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FINAL

# EVALUATION OF SOLID WASTE FEE AND TAX POLICIES EXECUTIVE SUMMARY

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# EXECUTIVE SUMMARY

## Project Background

Metro assesses both a Regional Service Fee (RSF) and Excise Tax (ET) on every ton of disposed solid waste originating within the region, regardless of where the landfill is located. There are three rate tiers for the RSF and ET: full rate (\$30.24), reduced rate (\$3.50), and exemption (\$0). Metro uses multiple factors to determine whether the disposed tons are subject to the full set of fees and taxes including origin, type, final destination, and use of waste, among others<sup>1</sup>. Metro does not assess RSF and ET on materials that are recycled or reused or which are otherwise specifically exempted.

The policies around reduced and exempted fees were originally adopted to encourage the clean-up of contaminated soils from underground storage tanks. Over time, the policies, materials, businesses and markets in the region have changed. Today, nearly one-third of all disposed materials receive either exempted or reduced rates. Metro contracted with Resource Recycling Systems (RRS) to assist in a review of the RSF and ET assessment policies, procedures, and material disposal trends. The following is a summary of the findings and recommendations.

## Current Situation

Over a decade has passed since the publication of the Metro commissioned 2006 URS report “Evaluation of Disposal Trends for Environmental Clean-up and Beneficial Use Materials”. In that time, Oregon DEQ has adopted policies to address the issue of landfills accepting more ADC or beneficial use materials than they can use. However, Metro has taken little action to address the RSF and ET issues raised in the 2006 report. Since 2006 the types of materials qualifying for exemptions has broadened and the total annual amount of exempted and reduced material has increased (based on annual average tonnages). The same issues discussed in 2006 regarding data tracking, private disposal companies or generators maximizing exempted materials to reduce costs, and mixed economic incentives for highest and best use remain today. The interviews and evaluation of the Metro code conducted for this report found that the code language is complex and in some places confusing, that there are materials that are exempt by practice but not in code, and there are concerns around the equity of the exemptions. The research indicates that exemptions and discounts as currently administered do help to support diversion and provide an environmental benefit in

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<sup>1</sup> The complete list of factors and their descriptions can be read in the Fee and Tax Policy Background section of the full report.

the region, but there are areas of the code and its administration that could be improved or revised. Figure 1 below displays the tons of full, reduced, and exempted materials from 2012 to 2015.

**Figure 1: Full, Reduced, Exempted, and Total Disposed Tons**

Year	Exempted	Reduced	Full Rate	Total Tons
2012	135,400 (10%)	99,400 (8%)	1,065,200 (82%)	1,300,000
2013	134,200 (9%)	308,800 (21%)	1,047,000 (70%)	1,490,000
2014	195,900 (13%)	234,600 (15%)	1,088,500 (72%)	1,519,000
2015	176,900 (10%)	422,700 (24%)	1,139,400 (66%)	1,739,000
<b>Average</b>	160,600 (11%)	266,400 (18%)	1,085,000 (72%)	1,512,000

## Stakeholder Input

As part of the research, RRS staff conducted a series of interviews with landfill operators, exempted parties, and eligible parties in the region. The interviews were followed by in-person stakeholder meetings hosted by Metro with RRS in attendance as the technical presenter<sup>2</sup>. A summary of the stakeholder input is included in Figure 2. The information in Figure 2 reflects the opinions of the stakeholders and are not the conclusions of the consultant team.

**Figure 2: Stakeholder Input Summary**

Landfills	Exempted Parties	Eligible Parties
<ul style="list-style-type: none"> <li>Exemptions provide a positive impact</li> <li>Removal would hurt landfills in the region</li> <li>Metro Code and policy are generally clear, understandable, and equitable</li> <li>Metro should examine the acceptance of shaker fines as ADC</li> <li>Exemptions do provide a public and environmental benefit to the region</li> <li>Most landfills support no changes to the Metro Code</li> </ul>	<ul style="list-style-type: none"> <li>Exemptions help businesses in the region</li> <li>Eliminating exemptions would hurt business</li> <li>Policy is generally clear, understandable, and equitable</li> <li>Exemptions provide a positive environmental and public benefit</li> <li>ADC exemptions are necessary to meet Metro’s EDWRP requirement</li> <li>Metro would face strong opposition to changes to the policy</li> <li>Perception among some generators that Metro is considering changes to increase revenue</li> <li>Most support no changes to the Metro Code</li> </ul>	<ul style="list-style-type: none"> <li>Several dry waste processors could get exemptions but choose not to do so</li> <li>Believe there are issues around clarity and equity</li> <li>The exemptions do not help to improve the environment in the region</li> <li>Metro Code and RSF and ET should be revised</li> </ul>

<sup>2</sup> The feedback and comments received by the stakeholders are included in full in the appendix of the report. Stakeholders were provided with the opportunity to comment on the draft versions of this report and RRS made revisions based on the input.



