

Memo

Date: November 28, 2017
To: Solid Waste Alternatives Advisory Committee (SWAAC)
From: Tim Collier, Chair – Solid Waste Fee and Tax Exemption Policy Evaluation Subcommittee
Subject: Subcommittee Fee and Tax Policy Recommendations

This memorandum outlines the recommendations of the Solid Waste Fee and Tax Exemption Policy Evaluation Subcommittee (the “subcommittee”) that was tasked with evaluating Metro’s current solid waste fee and tax exemption policies and making recommendations on whether Metro should consider any changes to those policies. These recommendations were developed after discussions at five subcommittee meetings as detailed in the meeting summary documents provided as Attachments A through E.

Subcommittee Purpose

The purpose of the subcommittee was to determine if Metro’s current solid waste fee and tax exemption policies are achieving the public benefits, goals, and objectives of the solid waste system.

Subcommittee Membership

On March 8, 2017, the Solid Waste Alternatives Advisory Committee (SWAAC) appointed the subcommittee consisting of 13 members representing industry, government, advocacy groups, and the general public. The subcommittee included the following members:

- Tim Collier, Chair (non-voting) – 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
- Brian Heiberg – Heiberg Garbage and Recycling
- Rick Winterhalter – Clackamas County
- Koreen Lail – Siltronic Corporation

Subcommittee Meeting Schedule

The subcommittee held five, two-hour meetings that took place on the following dates:

- May 5, 2017
- June 27, 2017
- July 25, 2017
- August 31, 2017
- October 9, 2017

Metro staff prepared a written summary of each meeting that was subsequently reviewed and approved by the subcommittee (see Attachments A through E). The subcommittee also reviewed and approved this recommendations memorandum via email in November 2017.

Subcommittee Recommendations

The subcommittee predominantly agreed to submit the following recommendations to SWAAC:

1. *Maintain status quo for exempting reused and recycled materials.* The subcommittee recommended that Metro should continue its current practice of assessing fees and taxes at the time of disposal rather than when materials are processed for recovery or recycling. The subcommittee recommended that Metro should continue to allow a fee and tax exemption for a material that is reused or recycled outside of a disposal site.

Reason for this recommendation: The subcommittee recommended status quo because it determined that Metro's current practice of assessing its fees and taxes at the time of disposal generally provides a greater incentive for material recovery which helps meet the public benefits of the region's solid waste system. The subcommittee determined that eliminating the current fee and tax exemption for reused or recycled materials would dramatically impact industry and make it cost prohibitive to recycle materials. Additionally, such a change would further impact companies that participate in global markets because they don't have the same ability to pass along added costs to customers.

2. *Maintain status quo for exempting dredge spoils processed outside of the region, but Metro should further evaluate the matter and solicit input from other stakeholders.* The subcommittee recommended that Metro should further evaluate its current practice of allowing a fee and tax exemption for dredge spoils that are processed outside of the Metro region for disposal. As part of that evaluation, the subcommittee recommended that Metro should solicit input from other parties that are involved with dredging projects in the region to better understand the impacts of a potential change in policy. The subcommittee recommended that Metro should maintain its current practice in the interim while the matter is under further evaluation.

Reason for this recommendation: The subcommittee recommended status quo because it determined that it did not have enough information about this matter to support an alternative recommendation.

3. *Maintain status quo for exempting certain types of waste that are received or used at a disposal site.* The subcommittee predominately recommended that Metro should maintain its current policy of allowing a "material-based" fee and tax exemption for tire processing residual that is disposed at a landfill and a "use-based" exemption for useful materials that are used productively in the operation of a landfill. The majority of the subcommittee members supported the status quo with respect to this policy. Whereas, two members recommended that Metro should consider eliminating the exemption and instead charge a fee and tax on all waste received at a disposal site. One subcommittee member abstained from making a recommendation on this matter.

- a. Reason for the status quo recommendation: The majority of the subcommittee members recommended status quo because they determined that there was no compelling reason to justify changes in Metro's current fee and tax exemption policies with respect to certain wastes received and used at a disposal site. Additionally, these members determined that a change in status quo could potentially have unintended consequences.

- b. Reason for the change recommendation: Two subcommittee members recommended eliminating the current exemption policy for certain wastes received and used at a landfill because they determined it does not provide incentive for the highest and best use of material. Additionally, these members determined that all such material deposited at a

disposal site is considered to be “waste” regardless of use and should be subject to Metro’s fee and tax.

Background

As the agency tasked with planning and management of the region’s solid waste system, Metro has an obligation to the public to ensure that its solid waste fee and tax policies are transparent, fair, and equitable and applied in an appropriate manner to cover the costs of managing the solid waste system while encouraging increased reuse, recovery, and recycling of materials.

In managing the region’s solid waste system, Metro seeks to achieve the following benefits for the public:

- Protect people’s health
- Protect the environment
- Get good value for the public’s money
- Keep our commitment to the highest and best use of resources
- Be adaptive and responsive in managing materials
- Ensure services are available to all types of customers

In September 2015, Metro staff held a public workshop to introduce a range of proposed changes to Metro Code Title V and Chapter 7.01. These proposed changes included removing fee and tax exemptions for certain waste materials placed in a landfill. The proposed changes were revenue neutral to Metro and intended to establish predictable and transparent fee and tax determinations for all participants in the solid waste system. At that time, potentially affected parties raised a number of concerns regarding those proposed changes and the process that was used. Staff shared the feedback it received with the Metro Council at a work session in October 2015. Metro Council directed staff to implement a more rigorous process when considering potential changes to Metro Code.

At that time, Metro Council directed: 1) staff to update a previous study of Metro’s fee and tax policies that was performed by URS Corporation in 2006, and 2) SWAAC to commission a subcommittee to further discuss and evaluate Metro’s current exemption policies.

In September 2017, Metro hired Resource Recycling Systems (RRS) to update the URS 2006 study and evaluate Metro’s fee and tax exemption policies to determine if improvements can be made to better achieve the public benefits. That evaluation also included researching similar policies in other west coast jurisdictions and soliciting input from representatives of potentially affected parties in our region to better understand their views and concerns relating to Metro’s fee and tax policies.

In March 2017, SWAAC appointed a subcommittee tasked with evaluating Metro’s current solid waste fee and tax exemptions and making recommendations to SWAAC on whether any policy changes should be considered. The subcommittee began meeting in May and concluded its work in November 2017.

