

METRO COUNCIL

Work Session Worksheet

PRESENTATION DATE: June 5, 2018

LENGTH: 45 Minutes

PRESENTATION TITLE: Solid Waste Roadmap: Food Scraps Policy Update

DEPARTMENT: Property & Environmental Services

PRESENTER(S): Paul Slyman, Director, Property and Environmental Services; Pam Peck, Planning & Policy Manager (ext. 1866) and Jennifer Erickson, Principal Solid Waste

WORK SESSION PURPOSE & DESIRED OUTCOMES

- **Purpose:** To provide Council with an overview of the mandatory food scraps separation ordinance and associated administrative rules that will come before them on July 19 and July 26, 2018 and to present the specific changes made to the policy based on Council input and public comment.
- **Desired outcome:** Direction from Council on:
Additional information needed or desired prior to public hearing on the Ordinance scheduled for July 19, 2018.

TOPIC BACKGROUND & FRAMING THE WORK SESSION DISCUSSION

Topic background. Metro's Solid Waste Roadmap is a work program consisting of six interrelated projects that will help define the region's solid waste system in the future. The purpose of the Food Scraps Capacity Development work, one of the six projects, is to develop alternatives for answering the question of what actions should Metro take to accelerate recovery of food scraps and ensure there is adequate and proximate capacity to transfer and process food scraps collected from the region's residents and businesses.

This effort is ultimately intended to help ensure the region has a sustainable food scraps recovery system: one that generates enough high quality material to make processing facilities economically viable, has an adequate transfer system, and has enough stable processing capacity to allow growth in the collection of food scraps from the region over time.

Food is the single largest component of the region's disposed waste. This factor and the environmental benefits of recovering food are the reasons it is identified as a primary material for recovery within the region's Regional Solid Waste Management Plan (RSWMP).

Framing the discussion. In November, 2014, staff proposed to Council that the focus begin with businesses because more than half of the food disposed in the Metro region is from businesses. In addition, food scraps generated by businesses tend to be cleaner, are concentrated in larger quantities and come from a smaller set of sources. For example, the majority of food scraps in the region are produced by about 3,300 businesses. By comparison, residential food scraps are spread across the region's approximately 675,000 households.

Council reviewed the region's current commercial food scraps recovery, and staff introduced some potential paths forward to ensure that the region has a stable and sustainable food scraps transfer and processing system for the long term.

At that meeting, Council confirmed its desire to accelerate the region's recovery of food scraps and its wish to process those food scraps in or as close to the region as possible. The direction Council gave in November, 2014, led staff to develop a suite of options for accomplishing those goals.

In July, 2015, staff returned for part two of the discussion, which was a narrowing of the suite of options. Council went through a decision-tree process in which it answered the following questions:

To accelerate recovery, address supply barriers and attract local processing capacity, should Metro explore:

1. How to get more businesses to separate their food scraps for recovery?
2. Determining which transfer stations should manage food scraps?
3. Securing local processing capacity?

Councilors answered "yes" to all three.

In October of 2016, staff presented a series of options that Council could consider to meet the objectives listed above.

After consideration, Council determined that in order to increase food scraps recovery and attract stable, local processing capacity, the region should:

1. Require certain businesses to separate their food scraps for recovery and eventually ban the disposal of food.
2. Determine how to efficiently collect and deliver food scraps for processing.
3. Secure local and stable processing capacity.

Based on Council direction, staff has developed draft policies and initiatives to fulfill these three objectives.

At the November 7, 2017, work session, staff returned to Council with the draft Ordinance, draft Administrative Rules and public comment report. Council expressed concerns about one particular element of the draft Administrative Rules: the distance waiver, through which Metro would waive the requirement until a jurisdiction had a food scraps transfer station or processor in relatively close proximity to mitigate collection costs increases related to the requirement. Based on that input, Metro staff developed an alternative approach intended to achieve the same cost mitigation objective as the distance waiver, but to do so in a way that more strongly advances the intent of the regional food scraps policy and allows all businesses to participate.

Below is a brief description of the work completed, the specific changes made to the policy based on Council input, stakeholder engagement process and public comments received. At this work session, staff will be focusing on the changes made to the policy since our last engagement in November 2017.

Business Food Scraps Separation Requirement Overview

The draft policy and administrative rules were crafted over a twelve-month period by: Metro staff from Property and Environmental Services and the Council Office; representatives from Clackamas County, Gresham, Portland, Washington County, Beaverton and Oregon DEQ, as well as the Office of Metro Attorney. The draft policy would require local governments within the region to adopt a mechanism for requiring separation of food scraps by certain business types. The objective is to design a policy that provides clarity and consistency for the affected businesses and, at the same time, allows for some implementation flexibility for local governments.

The key elements are:

- The policy would require, by July 2019, that local governments inside the Metro boundary adopt an enforceable mechanism (such as a code amendment, business license requirement) that requires that food service businesses separate food scraps from other waste and recyclables.
- The policy allows for local government flexibility in program implementation (e.g., geographically, by hauler franchise, areas of business concentration, etc.), in a manner that makes sense locally as long as programs meet regional performance standards. Governments may also, on a limited basis, grant waivers to businesses who are unable to comply.
- The policy would be rolled out in three phases beginning with businesses that generate the most food scraps and would affect approximately 3,000 businesses in the region overall. This represents about 4 percent of the overall business community.
- The first phase would begin in March 2020 (businesses that generate 1,000 pounds or more of food scraps per week), phase 2 in March 2021 (businesses that generate 500 pounds or more per week), and phase 3 in September 2022 (schools and businesses that generate 250 pounds or more per week).
- Staff will also present Resolution No. 18-4864 for Council consideration concurrent with the policy Ordinance. The Resolution requires Metro staff, by December 2019, to develop policy, ordinance and rule that would prohibit the landfill disposal of commercial food scraps based on an assessment of implementation of the required separation policy.
- Metro would provide funding to support program rollout to assist local governments and businesses with implementation (staffing, education, business assistance and needed infrastructure).

