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**DATE:** November 3, 2014

**TO:** Alameda County Recycling Board

**FROM:** Wendy Sommer, Deputy Executive Director

**BY:** Tom Padia, Principal Program Manager

**SUBJECT:** Definition of “Adequate Commercial Recycling” for Purpose of Determining Municipal Eligibility to Receive Measure D Per Capita Allocations

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At the November 8, 2012 meeting the Recycling Board unanimously adopted a definition and process for assessing the existence of an “adequate commercial recycling program” for the purpose of determining municipal eligibility to receive per capita Recycling Fund monies. At the same time, the Board committed to review the criteria in two years, in November 2014.

#### **BACKGROUND**

Per capita Measure D funding is provided to municipalities only if they meet certain requirements, one of which is the implementation of an “adequate” commercial recycling program. A “*de minimus*” interpretation of what constitutes an “adequate commercial recycling program” was adopted by the Recycling Board in 1994, with an explicit allowance for future revision.

In 2011 and 2012 the Board, staff and member agency representatives engaged in a process of formulating and evaluating options that ultimately resulted in the criteria adopted two years ago. These standards went into effect for FY 13/14 (i.e. beginning July 1, 2013).

The purpose of the Board policy is to align with and help implement the adopted Strategic Plan goal of “less than 10% good stuff in the garbage” by 2020 and help meet the County Charter goal of “75% and beyond” diversion from landfill. These goals cannot be achieved without significant new diversion from commercial waste generators.

#### **POLICY ADOPTED NOVEMBER 2012:**

The three criteria applicable to commercial recyclables are listed below. An adequate commercial recycling program under the County Charter will satisfy ONE (or more) of these criteria on and after July 1, 2013 unless the Recycling Board adopts an alternative definition after that date.

**1.** The member agency participates in the ACWMA mandatory recycling ordinance, Phase 1. The Recycling Board has previously formally stated that participation in the ordinance is not necessary, but is more than adequate.

OR

**2.** The member agency ensures that at least one hour per year of technical assistance work time is actually provided to businesses to encourage and assist commercial accounts to recycle more. The minimum amount of time can be provided by member agency staff, franchised hauler staff, consultants to the member agency or franchised haulers, or any combination of these. The minimum time commitment will be proportional to the number of commercial accounts in the member agency.

In addition, a member agency would need to either make source separated recycling services available at open market rates or adopt a rate schedule under which the prices per volume and frequency of source separated services are no higher than that for refuse/garbage service of the same volume and frequency. This second part of criteria 2 is necessary because technical assistance and outreach cannot increase recycling participation if the service is not available at a competitive price.

OR

**3.** The member agency achieves a 50% participation rate in its commercial recycling program. Participation for recycling shall be calculated as a percentage of total commercial accounts. Participation through centralized processing will count so long as the centralized processing facility meets the less than 10% covered materials residual quality standard defined in the mandatory recycling ordinance.

The three criteria applicable to commercial organics are listed below. An adequate commercial recycling program under the County Charter will satisfy ONE (or more) of these criteria on and after July 1, 2014 unless the Recycling Board adopts an alternative definition after that date.

**1.** The member agency participates in the ACWMA mandatory recycling ordinance, Phase 2 (or a variation on Phase 2 approved administratively as provided for in the ordinance). The Recycling Board has previously formally stated that participation in the ordinance is not necessary, but is more than adequate.

OR

**2.** The member agency ensures that at least 3 hours per year of technical assistance work time is actually provided to organics generating businesses to encourage and assist commercial organics accounts to recycle more. The minimum amount of time can be provided by member agency staff, franchised hauler staff, consultants to the member agency or franchised haulers, or any combination of these.

In addition, a member agency would need to either make source separated commercial organics services available at open market rates or adopt a rate schedule under which the prices per volume and frequency of source separated services are no higher than that for refuse/garbage service of the same volume and frequency. This second part of criteria 2 is necessary because technical assistance and outreach cannot increase recycling participation if the service is not available at a competitive price.

