landfill closed, many local haulers have consolidated or been bought up by large waste companies.

Much like a public utility, Metro is responsible for system-wide planning and infrastructure development for the regional solid waste transfer system. Today five privately owned and two publicly owned transfer stations consolidate and transfer wet waste long distances to landfills. Two transfer stations, located just outside the region, receive small amounts of wet waste that are generated inside the region and collected by affiliated haulers. The Metro Council reaffirmed the continuation of this basic public-private hybrid system when it adopted the Transfer System Configuration Policy in July 2016 (Resolution No. 16-4716).

The 2016 policy requires that by 2020 Metro will:

1. Establish tonnage allocations in percentages so that all allocations change proportionally as regional tonnage rises or falls;
2. Establish a predictable and transparent framework for adjusting tonnage allocations that Council could adopt as a policy;
3. Promote more efficient off-route travel to reduce greenhouse gases and minimize travel time;
4. Accommodate future changes and new technology;
5. Support small businesses;
6. Utilize the regional transfer system and require that all landfill-bound waste use the region's transfer stations; and
7. Improve rate transparency at public and private stations.

In addition, the Metro Council required that *no less* than 40 percent of the region's wet waste tonnage must flow to the two publicly owned transfer stations, Metro South and Metro Central. This helps ensure that Metro can offer necessary services to the public such as daily self-haul, household hazardous waste collection, and expanded operational hours. Metro stations also serve as facilities of last resort and do not generally have the option of turning loads away. Private transfer stations have not historically provided many of these public services. Metro has also historically served as a rate benchmark for other transfer stations in the system as well as a proxy for local governments during their local rate setting processes for collection franchises. The Metro Council also required that no single company should transfer *more* than 40 percent of the region's wet waste. This enables more companies to participate in the transfer system and fosters local economic opportunity.

Metro's Waste Management Landfill Contract

Since 1991 and through the end of 2019, Metro is contractually required to deliver 90 percent of all the landfill-bound wet waste generated within Metro's jurisdiction to a Waste Management landfill for disposal.¹ To comply with this contract, Metro set annual limits on the amounts of wet waste that each privately owned transfer station could receive. Metro also restricted the amounts of wet waste that a private transfer station could deliver to non-Waste Management landfills to no more than ten percent annually.

Starting in 2020, Metro is no longer required to guarantee the delivery of a percentage of the region's wet waste to any one company or landfill except for the tonnage transferred through Metro's public stations. Allocating the remaining wet waste tonnage that does not go through Metro stations moves the regional solid waste system closer to a rational system for allowing private transfer stations to participate in the system. Without a requirement to send 90 percent of the region's waste to a particular landfill, Metro anticipates a significant change in the economics of garbage collection, hauling, transfer and disposal in the region. The new wet waste allocation system proposed by this ordinance allows the private transfer stations to deliver their waste to any landfill they wish, so long as it does not conflict with the Landfill Capacity Policy adopted by the Metro Council in 2017 (Ordinance no. 17-1401).

Currently, there is no systematic method for allocating Metro's wet waste to the private stations. The allocations are not always predictable, often require ongoing negotiations with private transfer station operators, and do not promote system efficiency. In addition, the current allocations do not account for regional population shifts or growth, nor do they account for adding (or removing) transfer stations in the system. In short, staff believes that the current approach to allocating waste does not serve the public's interest as we move into 2020.

In March 2018, Metro staff proposed a framework and methodology to allocate the regional wet waste tonnage to private solid waste transfer stations beginning in 2020.² The framework and methodology promote a more systematic, transparent, equitable and potentially efficient distribution of wet waste to the transfer stations that serve the region.

The proposed new approach to wet waste tonnage allocation is expected to reduce travel time, support system efficiency, and ensure that many companies can continue to play a role in the region's transfer system. The new approach encourages haulers to minimize off-route travel to reduce greenhouse gases and road wear from unnecessary truck travel, increases pedestrian safety, and provides other public benefits. This methodology seeks to minimize transportation-related system costs by encouraging use of the closest transfer station and requiring that all landfill-bound waste use a transfer station located within or very near Metro's jurisdictional boundary.

¹ Change Order 11 to this disposal contract changed the flow guarantee from 90 percent to 87 percent for 2018 and 2019.

² See <https://www.oregonmetro.gov/wet-waste-allocation-study> for more information about the methodology.