## Findings

RRS concludes that current policies surrounding the RSF and ET exemptions and reduced rates have evolved over time, and while the system is not ‘broken’, there is room for improvement and even alternative options. RRS evaluated the different material types, Metro’s policy justifications, benefits, and current economic signals to determine where changes may be justified. RRS, also interviewed other jurisdictions and state regulators to assess Metro’s policies on a broader regional context. Based on the evaluation, RRS recommends the following:

- **Recyclables and Organics:** No changes recommended to the policies around exemptions for these materials.
- **Tire Processing:** RRS recommends no changes that would increase the RSF or ET on tire processor residuals.
- **Captive Landfill:** Recommend that any potential policy change does not result in charging RSF or ET on the materials going to the captive landfill.
- **Useful Materials:** The research identified challenges around the exemptions for useful materials. Thus, RRS recommends several alternative options around the useful material exemptions. The recommendations have the potential to increase equity, simplify the code language, and increase the environmental benefit of the RSF and ET exemptions.
  - **Auto Shredder Residue (auto fluff):** Auto Shredder Residue is a subset of ‘useful material’. Due to several unique factors around auto fluff, RRS examined the justification for continued exemptions of the material separately. RRS does not recommend significantly changing the exemptions around auto shredder residue.

## Top Four Options

RRS evaluated a total of nine potential alternatives to the RSF and ET exemptions and reductions. The options covered a spectrum of possibilities from ‘do nothing’ all the way to removing the exemptions and reductions on all materials. Each of the alternatives were scored on five criteria; public benefit, waste reduction / diversion, simple and transparent, equity, and industry acceptance. Based on the research and evaluation conducted for this report, RRS presents the following top four options for consideration by Metro. All the presented options have aspects with the potential to improve the current system.



**Option 1:** *Two Tier System (Full and Reduced Rates) with Exemptions for Tire Processing Residuals and Auto Fluff.*

Under this recommendation Metro would allow only two narrowly defined materials: Automobile Shredder Residual and Tire Processing Residual, to be fully exempt from RSF and ET. The exemption would be based on the material type, not material use at the landfill. This change would help to increase the clarity of the code and reduce issues with verification that the materials are ‘in fact’ being used productively at the landfill. By exempting the specific materials Metro would continue to support infrastructure around diversion and provide a meaningful benefit to the public.

All other ‘useful materials’ would be eligible for *reduced* rates (not exempted from RSF and ET). The reductions would be based on the incoming material type, not material use at the landfill. This change would remove the need for verification that materials are ‘in fact used’ productively at the landfill. The standing list based on incoming material type would eliminate the reliance on an unaffiliated agency’s approval for exemption, and make it clear to generators and landfill operators which materials do and do not qualify for reduced fees. Under this recommendation, RRS suggests that the standing material list for reduced fees includes all materials that currently receive exceptions as useful material and that the list is revisited by Metro on a regular basis.

The final change includes modifying the code to define captive Landfill and Dredge and clarifying the fee status on dredge and captive landfill materials.

**Option 2:** *Limited Exemptions based on Incoming Material (Standing list).* Option 2 continues three tiers of rates (full, reduced, and exempted) but undertakes changes to the code to simplify the language and reduce issues related to approval of materials by an unaffiliated agency (Oregon DEQ ADC approval). Under the option, Metro would define a standing list of materials that can receive exemptions. The exemptions would no longer be based on material use but instead be based on material type. The initial standing list materials would include only three materials: Tire processing residual, auto shredder fluff, and dredge. Both auto fluff and tire processing residuals have historically been exempt in the region, and the current code allowing exemptions was written with the materials in mind. RRS believes there is a justification for continuing these exemptions in the future. Under this scenario, it is anticipated that Metro would face significant opposition to the change from some generators and perhaps by some landfill operators as well.

**Option 3:** *Commodity Based Exemptions.* The commodity based exemptions are designed to transition Metro to a system of incentives that support highest and best use diversion of commodities. It would also remove the outside parties (Oregon DEQ and counties in Washington) from the determination of what is approved. The policy would rely on the market, not Metro, to dictate what generator’s materials are exempt from RSF and ET. The commodity based exemptions would be a major departure from past Metro policy. The approach would require significant build-up, planning, and monitoring to ensure success. Under



this recommendation, Metro would no longer base the exemptions on material use. Instead Metro would provide exemptions if:

- A. The processor (i.e. some MRFs, auto shredders) *pays* the generator for the material they receive / process, or;
- B. The processor can sell the recovered commodity for a value above \$0.00, or;
- C. The disposed materials are tire processing residuals.

Conversely, if the processor charges a gate fee for processing, then the non-saleable residuals *cannot* be exempted from the RSF and ET. As with options 1 and 2, the code would be modified to define Captive Landfill materials and Dredge and clarify the fee status on both.