OR

**3.** The member agency achieves a 50% participation rate in its commercial organics program. Participation for commercial organics shall be calculated as a percentage of organics generating businesses based on SIC and/or NAICS codes. Participation through centralized processing will count so long as the centralized processing

facility meets the less than 10% covered materials residual quality standard defined in the mandatory recycling ordinance.

If Recycling Board staff believes a member agency is not in compliance, it will notify the member agency and refer the situation to the Recycling Board for a decision. If the Recycling Board decides the member agency has not complied with the minimum standard, it may withhold future Measure D payments.

### **EXPERIENCE TO DATE**

Phase 1: Initially, the cities of Dublin and Pleasanton, the Castro Valley Sanitary District and the unincorporated service area of the Oro Loma Sanitary District (L1) opted out of Phase 1 of the Mandatory Recycling Ordinance (MRO). In October of 2012 (prior to the RB adoption of the above criteria) the Pleasanton City Council reversed that action and voted to opt back in to Phase 1, and in December of 2013 the Castro Valley Sanitary District Board voted to opt in to Phase 1 and also to Phase 2 if their submittal of a compliance schedule waiver were approved (it was), leaving only Dublin and unincorporated Oro Loma to meet one of the “alternative” criteria for FY 13/14 (Castro Valley would have easily met the 50% subscribed accounts criteria in any event). Dublin has met the criteria through a greater than 50% participation rate in their commercial recycling program and Oro Loma has met the criteria through spending over one hour per commercial account on recycling outreach to commercial accounts (they are currently at slightly more than 40% commercial account subscription to recycling service).

Phase 2: Six municipalities are opted in to the MRO on the schedule in the ordinance and five more are opted in on an approved Compliance Schedule Waiver, leaving five opted out jurisdictions that will need to meet one of the alternative criteria. Dublin and Oro Loma Unincorporated are joined by Hayward, Pleasanton and Union City in the “Phase 2 opt-out” category. The requirement to enlist over 50% of “high organics generating” accounts (HOGS) to commercial organics collection service or spend 3 hours of commercial organics outreach per HOG account must be met over the course of the current fiscal year (FY 14/15) and reported in October 2015. Status on these 5 jurisdictions:

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| Dublin:     | Believes that over 50% of HOG accounts are currently subscribed to organics collection service.  |
| Hayward:    | Opted out of Phase 2 due to inadequate provisions in expiring franchise to implement Phase 2. New franchise negotiations currently nearing completion; staff has reported intent to present Council in December/January time frame new agreement for approval and recommendation to opt-in to Phase 2 of the MRO. If not approved, Hayward will document required hours of commercial organics outreach.                                 |
| Oro Loma:   | Intends to devote required number of hours for commercial organics outreach, plus maintain required hours of recycling outreach until 50% threshold is reached.  |
| Pleasanton: | Pleasanton staff has recently expressed concerns about the rate impacts of satisfying any of the criteria for commercial organics. StopWaste staff will continue discussions with Pleasanton and report to the Recycling Board once more is known.   |
| Union City: | Opted out of Phase 2 due to unsustainable rate provisions for commercial organics service in current franchise. City is working to negotiate modifications that will allow for opt-in to Phase 2. Until then, staff is prepared to document required hours of commercial organics outreach primarily to improve results from current limited set of commercial organics subscribers and to strategically add new accounts incrementally. |

## **RECOMMENDATION**

Accept this report and re-affirm the definition of adequate commercial recycling. (Note that the policy allows the Board to consider not withholding Measure D funds if a member agency fails to satisfy the policy and can persuade the Board it should not withhold Measure D funds).

Attachments:

Attachment A – Full memo from RB Nov. 8, 2012 Agenda Packet

<http://www.stopwaste.org/sites/default/files/Adequate%20Comm%20Recycling%20memo.pdf>

**ATTACHMENT A**