

Summary of Proposed (Draft) Materials Management Legislative Concepts
Prepared by Oregon DEQ for Metro Solid Waste Alternatives Advisory Committee
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At its September 10, 2014 meeting, the Metro Solid Waste Alternatives Advisory Committee (SWAAC) will discuss legislative concepts that DEQ is developing for possible introduction in 2015. This paper summarizes key elements of the proposed legislation.

Background

In December 2012 the Environmental Quality Commission adopted *Materials Management in Oregon: 2050 Vision and Framework for Action*. This document meets the statutory requirement that the state periodically update its statewide solid waste management plan. While the *2050 Vision* addresses solid waste management, it does so in the context of a broader framework, a shift from narrow “solid waste management” to broader “materials management.”

The 2050 Vision is: *Oregonians in 2050 produce and use materials responsibly – conserving resources – protecting the environment – living well*. The *Framework for Action* describes a set of actions necessary to realize this positive vision of the future.

Following adoption of the *2050 Vision and Framework for Action* DEQ prioritized these actions. One project identified as a high priority action for the near term is to update Oregon’s existing statutes in the areas of recycling opportunities, goals and measures, and stable, sustainable funding for DEQ.

In 2013 DEQ convened a Materials Management Workgroup and three sub-groups (recycling opportunities, goals and measures, sustainable funding) to identify, evaluate, and recommend potential statutory changes. These four groups, involving over ninety participants, have met in total 19 times (to date). The Materials Management Workgroup will meet again in November to review draft legislation. DEQ is also meeting with representatives of government and industry, as well as community members, across the state to discuss the draft legislative concepts. The Metro SWAAC meeting scheduled for September 10 is one of more than thirty such meetings across the state.

This document provides a summary of DEQ’s current thinking regarding proposed legislation, with a focus on changes that may impact local communities (as opposed to “housekeeping” or administrative changes). Feedback provided by stakeholders in the Metro watershed, as well as the rest of the state, will help shape DEQ’s final legislative proposals.

Recycling Opportunities

Proposed changes address two issues: 1) “program element” requirements of local governments, and 2) providing tenants of rented/leased buildings the opportunity to recycle.

Statute currently requires that each city with a population of more than 10,000 or that is within a metropolitan service district (regardless of population) must implement 4 or 5 “recycling program elements” (such as curbside recycling, yard debris composting, expanded education, etc.) chosen from a list of 9 options. Other cities with populations over 4,000 must implement 3 recycling program elements.

Counties must do the same for unincorporated areas inside the urban growth boundaries of those cities. Cities and counties may also comply by obtaining approval for an "alternative" program.

DEQ's current proposal includes the following:

- Maintain existing program elements.
- Modify the expanded recycling education element to include actions to reduce contamination in recyclables.
- Add 4 new recycling elements that cities and counties can choose from:
 - Commercial recycling program requiring source-separation of recyclables by businesses that meet certain criteria.
 - Residential curbside food waste collection program.
 - Dry waste recovery program targeting construction and demolition materials.
 - Mandatory food waste collection program requiring non-residential generators meeting certain criteria to source-separate food waste for recovery.
- Add 8 new waste prevention and reuse elements as a separate track. These 8 elements are taken from the best of the existing "2 percent recovery rate credit programs
- Increase the number of required elements, based on population and distance to major commercial centers/markets:
 - In the Metro district, all cities would be required to implement 3 new recycling program elements for a total of 7 or 8 program elements from a list of 13 (up from today's requirement of 4 or 5 elements from a list of 9), and would also need to implement 5 of the waste prevention and reuse elements.
 - Other cities of more than 50,000 population within 180 miles of Portland would need to implement 2 new recycling program elements (total of 6 or 7), and also 5 of the waste prevention and reuse elements.
 - Other cities between 10,000 and 50,000 population within 150 miles of Portland would need to implement 1 new recycling program element (total of 5 or 6) and also 3 of the waste prevention and reuse elements.
 - Other cities between 4,000 and 9,999 population within 120 miles of Portland would either have to implement 1 new recycling program element (total of 4) or 3 new waste prevention and reuse elements.
 - Cities of more than 50,000 population that are more than 180 miles from Portland would need to implement 5 waste prevention and reuse elements, but would not have any additional recycling program elements.
 - All other cities would not have any additional program elements required, but could substitute 3 waste prevention and reuse elements for one of the existing recycling program elements.

Many cities are already offering more services and programs than currently required by law. DEQ's preliminary evaluation shows that while cities within the Metro district are already providing more programs than currently required, some additional effort might be necessary to fully implement 5 of the New Waste Prevention & Reuse Program Elements. These new program elements can be implemented at the city or county level or Metro-wide.