The subcommittee received a copy of the URS 2006 report as foundational information for its consideration. The URS 2006 report entitled, *Evaluation of Disposal Trends for Environmental Clean-up and Beneficial Use Materials*, primarily recommended that Metro establish a two-tiered rate structure and eliminate its fee and tax exemptions for waste received at a disposal site. Metro subsequently implemented a pre-approval process for reduced rate and useful materials and other reporting requirement changes, but did not make any changes to its exemption policies after that study.

The subcommittee also received a copy of the final RRS report in July 2017. The RRS 2017 report was provided to the subcommittee as foundational information for its consideration. The subcommittee also had two opportunities to ask questions and provide input into the draft report before it was finalized in July. The RRS 2017 report entitled, *Evaluation of Solid Waste Fee and Tax Policies*, primarily recommended that Metro

establish a two-tiered, material-based rate structure along with continuing the current fee and tax exemption for tire processing residual and auto shredder residual when received at a disposal site.

Current Fee and Tax Exemption Policy

Metro assesses a regional system fee and excise tax on certain types of waste at the time of disposal. The regional system fee pays the costs for all associated Metro solid waste services related to management of the entire recycling, processing and disposal system. The revenue from the fee is dedicated to Metro's regional solid waste programs and services: household hazardous waste, latex paint recovery, waste reduction planning and programs (including waste reduction education), St. Johns Landfill post-closure activities, solid waste facility regulation, and illegal dumpsite monitoring and cleanup. As with the excise tax, the fee is charged at the time of waste disposal. As of July 1, 2017, the regional system fee is \$18.12 per ton.

The excise tax is a source of revenue for Metro's general government activities including the Metro Council. Excise taxes are levied on Metro's enterprise activities (including the Oregon Convention Center, Oregon Zoo, Portland Expo Center, Metro parks, and other activities), and at the time of solid waste disposal. As of July 1, 2017, the excise tax is currently \$10.81 per ton.

Metro assesses a solid waste fee and tax on waste at the time of disposal. In general, there is a three-tiered rate structure as follows:

- A. *Full Rate.* The full fee and tax rate, which is the combined total of both rates, is assessed on most of the region's waste at the time of its disposal (such as household garbage, construction and demolition debris, etc.). This is a material-based rate that is adjusted on an annual basis. As of July 1, 2017, the full rate is \$28.93 per ton (i.e., \$18.12 fee and \$10.81 tax).
- B. *Reduced Rate.* The reduced fee and tax rate, which is currently \$3.50 per ton (i.e., \$2.50 fee and \$1.00 tax), is generally assessed on contaminated "cleanup material" at the time of its disposal (such as contaminated soils, catch basin pumping, street sweepings, etc.). This is a material-based rate that is set on an annual basis. This rate amount has not changed since it was initially established by Metro in 2000.
- C. *Exempt.* There is a fee and tax exemption (no charge) for any material that is recovered, recycled, or diverted away from disposal sites. Under certain circumstances, Metro also allows a fee and tax exemption for certain types of waste that are sent to disposal sites (such as tire processing residual and "useful material" which includes alternative daily cover and road base used at a landfill). Metro allows both material-based and use-based exemptions for certain wastes that are received at a disposal site. Currently, Metro's material-based exemption includes only tire processing waste. Whereas, Metro's use-based exemption includes a range of materials that are used at a disposal site and accepted at no disposal charge (such as auto shredder residue and shaker screen fines used as alternative daily cover).

There are 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 prior to disposal, and waste materials used at a disposal site. Waste materials may qualify for the exemption or a reduced rate based on various factors such as the generator intent, type of contaminant, or whether the waste is ultimately used at a disposal site. This can create different fee and tax rates for similar types of waste dependent on its destination and use.

Metro does not take "use" into consideration when assessing the reduced rate – rather it considers whether the waste constitutes "cleanup material" as defined in Metro Code. Cleanup material is subject to the reduced rate regardless of use (such as petroleum-contaminated soil that is used as alternative daily cover). This is different from Metro's policy of allowing a fee and tax exemption for useful material that is used productively in the operation of a landfill. As mentioned above, the useful material exemption covers a wide range of materials and uses at a disposal site. Useful material exemptions are generator and site specific and

require approval and oversight from the Oregon Department of Environmental Quality (DEQ) or its equivalent regulatory agency. These types of exemptions are linked, in part, to oversight by other government entities and are not directly regulated by Metro.

Current Reduced Rate

The reduced rate is also referred to as the “cleanup rate” because it initially applied to “cleanup materials contaminated with hazardous substances.” This type of waste is explicitly excluded from Metro’s definition on “useful material” and therefore it does not qualify for a fee and tax exemption under Metro Code. Before 2000, cleanup material was subject to the full rate 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). 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 somewhat in 2014 (at that time it had changed from a credit against the full rate to a standalone rate amount).

When the reduced rate was initially established, it applied to debris resulting from a non-recurring, environmental cleanup event (such as an oil or chemical spill). At that time, the generator or disposal site would self-determine whether the reduced rate applied to a particular waste and Metro would retroactively 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 it more on material-based qualifying factors rather than an event-based criterion.



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Meeting minutes

Meeting: Solid Waste Fee and Tax Exemption Policy Evaluation Subcommittee
Date/time: Friday, May 5, 2017, 10 am to noon
Place: Metro, Council Chamber
Purpose: Common baseline understanding of solid waste system within the region and purpose and process for limited-term subcommittee work

Attendees

Terrell Garrett - Greenway Recycling
Dean Kampfer (alternate for Bill Carr) – Waste Management
Tim Collier – Metro
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
Jennifer Martinez – Doctoral Student, Portland State University
Matt Cusma – Schintzer Steel
Koreen Lail – Siltronic Corporation
Audrey O’Brien – DEQ
Janice Thompson – Oregon Citizens’ Utility Board

Absent

Bill Carr – Waste Management

Presenters/Staff

Juri Freeman, RRS
Jamie Zawila (via telephone), RRS
Warren Johnson, Metro
Kevin Six, Metro

Audience

Available upon request.

Summary

Chair Collier welcomed members to the first meeting of the Solid Waste Fee and Tax Exemption Policy Evaluation Subcommittee (the “subcommittee”). He noted that the purpose of the subcommittee is to determine if Metro’s current solid waste fee and tax exemption policies are achieving the public benefits, goals, and objectives of the solid waste system. He explained that the role of the subcommittee is to advise the Solid Waste Alternatives Advisory Committee (SWAAC) which in turn advises the Metro Council.

