



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Meeting minutes

Meeting: Solid Waste Fee and Tax Exemption Policy Evaluation Subcommittee
Date/time: Tuesday, July 25, 2017 8:00 am -10:00 am
Place: Metro Regional Center. Council Chamber
Purpose: Provide subcommittee members with an overview of the operation and regulation of landfills and review the final fee and tax policy recommendations of RRS

Attendees

Tim Collier – Metro
Terrell Garrett - Greenway Recycling
Brian Heiberg – Heiberg Garbage and Recycling
Mark Hope – Tire Disposal and Recycling
Rick Winterhalter – Clackamas County
Reba Crocker – City of Milwaukie
Dave Claugus – Pioneer Recycling Services
Vern Brown – Environmentally Conscious Recycling
Matt Cusma – Schnitzer Steel
Koreen Lail – Siltronic Corporation
Audrey O’Brien – DEQ
Janice Thompson – Oregon Citizens’ Utility Board
Bill Carr – Waste Management

Absent

Jennifer Martinez – Doctoral Student, Portland State University
(Participated for a portion of the meeting via teleconference)

Presenters/Staff

Warren Johnson – Metro
Heather Kuoppamaki – DEQ
Juri Freeman (via WebEx) – RRS

Audience

Available upon request

Summary

Chair Collier welcomed members to the third meeting of the Solid Waste Fee and Tax Exemption Policy Evaluation Subcommittee (the “subcommittee”).

Chair Collier reviewed the agenda and asked for comments or changes to the draft meeting summary from the June 27, 2017 meeting, there were none offered. The subcommittee agreed the summary was accurate as written.

Bill Carr provided an overview of landfill design, construction, and operations. Mr. Carr explained the anatomy of modern landfills and described the construction of Columbia Ridge Landfill. The Columbia Ridge facility houses a landfill, rail yard and a gas-to-energy plant. Mr. Carr explained the technology and engineering of landfills (including the liner, leachate, and gas collection systems). He also explained how waste is generally received, managed, and placed in a landfill for disposal.

Mr. Carr said landfill operators are constantly looking for opportunities to use beneficial materials, such as alternative daily cover (ADC), instead of virgin materials if possible. He said that the use of beneficial materials is critical to landfill operations. He noted that Columbia Ridge Landfill typically uses petroleum-contaminated soil as ADC. Mr. Carr said that DEQ monitors and oversees the use of alternative materials at the landfill.

Mark Hope asked for specifics regarding what types of events or situations can complicate the use of alternative materials at a landfill. Mr. Carr noted a significant obstacle to obtaining alternative materials was the distance waste had to travel to reach the landfill. He said that local markets tend to receive the material first. For example, heavy materials such as concrete and asphalt are better suited to local disposal sites because long transport of that material is cost prohibitive. Mr. Hope asked if beneficial use materials like ADC have a positive or negative market value. Mr. Carr said that it depends on the type of waste and its use – it is generator and material specific.

Matt Cusma asked how much electricity was typically generated at the landfill through its gas collection system. Mr. Carr responded that Columbia Ridge has an output of approximately 12-13 megawatts per year. Mr. Cusma asked for specifics regarding the end-user of that electricity. Mr. Carr said that all of the power generated at the engine plant is sold to Seattle Power and Light.

Terrell Garrett asked for more information about the types of materials that are used as ADC at Columbia Ridge. Mr. Garrett also asked if beneficial materials are actually being used as reported. Mr. Carr responded that Columbia Ridge does use beneficial materials whenever possible and they are a critical component of the operation. He said that Columbia Ridge predominately uses contaminated soil for ADC.

Mr. Garrett asked if Mr. Carr felt that the DEQ's oversight was adequate to ensure that ADC was being used properly at the landfill. Mr. Carr responded yes and noted that DEQ has an approval process for ADC. He also said that DEQ routinely checks on the amounts, components, and use of ADC at the landfill. There were additional questions from Koreen Lail regarding general requirements around the use of ADC including the depth of cover and the amount that can be stored at a landfill. Mr. Carr noted that these types of requirements were generally material and site specific as approved by DEQ.

Ms. Lail asked if DEQ limits the use of ADC. Mr. Carr responded yes. He said that the amount of ADC used at a landfill was based on the amount of waste disposed. Audrey O'Brien also spoke to DEQ's oversight of ADC and reiterated that requirements are material and landfill specific. She said that DEQ limits the amount of ADC based on the amount of waste. However, a landfill can request approval to use more if it can demonstrate that there is a need. She also said that petroleum-contaminated soil has standing approval for use as ADC.