Separately, DEQ also proposes clarifying the meaning of "opportunity to recycle." Under current law, the "opportunity to recycle" includes a requirement that all collection service customers must be provided with on-route recycling collection. For multifamily or multi-tenant commercial properties though, the "collection service customer" is currently considered to be the owner or property manager rather than the tenants, so tenants may not be provided with recycling collection. DEQ is proposing to amend the definition of "collection service customer" in this part of statute, effective July 1, 2022, to include the tenants as well as the property owner – both to increase waste recovery and as a matter of equity. DEQ proposes supporting enhanced multi-tenant recycling with new staff and research to identify and support implementation of best practices. DEQ is interested in understanding what effect, if any, this change might have for Metro area tenants in residential and commercial properties considering that Metro area cities already have requirements as part of the multifamily recycling program and the Business Recycling Requirements.

Goals and Measures

Goals are important for a variety of reasons, not the least of which that they signal what is important. Oregon currently has statutory statewide goals for waste recovery and waste generation, and goals at the level of individual “wastesheds” for recovery.

DEQ’s proposal for statutory changes to goals includes the following:

- Update the statewide and wasteshed recovery goals.
- Provide alternative, outcomes-based wasteshed recovery goals, with associated alternative methods for estimating recovery rates. In summary, this would involve calculating wasteshed recovery rates both measured in tons (current practice), and also measured in one or more environmental outcomes (such as energy savings). Wastesheds (including Metro) would then have more than one pathway by which to achieve goals. The intent of this proposal is to focus effort on those materials and practices that yield more significant environmental benefits, as opposed to the current system, where all materials and waste recovery methods are treated equally.
- Add new statewide waste recovery goals for specific materials (food waste, plastic, and carpet).
- Eliminate 2% recovery rate credits (for waste prevention, reuse, and home composting) and replace them with waste prevention and reuse program elements, and updated waste generation goals (see next bullet point).
- Update the statewide waste generation goal, and consider adding a waste generation goal for Metro, the state’s largest wasteshed.

In addition to these proposed statutory changes, DEQ also proposes providing wastesheds and others with several informational measures, including the climate and energy impacts of both recovery and waste generation, updated waste composition studies (including a measure of “good stuff” remaining in the waste stream), updates to Oregon’s consumption-based greenhouse gas emissions inventory, and an extension of that inventory model to include other environmental measures, starting with Oregon’s ecological footprint.

DEQ is seeking input from each wasteshed regarding possible new recovery goals.

Metro Wasteshed Recovery Goal

Currently, Oregon's statewide recovery goal is 50% (including credits); for 2012, Oregon's statewide recovery rate was 53.4% (including credits) and 49.7% (without credits). Metro's current goal is 64% (including credits). For 2012, Metro's recovery rate was 62.2% (including credits) and 56.2% (without credits). These goals were set by the Legislature in 2001 for calendar year 2009.

DEQ is proposing updated statewide recovery goals of 52% by 2020 and 55% by 2025. Both goals exclude two percent credits for prevention, reuse, or home composting. These proposed goals are based on a review of waste composition and generation, expected future changes in waste generation, existing material-specific recovery rates, and an assessment of potential recovery rates for specific materials in the future.

Achieving higher statewide recovery rates requires an increase in recovery in Oregon's different wastesheds. DEQ believes that the greatest potential for increasing recovery lies in the urban communities of the Willamette Valley, and is proposing that the state's three largest wastesheds (Metro, Lane and Marion) do more to increase recovery than other parts of the state. Specifically, DEQ is discussing with each of these three wastesheds an increase in local recovery goals such that goals would be 8 – 10 percentage points higher in 2025 than recent calculated (without two percent credits) 2012 recovery rates.

For Metro, this translates into a possible 2025 recovery goal of 64 – 66% up from 56% in 2012 (both numbers omit credits for waste prevention, reuse, and home composting). DEQ is not proposing to set interim (2020) goals for wastesheds. DEQ further proposes that wasteshed goals be largely aspirational. With the exception of communities with approved "alternative" recycling opportunity programs, DEQ proposes no future regulatory consequences for wastesheds that do not achieve their goals. In the case of the Metro region, DEQ believes that a higher goal will support ongoing efforts to strive for improvements in waste recovery. DEQ would work with Metro (and other wastesheds) to achieve this goal.

Metro Waste Generation Goal

Waste generation, the sum of recovery and disposal, is a crude proxy for materials use. Generation is reduced through waste prevention and reuse, the two highest-ranked methods of managing waste in Oregon's statutory waste management hierarchy.