Chair Collier laid out the ground rules for the subcommittee, explained how meetings will be scheduled, and where information for the group and public will be housed (www.oregonmetro.gov/wastefees). Subcommittee members, staff supporting the committee, and audience members introduced themselves.

Warren Johnson gave an overview of the region's solid waste system. Mr. Johnson explained that Metro's solid waste authority is derived from both state law and Metro's charter. He then provided an overview of the public benefits that are used as a lens for the region's solid waste system. In managing the region's solid waste system, Metro seeks to achieve the following benefits for the public:

- Protect people's health
- Protect the environment
- Get good value for the public's money
- Keep our commitment to the highest and best use of resources
- Be adaptive and responsive in managing materials
- Ensure services are available to all types of customers

Mr. Johnson provided background information on the formation of the subcommittee. He noted that Metro staff had previously initiated proposed changes to Metro's solid waste code (Title V) in 2015 which included changes to Metro's fee and tax exemption policies. At that time, industry stakeholders raised a number of concerns regarding the proposed changes and the process used to develop those changes. Many stakeholders expressed concerns about the lack of transparency in Metro's code adoption process and not having adequate opportunity to provide meaningful input. At the direction of the Metro Council, staff is now going through this process with the subcommittee.

From there, Mr. Johnson introduced a study entitled, *Evaluation of Disposal Trends for Environmental Clean-up and Beneficial Use Materials*, which was conducted by URS in 2006. The purpose of the that study was to evaluate how Metro assesses fees and taxes on useful and beneficial material and the issues related to management of those waste materials. That report laid out four recommended options for Metro to consider going forward:

- Keep status quo
- Clarify Code and reporting to improve tracking (no policy change)
- Establish only reduced-rate category with no exemptions
- Eliminate the reduced-rate and exemption policy

Metro subsequently implemented a pre-approval process and some reporting requirement changes, but did not make any changes to the exemption policies at that time. As the solid waste system has evolved since that study, the Metro Council has asked staff to revisit the study and see if there are new recommendations. Metro contracted with RRS to update the 2006 and evaluate Metro's fee and tax exemption policies to determine if improvements can be made to better achieve the public benefits. The RRS study will be available as a reference guide for subcommittee to use as it considers the topic over the next few months. The subcommittee will also have an opportunity to provide additional input on the report before it's completed in July, The subcommittee will review and provide input the draft background information for the report at this meeting and subsequently provide input on draft recommendations at the June meeting. The consultant's final report will be provided to Metro and shared with the subcommittee in July.

Jennifer Martinez requested information showing the DEQ's approval process for alternative daily cover. Mr. Johnson said that information would be provided to the subcommittee at an upcoming meeting.

Kevin Six then provided an overview of Metro's regional system fee and excise tax. Mr. Six explained how the fee and tax is established, what they are used for, and how they are assessed. In general, there are three categories of rates:

- Full rate,
- Reduced rate, and
- Exemption.

The fee and tax rate is assessed at time of disposal and it is generally determined by waste type or whether the materials is used or disposed.

Mark Hope requested information showing the gross receipts of Metro's solid waste fees and taxes and how those rates have changed over the years. Chair Collier said that information would be provided to the subcommittee at the next meeting.

Juri Freeman and Jamie Zawila, then presented the draft report that RRS prepared summarizing its study findings. Mr. Freeman reviewed the overall project goals, process by which they gathered information and then presented the draft research findings. The draft report did not include recommendations at the time of this meeting.

Mr. Freeman listed Metro's current fee and tax rate (through June 30, 2017), reviewed currently exempted materials, provided a brief overview of a regulatory timeline, and introduced an assessment structure for evaluating whether Metro's exemption policies are transparent, equitable and meet the public benefits. Mr. Freeman said that Metro's current code and exemption policies have challenges including the clarity of definitions, evolution of policy interpretation, determination of jurisdictional oversight and overlaps with DEQ policy/regulations, and finally the long term policy outcomes. Dave Claugus suggested that RRS should also consider how changes in fees and rate structures impact businesses. He said that the subcommittee would need to have that type of information to better understand how changes in policies would impact generators.

Mr. Freeman summarized the findings from his interviews with solid waste industry stakeholders. He explained that the report includes a summary of the interviews, but doesn't include propriety information. Ms. Zawila then explained her research of policies and practices in other jurisdictions and the findings from her interviews within government organizations within Oregon, Idaho, Washington and California. RRS conducted interviews with 10 state and local jurisdictions as part of its research.

Citizen Communications

- Jeff Murray, EFI – Asked for further explanation of Metro's charter limit on excise tax expenditures
- Eric Wentland, Greenway – Offered his opinion that the Metro region is too unique to be compared to other jurisdictions and municipalities for purposes of the fee and tax evaluation.

Decisions

None were made this meeting

Actions agreed upon

- Metro to provide the subcommittee with additional information on DEQ's alternative daily cover approval process at a future meeting.

- Metro to send out a doodle poll to schedule the next meeting.
- Metro to provide a 10-year history of gross receipts (3 tiers) of the fees and taxes received throughout the system.
- Metro to provide a summary of how its fees and taxes have changed over the years.
- RRS to update the state research slide (on its PowerPoint presentation slide deck) with corresponding dollar amounts.
- RRS to provide a summary of how similar the other jurisdictions are to Metro's disposal system.
- RRS will consider further explanation of proposed changes in Metro's policies will impact businesses.
- Stakeholders to provide feedback on draft report by end of day May 12th.

Upcoming Subcommittee Meeting: Tuesday June 27, 10 a.m. Metro Council Chamber



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Meeting minutes

Meeting: Solid Waste Fee and Tax Exemption Policy Subcommittee
Date/time: Tuesday, June 27, 2017, 10 am to noon
Place: Metro, Council Chamber
Purpose: Develop a better understanding of waste tires and solicit input on the recommendations proposed by 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
Jennifer Martinez – Doctoral Student, Portland State University
Matt Cusma – Schintzer Steel
Koreen Lail – Siltronic Corporation
Bill Carr – Waste Management

Absent

Audrey O’Brien – DEQ
Janice Thompson – Oregon Citizens’ Utility Board

Presenters/Staff

Juri Freeman, RRS
David Stead, RRS
Warren Johnson, Metro

Audience

Available upon request.