Rick Winterhalter asked about whether there is a market for ADC materials. He asked if landfills typically enter into long-term business deals for the material. Mr. Carr said that there are a few industrial sources that are routine generators, whereas other sources are one-time generators. Mr. Winterhalter asked if the landfill charges a lower rate for ADC material. Mr. Carr responded yes. Mr. Winterhalter said that although ADC may have value for the landfill, it is a discard for the generator at a lower disposal cost.

Reba Crocker inquired about reusing ADC and the process for covering waste each day. Mr. Carr said that landfills must use at least six inches of cover over the waste each day. He said that each morning

the landfill operator tries to recover as much of the cover material as possible to maximize the use of air space for waste. Brian Heiberg asked if Columbia Ridge uses tarps for cover. Mr. Carr responded no. However, he said that some landfills use tarps.

Heather Kuoppamaki provided an overview of DEQ's regulatory requirements for landfills and its process for determining the use of ADC. She provided a brief overview of landfill design requirements, operating procedures, and site considerations (such as zoning, proximity to residential areas, climate, and geography). Ms. Kuoppamaki explained that landfills must have the appropriate controls in place to prevent impacts to human health and the environment. For example she explained that landfills must have liner systems, leachate and gas collection systems, environmental monitoring, financial assurance, and closure plans. Ms. Kuoppamaki also noted that DEQ performs routine inspections to monitor compliance and landfills must report information to DEQ on a routine basis (such as operational information, environmental monitoring data, waste disposal amounts, and ADC usage).

Mr. Heiberg inquired as to what is the process when DEQ finds a problem at a landfill. Ms. Kuoppamaki responded that it depends on the site and issue. She explained that DEQ considers all available information before determining a course of action. Ms. Crocker followed-up that question and asked how DEQ monitors closed landfills. Ms. O'Brien responded that landfills are required to perform post-closure monitoring for 30 years. If a problem is found during that time, DEQ would perform an investigation and require a corrective action plan. She then explained DEQ's general approach to corrective actions at closed landfills. Should a problem arise after the permit has been terminated, DEQ may require the owner to work with DEQ's cleanup program to correct the environmental concern. If there is not a responsible party to take corrective action, then DEQ's cleanup and solid waste programs work together to identify and take corrective action and may use the solid waste orphan funds to address the environmental concern. Ms. Kuoppamaki noted that DEQ's permit and rules require that once a landfill closes, the landfill owner is required to file a deed notice with the local government noting that there is a closed landfill on site and identifying the type of waste placed in the landfill. Ms. O'Brien also noted that other types of illegal dumpsites are typically handled by local jurisdictions such as Metro's Regional Illegal Dumping (RID) Patrol.

Ms. Kuoppamaki continued her presentation regarding DEQ's requirements for ADC. She explained that DEQ must approve ADC for use and the ADC must perform in a manner equivalent to six inches of soil. Beginning in 1993, the Legislature established a DEQ disposal fee reduction for ADC material that is used as cover. She clarified this applies only to DEQ's fee structure; it does not address other fees assessed by Metro or other governments agencies. In 2006, DEQ established an internal guidance document outlining procedures and considerations for determining the use of ADC at landfills. In 2009, DEQ established a limitation on the amount of ADC that can be used at landfills. Ms. Kuoppamaki explained that the amount of ADC used at a landfill should not be more than 10 percent of the total tons or 15 percent of the "counting waste" received at the landfill. However, Ms. O'Brien said that a landfill could potentially use more ADC if it can demonstrate a need for the material.

Ms. Lail inquired as to the ability of a landfill to stockpile ADC for later use. Ms. O'Brien noted that landfills must stay within DEQ's established limits unless otherwise approved. Mr. Carr said that landfills occasionally stockpile limited amounts of ADC to make sure that there is an adequate amount of material available for use. Ms. Lail asked if the landfill would ever turn away ADC. Mr. Carr responded that it is a site specific question. However, he said that in general a landfill would only use what it needed. He said that Waste Management tries to maximize what can be used beneficially. If the landfill

can't use the material immediately, it will stockpile the material for future use. If the landfill receives more material than it is authorized to use or stockpile, then the final option would be disposal.

Ms. Kuoppamaki then explained DEQ's process for evaluating the use of ADC at landfills. The landfill must apply to DEQ and submit a detailed work plan for a performance trial. The performance trial is to demonstrate how the material will function over a 12-month period. She also noted that ADC does not qualify for DEQ's fee reduction during the trial period. The landfill then submits a performance report after the trial period for DEQ evaluation and decision. Mr. Winterhalter asked for clarification as to whether ADC was fully exempt from all DEQ fees. Ms. Kuoppamaki responded that ADC is subject to a reduced DEQ fee, but it is not fully exempt from all DEQ fees.

