

METRO COUNCIL

Work Session Worksheet

PRESENTATION DATE: October 22, 2015

LENGTH: 45 minutes

PRESENTATION TITLE: Title V Code (Solid Waste) Update and Next Steps

DEPARTMENT: Property and Environmental Services

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WORK SESSION PURPOSE & DESIRED OUTCOMES

Staff will review general comments raised by the solid waste industry and other stakeholders in the proposal to change portions of Metro's Title V Code (solid waste) and recommend to Council a revised schedule and engagement plan for moving forward.

- Purpose: Overview public policy concerns raised in updating Title V.
- Outcome: Council direction on Code changes and next steps.

TOPIC BACKGROUND & FRAMING THE WORK SESSION DISCUSSION

The Metro Council considers updates to Title V of the Metro Code regarding solid waste on an annual basis. In August, staff published potential code changes as preliminary proposals on Metro's website and held a public workshop on September 3 to review the proposals with public stakeholders. The proposed changes were also shared with SWAAC, local government staff and industry stakeholders earlier. (See Attachment A for a summary of the proposed 2015 changes.) Out of this process, the following broad policy concerns were raised and are discussed below:

- Process and timing.
- Equity and fairness.
- Legal authority.

In general, stakeholders expressed concerns about the transparency of Metro's Code adoption process and not having adequate opportunity to provide meaningful input. Metro does not have a specific public engagement process for Code adoption other than the public testimony the Metro Council receives during its consideration of an ordinance. In response to stakeholder feedback, staff recommends an improved and more rigorous process for Metro's consideration of proposed changes to its solid waste code. (See Attachment B for a schematic of a proposed code adoption process.)

Process and timing: Some industry commenters expressed interest in Metro engaging stakeholders in a longer process that considers some of the issues more fully – especially concerns related to the regulation of facilities processing source separated recyclable materials, conversion technology facilities and current exemptions from payment of regional system fees and excise taxes. Some recommended that consideration of these items be moved into the 2018 RSWMP¹ process or referred to the SWAAC.²

Equity and fairness: Many of the comments raised by the proposals related to equity (treating all similarly situated operations the same) and fairness (everyone subject to the same set of rules).

¹ Regional Solid Waste Management Plan which is developed every ten years.

² Solid Waste Alternatives Advisory Committee which is charged with developing policy options for the Metro Council to consider.

While the proposals sought to remedy inequities, some industry players indicated other factors must be considered.

Legal authority: Some commenters stated their belief that Metro's legal authority was limited by the state's solid waste law (ORS 459) or by the way Metro had relied on its home rule charter authority. In both cases, Metro generally relies on its broad independent legal home rule authority in the development of its programs, projects and decision-making.

QUESTIONS FOR COUNCIL CONSIDERATION

There are three main questions for Council consideration. Council direction on these questions is critical to moving forward:

1. Does the Metro Council support continued consideration of substantive Title V code changes as charted out in Attachment B related to:
 - a. Regulation of facilities that process source-separated recyclable material and waste conversion facilities?
 - b. Fee and tax exemptions for solid waste that is disposed in landfills?
2. Does the Metro Council generally support using a more prescribed and rigorous process for adoption of potentially controversial code changes such as that proposed in Attachment B?
3. Would the Metro Council like staff to continue to bring forward Title V code changes that are believed to be non-controversial (see Attachment A)?

PACKET MATERIALS

- Would legislation be required for Council action Yes No
- If yes, is draft legislation attached? Yes No
- What other materials are you presenting today?
 - Attachment A: 2015/16 Metro Solid Waste Code Amendments and Ordinances
 - Attachment B: Solid Waste Code Adoption Process

Attachment A

Potential 2015/16 Metro Solid Waste Code Amendments

Topics for Examination in 2016:

Protect health and environment.

Evaluation of regulatory, and fee and tax exemptions is a necessary part of keeping Metro's Code update and relevant. It allows periodic examination to assure that similarly situated facilities are treated the same and that everyone plays by the same rules. Potential 2016 changes would provide the COO with authority to require licenses for some existing and new classes of solid waste facilities. Evaluation includes:

- Material recovery facilities (MRFs) processing source-separated recyclables and solid waste leaving the region for recovery or disposal.
- Waste conversion technology facilities.
- Fees and taxes (reduced rate and exemptions)
 - Waste disposed but also used in the operation of a landfill e.g. drainage layer and roads.
 - Alternative daily cover.
 - Auto shredder residue.
 - Dredge spoils.
 - Tire processing residue.

Proposed Code Changes in 2015 (Non-Controversial):

Protect health and environment.

The solid waste code exempts certain facilities, activities, and solid wastes. Metro should eliminate some of these exemptions to maintain adequate oversight and minimize risks to the public and the environment. The following are proposed to be included in 2015:

- Wood waste processing.
- Wet waste reloads.
- Electronic waste processing (shredding & outdoor storage).

Provide good value .