Oregon's existing waste generation goal is awkwardly written and can be interpreted in several different ways. In essence it calls for no increase in future waste generation. This goal expresses a philosophy that the state should "not get worse", even if existing levels of materials use and waste generation are not environmentally sustainable.

DEQ is proposing new statewide goals for waste generation as follows:

- Total waste generation 15% below 2012 levels by 2025.
- Total waste generation 40% below 2012 levels by 2050. This is comparable to reducing waste generation to 1990 levels by 2050.

These proposed goals somewhat mirror existing statewide goals for reducing greenhouse gas emissions. The state's goals for reducing emissions include a goal of emissions to be 75% below 1990 levels by

2050. Oregon has a related goal to reduce transportation-related emissions by the same amount; in other words, the transportation sector should contribute proportionately to the state's emissions reductions. If the materials/waste sector were to do the same, then the emissions associated with materials/waste would need to be 75% below 1990 levels by 2050. These emissions can be thought of as the product of two variables: the *quantity* of materials (waste generation) multiplied by the average *emissions intensity* (emissions per ton) of materials, which in turn is a function of the mix of materials, how they're made, and how they're managed at end-of-life. For example, if waste generation can be returned to 1990 levels, and the emissions intensity of materials/wastes can be reduced to 75% below 1990 levels, then overall reductions in materials/waste emissions would contribute proportionally to the state's greenhouse gas reduction goals. As it turns out, Oregon does not have a formal accounting of 1990 waste generation levels (recordkeeping started in 1992) but a projection of 1990 waste generation equates to roughly 40% below 2012 waste generation.

DEQ recommends that Metro consider a wasteshed generation goal that is comparable to the state's. As with the wasteshed recovery goal, this goal would be entirely aspirational, with no regulatory consequences if the goal were not met. DEQ would work closely with Metro to achieve these shared goals.

Funding

DEQ's Materials Management Program is funded almost exclusively by per-ton fees on waste disposed in Oregon. These fees were last set in 1991 and have never been adjusted for inflation. Throughout much of the last 23 years, waste disposal tonnages rose alongside inflation. However, since 2008, disposal tonnages have fallen significantly, and are now within 10 percent of baseline (1992) levels. As a result, DEQ has been forced to make significant cuts, including approximately 24% of staff positions in the Materials Management Program and almost all grants and household hazardous waste services. Even if disposal tonnage stops falling and remains stable, the ongoing effects of inflation will lead to additional cuts. Rather than making progress towards the 2050 Vision, Oregon will move backwards.

To reverse this trend, restore recent funding cuts, and provide a stable foundation from which to work towards achieving the 2050 Vision, DEQ proposes the following:

- Increase solid waste disposal tipping and permit fees.
- Reduce the waiver of solid waste disposal tipping fees currently allowed for wastes used in alternative daily cover.
- Apply the full solid waste disposal tipping fee to demolition landfills and tire landfills.

DEQ proposes that the solid waste disposal tipping and permit fees be changed effective 2016, with the other fees effective in 2019. A fee adjustment mechanism (to respond to future inflation and fluctuations in disposal tonnage) would provide funding stability within the constraints of spending limitations established every two years by the Legislature and Governor. Recognizing the long-term unsustainability of relying exclusively on disposal tonnage, DEQ's proposal would also require a report to the Legislature on longer term funding options (by 2022) and would allow for a small per-ton fee on compost facility feedstocks if certain conditions are met (primarily, if disposal tonnage continues to fall).

Funding would be used to stabilize DEQ's budget, avoid further cuts in programs and services, restore several recently cut services, and add several new services. Proposed restored and new services include:

- Expanded efforts to increase waste recovery.
- Restored collection of high-impact toxic chemicals.
- Enhanced waste prevention and “upstream” work, including programs to reduce the generation of food waste, expand the state’s reuse and repair infrastructure, improve procurement and material selection in public sector purchasing and the building industry (for example, to reduce toxic chemicals in products), and work to help Oregon businesses prevent waste and reduce the environmental impacts of production, materials and design (including use of recycled materials, where appropriate).
- New goals and measures, statewide capacity building for environmental life cycle analysis, and improved statewide education and information.

DEQ's proposed funding request would generate approximately \$3.5 million annually (in today's dollars) once fully phased in (2019). This would include funds for grants to local governments to support recovery, hazardous waste, and waste prevention projects. If current disposal trends continue, approximately 40 percent of this new revenue would ultimately be paid by out-of-state waste generators that send waste to Oregon for disposal.