

Meeting minutes



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Meeting: Solid Waste Alternatives Advisory Committee (SWAAC)
Date/time: 10:00 a.m.-noon, Wednesday, December 13, 2017
Place: Metro Regional Center, council chamber

Members in Attendance:

Mike Leichner, Pride Disposal
Bruce Walker, City of Portland
Theresa Koppang, Washington County
Peter Brandom, City of Hillsboro
Rick Winterhalter, Clackamas County
Audrey O'Brien, Oregon DEQ
Reba Crocker, City of Milwaukie
Mark Ottenad, City of Wilsonville
Matt Korot, Metro

Members Absent:

Alando Simpson, City of Roses Disposal/Recycling
Paul Downey, City of Forest Grove
Keith Ristau, Far West Recycling
Adrienne Welsh, Recycling Advocates

1. Call to order and declaration of a quorum

Matt Korot brought the meeting to order and declared a quorum.

2. Comments from the chair and SWAAC members

Mr. Korot reviewed the meeting agenda and how citizen communications would be structured.

Mr. Korot offered comments on upcoming ordinances going before Metro Council in December. On Dec. 14, 2017 there will be second readings for the ordinance 17-1415 to create the Solid Waste Investment and Innovation grant program and ordinance 17-1416 for the purpose of suspending the requirement to pay regional system fee and excise tax on certain source-separated recyclable materials that don't have a viable market.

3. Consideration of SWAAC minutes for October 11, 2017

Mr. Korot noted that meeting minutes were sent out for review on short notice and not all members had an opportunity to review them prior to the meeting. He requested any changes be sent via email and approval would be completed electronically.

4. Recommendations on Metro's Solid Waste Fee and Tax exemption policies

Mr. Korot introduced Tim Collier and Warren Johnson from Metro to present the findings of the Solid Waste Fee and Tax Exemption Policy subcommittee and the policy evaluation performed by RRS (Metro's consultant). He reminded the members that Metro was looking for their input and comments on the recommendations from both the consultant's report and the subcommittee.

Mr. Collier opened his presentation by thanking those who served on the subcommittee and were also in attendance at today's SWAAC meeting. He stated the purpose of today's discussion was to review Metro's fee and tax exemption policies, review policy recommendations from Metro's consultant, review policy recommendations from the aforementioned subcommittee, and solicit SWAAC's input on both sets of recommendations.

Mr. Collier noted that the Metro Council had directed this review of fee and tax exemption policies as part of a three-part track to update Metro Code Title V. He reviewed the timeline of the work on

Meeting minutes



Metro

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this track, which began in October 2015. Mr. Collier reiterated the six public benefits that were to be kept in mind for the project:

- 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

Warren Johnson then provided an overview of Metro's regional system fee (RSF) and excise tax. He noted that the RSF, which is governed by Metro Code Chapter 5.02, is currently \$18.12 per ton for fiscal year 17/18. The fee is assessed at the time of disposal and changes annually based on system costs and forecasted tonnage. He noted the purpose of the fee was to fund Metro's solid waste system costs for region-wide services.

Mr. Johnson explained that the excise tax, which is governed by Metro Code Chapter 7.01, is currently 10.81 per ton for fiscal year 17/18. This tax is also assessed at the time of disposal and funds Metro's general government activities. This rate is calculated annually using the tax amount that is set in code, as adjusted by the CPI, divided by the previous year's tonnage that was subject to the excise tax.

Mr. Johnson then explained that the current fee and tax system uses a three-tiered rate structure as outlined in the chart below:

	Regional System Fee	Excise Tax
Full rate (\$28.93/ton)	\$18.12	\$10.81
Reduced rate (\$3.50/ton)	\$2.50	\$1.00
Exempt	\$0.00	\$0.00

He explained the reduced rate was established in 2000 and applies to "cleanup materials" that generally consist of contaminated soils resulting from an oil spill or other chemical release into the environment. He noted that the reduced rate is set on an annual basis, but the amount (\$3.50 per ton) has not changed since it was initially adopted.