Mr. Garrett requested an opinion from DEQ regarding who maintains the authority to determine the "best use of materials." He asked if DEQ has preemption over beneficial use at landfills. Ms. O'Brien noted that she is not an attorney and that would be a question for Metro and Metro's attorney to sort out. He asked if the statute provides DEQ sole authority over those materials. Ms. O'Brien said that this is a legal question that Metro and Metro's attorney should address. Mr. Garrett said that DEQ should have a position on this. Ms. O'Brien said that this would be a matter for legal interpretation from Metro's attorneys or perhaps Oregon Department of Justice.

Mr. Garrett also asked if the ADC fee provisions provided in Oregon Revised Statutes applied to Metro. Ms. O'Brien said that this is a legal question for Metro to address with its attorney.

Juri Freeman presented (via WebEx) the final report that RRS had prepared for its evaluation of Metro's fee and tax exemption policies. Mr. Freeman also reviewed RRS's memo summarizing and responding to the feedback that it received from the subcommittee after the June 27 meeting. He noted that while there were points of clarification, RRS did not make any substantive changes to the final report since the last meeting. He said that RRS recommends Option 1 as its favored approach for Metro consideration. Mr. Freeman acknowledged that the scoring system used by RRS was subjective and resulted in very close scores between the top four options, but it was only one aspect of the overall evaluation criteria. RRS primarily relied on its experience, expertise and interview findings to determine its primary recommendation. Mr. Freeman encouraged the subcommittee to also consider the input and recommendations made by Dean Large and Mr. Garrett. He said that those individuals had raised valid points and their ideas should also be considered.

With respect to the comments provided by Jennifer Martinez, Mr. Freeman said that Ms. Martinez's comments had resulted in specific edits and additions to the appendix of the final report. He said that her comments had helped RRS fine-tune the report language and clarify the scoring system. The conclusion of RRS's final report is 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."

Mr. Garrett inquired as to the reasoning why shaker screen fines were not included in RRS's recommendation for a fee and tax exemption similar to that of tire processing residual and auto shredder residual. Mr. Freeman said that RRS made the recommendation based on its interpretation of the current market place. He said that RRS had made that recommendation in consideration of a variety of factors including the long-time exemption history for those materials and RRS's interpretation of the intent behind the initial policy. He said that there was an environmental benefit for properly managing these materials and assessing fees and taxes on the waste could impact the ability for those facilities to

continue operations. Mr. Garrett explained that Greenway Recycling has also made a substantial financial investment in its operation and the same considerations should apply to his business. He said that imposing Metro's fees and taxes on shaker screen fines would impact his operation. Mr. Freeman said that it was possible for other material recovery facilities to operate without the benefit of a fee and tax exemption; however, that was not the same for tire processors and auto shredders.

Mr. Heiberg asked if shaker screen fines are exempt from Metro's fee and tax. Mr. Freeman explained that the material could qualify for an exemption if it meets the conditions provided in Metro Code. Warren Johnson said that there are currently three material recovery facilities in the region that generate shaker screen fines that qualify for an exemption (Willamette Resources, Greenway Recycling, and Suttle Road Recovery Facility).

The subcommittee discussed the impact of fees and taxes on businesses in the region. RRS said that it considered this along with other factors such as public and environmental benefits. Mr. Freeman said that in the opinion of RRS, exemptions for tire processing residual and auto shredder residual were directly related to Metro's stated practices and desired regional outcomes. Mr. Heiberg inquired as to whether the RRS report included recommendations on the amounts of the rates charged under the proposed options. Mr. Freeman responded no. He said that issue was outside the scope of work.

Mr. Garrett stated his general opposition to having different fee and tax requirements for tire processing residual and auto shredder residual. He also stated his concern that moving material (such as shaker screen fines) into the reduced rate category may put it at risk of later being assessed the full fee and tax rate. Ms. O'Brien asked if Mr. Garrett had any suggestions on criteria to add to RRS's recommended Option 1 and what was needed for a reasonable solution to the shaker screen fines concern. Mr. Garrett said that he would like to have more certainty on the rate for the material. Mr. Garrett said that he would be open to considering a reduced rate amount for ADC materials as recommended by RRS, but he would need more assurance that the rate would not change for an adequate period of time. He suggested that Metro could review the reduced rate amount and material types every five years and then provide a two-year transition period if it decided to make changes.

Chair Collier noted that the subcommittee would further discuss Metro's reduced fee and tax rate and RRS's recommendations at the August meeting.

Citizen Communications

None

Decisions

None

Actions agreed upon

None

Next meeting

August 31, 2017, 9:00 am -11:00 am
Metro Regional Center, Council Chamber

Agenda to include review of Metro's reduced fee and tax rate and further discussion of policy recommendations for the Solid Waste Alternatives Advisory Committee to consider.