



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
- Ensure services are available to all types of customers

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