Mr. Johnson explained that there are generally three categories of materials that currently qualify for a fee and tax exemption: reused/recycled materials, dredge spoils managed at intermediate processing facilities, and certain materials transferred to and used at a disposal site. The "reused/recycled" category generally applies to materials that are used outside of a disposal site (such as source-separated recyclables, compost feedstock, or inert waste that is used for land reclamation). He explained that the "intermediate processing" category relates only to dredge spoils that are processed or "dewatered" at a location outside of the region prior to disposal.

Mr. Johnson explained that the "disposal site" exemption category applies to three types of waste: tire processing waste (material-based exemption), useful material that is use at a landfill (use-based exemption), and waste disposed at captive landfills. Mr. Johnson stated that in order to qualify for a useful material exemption, the disposal site must first obtain approval from the Oregon

Meeting minutes



Metro

600 NE Grand Ave.
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Department of Environmental Quality (DEQ), or its equivalent regulatory authority, for the use of the waste.

Peter Brandom inquired as to the reason why tire processing waste was originally included in the exemption category. Mr. Johnson responded that the exemption was added in the mid to late 1990s in an attempt to encourage the proper management and recovery of tires in the region.

Mr. Collier reminded the committee that URS Corporation had previously conducted a study of Metro's reduced rate and exemption policies in 2006. The URS report, titled *Evaluation of Disposal Trends for Environmental Clean-up and Beneficial Use Materials*, identified the following policy options for Metro to consider:

- Keep status quo
- Clarify Code and reporting to improve tracking (no policy change)
- Establish two-tiered rate system (full and reduced-rate categories)
- Eliminate the reduced-rate and exemption policy

Mr. Collier explained that the primary recommendation of URS was that Metro should establish a two-tiered rate system and eliminate all exemptions for waste delivered to a disposal site. Metro subsequently implemented a pre-approval process and reporting changes for certain reduced rate and useful materials, but did not implement any changes to its fee and tax rate structure as a result of that study.

Mr. Collier then reviewed the findings of the RRS report prepared in 2017 titled, *Evaluation of Solid Waste Fee and Tax Policies*. He said that the goal of this report was to update the URS report, perform additional interviews and research, and make recommendations for improvements. RRS identified nine potential policy options in the report. RRS' top four recommended options were:

- Establish two-tiered rate system with exemption for tire processing and auto shredder waste
- Establish material-based exemption (standing list)
- Establish commodity-based exemption
- Keep status quo

Mr. Collier noted that the primary recommendation of RRS was that Metro should establish a the two-tiered rate system (similar to the findings of URS), but RRS also recommended that Metro should continue to allow a fee and tax exemption for tire processing and auto shredder waste when delivered to a disposal site.

Mr. Collier then provided an overview of the subcommittee and its work. He said that the SWAAC subcommittee was established in March 2017 and it held five meetings from May through October 2017 to review and discuss Metro's current fee and tax exemption policies. The subcommittee developed the following recommendations:

1. Status quo for exempting reused and recycled materials.
2. Status quo for exempting dredge spoils that are processed outside of the region prior to disposal (but should be further evaluated).

Meeting minutes



Metro

600 NE Grand Ave.
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3. Majority supported status quo for exempting tire processing waste and useful materials.
4. Minority supported eliminating exemptions for all waste received at a disposal site.

Mike Leichner noted that the minority position recommending the elimination of exemptions for waste sent to disposal sites was supported by two of the 13 subcommittee members. He requested that Metro Council be made aware of the percentage and expressed his support to continue with the status quo. He shared that there has been a lot of disruption in the solid waste industry and additional fees will be an additional hit to their bottom line. He also stated there are more unknowns and financial implications that cannot be predicted.

Theresa Koppang asked if all options will be presented to the Council and what recommendations will they see. Mr. Collier responded that they were hoping to narrow that down at this meeting today. He noted that the subcommittee's recommendation will be represented, as will that from the RRS report.

