



Metro | *Meeting minutes*

Meeting: Solid Waste Fee and Tax Exemption Policy Evaluation Subcommittee
Date/time: Tuesday, August 31, 2017 9:00 am -11:00 am
Place: Metro Regional Center. Council Chamber
Purpose: Provide subcommittee members with an overview of Metro's reduced regional waste system fee and excise tax rate and discuss potential fee and tax policy recommendations

Attendees

Tim Collier – Metro
Terrell Garrett - Greenway Recycling
Mark Hope – Tire Disposal and Recycling
Reba Crocker – City of Milwaukie
Dave Claugus – Pioneer Recycling Services
Vern Brown – Environmentally Conscious Recycling
Matt Cusma – Schnitzer Steel
Audrey O'Brien – DEQ
Bill Carr – Waste Management
Janice Thompson – Oregon Citizens' Utility Board
Jennifer Martinez – Doctoral Student, Portland State University

Absent

Brian Heiberg – Heiberg Garbage and Recycling
Rick Winterhalter – Clackamas County
Koreen Lail – Siltronic Corporation

Presenters/Staff

Warren Johnson – Metro

Audience

Available upon request

Summary

Chair Collier welcomed members to the fourth 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 July 25, 2017, meeting. There were none offered. The subcommittee agreed the summary was accurate as written.

Warren Johnson gave a brief overview of the information discussed at the previous subcommittee meetings. Mr. Johnson reviewed the purpose of the subcommittee, the public benefits that are to be kept at the forefront of the discussions, and Metro's current tiered fee and tax rate system (see table on the following page).

	Regional System Fee	Excise Tax
Full rate	\$18.12	\$10.81
Reduced rate	\$2.50	\$1.00
Exempt	\$0.00	\$0.00

Mr. Johnson clarified that the reduced rate is also referred to as the “cleanup rate” as it is typically assessed on waste generated from an environmental cleanup activity. He also noted that these fees and taxes are either paid to Metro directly by the hauler, generator, or remitted by the disposal site.

Mr. Johnson explained the types of materials that are currently exempt from Metro’s fees and taxes which include:

- Recovered materials (reused, recycled, composted, or used as fuel)
- Inert materials used as clean fill
- Dredge spoils processed outside of the region
- Tire processing residual
- “Useful material” that is used at a disposal site such as for:
 - Alternative daily cover (ADC)
 - Road base
- Waste disposed at a “captive landfill”

He then explained that Metro had hired consultants to perform two separate evaluations of Metro’s fee and tax exemption policies. He provided a brief overview of the findings from those studies and explained that the reports had been given to the subcommittee for use as foundational information. The first study was completed by URS Corporation in October 2006 and its recommended option was a two-tiered rate structure with no exemptions. The second study was completed by RRS in July 2017. RRS recommended that Metro establish a two-tiered rate structure along with continuing the current fee and tax exemption for tire processing residual and auto shredder residual.

Jennifer Martinez asked for clarification regarding any updates to exemptions for hazardous waste. Mr. Johnson explained that hazardous waste is handled differently and not under the scope of work for this subcommittee. Ms. Martinez followed-up asking if there had been any noticeable changes to the use of materials at disposal sites over time. Mr. Johnson responded that Metro’s current policies and practices had been in place a long time and the charge of the subcommittee is to determine whether those practices are achieving the public benefits of the region’s solid waste system. Audrey O’Brien offered to forward her presentation from the July subcommittee meeting to Ms. Martinez to provide her with additional context.

Dave Claugus inquired as to where gypsum residual is classified under Metro’s fee and tax rates. Mr. Johnson noted that gypsum debris is generally subject to Metro’s full fee and tax rate at time of disposal. However, gypsum debris is also a typical component of shaker screen fines which can qualify for a fee and tax exemption if the material is approved and used as ADC at a landfill. Some landfills have received approval to use shaker screen fines as ADC, whereas others have not.

Mr. Johnson then presented an overview of Metro’s current reduced fee and tax rate. He explained that the reduced rate had been established in 2000 and initially applied to “cleanup materials contaminated with hazardous substances.” In addition, this type of waste was explicitly excluded from Metro’s definition on “useful material” and therefore it could not qualify for a fee and tax exemption under Metro Code. Before 2000, Metro Code referred only to “petroleum-contaminated soil” which was subject to full fees and taxes at time of disposal.