Overview of Changes Made to Draft Policy

Access to Transfer Services Payment

When the required separation policy is implemented, the region may still have a limited number of facilities that accept commercial food scraps, which might result in increased travel times for haulers delivering collected food scraps. Those times would translate into higher costs that would be passed on to customers. To address this, the administrative rules originally contained a distance waiver, through which Metro would waive the required food scraps collection requirement until a jurisdiction had a food scraps transfer station or processor in relatively close proximity. Council was concerned that a waiver would preclude the implementation of a truly regional system—a key goal of the policy.

In response, Metro staff developed an approach intended to achieve the same objective as the distance waiver, but to do so in a way that more strongly advances the intent of the regional food scraps policy, allows all businesses to participate and helps to offset some of the costs of participation.

Rather than waiving participation, the *access to transfer services payment* focuses directly on offsetting costs of delivering food scraps to Metro Central Station. It would do so by having Metro annually reimburse local governments an amount calculated by estimating the actual costs incurred from being relatively further from Metro Central than the closest waste transfer station. The payment would:

- Help ensure there is a consistent regional program with collection services available to all affected businesses (this is especially important to businesses with multiple locations).
- Create a more level playing field in the region so that local jurisdictions and affected businesses that are more distant from available services are not at a significant financial disadvantage.
- Contribute to the region's ability to generate more food scraps for recovery more quickly, helping reduce costs related to processing.
- Easily adapt to the addition of more conveniently located transfer services.

Staff expects to continue to refine the Access to Transfer Services Payment approach in response to local government partner questions regarding the definition of the payment zones and how and to whom payments are disbursed. Ample opportunities to refine the Administrative Rules remain prior to the Metro Chief Operating Officer's consideration.

The potential financial impact if there are no other options but to deliver all of the region's food scraps to Metro Central Station over the 5 years of program implementation (all business groups cumulatively at full participation capturing 50% of available food scraps), is approximately:

- FY 2019-20: \$169,000
- FY 2020-21: \$545,000
- FY 2021-22: \$618,000
- FY 2022-23: \$680,000
- FY 2023-24: \$174,000
- Total: \$2,186,000

It is likely that for fiscal years 2019-20 and 2023-24, the funds could be derived from the existing Property and Environmental Services budget. For fiscal years 2020 through 2023, if the necessary funds could not be covered from the existing budget and required completely new revenue, the potential solid waste rate impact would be as follows (based on 2017 solid waste tonnage forecasts):

- FY 2020-21: approximately \$0.39 per ton increase to the Regional System Fee
- FY 2021-22: approximately \$0.43 per ton increase to the Regional System Fee
- FY 2022-23: approximately \$0.47 per ton increase to the Regional System Fee

Because these payments are based on the number of businesses under the requirement over time, the expected tons they will generate and the distance to available transfer services, the addition of transfer service options can significantly reduce the potential financial impact.

Implementation dates

Due to rule revisions and rescheduling of legislative hearings, implementation dates have been extended by one year. Revised dates are listed below:

- Local Government Adoption of Requirement: July 31, 2019
- Begin Implementation of Requirement for Business Group 1: March 31, 2020
- Begin Implementation of Requirement for Business Group 2: March 31, 2021
- Begin Implementation of Requirement for Business Group 3: September 30, 2022

Stakeholder Engagement

A robust stakeholder engagement process began in May of 2016. Engagements included:

- 360 businesses surveyed
- 8 Industry Professional Associations, Organizations or Committees
- 12 one-on-one meetings with businesses
- 21 City Councils and County Commissions
- 10 Chambers of Commerce/business alliances
- 12 food rescue agencies
- Regional City Managers
- Regional Mayors and Chairs
- State and county health departments and regulators
- MPAC
- SWAAC

In addition, two 30-day public comment periods were held. The first included letters to over 2,000 potentially-affected businesses to inform them of the policy and to invite comments. Metro also produced 1,000 postcards for local government partners to hand out to businesses. At the close of the first comment period, 38 comments were received:

- 21 were supportive of a mandatory policy
- 1 was opposed
- 5 had general questions or information requests
- 8 had some concerns or requested clarifying edits to the policy
- 3 comments were neutral or not applicable

A second comment period on the revised policy closed on May 15, 2018. Eight comments were received.

- 3 were in support of the policy
- 3 supported intent of the policy but had specific concerns about how the access to services funds would be disbursed
- 1 requested that Metro consider a pilot program in one area of the region prior to region-wide implementation
- 1 requested the requirement be expanded to cover multifamily households

An updated public comment report and the second drafts of the Ordinance and Administrative Procedures are attached.

QUESTION(S) PRESENTED FOR CONSIDERATION

1. Do you have comments or questions about the updated draft policy ordinance and Administrative Rules?
2. What other information do you need prior to the July 19 consideration of the ordinance and public hearing?

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION ☒ Yes ☐ No

DRAFT IS ATTACHED ☒ Yes ☐ No