PUBLIC OUTREACH AND ENGAGEMENT

The Transfer System Configuration Policy was developed with extensive waste industry and local government input. The Solid Waste Alternatives Advisory Committee (SWACC) also provided review in preparation for developing a more systematic process to the allocation and management of Metro's wet waste after the current disposal contract with Waste Management expires at the end of 2019.

In developing a proposed framework and methodology in March 2018, Metro staff met with all the transfer station operators individually and as a group throughout April, May and June. Staff also briefed local government solid waste directors on several occasions and SWAAC at its May, July and October meetings. Stakeholders had various comments and questions which are summarized below:

1. *Metro developed this proposal too quickly and was not inclusive enough.*

Response: The allocation method was developed internally at Metro over a period of several months and proposed in March 2018 with invitations for subsequent feedback in person and in writing. Staff will continue to meet and discuss the proposal's methodology details in the draft administrative rules with stakeholders.

2. *The model is too generalized.*

Response: The tonnage allocation approach used in the proposed model is based on the "shortest travel time" rule, from the origin of the waste to the most proximate transfer station. This approach is generalized and intended to align with the Council objectives while being more systematic, straightforward, transparent, predictable and easily maintained over time. Staff will evaluate the development of a more complex empirical model that would accomplish other goals such as better reflecting the "actual" regional garbage truck transportation system. This will also enable comparisons of the current system with future performance under different economic and policy scenarios. It is critical to consider the cost of collecting and managing new data with its practical value in improving the model. Staff will continue to evaluate the model, assess data requirements and improve the model over time.

3. *Parking barns should be included in the model.*

Response: Parking barns are where collection route trucks leave from and return to. They can be an important consideration, especially when co-located with a transfer station, because that is where integrated operations expect to park collection vehicles over night after delivering the last load of the day. Staff continues to evaluate how best to include certain barns, especially those that serve to maintain and repair collection vehicles and serve as compressed natural gas (CNG) fueling stations for fleets. However, a particular parking barn's level of influence on off-route travel time depends on many other factors. These include the number of routes a truck completes in a day and traffic issues that fluctuate during the day. In addition, parking barn locations change more over time than transfer station locations. Although barns may be an important addition to an empirical

model, staff does not have route-level data to enable the inclusion of barns in the current model without overestimating their influence. Staff will continue to evaluate the most effective way to include barns in the model without overcorrecting for this factor.

4. *There is not a universally preferred way to measure proximity to transfer stations to define wastesheds for all collectors.*

Response: Metro, as the federally recognized metropolitan planning organization for the greater Portland area, develops and maintains a regional travel model for transportation planning and has many years of experience in modeling the flow of transportation throughout the region. Metro staff evaluated distance, modeled congested travel time, and modeled uncongested travel time as measures of access and proximity. The resulting differences in wastesheds were negligible (no variation resulted in more than three percentage points change in tonnage allocation for any given wasteshed), so the implications of this choice upon allocations were minimal. Vehicle miles traveled (VMT) does not reflect all costs associated with route-based hauling operations as effectively as a time-based measure and was therefore removed from consideration. Uncongested travel time was originally selected for its consistency and neutrality as compared with a specific peak hour travel model which may not reflect the actual time when the majority of haulers are traveling off-route, but many stakeholders preferred a peak hour travel time model. Staff have changed the methodology to use morning peak hour travel for the allocation and will continue to explore additional data that would better reflect actual garbage truck travel times.

5. *The model does not account for differential tip fees between transfer stations or cost efficiencies that may accrue to vertically integrated companies.*

Response: In the past, tips fees at all stations were within a very narrow range – generally within one dollar per ton. Thus, it made no appreciable difference for unaffiliated haulers i.e. those haulers that are not owned by a transfer station or landfill to use one facility over another facility based on tip fees alone. Further, public tip fees served as a convenient proxy for local government rate makers when determining curbside rates for collection. Only recently have some stations begun to increase tip fees significantly.

For instance, the Forest Grove and Troutdale Transfer Stations currently charge nearly \$15 per ton more than tip fees at Metro's public stations. The higher tip fees at Forest Grove and Troutdale have forced some collectors to re-evaluate which station they use based on cost and travel time. Local government staff has also expressed the need for greater rate transparency at facilities to better inform their rate setting process for collection routes. More uniform rates at transfer stations throughout the region coupled with the proposed tonnage allocation method could encourage greater efficiencies in the flow of waste. Staff will soon publish the next step of the Rate Transparency Project which will highlight observable information on the rate components of private transfer stations as a way to better understand facility tip fees. Staff will evaluate whether consideration should be given to transfer stations seeking higher tonnage allocations when they are also charging much higher rates than the public stations.