In 2000, Metro established the reduced rate amount of \$3.50 per ton (\$2.50 regional system fee and \$1.00 excise tax). Mr. Johnson explained the amount of the reduced rate had not changed since it was established in 2000, but the manner in which it is adopted each year had changed in 2014 (at that time it had changed from a credit against the full rate to a standalone rate amount).

In 2000, the reduced rate applied to debris resulting from a non-recurring, environment cleanup event (such as an oil spill). At that time, generators and disposal sites would initially self-determine whether the reduced rate applied to their waste. Metro would then review the type of release event and nature of contamination in order to determine whether the waste actually qualified for the reduced rate. In 2008, Metro established a pre-approval process under its designated facility agreements. In 2016, Metro amended its definition of cleanup material to focus the qualifying factor more on the nature of the contaminated waste versus the type of the release event.

Ms. Martinez inquired if there was any noted fluctuation in tonnages over the years as the reduced rate was implemented. Mr. Johnson presented a graph showing the annual amount of cleanup material disposed each year and noted there was not a consistent amount from year to year. These tonnage amounts are influenced by a range of economic and environmental factors.

Mr. Claugus commented that he expected that the amount of reduced rate material would decline over time as contaminated material was removed from the environment. Mr. Johnson responded that it could be a likely scenario. Mathew Cusma commented that the amount of reduced rate material could actually remain steady or increase over time as regulations change.

Terrell Garrett inquired as to which fee and tax rate apply to catch basin materials. Mr. Johnson responded that Metro had recently amended the definition of cleanup material which became effective in February 2017. Under Metro's current definition of cleanup material, street sweepings and catch basin sediment are subject to the Metro's reduced fee and tax rate.

Mr. Cusma asked if there were any documents showing Metro Council's intent for establishing the reduced rate. Mr. Johnson responded that staff has not located any documents that show the Council's intent, but he would research it further and share his findings with the subcommittee at the next meeting. Mr. Cusma noted that contaminated soil processors located within the region had closed after Metro had implemented its reduced rate for contaminated materials in 2000. He asked if Metro's reduced rate had contributed to those processors going out of business because of cheaper disposal for contaminated waste. Mr. Johnson said that he did not know the reason why those processors had gone out of business.

Chair Collier then presented an overview of the three general categories of materials that currently qualify for a fee and tax exemption which include materials that are reused/recycled, dredge spoils sent to an intermediate processing facility outside of the region, and waste materials used at a disposal site. He noted that RRS had recommended no changes to Metro's current practices for the first two categories, but RRS recommended that Metro implement changes for waste used at a disposal site.

Mark Hope noted that, looking at the bigger picture, the solid waste system has evolved over the decades and is a fairly complex system. He stated the subcommittee's task is to evaluate the legitimacy and efficacy of the current fee and tax exemptions. What is working and what is not? He said that he had not been presented with a compelling case as to why there is a need to change Metro's current fee and tax rates or assessment policies. Chair Collier took note of his perspective on the matter.

Chair Collier then opened the floor to the committee for any discussions or comments regarding Metro's practice of assessing its fees and taxes at the time of disposal and whether it should continue to exempt material that is reused or recycled outside of a disposal site. Mr. Cusma asked where would the fees and taxes be assessed if they were not assessed at the time of disposal? Mr. Johnson said that it was not clear, but fees and taxes could be assessed at intermediate sites such as material recovery facilities or transfer stations. Mr. Johnson said that implementing that change would likely be difficult.

Mr. Claugus stated that with all of the changes in the recycling industry there has been an emerging issue of what is actually recyclable. He said that a main concern is that local jurisdictions allow certain plastics in their recycling programs which have no actual market value. He explained that those plastics then end up at a material recovery facility. If Metro were to assess fees and taxes at material recovery facilities, it would dramatically impact that industry and become cost prohibitive to recycle materials. Mr. Cusma said that changing the practice would also impact companies that participate in global markets because they don't have the same ability to pass along those added costs. Bill Carr also mentioned that end markets for recovered materials are continuing to shrink.