Summary

Chair Collier welcomed members to the second 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 subcommittee 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 meeting. Mr. Johnson reviewed the purpose of the subcommittee, which is to determine if Metro’s current solid waste fee and tax exemption policies are achieving the public benefits, goals, and objectives of the solid waste system. He then reviewed the public benefits that are used as a lens for the region’s solid waste system. Metro seeks to achieve the following benefits for the public:

- Protect people's health
- Protect the environment
- Get good value for the public's money
- Keep our commitment to the highest and best use of resources
- Be adaptive and responsive in managing materials
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Mr. Johnson also provided an overview of Metro's regional system fee and excise tax. He reviewed the different components of Metro's solid waste rate, explaining how and when it is assessed. He also reviewed Metro's three-tiered rate structure and the types of waste that are typically subject to each. Mr. Johnson explained the types of materials that are currently exempt from Metro's fee and tax rate and the purpose of the current evaluation of Metro's exemption policies.

An audience member asked if Metro's fee and tax exemption for dredge spoils was dependent on whether the material was clean or contaminated. Mr. Johnson explained that Metro's fee and tax exemption for dredge spoils was determined by whether the spoils were processed inside or outside the Metro region for disposal. Under Metro's current practice, dredge spoils are not subject to Metro's fee and tax if the material is processed outside of the region for disposal.

Mark Hope provided an overview of the history of waste tire processing within the Metro region. Mr. Hope explained that Metro initially began work on a waste tire management program in the 1970s. He said the Oregon Department of Environmental Quality (DEQ) later passed scrap tire legislation in the 1980s – which is still in place today. The purpose of that effort was to protect the environment and control illegal dumping of tires. Around that time, Oregon funded the clean-up of abandoned tire piles around the state. The state, in cooperation with industry, had created tire regulations and a tax infrastructure (that was in place for about 4-6 years) to manage waste tires. The tax had expired since then, but the regulations remain in place. Many states have since adopted similar measures to regulate tires. The regulatory infrastructure has been a critical part of the tire program's success.

Mr. Hope said that whole tires cannot be disposed in a landfill in Oregon. He explained that tires disposed in Oregon must be shredded (and reduced in volume by 65%) in order to be disposed in a landfill. This requirement subsequently encourages reuse and reprocessing of the material instead of disposal. Whereas, this processing requirement also ensures that any tires that must go to disposal stay in the landfill. There have been many attempts at creating economic incentives for tire processors. Most processing for beneficial use has a negative cost value. The market environment for tires is much better today than it has historically been. At this point, the market is fairly stable.

Mr. Hope said that Metro and DEQ both regulate tire processors. He said that DEQ currently permits tire collection and processing activities within the state. Metro also authorizes tire processing activities within the region as well. In addition, Mr. Hope explained that his business (Tire Disposal and Recycling) operates in a multi-state environment (Washington, California and parts of Idaho). Each state has a different regulatory approach to tires and his business must comply with the regulations in each of those states. For example, he explained that California has a strict tire manifest system. Whereas, the state of Idaho regulates only tire disposal activities. In Washington, solid waste activities are regulated by the counties. Mr. Hope explained that regulations are adopted by the state of Washington, but enforced and implemented at the county-level, city local level.

Mr. Hope provided an overview of his processing facility. He explained that his business is regional in nature and requires a lot of tire throughput to be successful. Tire Disposal and Recycling receives about 20 percent of its tires from within the Metro area and about 80 from outside. There are two tire processors within the Metro region (Tire Disposal and Recycling and RB Rubber). These two facilities have enough capacity to process about seven million tires per year. Tire Disposal and Recycling looks at a much bigger footprint in terms of sourcing its tires (multi-state area).

Mr. Hope gave a brief overview of tire markets. He explained that Tire Disposal and Recycling has a variety of local, regional, and export markets. Some of the current tire markets include production of rubber products (RB Rubber), civil engineering applications, and tire-derived fuel (primarily exported to Japan and Korea). Emission standards in those countries are generally better than in the United States.

Dave Claugus asked about the pricing of material that is sold for energy markets. Mr. Hope explained that the price for tire-derived fuel is dictated by oil prices - the higher the oil price, the better the price for tire-derived fuel. Historically, coal prices have also had influence on the market.

Mathew Cusma asked what percentage of the facility's incoming tire volume actually ends being disposed a landfill? Mr. Hope said the percentage amount ebbs and flows. He said that sometimes the disposal amount can be up to 50% at times, but drop down to about 10% at other times. He said that some of the waste that is sent to a landfill may be used beneficially at the site, but otherwise it is disposed.

Juri Freeman and David Stead then presented the draft report that RRS had revised in response to the comments received from the subcommittee members at the last meeting. They also presented an overview of RRS' draft recommendations from the study. Mr. Stead began by providing an overview of RRS.

Mr. Freeman then explained the comments that were received from the subcommittee and the edits that were made to the report. He thanked the members for their contributions and said that all of the comments he received had merit (six people had submitted comments). Based on those comments, Mr. Freeman had updated the background information in the report and included more detail with respect to connection with the 2006 report. He also added more figures and tables to better explain the research that was performed by RRS. He also standardized the time period used for the analysis and updated the history/timeline outlined in the report based on comments.

Mr. Freeman explained that he had also added some additional data on comparable jurisdictions. He acknowledged that some of the comparisons were not always apples-to-apples, but he did his best to match the similarities when possible. He said that RRS could not address all of the data related questions that were raised by the subcommittee because all of the data was not available. Mr. Freeman also said that questions about legal issues could not be addressed by RRS and for purposes of the report RRS presumed that Metro had appropriate legal authority to enact the recommendations. Mr. Freeman reviewed the memo that he had prepared with detailed responses to each comment.

Mr. Freeman also explained that RRS has added an executive summary to the report for easy of reading. He explained that much of the report consists of appendices and supporting information (the body of the report is approximately 50 pages with about an additional 80 pages of appendices).

Mr. Freeman outlined the policy challenges that RRS had identified during its evaluation of Metro's fee and tax policies. He summarized some of the challenges as follows:

- Insufficient clarity on definitions and policy.
- Overlap of jurisdictional responsibilities and regulatory oversight.
- Market evolution in relation to long-standing regulations - sometimes at odds.
- Complex code language – compared to other jurisdiction.
- Some issues identified in 2006 report haven't changed.
- More tons and more materials being exempted over time.
- Ongoing challenges with data tracking of reduce rate materials.
- Private companies maximizing use of Metro's fee and tax exemptions.
- Mixed incentives for participants in the system.

Mr. Freeman and Mr. Stead then explained the RRS' evaluation process for determining recommendations. Mr. Freeman explained that RRS considered all of the exempted material groups and developed nine different options for Metro to consider (which included status quo and new options). He explained that RRS had evaluated all of those options on a relative scale.

