

BEFORE THE METRO COUNCIL

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| FOR THE PURPOSE OF AMENDING METRO |) | ORDINANCE NO. 24-1508 |
| CODE SECTION 5.05.055 TO ALLOW THE |) | |
| DISPOSAL OF CLEANUP MATERIAL AT A |) | Introduced by Chief Operating Officer |
| LIMITED CAPACITY LANDFILL UNDER |) | Marissa Madrigal in concurrence with |
| CERTAIN CONDITIONS |) | Council President Lynn Peterson |

WHEREAS, Metro is the solid waste system planning authority for the region and Metro regulates the solid waste system pursuant to its constitutional, statutory, and charter authority as set forth in Metro Code Title V and in accordance with the Regional Waste Plan; and

WHEREAS, Metro Code Chapter 5.05 contains the requirements for Solid Waste Flow Control; and

WHEREAS, Metro regulates the disposal of solid waste generated within the Metro jurisdictional boundary through the issuance of non-system licenses and designated facility agreements as set forth in Metro Code Chapter 5.05; and

WHEREAS, Metro Council adopted a landfill capacity policy (Ordinance No. 17-1401) that prohibits the disposal of solid waste generated within the Metro region at a new landfill or limited capacity landfill; and

WHEREAS, the landfill capacity policy was intended to ensure that solid waste generated within the region did not cause the expansion or construction of a general-purpose landfill; and

WHEREAS, the policy was not intended to affect general purpose landfills that need cleanup material to facilitate timely compliance with a Department of Environmental Quality Solid Waste Disposal Site Closure Permit; and

WHEREAS, cleanup material is a more readily available and preferred alternative to virgin soil in achieving final engineered grade at landfills needing to achieve permitted closure; and

WHEREAS, most infrastructure development projects that generate cleanup material in Oregon occur in the Metro region; and

WHEREAS, the language codified in Chapter 5.05 with respect to the current landfill capacity policy does not allow the disposal of cleanup material at a general purpose landfill that holds a Department of Environmental Quality Solid Waste Disposal Site Closure Permit, which can unintentionally extend the timeline for closure due to lack of suitable fill material generated outside of the Metro region; and

WHEREAS, timely permitted closure of a landfill is beneficial to the community near which a landfill is sited; and

WHEREAS, the Chief Operating Officer recommends that Metro Council amend Metro Code Chapter 5.05 to allow the disposal of cleanup material, as defined in Metro Code Chapter 5.00, at a general purpose landfill solely for the purpose of facilitating closure; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 5.05 (Solid Waste Flow Control) is amended as set forth in tracked changes in attached Exhibit A, with underlined text representing inserted text and strikethrough representing deleted text.

ADOPTED by the Metro Council this 11th day of April 2024.



Lynn Peterson, Council President

Attest:

Approved as to Form:

Connor Ayers

Carrie MacLaren

Connor Ayers, Recording Secretary

Carrie MacLaren, Metro Attorney

Metro Code Section 5.05.055 is amended as set forth below with underlined text representing inserted text.

5.05.055 Limited Capacity Landfills and New Landfills

(a) No person may dispose of solid waste generated within the Metro jurisdictional boundary at a limited capacity landfill or new landfill.

(b) Metro will not accept any application for a designated facility or non-system license that seeks to dispose of solid waste generated within the Metro jurisdictional boundary at a limited capacity landfill or new landfill.

(c) If a solid waste system facility becomes a limited capacity landfill, then within 30 days of becoming a limited capacity landfill Metro will terminate any existing designated facility agreement and non-system license in effect for that facility.

(d) This section does not apply to a disposal site that holds an applicable permit issued by the appropriate state or federal authority to:

(1) Accept hazardous waste for disposal under Subtitle C of the Resource Conservation and Recovery Act; or

(2) Accept only cleanup material such as contaminated soil and sediment.