**Option 4: *Status Quo with Improvements.***

The fourth option is to keep the status quo and implement RRS recommended improvements to the code and its administration. The policy justification for the option is that while the current system is not perfect, it has been in place in some form or other for multiple decades and is helping to support diversion and improve the environment in the region. Metro has the option to adopt several of the modifications suggested in the report to improve the administration and clarity of the policy. This option is supported by the majority of landfills and exempted parties in the region.

## Recommendations

The recommendations are proposed under the presumption that Metro does have the proper legal authority to manage the RSF and ET system. RRS did not undertake an evaluation of the regulatory authority of Metro. Based upon the research and evaluation of options, RRS recommends that Metro consider adopting Option 1, the two-tiered rate system with exemptions for auto fluff and tire processing residuals. RRS recognizes that each of the proposed options have both benefits to the region as well as drawbacks and that any change will have repercussions throughout the region. It is the opinion of RRS that Option 1 best meets Metro's mission of benefiting the people and environment of the region, while simultaneously creating a code that is transparent, equitable, and easy to understand. Option 1 will minimize negative impacts by allowing many of the currently exempted generators to benefit from reduced fees, it will also create a standing list based on material type, not use, and will help to reduce confusion over what materials are (or are not) used productively in the operation of a landfill moving forward.

By limiting the number of exempted materials to a standing list of three materials (auto fluff, tire residual, dredge) Option 2 significantly simplifies the code and increases the clarity of the code. However, it would have negative impacts on many of the currently exempted generators. RRS believes that Option 1 achieves many of the same goals as Option 2 with a smaller negative impact on the market and a slightly larger environmental benefit to the public. Option 2 puts Metro squarely in the position of picking 'winners' and

'losers' in the marketplace, and some of those choices would be vociferously opposed by currently eligible generators.

Option 3 benefits the region and Metro by implementing an equitable system that relies on the marketplace to determine which generators can benefit from the exemptions (as opposed to Metro staff). It also transitions Metro toward a system of incentives based on highest and best use. However, the challenges in managing and verifying the exemptions, as well as the potential confusion around how the code is implemented and administered, lead RRS to score Option 3 lower than Option 1 or 2.

Finally, the 4<sup>th</sup> highest ranked option, Status Quo, offers benefits to Metro in that the current system *does* encourage diversion and benefit the region. The benefits are countered by the fact that it would not ameliorate any of the issues outlined in the 2006 report or in this report. If Metro prefers Option 4 and chooses to maintain the status quo, RRS recommends the following improvements to the current code and policy<sup>3</sup>:

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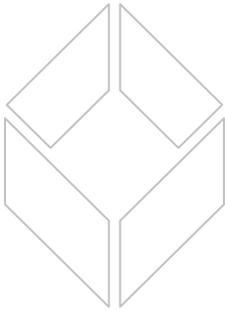
<b>High Importance</b>
<ul style="list-style-type: none"><li>• Add new definitions to the code to increase clarity</li><li>• Codify historic exemptions</li><li>• Increase transparency of code administration through public engagement</li></ul>
<b>Medium Importance</b>
<ul style="list-style-type: none"><li>• Review management and transportation fees charged by landfills on 'useful' material to gain a better understating of how they are being applied</li><li>• Increase reporting and data tracking of reduced fee materials</li><li>• Establish a working group to evaluate the allowance of wall board and gypsum fines in Alternative Daily Cover</li><li>• Promote the availability of exemptions and discounts</li></ul>
<b>Low Importance</b>
<ul style="list-style-type: none"><li>• Investigate an ISO 14001 Environmental Management System (EMS)</li><li>• Adopt new administrative procedures for promulgating rules as proposed by Metro in 2015.</li></ul>

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On a final note, RRS suggests that prior to adopting a change in policy that Metro internally and externally identifies the aim of the policy change. The RRS evaluation assumed that the aims of Metro are relatively evenly divided between the main evaluation criteria (Public Benefit, Increase Waste Reduction / Diversion, Simple and Transparent, Equitable). However, if Metro decides that their priority is Waste Diversion, or alternatively Industry Acceptance, Metro should consider adopting a policy that moves the region in that direction.

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<sup>3</sup> RRS suggests that Metro consider adopting the recommended improvements to the system under any chosen option.



## MANAGING CHANGE IN A RESOURCE-CONSTRAINED WORLD

RRS is a consultancy with a vision. We see a world where resources are managed to maximize economic and social benefit while minimizing environmental impact. A world where abundance keeps pace with societal needs.

We have assembled a unique team of strategists, engineers, economists and communications specialists with core strengths in materials and recovery, coupled with expertise in life cycle management and applied sustainable design. These experts operate confidently across the supply chain, identifying the most leveraged opportunities to affect change, and developing pathways to long-term value.

RRS has been working toward this vision since 1986. Our clients are leaders in materials management, and in partnership we have achieved outstanding results. We remain nimble and responsive, providing informed, innovative, actionable solutions to the sustainability challenges of our time.