RRS opted to not include details on dredge materials in its recommendation table, as the material generally does not enter the region's solid waste system – therefore RRS did not recommend any significant changes to Metro's current practice of exempting dredge materials from fees and taxes when processed outside the region. Also, RRS does not recommend any changes with respect to exemptions for recyclable materials and organics that are recovered and recycled. In addition, Mr. Freeman said that RRS does not recommend any changes to Metro's exemptions for tire processing waste, auto shredder residue, and waste disposed in captive landfills.

Mr. Freeman then explained the options that RRS recommended for Metro to consider (both in Metro Code and practice) with respect to "useful materials" accepted at a landfill. He said that RRS developed an option evaluation process using five criteria (public benefit, waste reduction/diversion, industry acceptance, equitable, simple and transparent). He said that RRS internally evaluated each of the nine options using the above criteria - Metro staff was not involved in the evaluation process. Mr. Freeman said that the criteria weights were as follows: 25 percent for public benefit, 25 percent for waste reduction; 20 percent for equity; 20 percent for simple and transparent; and 10 percent in industry acceptance. He said that RRS determined those weights through its interpretation of Metro policy (via document review and discussions with Metro staff). Metro provide no input on the criteria weights or draft recommendations formulated by RRS.

Mr. Freeman and Mr. Stead reviewed the top four options recommend by RRS in its draft fee and tax evaluation report.

1. Two- tiered system with exemptions for tire processing residuals and auto fluff. Under this option, Metro would establish two rates (full and reduced rates) and adopt a standing list of materials that qualify for the reduced rate and exemption. All of the materials that are currently receiving useful material exemptions would be subject to the reduced rate except for tire processing residual and auto fluff (those two materials would remain exempt from fees and tax).

Benefits – This option would remove the need to verify use at a landfill. Establishing a list of materials increases clarity and continues the long-standing support of tire processes and auto processors in the region. This option also would result in most of the currently exempted materials moving to the reduced fee when delivered to a landfill. In addition, it would remove the need for secondary agency approvals.

Challenges – This option would not significantly increase waste diversion. Some generators will have increased cost

2. Limited exemptions based on material (standing list).

Benefits – This option would make the exemption system simple and would remove the need for Metro to verify use at a landfill. Similar to option #1, having a standing list of exempt materials increases clarity and continues the long-standing support of tire processes and auto processors.

Challenges – This option would increase fees for some generators and meet with strong industry resistance. Also, this option would not increase waste diversion.

3. Commodity Based Exemptions – Under this option, exemptions would be based on commodity types and values. Exemptions would be allowed by Metro if the landfill pays for the incoming materials (the generator/processor sells the material for a value above \$0.00).

Benefits – This option would drive waste diversion above the status quo. This option also would support processors who are creative and that generate a valuable material.

Challenges – This option would be difficult to administer and is a big change from the current system.

4. Status Quo with improvements – Mr. Freeman reviewed a list of recommended improvements that Metro should consider under this option. The high priority items included: codify the certain exemptions that are allowed under historical practice, better define materials, and increase decision-making transparency. The medium priority items included: review the fees charged by disposal sites (including on reduce rate materials) and establish a work group to further evaluate the use of wall board and gypsum for alternative daily cover material.

Benefits – This option would be easy to implement and it's favored by many stakeholders. The recommended improvements would increase clarity and equity while continuing the current exemption system.

Challenges – This option does not address all concerns and does not result in system improvements to drive additional waste diversion.

An audience member asked about “material type” versus “material use” in the RRS options. He said that material use should be considered as part of determining whether to assess fees and tax. Mr. Freeman responded that it was a philosophical question, but having a standing list would help increase clarity for all participants.

Mr. Freeman said that RRS recommends that Metro adopt option #1. He said that option #1 would best meet Metro's mission and benefit the environment. It would create a more transparent code and be easier to understand for new participants entering the system. The option would also establish consistent beneficial use policy for the region. RRS recommended that any resulting list of materials would need to be re-evaluated on a periodic basis.

Jennifer Martinez asked for additional information regarding the scoring mechanism that RRS used for determining its recommendations. Mr. Freeman and Mr. Stead provided an overview of how the options were scored. The scores (and criteria weights) were based on RRS' evaluation and opinion. Mr. Freeman acknowledged that there could be differences of opinions.

The subcommittee provided the following comments on the draft recommendation presented by RRS:

- Terrell Garrett said that he would like RRS to include percentages on the table shown on page two of the executive summary.
- Mr. Garrett said that one of the interviewed parties had made an incorrect statement about "ADC exemptions" being necessary to Metro's recovery requirements. He requested that the incorrect statement be removed from the report.
- Mr. Garrett said that if RRS recommends a periodic review of reduced fee materials, then it should recommend a frequency of review (the timeframe should take into account investments and rate of return).
- Mr. Garrett said that the report should clarify if the intent of the options were to address materials being placed in a landfill footprint.
- Brian Heiberg asked in Option No. 1 was intended to be revenue neutral? Mr. Freeman said yes.
- Koreen Lail asked RRS to better define what is "equitable." She asked if RRS had reviewed DEQ's process for approving the use of alternative daily cover. Mr. Freeman briefly reviewed the research that RRS had performed.
- Mr. Claugus asked for more information about the history and purpose of Metro's reduced rate. Mr. Johnson said that Metro's reduce rate is primarily assessed on "cleanup material" such as petroleum-contaminated soils and chemical spill debris. He explained that the reduced rate was originally established to help incentivize the removal of contaminated cleanup materials and ensure that the material was properly disposed. Mr. Johnson said that he would provide more information on the reduced rate at a future meeting.
- Mr. Claugus asked RRS to explain how the reduced rate would encourage diversion. Mr. Freeman said assessing the reduced rate on more materials would increase costs for some generators. Mr. Claugus said financial incentives may help something work in one area, but not in another.
- Mr. Garrett then asked about "highest and best use" of materials. He said that Metro's current reduced rate amount was not high enough to change behavior. He suggested that there should be another option that provides more incentive for people to find a use for material instead of disposal.
- Rick Winterhalter pointed out that the amount of petroleum-contaminated soil generated in the region was not specified in the report. He said that reduced rate material warranted further discussion.
- Mr. Cusma remarked that the subcommittee was having a good discussion. He also asked that the subcommittee be aware of the potential unintended consequences that could result from changes in fee and tax policies.