(e) This section does not apply to a person who disposes of cleanup material at a limited capacity landfill provided that:

- 1. The landfill uses the cleanup material for the sole purpose of facilitating timely compliance with an Oregon Department of Environmental Quality Solid Waste Disposal Site Closure Permit or an equivalent permit issued by the appropriate state or federal authority; and*
- 2. Metro has issued the person a Metro solid waste non-system facility license to transport cleanup material for this purpose; and*
- 3. Metro has confirmed that the limited capacity landfill has a valid Solid Waste Disposal Site Closure Permit issued by Oregon Department of Environmental Quality or an equivalent permit issued by the appropriate state or federal authority.*

IN CONSIDERATION OF ORDINANCE NO. 24-1508 FOR THE PURPOSE OF AMENDING METRO CODE SECTION 5.05.055 TO ALLOW THE DISPOSAL OF CLEANUP MATERIAL AT A LIMITED CAPACITY LANDFILL UNDER CERTAIN CONDITIONS

Date: February 29, 2024

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Department: Waste Prevention and
Environmental Services

Presenter: Will Ennis

Meeting date: March 21, 2024

Length: 15 minutes

ISSUE STATEMENT

Metro staff recommend that Metro Council amend Metro's landfill capacity policy to allow the disposal of cleanup material generated in the Metro region at a limited capacity landfill when the material is used solely for permitted closure activities.

As currently codified, Metro Code Chapter 5.05 does not allow cleanup material generated in the Metro region to be disposed of at a limited capacity landfill. This prohibition has the potential to delay the closure of limited capacity landfills which often need cleanup material to reach approved engineered grade before placing final cover and capping the landfill.

ACTION REQUESTED

Adopt Ordinance No. 24-1508. This would amend Metro Code Section 5.05.055 to allow a person to dispose of cleanup material at a limited capacity landfill under certain prescribed conditions, as discussed below.

IDENTIFIED POLICY OUTCOMES

The proposed amendment would establish that the landfill capacity policy does not apply to a person disposing of cleanup material generated in the Metro area at a limited capacity landfill when the material is used solely to facilitate closure in accordance with a Disposal Site Closure Permit provided that the person obtains a Metro Solid Waste Facility Non-System License.

POLICY QUESTION(S)

1. Should Metro amend its landfill capacity policy to allow cleanup material to be disposed of at a limited capacity landfill for the sole purpose of facilitating closure?

2. Should Metro Council amend Metro Code Chapter 5.05 to establish that Metro's landfill capacity policy does not apply to any person disposing of cleanup material at a limited purpose landfill for the sole purpose of facilitating closure provided that that person obtains a Metro Solid Waste Facility Non-System License?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Adopt the proposed amendment to Metro Code Chapter 5.05 to update Metro's landfill capacity policy as described in this staff report. This option will allow Metro area cleanup material to be disposed of at a limited capacity landfill to facilitate closure.
2. Adopt alternate amendments to Metro Code Chapter 5.05 that are different than those described in this staff report. The potential implications of this option are unknown at this time because they would be dependent on the extent of the alternate proposal.
3. Do not adopt the proposed amendment. This option would result in maintaining the landfill capacity policy as codified and prohibit Metro area cleanup material from being disposed of at a limited capacity landfill. This option may affect landfills outside of the region achieve timely compliance with a Solid Waste Disposal Site Closure Permit.

STAFF RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 24-1508 to amend Metro Code Chapter 5.05 to update Metro's landfill capacity policy as described in this staff report.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Adoption of Ordinance No. 24-1508 would result in amending Metro Code Chapter 5.05 to establish that the landfill capacity policy does not apply to a person disposing of Metro area cleanup material at a landfill to facilitate timely compliance with a Solid Waste Disposal Site Closure Permit provided that the person obtains a Metro Solid Waste Facility Non-System License.

Staff recommends updating Metro Code Chapter 5.05 as described below:

Add new Subsection 5.05.055(e) to establish that the landfill capacity policy does not apply to a person who disposes of cleanup material, such as contaminated soil or sediment, at a limited capacity landfill provided that:

- a. The landfill uses the cleanup material for the sole purpose of facilitating timely compliance with an Oregon Department of Environmental Quality (DEQ) Solid Waste Disposal Site Closure Permit or an equivalent permit issued by the appropriate state or federal authority; and

- b. Metro has issued the person a Solid Waste Non-System Facility License to transport cleanup material for this purpose; and
- c. Metro has confirmed that the landfill has a current DEQ Solid Waste Disposal Site Closure Permit, or an equivalent permit issued by the appropriate state or federal authority.