Mr. Claugus expressed concern that material recovery facilities were required to pay full fees and taxes for the disposal of non-recoverable materials that were allowed in residential collection programs. Ms. O'Brien noted that the same problem would likely occur no matter when the fees and taxes were assessed in the system. Mr. Claugus offered that the matter would likely be less of an issue for the facilities if municipalities excluded certain materials from their list of approved recyclable materials.

Mr. Garrett said that he did not favor assessing fees and taxes on the "front door" at material recovery facilities. He said that assessing it at that point would negatively impact recovery and decrease the incentive for recycling. He supported continuing Metro's current practice of assessing fees and taxes at the "back door" at the time waste is disposed. He said that the current practice provides greater incentive for increased recovery.

Chair Collier summarized the conversation and asked for agreement with respect to fee and tax exemptions related to reused and recycled materials. The subcommittee unanimously agreed that Metro should continue its practice of exempting recycled materials and assessing its fees and taxes at the time of disposal. The subcommittee agreed that this practice generally provides an incentive for material recovery which helps meet the public benefits of the region's solid waste system. Mr. Cusma also pointed out that recycling has benefits because it reduces the use of virgin materials, reduces the generation of greenhouse gases, and provides other economic benefits such as jobs.

Ms. Martinez asked if Metro tracks tonnage on what is recycled or reused in the region. Mr. Johnson said that recovery information is generally tracked by the state. Although Metro has access to that information and can develop a regional estimate, Metro does not directly track all recovery in the region.

Chair Collier then asked for comment on Metro's practice of exempting dredge spoils that are managed at an intermediate processing facility outside of the region. Mr. Johnson explained that the term "processing" generally referred to dewatering of the material to make it suitable for disposal in a landfill. Mr. Cusma asked if this exemption also included dredge spoils processed inside the region. Mr. Johnson responded that dredge spoils processed inside the region are subject to Metro's fees and taxes at time of disposal. Mr. Hope inquired if there was thought given to the effect of the current policy and whether it had caused dredge spoil processing operations to locate outside of the region? Mr. Johnson said that Metro is aware of at least one processing operation located outside of the region, but he did not know whether that was a result of Metro's fee and tax policy. Janice Thompson asked if staff had knowledge

of the legislative intent behind this particular exemption policy? Mr. Johnson responded that he would research the matter and try to determine that information for the next meeting.

Mr. Claugus said that he did not have enough information about dredge spoils to support a recommendation other than status quo. He said that he would defer making a recommendation on the matter until he received additional information. He was curious to know why the policy regarding dredge spoils was adopted in the first place. Ms. O'Brien commented that the processing of dredge spoils is not currently happening inside the region. Mr. Carr noted that scenario might change with the upcoming cleanup of the Portland Harbor and should be considered. Ms. Thompson supported the comment and advocated for a proactive approach considering the upcoming project in the city of Portland.

Mr. Cusma pointed out that there were other operations processing dredge spoils but their material was not disposed of at a landfill so it was not on Metro's radar. He asserted these businesses are not unheard of, but are uncommon. He asked if there was a distinction between dredging for routine waterway maintenance versus a cleanup activity? Mr. Johnson said that there was no distinction under Metro's current practice or code requirements.

Chair Collier noted that the subcommittee decided to defer making a recommendation on Metro's fee and tax policy with respect to dredge spoils until the subcommittee receives additional information regarding the underlying intent behind the current policy and the potential implications that any changes might have on the way that this material is managed.

Chair Collier then called for discussion on the options proposed by RRS with respect to waste delivered to a disposal site. He reviewed the nine policy options that the consultant evaluated in its final report to Metro. He then explained that the consultant had recommended that Metro establish a two-tiered rate system for all waste delivered to disposal with a material-based exemption for tire processing waste and auto shredder waste. Chair Collier asked if the subcommittee generally agreed with any of the proposed options outlined in the consultant's report, Mr. Garrett commented that it was important for him to know the amount of the reduced rate before he could comment on the proposed options. He said that it was logical to assume that the reduced rate would increase since it hadn't changed since it was initially set, but he said that industry needs to have some period of rate certainty. He said that an annual adjustment of the rate would not provide the needed stability for his company.