Citizen Communications

- Dean Large, Waste Connections – Said that he appreciates the work of RRS and the subcommittee. He wonders about the scoring that RRS used for the determining the option rankings. The scoring was so close that it did not appear to support any significant changes to the current exemption system (in relation to the overall disruption to the system if Metro were to move away from the status quo). Mr. Freeman responded that the scoring was intended as a method to establish a comparative ranking of options. Mr. Large then said that he did not agree with RRS' position that that option #1 meets Metro's mission. Whereas, the status quo option could be interpreted to meet Metro's mission. In addition, Mr. Large said that he was not aware of any jurisdictional conflicts between Metro and DEQ that would prevent Metro from effectively implementing its exemption system.
- Jeff Murray, EFI Recycling – Asked for clarification regarding the use of material within a landfill footprint and at other properties. He asked if there was a distinct difference moving forward with respect to fees and taxes. Mr. Johnson responded that DEQ has certain requirements for using materials inside and outside of a landfill. Materials that are used outside of a landfill are not subject to Metro's fee and tax. Mr. Murray suggested that the subcommittee could consider whether the amount of the reduced rate should be adjusted by Metro. For example, he said that the reduced rate amount could be tied to the full rate and established by a set percentage.

Decisions

None were made this meeting

Actions agreed upon

- Stakeholders to provide feedback on draft recommendation by end of day on July 7, 2017.

Upcoming Subcommittee Meeting: July 25, 2017 (Tuesday), 8 am to 10 am, Metro Council Chamber



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.



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.



Meeting minutes

Meeting: Solid Waste Fee and Tax Exemption Policy Evaluation Subcommittee
Date/time: Monday, October 9, 2017, 2:00 pm - 4:00 pm
Place: Metro Regional Center, Council Chamber
Purpose: Discuss potential fee and tax policy recommendations
Outcome(s): Formulate draft policy recommendations of the subcommittee

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
Jennifer Martinez – Doctoral Student, Portland State University
Rick Winterhalter – Clackamas County
Koreen Lail – Siltronic Corporation

Absent

Brian Heiberg – Heiberg Garbage and Recycling
Janice Thompson – Oregon Citizens’ Utility Board

Presenters/Staff

Warren Johnson – Metro

Audience

Available upon request

Summary

Chair Collier welcomed members to the fifth 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 August 31, 2017, meeting. Matt Cusma requested that a correction be made to a statement that was attributed to him in paragraph four on page six of the draft meeting summary. Mr. Cusma clarified that during the last meeting, he had said that the subcommittee should also consider status quo as a potential policy option. Chair Collier said that the meeting summary would be revised to reflect his clarification. There were no other comments or proposed changes to the draft meeting summary. The subcommittee agreed that the remainder of the summary was accurate as written.

Chair Collier informed the subcommittee that the desired outcome of this meeting was to discuss potential policy options and determine the recommendations that the subcommittee will make to the Solid Waste Alternatives Advisory Committee (SWAAC). He said that he hoped that the subcommittee could unanimously agree on a set of recommendations, but full agreement was not necessary. Chair Collier said that this would be the last in-person meeting of the subcommittee if it reaches some form of consensus on recommendations for SWAAC. In that instance, staff would draft a summary of the subcommittee's recommendations and then provide it to the members for their final review and approval via email. Chair Collier said that the subcommittee would then conclude its work once the membership approves of the final summary recommendation.

Chair Collier explained that the subcommittee's final recommendations and the policy evaluation report prepared by RRS will be provided to SWAAC for its consideration. SWAAC will then determine whether to make a recommendation and will provide guidance on which options to bring to Metro Council. Staff will inform Council of SWAAC's recommended options along with the findings of the subcommittee and the consultant's report and seek direction on next steps.

Warren Johnson reminded the subcommittee 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.

Mr. Johnson explained that the subcommittee had agreed at its previous meeting (August 31) that Metro should continue its practice of assessing its fees and taxes at the time of disposal and should continue its exemption for reused and recycled materials that are not sent to a disposal site. He also said that the subcommittee had previously requested more information about the policy intent behind Metro's current exemption for dredge spoils that are processed outside of the region for disposal, The subcommittee had asked for an explanation about why there was a distinction between in-region and out-of-region processing.

Mr. Johnson said that he was unable to find the requested information for the subcommittee. He suggested that Metro could further evaluate the matter outside of the subcommittee with input from other parties that are directly involved with dredging projects. He said that input from those parties might better inform Metro council as to how to proceed. Several subcommittee members indicated their support for that suggestion. The subcommittee generally agreed that Metro should continue to evaluate the matter and solicit input from parties involved with dredging projects. In the interim, the subcommittee recommended that Metro maintain the status quo with respect to its exemption for dredge spoils processed outside of the region.

Chair Collier stated the main topic of the current meeting was to determine the subcommittee's final recommendations with respect to the fees and taxes assessed on waste that is used or disposed at a disposal site. He also reminded the subcommittee of the public benefits that are to be kept in mind when considering options for Metro's solid waste policies. These public benefits are:

- Protect people's health
- Protect the environment
- Get good value for the public's money
- Keep our commitment to the highest and best use of resources
- Be adaptable and responsive in managing materials
- Ensure services are available to all types of customers

Chair Collier also explained to the subcommittee that Metro seeks to implement policy that is:

- Achieving the public benefits
- Easy to understand
- Resilient and adaptive
- Transparent and predictable
- Fair and equitable

Mr. Johnson provided an overview of Metro's current fee and tax rate structure and the types of materials that currently qualify for exemption. The current system has a three-tiered rate structure which is assessed on waste at the time of disposal. Metro's full rate is a "material-based" rate that is assessed on all waste at time of disposal (excluding waste that is subject to the reduced rate or exemption). The full rate amount (currently \$28.93) is adjusted on an annual basis. Metro's reduced rate is a material-based rate that is generally assessed on cleanup material. The reduced rate amount (\$3.50) has not changed since it was established by Metro in 2000. Finally, Metro allows both material-based and "use-based" exemptions for certain waste materials that are received at a disposal site. Currently, Metro's material-based exemption includes only tire processing waste. Whereas, Metro's use-based exemptions include a range of materials such as auto shredder residue, shaker screen fines, asphalt shingles, glass, etc.

Mr. Johnson explained that Metro does not take *use* into consideration when assessing its reduced rate – rather it considers whether the waste constitutes "cleanup material" as defined in Metro Code. This is different from Metro's policy of allowing a fee and tax exemption for "useful material" that is used productively in the operation of a landfill. The *useful material* exemption covers a wide range of materials and uses at a disposal site. These types of exemptions are generator and site specific uses that require approval and oversight from the Oregon Department of Environmental Quality (DEQ) or its equivalent regulatory agency. These types of exemptions are linked, in part, to oversight by other government entities.