Mark Ottenand asked if there were any comments or reasons given from the minority as to why they did not vote as the rest of the subcommittee. Rick Winterhalter stated he was a member of the subcommittee and one that was in the minority. He mentioned that the philosophy the two were holding was that if an item is going into the landfill, fees and taxes should be applied.

Audrey O'Brien shared that she was also a member of the subcommittee (representing DEQ) and that she abstained from the vote. Ms. Koppang stated she understood the two minority votes may be outweighed, but requested a well-versed reason for their stance be presented to Council. Reba Crocker added that a main goal was to achieve the greatest public benefit and her belief was taking it to the landfill cannot be achieving this goal.

Ms. O'Brien stated the importance of the feedback from the subcommittee and noted the recommendations allowed for a mixed system moving forward. She called attention to the two exemptions the consultant recommended (auto shredder and tire processing residuals) and the goal of the entire system needs to be how to make it better for the future.

Mr. Winterhalter added that the public good benefit could be met in other ways as in jobs, viable businesses and maintaining proper business practices. If disposal costs get too high, then these other benefits may be affected. He noted that there is benefit to alternative daily cover (ADC) and encouraged looking at new perspectives. He said the main goal was finding consistency in the process and clarity for new products that are introduced into the system.

Mr. Korot stated that Metro Council charged this committee to look at the public good benefit specifically and asked for more comments from members on that topic. Ms. Crocker stated the tire processing residuals made sense at a reduced rate and believed that would be enough to incentivize proper disposal. She firmly holds that if something is going to the landfill, it should be taxed as that is not the best public benefit for the material.

Mr. Ottenad stated that user fees for government at all levels are trending upwards and perhaps that is the solution. Mr. Brandom shared his appreciation for how important these viable businesses are in the system and the need for the greatest public benefit. He was inclined to side with the dissenters to eliminate the exemption and proceed with a two-tier system. He noted two separate consulting firms had now recommended that as a top option.

Meeting minutes



Metro

600 NE Grand Ave.
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Mr. Leichner stated this is a high-impact economic decision for these facilities that are already suffering from reduced or non-existent markets. He stressed the detriment to the public if they are forced to shut down. He added his support to the exemptions remaining for beneficial use items and materials. Mr. Leichner pointed out that without ADC, virgin materials would be required and that lowers the environmental benefit factor.

Mr. Collier clarified that removing the fee and tax exemptions would be a revenue neutral action for Metro. He explained that removing the exemptions would not increase revenue, but instead result in a slight reduction in the per ton RSF and excise tax rate due to spreading system costs across additional tons. Mr. Johnson added that no matter the outcome, Metro will remain revenue neutral. He expressed his understanding that any change may have a small affect on those who are currently paying fees taxes, but would have a larger impact on those who are not.

Mr. Brandom asked if there was a plan to further evaluate dredge spoils as recommended by the subcommittee. Mr. Johnson replied that the recommendation would be shared with Council. Mr. Brandom also asked if there was a detailed analysis for understanding the financial implications of the options presented. Mr. Johnson answered that Metro could determine the direct costs associated with the options, but the potential ripple effects resulting from the options would be unknown.

Mr. Walker shared his appreciation for the challenge the subcommittee took on and expressed that these policies are very nuanced. He would be concerned if the policy stated “anything to a landfill” has to have fees applied. He noted some tweaking may be appropriate, but recognized that those companies who don’t benefit from the exemption supported the status quo. He felt it would be a disservice to discount the subcommittee’s recommendations.

Ms. O’Brien added that while the subcommittee looked at the consultant’s review of what is exempt or at a reduced rate, there was no work done to evaluate the entire system. She encouraged this, including maintenance of the lists of items in each category. Ms. Koppang pointed to recyclables as a good test case. At this point that there is no market, would recyclables be exempt or reduced rate if going to the landfill? Ms. O’Brien felt if there is no market, they aren’t really recyclables anymore.

Mr. Winterhalter noted that reduced fees and taxes help people and businesses recover more and without that incentive, recovery would decrease. He also inquired about looking into an extended producer responsibility program for tires to help offset costs.