Chair Collier asked if Mr. Garrett supported a review of the reduced rate on the same schedule as the proposed exemptions list. Mr. Garrett replied that if that term of review was every five years, he would accept that. Mr. Garrett then proposed the reduced rate be raised to \$5.00 per ton. Mr. Hope asked what the public benefit was and what does the proposed rate increase accomplish? Chair Collier noted that, in part, the rate initially helped pay for Metro's administrative costs which have increased more than the rate has in the last 17 years. He also noted that the rate amount is an incentive issue. Mr. Hope inquired as to whether the rate adjustment was a matter of the consumer price index (CPI)? Mr. Garrett then asked for clarification regarding which portion of the rate would be linked to CPI. Would it be the regional system fee or the excise tax? He suggested that CPI should only be considered for the system fee.

Reba Crocker agreed that everyone should have some period of rate certainty and stability, but Metro should review its rates and exemption list more frequently than every five years. She proposed that Metro should review these items on an annual basis – with an annual CPI. Mr. Hope suggested applying a CPI with a not to exceed amount (such as not to exceed "X" percentage).

Chair Collier recapped the conversation and asked for the subcommittee's position on continued exemptions for auto shredder and tire processing waste. He explained that Metro's consultant had recommended that Metro establish material-based exemptions for both materials. Mr. Garrett inquired as to whether the subcommittee agreed with continuing the exemptions for those materials. Mr. Cusma noted that while his company would benefit from Metro establishing a material-based exemption for auto shredder waste, he expressed concern about Metro moving away from its current "use-based" requirement for the exemption. He said that the use-based requirement is important because it creates a higher incentive.

Mr. Hope stated that the types of materials being discussed during the meeting were vastly different from tires. He said that the regulation of tires is unique and varies by state. Mr. Hope said that his company receives tires from a multi-state region. He said that the tires that he receives in Oregon are required to be processed before they could be sent to a disposal site. Notwithstanding the current fee and tax exemption, he said that there is more incentive for his company to recycle rather than dispose tires due to competition in the industry. Ms. O'Brien explained that DEQ requirements prohibit the disposal of whole tires in Oregon.

Mr. Claugus asked Mr. Hope if his company would be able to pass Metro's fees and taxes along to his customers if necessary? Mr. Hope responded that he could likely pass along the fee and tax to customers inside the region, but those costs would essentially drive away out-of-region customers. He said that there are not enough tires within the Metro region to sustain a tire processing business - let alone two processors. Mr. Claugus drew parallels between his material recovery facility operations and those of Mr. Hope's company. Mr. Claugus said that he did not understand the policy basis for the tire processing waste exemption. He said that allowing the exemption lowers the incentive for tire processors to invest in better recovery. He pointed out that if the goal is to increase the region's recycling and recovery rates why would the policy approaches be different for different facilities? Mr. Hope said that there is a different regulatory environment for tire processors versus material recovery facilities. He pointed out that the hauling and facility requirements for those types of operations are very different.

Chair Collier noted that a few proposals and recommendations were mentioned but there was no clear consensus from the subcommittee. Mr. Hope reiterated his need for a compelling reason for the subcommittee to make a change. Mr. Cusma stated that status quo should also be considered as an option.

Chair Collier recapped the meeting stating that the subcommittee had agreed that Metro should continue to assess its fees and taxes at the time of disposal. However, the subcommittee needed more information and time to discuss fee and tax policy for dredge spoils and waste materials used at a disposal site.

Public Comments

Public comments were offered by Jeff Murray from EFI. Mr. Murray asked for clarification as to whether the proposed policy changes being discussed by the subcommittee were revenue neutral for Metro. Chair Collier said that the proposed changes would be revenue neutral.

Mr. Murray also asked if more materials were added to an exemptions list would that bring the cost of disposal down? He said that reducing disposal fees also reduces the incentive for recovery. Chair Collier responded that disposal costs could decrease in that instance, but that would depend on the amount of exempted material. Mr. Murray commented that the cost of recycling in the industry is increasing

rapidly and the costs of recovery versus disposal are becoming closer. He emphatically noted that Metro's exemption for recycling is key for the system to work.

Decisions

None.

Actions agreed upon

The subcommittee unanimously agreed that Metro should continue its practice of assessing its fees and taxes at the time of disposal and should continue exempting reused and recycled materials.

Next meeting

October 9, 2017 2:00PM-4:00PM
Metro Regional Center, Council Chamber

Agenda to include further discussion of policy recommendations for the Solid Waste Alternatives Advisory Committee to consider.