Reba Crocker asked why exemptions are allowed for waste materials that are deposited at a landfill (whether used or not)? She said that depositing waste in a landfill is not the highest and best use of material. Bill Carr responded that landfills try to use waste for alternative daily cover (ADC) or road base whenever possible because it avoids the need to purchase virgin materials and replaces the use of natural resources to accomplish operational objectives. Ms. Crocker said that she believed that there should be some type of rate assessed on all waste sent to a landfill. She said that waste sent to a landfill should not be exempt from all fees and taxes.

Terrell Garrett noted that if there is no economic incentive for the generator, then there is no reason to produce the material. He said that the approval process that Greenway went through to obtain its current useful material exemption for shaker screen fines was a long-term, costly process that involved both DEQ and Metro. He explained that he had to make significant financial investment to obtain the exemption that his company currently receives. Mr. Garrett said that if the current reduced rate amount was assessed on useful material, it would likely not impact the generation of shaker screen fines at Greenway. However, he said that if the cost differential increased too much it would not be economically viable for his business to continue generating shaker screen fines. Mr. Garrett also explained that in some instances, auto shredder residual is mixed with soil or shaker screen fines when used as ADC. He said that such cases show that those materials are used in the same manner and should be treated the same from an exemption or fee and tax policy perspective.

Mr. Cusma noted that some landfills don't have a ready supply of cover soil available to use for daily operations. He said that some landfills may sell their soil or use it for other purposes on site which is a reason why alternative materials are needed. Ms. Crocker said that she understood the benefit of using waste materials on site when possible, but she still would support a reduced rate for such materials. Audrey O'Brien noted that regardless of whether materials are used as ADC or simply disposed at a landfill they are all considered to be waste.

Mr. Cusma said that the subcommittee should be aware that policy changes could potentially have long-term, unforeseen impacts of recovery and recycling efforts in the region. For example, he said that if recycling facilities are forced to accept material where there is no viable recycling market and they are charged additional disposal fees, then it could result with recyclers going out of business. Mr. Cusma added that assessing fees and taxes on auto shredder residual would be a huge cost for his company. He said that his company operates in an international market and it cannot pass along those costs in that market. He also explained that his company could not pass along the costs to its local customers because there is too much competition for scrap metal and it would impact pricing. Mr. Cusma said this is one area where the unintended consequences of a policy recommendation would be impossible to know and potentially have a large impact.

Ms. O'Brien said that auto shredder residual that is used as ADC is not subject to the same disposal costs as other waste from the Metro region. Mr. Cusma responded that shredder residual used as ADC has a cost, but it is a lower cost because the material is used. Rick Winterhalter noted that he had general concerns about whether it is appropriate to allow a fee and tax exemption for waste received at a landfill regardless of its use. Mr. Winterhalter noted that landfills already provide incentive for customers by charging lower disposal cost for materials that can be used, so it was hard to understand why exemptions or lower fees and taxes were needed. Mr. Garrett responded that the reduced landfill cost is not enough to incentivize recycling businesses and the Metro exemption is necessary for the businesses to be viable.

Mr. Johnson clarified that in order for a material to qualify for a useful material exemption; it must be used productively in the operation of a landfill and be accepted at no disposal charge. He provided an example of excess ADC. Material that is used as ADC and applied to the working face at the end of an operating day could qualify for an exemption. Whereas, if the same material was deposited at the disposal area during the day, the material would be subject to the full fee and tax rate. Ms. Crocker inquired as to how those activities and transactions are tracked. Mr. Johnson said that Metro relies on the disposal site to report that information and DEQ to monitor its use. Mr. Carr explained that ADC storage areas are often used at landfills for staging purposes. He said that landfills typically do not store more material than can be used in a short timeframe. Ms. O'Brien added that DEQ monitors ADC usage at landfills in Oregon. Jennifer Martinez asked if there are limits on the amount of material that can be stockpiled on site. Ms. O'Brien responded that it is dependent on the landfill and its capacity.

Mr. Garrett asked Ms. O'Brien if she felt that DEQ was doing an adequate job of tracking and overseeing the use of ADC at landfills. She responded that DEQ has had some difficulties in the past, but it has improved its monitoring procedures in recent years. She also explained that landfills must remit quarterly reports to DEQ showing the amount of ADC materials they receive and use.

Mark Hope spoke to how he views Metro's public benefits being reflected in the current fee and tax exemption policies. He explained that one of the most important public benefits of Metro's current exemption policies is that they have helped establish and maintain a strong recovery and recycling infrastructure in the region. He said that the current exemptions policies are necessary to maintain stability.

Chair Collier and Mr. Johnson presented a list of potential policy options that had been discussed by the subcommittee during the past meetings. Potential options included:

- Maintain status quo.
- Establish a material-based rate system with explicit exemptions for tire processing residual and auto shredder residual.
- Establish a two-tiered rate system for all waste.
- Assess fees and taxes on waste that is received at a disposal site.
- Increase reduced rate amount with future CPI adjustments.
- Establish a standing list of materials that qualify for a reduced rate.
- Establish periodic review process for a standing list of materials with a phase-in period for any changes (for example three-year review period with a two-year phase-in).

Ms. Martinez asked what impacts might occur if Metro moved to a material-based rate? Mr. Carr responded that his company would continue to use alternative materials for landfill operations whenever possible in order to minimize costs and avoid using virgin materials. He said that if Metro were to assess its fees and taxes on useful materials, then the majority of the economic impact would likely fall on the generators of the material. Mr. Cusma said that it is hard to know the full repercussions of such policy changes because of the dynamics of the industry. He pointed out that some landfills have constraints in the amount of material that can be used for ADC which impacts the movement of materials.

Dave Claugus added that lowering fees on disposal generally reduces the incentive to recover materials. The current cost savings between disposal and recovery justifies the expense of investment in new equipment, but if that were to change there would be unintended impacts across the industry. He expressed concern about how policy changes could impact the investments already made by current participants in the system. Mr. Claugus reminded the subcommittee that it should keep this in mind as well. Koreen Lail noted that her company is always seeking the best option for managing its filter press cake. Ms. Lail said that her company would prefer to find other uses for the filter cake rather than use as ADC; however, there are no other options available at this time. She also pointed out that adding new fees and taxes could potentially have impacts on other aspects of a business such as increased operational costs and job loss.

