

1. Please note that this webinar is being recorded.

2. All attendees have muted cameras and microphones.

There will be a public comment period during the meeting, and at that time we will explain again how attendees can raise their hand in order to speak:



Look for the Raise Hand icon: Raise Hand

If you have called in via phone, you may dial *9 which will let us know you've raised your hand to speak. Your microphone will be unmuted when it is your turn to speak.

3. There is no chat or Q&A function during the meeting other than the raise hand function which can be used during the public comment period.

If you have any technical difficulties or questions, send me an email:

casey.mellnik@oregonmetro.gov

Today's discussion

Welcome

Consideration of Minutes (June 2020)

Code versus Administrative Rules

Regional Service Standards (part 3)

Potential Rate Increase

Closing and Adjourn





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Code versus Administrative Rules



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Administrative Rules v. Statute/Code

July 2020



What is an administrative rule?

“Rule” means any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.

Oregon Revised Statutes 183.310

How is a rule different than a code section?

The Metro Council adopts code language by ordinance. The Metro Code sets forth the law based on policy choices adopted by the Council.

- An administrative rule “implements” or “interprets” the Code language (policy).
- Rules should not create or change policy.
- Rules can provide more flexibility than code provisions because they can adapt more quickly to changing conditions and circumstances.

Who adopts administrative rules?

Generally, an agency, department or director adopts administrative rules following a rulemaking process.

This occurs only if the legislative body (Congress, state legislature, city council, county commission, Metro Council, etc) has authorized rulemaking authority to the agency, department, director, etc.

For Metro, the Council has authorized the COO to adopt rules.

What is the process for adopting a rule?

The Metro Code requires Metro to publish draft administrative rules for public comment for at least a 30-day comment period.

- Comments can either be written or given orally at the public hearing.
- After the comment period ends, Metro's Chief Operating Officer can either adopt, reject or modify the draft rules.
- If the COO wishes to substantially modify the draft rule, Metro must provide another 15-day comment period.

What kind of notice does Metro give when considering a new rule?

Notice of a proposed rule must include the following:

- A brief description of the proposed rule
- The location at which a person can get a copy of the full text of the rule
- The method for submitting a public comment
- The deadline to submit a public comment

Temporary rules

Notwithstanding the public comment and notice requirements, the Chief Operating Officer can adopt a *temporary* rule if:

- “a failure to act promptly will result in serious prejudice to the public interest or the interest of an affected party.”
- Temporary rules only remain in effect for 180 days.

Examples of how a rule might “implement” or “interpret” code

- If a code section authorized a credit for “low income” individuals, an administrative rule might set forth the criteria of what “low income” means in that context.
- If an applicant must apply “on a form and in a manner prescribed” by the agency, an administrative rule might set forth how that form is formatted, what information must be included, how many copies are necessary, when it is due, etc.
- If a civil penalty can be reduced based on “mitigating” factors, an administrative rule might set forth what type of things are considered “mitigating” under various circumstances.

Couldn't these rules just be in the code?

Yes.

- However, the larger and more complex a government becomes, the more difficult, time consuming and cumbersome it is for that government's legislative body (Congress, legislature, council) to address every little detail when passing laws.
- Thus, the legislative body enacts the overarching policy into law and then authorizes the executive branch (agency, department, director) to adopt administrative rules to implement and interpret the law (policy).

Can the rules be challenged after adoption?

Yes.

However, someone cannot challenge the rule simply because they do not like it. Rather, they can only challenge it on limited grounds. For example:

- There was not proper authority given to adopt the rule in the first place
- The agency did not follow proper procedures in adopting the rule
- The rule is arbitrary and capricious
- The rule otherwise violates another statute or constitutional provision

Do rules have the same force as laws?

Yes.



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Questions?





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Regional Service Standards (part 3)



Regional Service Standards: Rules Update

Regional Waste Advisory Committee July 16, 2020

Review

- Code is out of date and does not reflect the Regional Waste Plan
- Code Chapters reorganized and detail moved to new Administrative Rules (AR)
- Reviewed draft Code last month
- **Today is focused on proposed Administrative Rules**

Chapter 2000

Single-family residential

- Alternative Program eliminated
- Food waste added as optional service
- Property owners must ensure service for renters



Chapter 2000

Multifamily residential

- New container color standard, regional decal & enclosure sign standard
- New minimum service standards



Multifamily Residential

Cost analysis

- Metro is proposing a 7-year deadline for color standard implementation
- Minimum service volumes should not result in additional costs



Chapters 3000 and 4000

Business Service Standards (3000)

- Combine all business sector requirements
- Remove obsolete dates in Business Recycling Requirement

Business Food Waste Requirement (4000)

- Implementation dates to be pushed back one year to March 2021
- Changes to be made in separate process this summer

Chapter 5000

General Education Standards

- Education and outreach required for all customers
- Accurate and culturally-responsive
- Requires that hauler-provided information meets standards
- Direct performance feedback to customers

Next steps

- Receive comments from you & revise as necessary
- Broader stakeholder engagement begins mid to late summer
- Code package to Council in winter followed closely by Rules to COO



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Potential Rate Increase



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Regional Waste Advisory Committee

Next committee meeting: August 20, 2020 8 a.m. – 10 a.m.