Ms. Crocker recommended looking at the policies more often than every 11 years. Perhaps a three to five year review process should be put in place to examine the fees and taxes in the current climate. Mr. Winterhalter added to this stating there needs to be a clear transition time before any changes become enforceable. He also noted the reduced rate has not changed in 17 years.

Mr. Korot thanked Mr. Collier and Mr. Johnson along with the subcommittee members for their work. He stated Metro will gather all recommendations and comments from SWAAC, the subcommittee, and the consultant for presentation to the Metro Council.

Meeting minutes



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5. Citizen communications

Mr. Korot opened the floor to citizen communications relating to topics discussed.

Terrell Garrett, Greenway Recycling

Mr. Garrett served as a member of the subcommittee and is concerned about the primary reason for RRS' recommendation to tax ADC. He spoke with the consultant in late November and verified that no members of their team had visited a landfill or looked at the ADC product his company produces. He believes the recommendation was politically motivated to simply tax something. In working with ADC and researching the origins of the exemption, Mr. Garrett found that the goal was to incentivize innovation and creation of new materials. He stated that DEQ regulates these materials and the landfills, while Metro provides the wasteshed materials. Mr. Garrett stated if an additional fee is charged it should be minimal and for overseeing the transport of ADC. He also provided samples of the materials in question. He firmly believes ADC should remain an exempt material from the RSF and excise tax.

Matt Cusma, Schnitzer Steel

Mr. Cusma also served on the subcommittee and is concerned that there has been an oversimplification in the assumption that regulated entities simply don't want to be taxed. He noted the RRS report completely exempted auto-shredder waste and he still did not vote in favor of that system. He encouraged SWAAC members to read the meeting summaries for more insight into the subcommittee's rationale.

Mr. Cusma also noted that the industry members of the subcommittee were not presented with a compelling reason for a change to be made in the rate system. He noted that clarity and transparency are valid issues, but making changes to the policy may result in unintended consequences. He encouraged Metro to think about how any changes will play out on the ground.

Mark Hope, Tire Disposal and Recycling

Mr. Hope echoed the sentiments expressed by Mr. Cusma, especially in regards to unintended consequences. He stated there has been a lot of investment in time and infrastructure for this system and it processes a large amount of material. If taxes are assessed on some of these industries, it may make sense to move out of the region rather than pay those fees. Mr. Hope reiterated the statement that there was no compelling reason for change and stressed the need for predictability to maintain viable businesses.

Dean Kampfer, Waste Management

Mr. Kampfer stated that while only one company benefits from the shaker fines/ADC exemption, he praised the group's general decision. He noted the subcommittee was made up of a group of diverse individuals and reiterated the concern that there was no compelling reason for change. He noted that this concern was mentioned with ample time for Metro or RRS to present a compelling reason, but none was given. He believes that if fees and taxes are assessed on these materials, those who invested in the system prior to the change should be made whole. Mr. Kampfer echoed earlier sentiments that there is public benefit when virgin materials are not used for daily cover in landfills and urged Metro to move quickly regarding dredge spoils research.

Meeting minutes



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6. DEQ Update

Ms. O'Brien asked to provide an update regarding recycling markets. She shared that 12 requests for disposal concurrence had been approved and four companies had reported disposing of source separated recyclables. She expects December reporting to capture additional disposal actions.

Ms. O'Brien announced an upcoming Dec. 19, 2017 conference call that DEQ will hold for updates regarding the market situation, and noted that this issue is bigger than DEQ alone. She shared that DEQ will continue holding forums and pull together as many resources as possible. It appears other states are not yet paying as close of attention as Oregon.

Mr. Ottenad stated that if society values recycling, perhaps government subsidies will be necessary to bridge to gap.

7. Preview of the next meeting agenda and final comments

Mr. Korot shared that the next meeting will be on January 10, 2018. Tentative agenda items include an update from the 2030 Regional Waste Plan and food scraps policy developments.