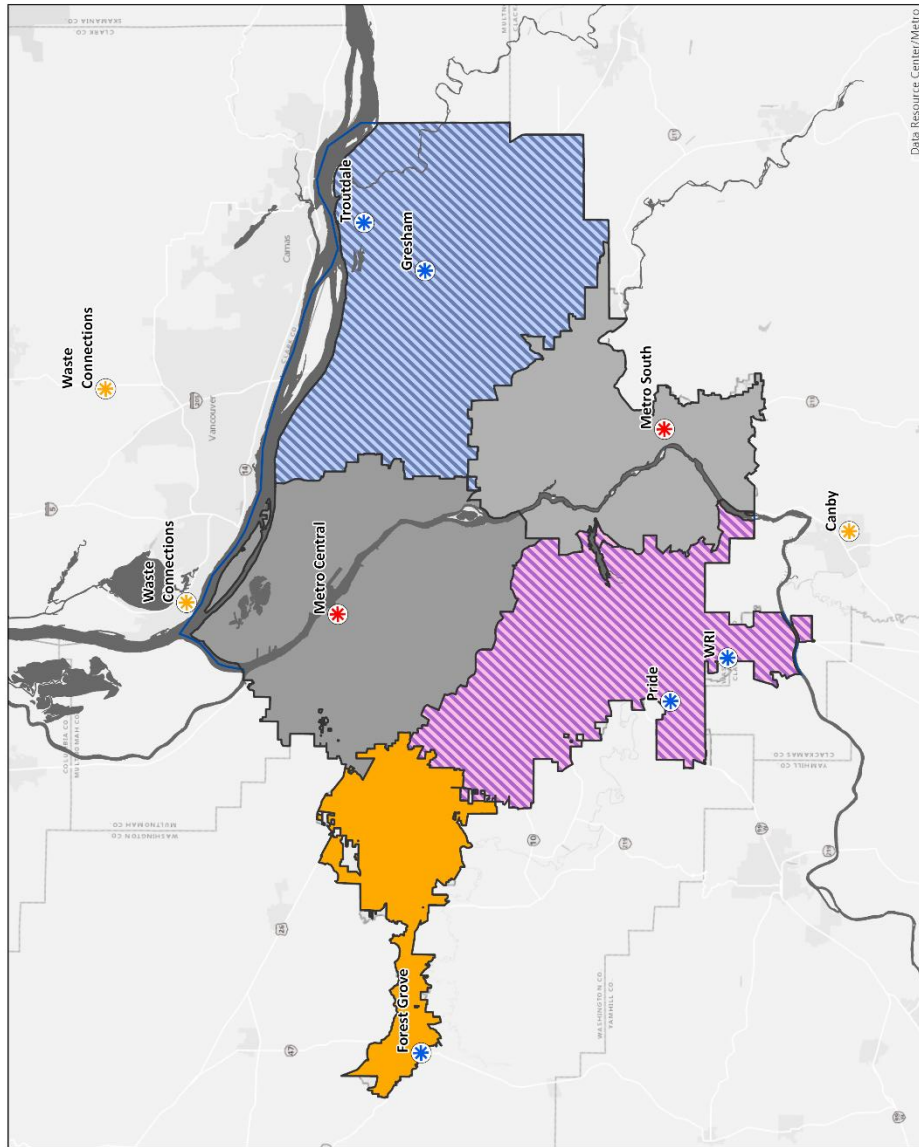
6. *Out-of-region transfer stations should be considered part of the system.*

Response: Two transfer stations, located just outside the Metro regional boundary, are currently authorized to receive small volumes of Metro area wet waste from haulers owned by the same company. These stations are located in Canby and Clark County, Washington. The configuration policy stated that “wet waste generated in region should utilize the regional transfer system” as a way to “minimize inefficiencies.” These out-of-region transfer stations are closer to only a very small percentage of the region’s wet waste than transfer stations located inside the region. However, staff recognizes that continuing to allow some nearby historically used transfer stations to remain active in the regional system will minimize system disruption, at least for a transitional period. Staff has proposed that out-of-region transfer stations remain eligible to receive small allocations that are consistent with recent previous years if they become designated facilities and enter into an agreement with Metro.