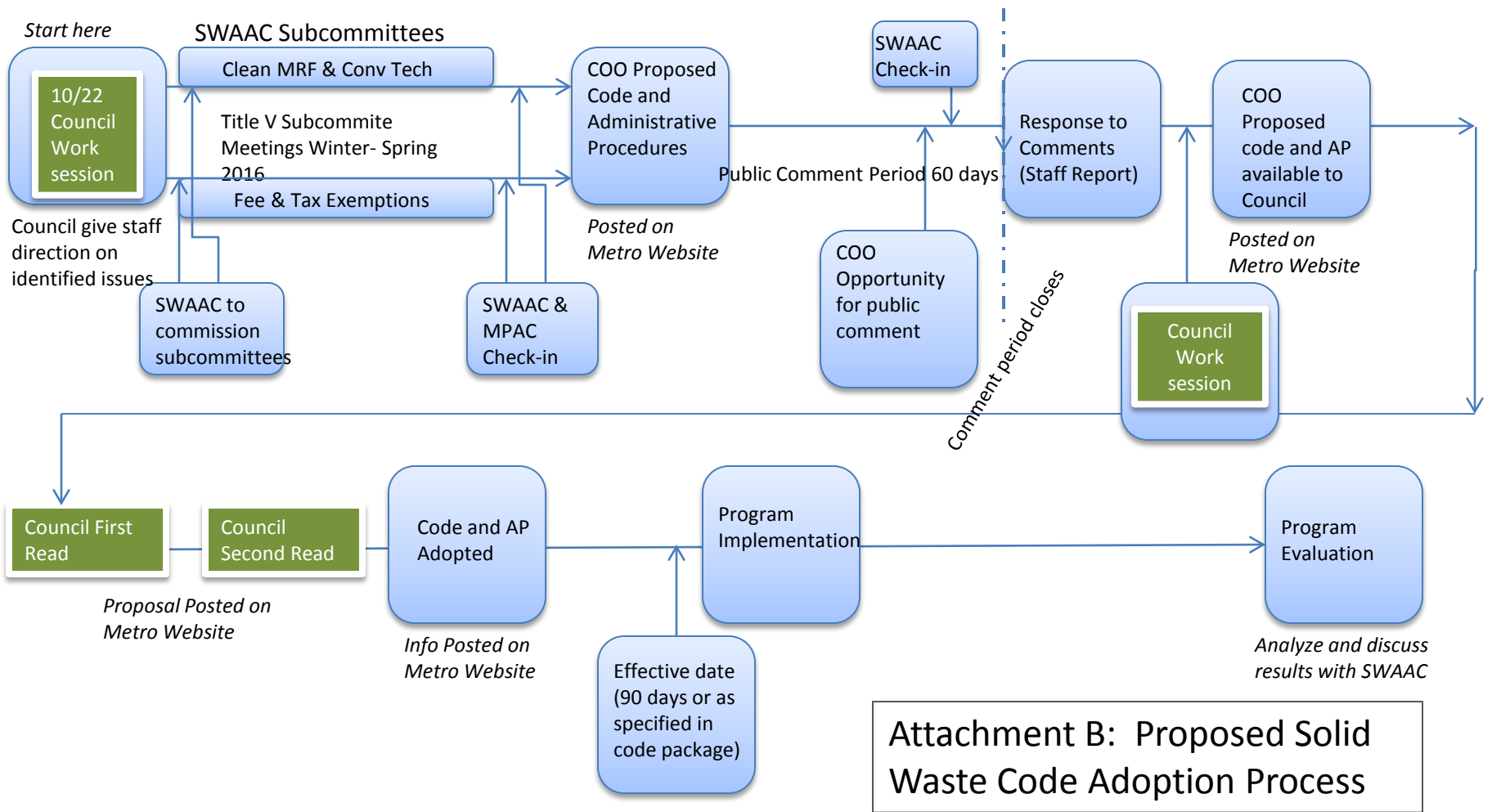
- Broaden types of contaminated soil media that qualify for reduced fees and taxes (\$3.50/ton) to include cleanups, excavation, construction and demolition projects, catch basin soil, and street sweepings.

Adaptive and responsive.

Following are a few proposed changes that will ease and clarify the implementation of Title V.

- Definitions – update defined terms. Terms updated to align with Oregon defined terms.
- Enhanced dry waste recovery (EDWRP):
 - Reduce sampling from quarterly to annual event for facilities with good compliance history.
 - Add process for delisting material from residual sampling due to dire market disruption

- Move EDWRP details to administrative procedures.
- Procedural improvements – including:
 - Shift approval of residential food waste licenses and NSLs from Council to COO.
 - Eliminate automatic issuance of authorization if 120 day deadline not met. Instead, if an applicant believes Metro is taking too long, code would provide a process to move the decision.
 - Provides general grant of authority to COO to provide limited extensions for authorizations based on unforeseen circumstances.
 - Eliminate 10-day call up of licenses by Council since Council always has ability to call up an item.
 - Eliminate financial assurance unless required by DEQ.
 - Eliminate approval of ownership changes but require notification.
 - Eliminate automatic granting of authorizations.
 - Align penalty authority with ORS (move from \$1,000 to \$500);
 - Move NSL fees from narrative into a table format
 - Require NSL holders to rely on scale weights;
 - Streamline compliance process for NSL violators and penalty calculation for fee and tax payments; and
 - Expands AP process for flow control chapter (5.05).



Notes for Title V work:

Draft for discussion purposes only; Not all process steps depicted here.

Read chronologically from left to right.

Times/dates not indicated.

SWAAC Subcommittees meet several times over winter/spring 2016; reports to SWAAC.

Staff
Activities

Council
Actions