KNOWN OPPOSITION

There is no known opposition to the proposed amendment. However, it is helpful to provide some historical context to this matter. Metro received a letter from WM (formerly known as Waste Management), dated November 14, 2023, requesting that Metro amend its landfill policy to allow a limited capacity landfill to receive Metro area cleanup material to facilitate closure. WM is the owner and operator of Riverbend Landfill, a limited capacity landfill that has been issued a Solid Waste Disposal Site Closure Permit by DEQ. WM requested the amendment so that the landfill can receive cleanup material generated in the Metro region to ensure timely compliance with its closure permit. Riverbend Landfill was formerly a designated facility of Metro's regional solid waste system but became a limited capacity landfill as defined by Metro Code when it sought a site development plan amendment for expansion from DEQ. Riverbend Landfill was subsequently removed from the list of Metro designated facilities. There was general community opposition to the proposed expansion of Riverbend Landfill at that time.

PUBLIC OUTREACH

The proposed amendment would allow Metro area cleanup material to be disposed at any limited capacity landfill, including Riverbend Landfill, for the sole purpose of facilitating closure. Metro staff is aware that historically there has been general concerns from community members in Yamhill County about Riverbend Landfill and its former plans for expansion. Staff contacted a representative of the Stop the Dump Coalition (<https://stopthedumpcoalition.org/>) to seek input about the proposed amendment. A representative of that group stated that the group did not oppose the proposed amendment to Metro's landfill capacity policy. The group requests that Metro coordinate with DEQ, the regulator of Riverbend Landfill, to ensure that any Metro area cleanup material transported to that facility is used solely to facilitate closure.

Staff also contacted Yamhill County's solid waste staff to determine if the County had any concerns with the proposed amendment. County staff requested additional information about the proposed amendment and operational requirements at the landfill. Many of the of questions submitted by the County fall under the jurisdiction of DEQ, the regulator of Riverbend Landfill.

LEGAL ANTECEDENTS

Metro Charter, Title V of the Metro Code and ORS Chapters 268 and 459.

ANTICIPATED EFFECTS

Adoption of Ordinance No. 24-1508 would result in amending Metro Code Chapter 5.05 to update Metro's landfill capacity policy as provided in Exhibit A.

BUDGET IMPACTS

There are no expected budget impacts associated with the adoption of this ordinance. Metro will continue to collect the regional system fee and excise tax on Metro area waste at the time of disposal. Metro assesses a reduced regional system fee and excise tax rate of \$3.50 per ton on cleanup material.

BACKGROUND

In 2017, Council adopted a landfill capacity policy that prohibited the disposal of the region's waste at any new landfill or any landfill that sought expansion after May 2017. This policy was adopted around the time that Riverbend Landfill was going through an extended process to expand its disposal capacity. The policy was intended to ensure that the region's residential and business waste didn't cause the expansion or construction of a general-purpose landfill.

The landfill capacity policy was initially adopted in the context of household garbage being disposed of at a general-purpose landfill (such as Riverbend Landfill) and applied to all landfills, regardless of the type of landfill or the waste they accepted. The policy was amended by Metro Council in 2022 to clarify that it did not apply to disposal sites with applicable permits, issued by the appropriate state or federal authority, to accept hazardous waste or to only accept cleanup material. This clarification was necessary to address several remediation and cleanup projects along the Willamette River that are expected to generate millions of tons of contaminated sediment that will require disposal over a period of many years. According to DEQ, some of this material is suitable for a general-purpose landfill while some must be disposed at a permitted hazardous waste landfill.

The landfill capacity policy was not intended to extend the timeline for a limited capacity landfill's closure due to lack of suitable fill material. As most of the cleanup material generated in the state is generated in the Metro region, staff finds that the amendment is a prudent approach to help expedite the closure of a limited capacity landfill which has been issued a DEQ Solid Waste Disposal Site Closure Permit.

Metro staff recommends that Metro Council adopt Ordinance No. 24-1508 which amends Metro Code Chapter 5.05 to establish that the landfill capacity policy does not apply to a person disposing of cleanup material at a limited capacity landfill provided that the material is used solely for facilitating the timely compliance with a Solid Waste Disposal Site Closure Permit.