The regional solid waste system is very dynamic and continues to change for a variety of demographic and economic reasons. Based on some new assumptions, the solid waste forecast for 2019-20, and addressing some of the stakeholder comments received, staff produced an updated map originally found in the March 2018 Report on Wet Waste Tonnage Allocation (Figure 8 on page 13). This updated map includes the following additional new assumptions:

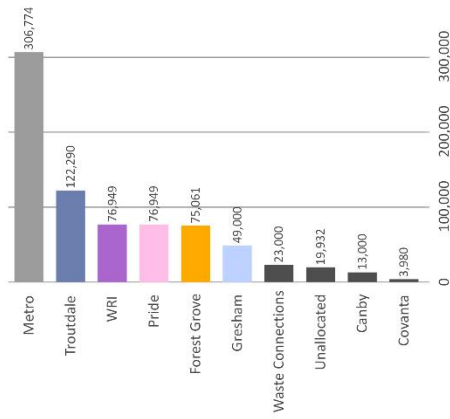
1. Regional wet waste tons projected to be generated are based on Metro’s latest solid waste forecast.
2. Canby Transfer Station, owned by KB Recycling, would be eligible to receive an annual allocation of 13,000 tons in 2020. This assumption is based on the last three calendar years of actual wet waste delivered to the station in Canby.
3. Arrow Sanitary, owned by Waste Connections, would be eligible to receive an annual allocation of 23,000 tons in 2020. This assumption is based on the last three calendar years of wet waste delivered to its Clark County transfer station (West Van).
4. Gresham Sanitary Services (GSS) has requested an increase in its current franchise annual cap of 25,400 tons for a total of 49,000 tons for 2020. This assumption is based on the Metro Council approving GSS request during 2019.
5. Unlike the March 2018 map that used uncongested travel distance to develop wastesheds, the new map below is based on travel time during a 7:00 am to 9:00 am peak travel time. This changes the boundaries slightly.
6. This map does not include parking barn data.

2020 projected tonnage allocations

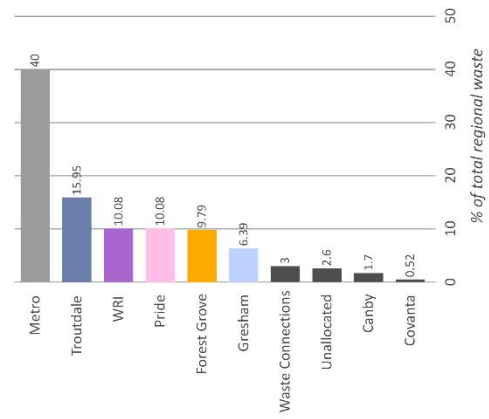


Map based on Metro data, draft solid waste forecast, and applications received as of 10/5/2018.
Wastesheds based on 7-9 AM congested travel model.

Waste allocation estimate (766,935 tons)



Share of regional waste



PROPOSED AMENDMENTS TO TITLE V

CHAPTER 5.00 (Definitions)

Ordinance no. 18-1426 proposes to add three new definitions necessary to implement the framework and add clarity to the new code language:

Significant disruption defines long-term, unplanned events that may trigger the need for a tonnage allocation adjustment.

Tonnage allocation is defined as Metro granting a percentage of the region's wet waste to a private transfer station.

Transfer station wasteshed defines wasteshed in the framework for tonnage allocations.

CHAPTER 5.01 (Solid waste facility regulation)

CHAPTER 5.05 (Solid waste flow control)

Metro Code Chapter 5.01 regulates solid waste facilities and disposal sites located within the region. Metro Code Chapter 5.05 regulates solid waste facilities located outside the region. The Chief Operating Officer (COO) recommends the proposed changes to Chapters 5.01 and 5.05 as described below and further detailed in Exhibit A to the ordinance.