Mr. Winterhalter asked for clarification whether the proposed two-tiered rate option that was raised would include the currently exempted and reduced rate materials. Mr. Johnson said that was his understanding based on the subcommittee's discussion. Mr. Garrett said that clean fill should also be listed as an exempt material.

Mr. Garret said that he feels that the Metro Council is seeking some type of change with respect to Metro's fee and tax policies. He said that he would rather participate in the discussion and seek a collective solution rather than having policy change without industry input. Mr. Hope noted that he is still searching for the reason that change is necessary. He said that he believes that Metro staff and Metro Council are neutral on the subject, but if that is incorrect it needs to be stated. Mr. Garrett noted that Metro's past actions on this topic have made him nervous about a potential change in policy. Chair Collier said that Metro Council has not stated a preference on this issue. He reminded the subcommittee of the purpose of this subcommittee and how it was formed. He said that Metro Council had directed staff to further evaluate the matter and report back with its findings. Mr. Claugus echoed Mr. Hope's opinion that he saw no compelling need for a change in current policies.

Chair Collier stated that one area that needs to be considered by the subcommittee is whether the current policies are transparent, easy to understand and predictable. He also raised the question whether the subcommittee thought that the status quo was fair and equitable throughout the system. Chair Collier posed the question whether there was a compelling reason to maintain status quo?

Mr. Garrett said that if there is a charge assessed on one type of material, then the same charge should be assessed on all materials that are used in the same manner. Mr. Hope reiterated that infrastructure is necessary to support behavior change and the overall benefits for the greater good need to be considered.

Ms. Crocker stated that she saw a need to implement changes in Metro's current fee and tax assessment policies because they are not easy to understand. She expressed concerns about the ability of the general public to understand the complexity of the topic. She also raised concerns around the overall transparency of the practices.

Ms. Martinez shared that she does not feel the existing exemptions are wrong, but the application of reduced rates does not seem clear. She would like to see more standardization for the sake of stability.

Mr. Cusma acknowledged the concerns regarding transparency and clarity, but he cautioned against moving away from a use-based exemption. He said that even though a material-based exemption might benefit his company, he said that it would not be a good policy because it does not provide an incentive to find a use for material.

Mr. Winterhalter stated that he would support a standing list of materials that are subject to a reduced rate when they have an established use. He said that there should also be an opportunity to add or remove materials from the list as circumstances change.

Chair Collier announced a short break in the meeting and informed the subcommittee that when it reconvened he would ask the members to state their position with respect to potential recommendations.

After the break, Chair Collier asked each member to state his or her position on a subcommittee recommendation for Metro's fee and tax assessment policies with respect to waste received at disposal sites. The members' responses were as follows:

- Vern Brown, Environmentally Conscious Recycling: Stated support for status quo.
- Jennifer Martinez, PhD student: Stated support for status quo. She said that she would like Metro to explore a material-based list.
- Bill Carr, Waste Management: Stated support for status quo. He said that he did not see a compelling need for change.
- Reba Crocker, City of Milwaukie: Stated support for a change in the current policy. She said that the status quo is not transparent or easy to understand.
- Dave Claugus, Pioneer Recycling: Stated support for status quo.
- Rick Winterhalter, Clackamas County: Stated support for a change in the current policies. He said that he would like to see a system without exemptions but recognizes that industry has already invested in the current system and any changes would need a phase-in period. Mr. Winterhalter said that we should look at this from a system perspective.

- Audrey O'Brien, Oregon DEQ: Abstained. DEQ does not have a formal position on the topic.
- Mathew Cusma, Schnitzer Steel: Stated support for status quo. He also reiterated his concerns about removing the use-based criteria for exemptions.
- Koreen Lail, Siltronic Corporation: Stated support for status quo. She also said that it would be helpful to provide more clarification about how Metro implements its exemption policies.
- Mark Hope, Tire Disposal & Recycling: Stated support for status quo.
- Terrell Garrett, Greenway Recycling: Stated support for status quo. He said Metro's solid waste system is a unique system; it works well despite its problems. He noted that the rate system is difficult to understand and it would be helpful to have greater clarification on how to obtain a use-based exemption. He suggested that Metro could develop administrative rules to explain its exemption process.

Chair Collier noted all of the responses and explained that Metro staff will draft a summary of the meeting and document the subcommittee's strong preference for the status quo recommendation. He also noted that the subcommittee had recommended establishing an administrative rule to provide greater clarity on how current policies are implemented.

Ms. Martinez asked whether Metro could establish administrative rules to better align with or reflect DEQ rules? Mr. Garrett said that it would be helpful for Metro to outline its reduced rate and exemption policy.

Chair Collier stated that Mr. Winterhalter will present a brief update to SWAAC at its next meeting on October 11. He also explained that Metro staff intends to provide a formal presentation to SWAAC in November to report the findings of the subcommittee and the consultant's study. Staff's presentation will include the subcommittee meeting summary notes, consultant's report and the subcommittee's final recommendations. The October meeting summary and subcommittee's recommendations will be sent to the members via email for approval prior to the formal presentation to SWAAC.

Chair Collier reminded the subcommittee that staff will email a draft summary of the recommendations to the members for their input and final approval. Mr. Cusma asked that all of the subcommittee members "reply all" when commenting on the documents so that each member knows what changes are requested.

Mr. Hope offered his thanks to Metro for convening this subcommittee and taking input from multiple stakeholders. He said that he appreciated the process.

Chair Collier ending the meeting.

Decisions

The subcommittee decided that this would be its final in-person meeting. Metro staff will prepare a draft meeting summary and recommendations document that will be emailed to the subcommittee members for review and approval prior to finalization. The subcommittee will conclude its work once the documents have been finalized.

The final recommendations document and consultant's final report will be presented to SWAAC for consideration.

Actions agreed upon

1. The subcommittee members that were present agreed that Metro should further evaluate its practice of allowing a fee and tax exemption for dredge spoils that are processed outside of the region. The subcommittee recommended that Metro should solicit input from parties involved with dredging projects. In the interim, the subcommittee recommended that Metro maintain the status quo with respect to its exemption for dredge spoils processed outside of the region.
2. Eight members of the subcommittee recommended that Metro maintain the status quo with regard to its current fee and tax exemption policies for waste received and used at a landfill. Two members recommended that Metro should consider a change in its current policies and should assess a fee and tax on all waste that is received at a disposal site. One member of the subcommittee abstained.

Next meeting

None