

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF SUSPENDING THE	)	ORDINANCE NO. 17-1416
REQUIREMENT TO PAY REGIONAL SYSTEM	)	
FEE AND EXCISE TAX ON CERTAIN NON-	)	Introduced by Chief Operating Officer Martha
PUTRESCIBLE SOURCE-SEPARATED	)	Bennett in concurrence with Council
RECYCLABLE MATERIALS WITHOUT A	)	President Tom Hughes
VIABLE MARKET AND DECLARING AN	)	
EMERGENCY	)	

WHEREAS, Metro Code Section 5.02.120 requires payment of a regional system fee to Metro for the disposal of solid waste; and

WHEREAS, Metro Code Section 7.01.020 requires payment of an excise tax to Metro for the disposal of solid waste; and

WHEREAS, the Metro Council finds that there has been a substantial change in certain recycling markets, especially related to China’s tightening of acceptance standards and refusal to accept certain recyclable material from the United States after January 1, 2018; and

WHEREAS, the Metro Council finds that where there is no viable market for certain non-putrescible source-separated recyclable materials, disposal of the materials on a temporary basis is in the public interest; and

WHEREAS, the Metro Council finds that it is in the public’s best interest to suspend the requirement for haulers and material recovery facilities to pay the regional system fee and excise tax on materials that were collected as source-separated recyclable materials but that no longer have a viable market; and

WHEREAS, the Metro Council intends for the suspension of the requirement to pay regional system fee and excise tax to apply only to those haulers and material recovery facilities that collect or accept non-putrescible source-separated recyclable materials; now therefore

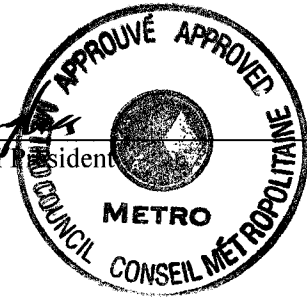
THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The requirement to pay regional system fee and excise tax on non-putrescible source-separated recyclable materials that have no viable market is hereby suspended from the date of this Ordinance through May 6, 2018.
2. The Chief Operating Officer will develop an interim solid waste administrative rule under Metro Code Section 5.01.280(g) to identify the circumstances in which Metro may suspend the requirement for a hauler or a facility to pay regional system fee under Metro Code Section 5.02.120.
3. The interim solid waste administrative rule the Chief Operating Officer develops in (2) above also will apply to identify the circumstances in which Metro may suspend the requirement for a hauler or a facility to pay excise tax under Metro Code Section 7.01.020.

4. This Ordinance is necessary for the health, safety, and welfare of the Metro area and an emergency is declared to exist, and this Ordinance shall take effect immediately, pursuant to Metro Charter Section 38(1).

ADOPTED by the Metro Council this 14 day of December, 2017.

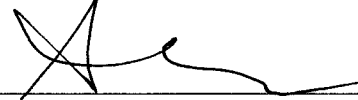
  
\_\_\_\_\_  
Tom Hughes, Council President



Attest:

  
\_\_\_\_\_  
Nellie Papsdorf, Recording Secretary

Approved as to Form:

  
\_\_\_\_\_  
Alison R. Kean, Metro Attorney

## **STAFF REPORT**

### **IN CONSIDERATION OF ORDINANCE NO. 17-1416, FOR THE PURPOSE OF SUSPENDING THE REQUIREMENT TO PAY REGIONAL SYSTEM FEE AND EXCISE TAX ON CERTAIN NON-PUTRESCIBLE SOURCE-SEPARATED RECYCLABLE MATERIALS WITHOUT A VIABLE MARKET AND DECLARING AN EMERGENCY**

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Date: Dec. 7, 2017

Prepared by: Matt Korot, 503-797-1760

## **BACKGROUND**

This ordinance would suspend the requirement to pay the Regional System Fee and Excise Tax on non-putrescible, source-separated recyclable materials for which there are no viable markets. It is a temporary measure while the region evaluates potential longer-term impacts to its recycling system from changing market conditions.

Private material recovery facilities (MRFs) currently market much of the region's collected recyclables to private or quasi-private mills, processors and other manufacturing facilities in China. Earlier in 2017, the Chinese government communicated to Chinese recycling facilities and worldwide suppliers of recyclables that China would be implementing and enforcing new standards on imported recyclables, starting in Fall 2017 and going fully into effect in January 2018. If these standards go fully into effect, there is the potential for significant disruption to the Metro region's public recycling programs.

Since late September 2017, representatives of the Oregon Department of Environmental Quality (DEQ), Metro, local governments and the recycling industry have been meeting to discuss how to address the impacts of the new Chinese standards. Specifically, these stakeholders have discussed under what circumstances public agencies would allow collected recyclables to be disposed as garbage and how those circumstances could be minimized. As a result of these discussions, DEQ and Metro have established rules to allow disposal under certain conditions and with reporting requirements, with the objectives of minimizing the amount of recyclables disposed, the duration of disposal and the impacts on residential and commercial collection programs. In Metro's case, the Chief Operating Officer (COO) established a 180-day temporary administrative rule to allow for the disposal of recyclables for which there are no viable markets. The rule expires May 6, 2018.

This emergency ordinance is a companion piece to that administrative rule. The ordinance would suspend the requirement to pay the Regional System Fee and Excise Tax on recyclables that would be disposed due to the absence of viable markets. It is intended to anticipate and respond to the extraordinary circumstances that would occur with full implementation of China's new standards. This emergency ordinance would also expire on May 6, 2018. If Metro were to consider a longer-term allowance for the disposal of recyclables and for the suspension of the requirement to pay the Regional System Fee and Excise Tax on these materials, it would do so through the standard, non-emergency rule-making and legislative processes. In early 2018, Property and Environmental Services staff will engage with the COO and Council on whether to initiate these processes.

This ordinance would authorize the COO to develop rules to identify the specific circumstances in which the payment requirement would be suspended. The rule-making would be authorized under Metro Code

Chapter 5 to allow for further explanation of eligibility for suspension of the requirement to pay the Excise Tax, which is in Chapter 7.

#### **ANALYSIS/INFORMATION**

**1. Known Opposition**

Staff is not aware of any opposition to this ordinance.

**2. Legal Antecedents**

Metro Charter and Metro Code sections 5.02.120 and 7.01.020.

**3. Anticipated Effects**

Metro will not levy the Regional System Fee and Excise Tax on collected source-separated recyclables that are disposed due to the absence of viable markets.

**4. Budget Impacts**

None. Metro did not budget for, nor otherwise anticipate, the fees and taxes that would be foregone as a result of this ordinance.

#### **RECOMMENDED ACTION**

Staff recommends that Council adopt Ordinance No. 17-1416.