Putrescible waste tonnage allocation framework (5.01.195 and 5.05.195)

These proposed new sections establish the tonnage allocation framework in Code for solid waste transfer stations located both inside and outside the regional boundary. They also establish the general factors the COO will consider when allocating tonnage amounts. These are general factors that are normally considered by the COO when making decisions about the regional solid waste system:

1. Public benefits to the regional waste system: This requires a private transfer station to explain how its operation meets the public benefits as listed on the first page of this staff report. These include protecting public health and the environment, getting good value for the public's money, and ensuring services are accessible to all.
2. Effect on the regional solid waste system: This requires a private transfer station to explain how its operation does affect or will affect the regional system.
3. Preserve Metro's 40 percent share of wet waste tonnage: Upon adoption of the Transfer System Configuration Policy in 2016, Metro Council recognized the need for Metro to be part of the hybrid system of transfer stations. Metro do not generally have the option of turning loads away. Metro is open to public self-haul and commercial vehicles more days and longer hours than any of the private stations. Metro provides additional services, not always provided by private stations, such as household hazardous waste collection, post-collection recovery and recycling drop-off.
4. Proportional share is allocated to companies in a clear and transparent way: This requires that no one facility may receive more than 40 percent of the region's waste, which helps promote competitive participation by many companies, including locally-owned companies.
5. Rates: Metro may consider rates in the future concurrent with the rate transparency project as it moves to more advanced stages. Phase 2 is nearly complete and is intended to explain the rate components of the private facility rates based on observation and publicly available information.
6. Any other factor: Metro is responsible for planning and managing a very complex, dynamic and changing solid waste system. The COO always reserves the right to include other relevant factors when deciding how much wet waste to allocate to the private sector stations.

This Code section allows the COO to adjust tonnage further when it is in the public interest to do so and to account for significant events that may impact the regional solid waste system.

5.01.260 Obligations and limits for selected types of activities

This proposed new section establishes a framework for general acceptance standards for wet waste and addresses the access of unaffiliated haulers to transfer stations. It spells out causes that would allow a transfer station to deny access to unaffiliated haulers and provides a process for notifying Metro prior to refusing service. These changes also allow the COO to investigate access denial.

5.05.196 Obligations and limits for selected types of activities

This proposed new section establishes a framework for acceptance standards for wet waste at a transfer station located outside the regional boundary. It requires an out-of-region transfer station seeking a tonnage allocation to 1) become designated by Metro Council and 2) enter into an agreement with Metro that specifies the conditions under which it may accept wet waste from the Metro region. It also spells out causes that would allow a transfer station to deny access to unaffiliated haulers and also provides a process for notifying Metro prior to refusing service.

The proposal also requires an out-of-region transfer station to demonstrate adequate capacity to accept wet waste from within the Metro region and that the local or state permitting authority allows the transfer station to accept Metro-area waste. The proposal establishes Metro's right to review, monitor, inspect and audit private transfer stations located outside the regional boundary as if they were located inside the regional boundary.

An out-of-region transfer station must also agree to collect and remit fees and taxes to Metro on waste accepted from inside the regional boundary. The proposal also specifies that the transfer station may only accept waste from haulers in accordance with its agreement with Metro. The COO may investigate to ensure compliance with this agreement.

ADMINISTRATIVE RULES

Included with this staff report is a draft of administrative rules (AR 5.01-3000 through 3040) that provide more details of the process to allocate wet waste. These are provided so that stakeholders have a complete picture of the both the code framework and methodology/process for allocation wet waste tonnage.

If the Metro Council adopts Ordinance 18-1426, the COO will consider a final version these administrative rules through the process outlined in Chapter 5.01.280 and 5.05.280. The adoption process will include at least a 30-day public comment period and a public hearing prior to the adoption of the final rules. Metro staff is available to answer questions or take comments on these proposed rules at any time.

ANALYSIS / INFORMATION

1. Known Opposition

Metro staff engaged in an extensive stakeholder process that included multiple meetings collectively and individually with transfer station operators and with representatives of the Oregon Refuse and Recycling Association. Staff also conferred several times with local government solid waste directors and some elected local officials. Staff made three presentations before SWAAC. Attached to the staff report is a response to comments that address many of the concerns raised.

2. Legal Antecedents

Metro has broad legal authority to manage and regulate the region's solid waste system under ORS Chapter 268, Metro's home rule Charter and the Oregon Constitution.

3. Anticipated Effects

If Council adopts Ordinance No. 18-1426, wet waste tonnage allocation would become more transparent and systematic beginning in 2020. In addition, Metro would establish a framework for wet waste tonnage allocation and further evaluate other data needs to improve the model.

4. Budget Impacts

There are no expected budget impacts associated with the adoption of this ordinance.

RECOMMENDED ACTION

The COO recommends adoption of Ordinance No. 18-1426.