



Metro

600 NE Grand Ave.
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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