

IN CONSIDERATION OF ORDINANCE NO. 22-1478 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.05 TO CLARIFY METRO'S LANDFILL CAPACITY POLICY AND MAKE HOUSEKEEPING UPDATES

Date: April 29, 2022

Prepared by: Warren Johnson
(503) 797-1836
warren.johnson@oregonmetro.gov

Department: Waste Prevention and
Environmental Services

Presenter: Warren Johnson

Meeting date: May 19, 2022

Length: 15 minutes

ISSUE STATEMENT

Metro staff seek to amend Metro Code Chapter 5.05 to clarify that Metro's landfill capacity policy does not apply to certain limited-purpose landfills that are permitted to receive hazardous waste or only cleanup material such as contaminated soil and sediment.

As currently codified, Metro Code Section 5.05.055 does not distinguish between general-purpose and limited-purpose landfill types, which alters the intent of Metro's landfill capacity policy.

ACTION REQUESTED

Adopt Ordinance No. 22-1478 to amend Metro Code Chapter 5.05 to clarify that the landfill capacity policy does not apply to limited-purpose landfills that are permitted to receive hazardous waste or only cleanup material such as contaminated soil or sediment.

In addition, adoption of the proposed ordinance would make minor housekeeping amendments to Metro Code Section 5.05.055 and other sections of Chapter 5.05 to update code references, remove outdated information, and improve readability.

IDENTIFIED POLICY OUTCOMES

The proposed amendments would clarify that the landfill capacity policy does not apply to certain types of limited-purpose landfills to ensure that there is adequate disposal capacity for environmental cleanup material generated within the region.

POLICY QUESTION(S)

1. Should Metro clarify its landfill capacity policy to ensure that there is adequate disposal capacity for environmental cleanup material that is generated within the region?
2. Should Metro Council amend Metro Code Chapter 5.05 to clarify that Metro's landfill capacity policy does not apply to certain limited-purpose landfills that are permitted to receive hazardous waste or only cleanup material such as contaminated soil or sediment?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Adopt the proposed amendments to Metro Code Chapter 5.05 to clarify Metro's landfill capacity policy as described in this staff report. This option will ensure that there is adequate disposal capacity for environmental cleanup material that is generated within the region.
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 amendments. This option would result in maintaining the landfill capacity policy as codified and prohibit the region's waste from being disposed of at any new landfill or one that seeks expansion. This option may affect the proper disposal of environmental cleanup material such as contaminated soil and sediment.

STAFF RECOMMENDATION

Staff recommends adoption of Ordinance No. 22-1478 to amend Metro Code Chapter 5.05 to clarify Metro's landfill capacity policy as described in this staff report.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Adoption of Ordinance No. 22-1478 would result in amending Metro Code Chapter 5.05 to clarify that the landfill capacity policy does not apply to limited-purpose landfills that are permitted to receive hazardous waste or only cleanup material such as contaminated soil or sediment. The proposed ordinance also includes minor housekeeping revisions to update code references, remove outdated information, and improve readability as described below and provided in Exhibit A.

Staff recommends updating Metro Code Chapter 5.05 as described below:

1. Add Section 5.05.055(d) to clarify that the landfill capacity policy does not apply to landfills that are permitted to accept hazardous waste or landfills that accept only cleanup material such as contaminated soil or sediment.

2. Update language in Section 5.05.055 to remove passive voice and revise sentence structure for ease of reading. Update table of contents to align with section title.
3. Update Metro Code Section 5.05.100(d)(3)(B) with cross reference to Chapter 5.08.
4. Remove outdated reference to regional system fee and excise tax payments in Section 5.05.180(3) and update section with cross reference to Chapters 5.02 and 7.01.
5. Update Metro Code Section 5.05.196(b)(2) with cross reference to Chapter 5.01.

KNOWN OPPOSITION

Staff understands that there may be general opposition to expanding or constructing limited-purpose landfills; however, at this time there is no known opposition to the proposed revisions to Metro Code Chapter 5.05. The proposed ordinance does not authorize or direct the expansion or construction of any new landfills, but rather seeks to ensure that there is adequate disposal options for hazardous waste and cleanup material generated within the region. The Oregon Department of Environmental Quality (DEQ) is responsible for permitting and monitoring landfills within the state.

PUBLIC OUTREACH

DEQ staff informed Metro staff that there is a need to maintain adequate capacity to properly manage and dispose of any contaminated sediments generated within the region. There are a number of upcoming 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. DEQ staff support Metro's clarification of the landfill capacity policy so that it does not impede any efforts to cleanup Willamette River or restrict the proper disposal of any contaminated sediment that is removed from the environment.

LEGAL ANTECEDENTS

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

ANTICIPATED EFFECTS

Adoption of Ordinance No. 22-1478 would result in amending Metro Code Chapter 5.05 to clarify 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. In general, Metro assesses a reduced regional system fee and excise tax rate of \$3.50 per ton on cleanup material including contaminated sediments.

BACKGROUND

In 2017, Council adopted a landfill capacity policy that prohibits the disposal of the region's waste at any new landfill or any landfill that seeks expansion after May 2017. This policy was adopted around the time that Riverbend Landfill (located in Yamhill County) 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. As currently codified, the policy applies to all landfills, regardless of the type of landfill or the waste they accept.

There are a number of upcoming 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. The United States Environmental Protection Agency estimates that the removal of contaminated sediments will begin in about five to eight years and take about 13 years to complete. For perspective, the Metro tri-county area generates about 1.5 million tons of solid waste per year.

In particular, DEQ estimates that the Portland Harbor Superfund site alone will generate about three million tons of contaminated sediment that will need to be disposed of in a landfill. DEQ anticipates that some of the contaminated sediment from these cleanup projects will be eligible for disposal in a RCRA Subtitle D landfill ("general-purpose landfill"), of which the region has over a hundred years of disposal capacity at current waste generation rates. However, it may be necessary to dispose of some of the contaminated sediments in a RCRA Subtitle C landfill ("hazardous waste landfill") or a specialized sediment disposal site. The region may need additional disposal capacity with these types of limited-purpose landfills due to the nature, quantity, and location of the waste from these upcoming environmental cleanup projects. For example, Chemical Waste Management Landfill (a hazardous waste landfill located in Gilliam County) will soon seek expansion, in part, to accommodate contaminated material generated from environmental cleanup efforts along the Willamette River.

As currently codified, Metro's landfill capacity policy would prohibit the disposal of contaminated sediment at any new landfill or one that seeks expansion. DEQ staff have expressed concern to Metro about that current prohibition on disposal and its potential impact on cleanup efforts because all of the contaminated sediment removed from the Portland Harbor Superfund Site must be disposed of in a 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), but it was not intended to affect certain limited-purpose landfills that are permitted to receive hazardous waste (such as Chemical Waste Management). The language codified in Chapter 5.05 with respect to the current landfill capacity policy fails to distinguish between general-purpose and limited-purpose landfill types, which alters the intent of Metro's landfill capacity policy.

Metro staff recommends that Metro Council adopt Ordinance No. 22-1478 which amends Metro Code Chapter 5.05 to clarify that the landfill capacity policy does not apply to limited-purpose landfills permitted to receive hazardous waste or only cleanup material to ensure that there is adequate disposal capacity for environmental cleanup material generated within the region.

ATTACHMENTS

None