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**DATE:** November 10, 2016

**TO:** Planning & Organization Committee/Recycling Board

**FROM:** Wendy Sommer, Executive Director

**BY:** Tom Padia, Deputy Executive Director

**SUBJECT:** Member Agency Conformance with “Adequate Commercial Recycling” Standard and Municipal Eligibility to Receive Measure D Per Capita Allocations

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## **SUMMARY**

At the November 12, 2015 meeting the Recycling Board asked that staff provide a status of all member agency compliance with the Adequate Commercial Recycling standard in one year. Currently, all member agencies are in compliance with the standard.

## **DISCUSSION**

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 (approximately \$4,000,000 per year total, allocated to 16 jurisdictions).

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. Because participating in the mandatory commercial recycling ordinance (MRO) was considered by staff to create an adequate commercial recycling program, staff met several times with the four member agencies that had opted out of Phase 1 of the MRO in order to fully understand their perspectives on other ways to create an adequate commercial program. The staff of these four agencies (CVSan, Dublin, Oro Loma Sanitary District, and Pleasanton) indicated informally prior to policy adoption that it was reasonable and achievable.

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

The adopted policy has a compliance requirement for recyclables and another one for organics. Each compliance requirement involves satisfying ONE (or more) of three criteria, on and after a date (See Attachment A)

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**

Recyclables: All jurisdictions are currently in compliance with this standard.

While Dublin has not opted in to the MRO, it has consistently met the third criteria of a greater than 50% participation rate in their commercial recycling program, which is an accepted criteria for adequate commercial recycling. The Oro Loma Board on April 19, 2016 voted to opt-in to both phases 1 and 2 of the MRO effective January 1, 2017.

Organics: All jurisdictions are currently satisfying this standard.

Dublin and Union City chose to opt-out of Phase 2 of the MRO, although Union City has indicated an intent to opt-in along the same waiver schedule in place for Fremont and Newark (effective 7/1/2017). The requirement to enlist over 50% of “high organics generating” accounts (HOGS) to commercial organics collection service (the third criteria) or spend three hours of commercial organics outreach per HOG account (the second criteria) was in effect over the course of the past fiscal year (FY 15/16) and reported by member agency staff in October 2016. Status of these 2 jurisdictions:

- Dublin: More than 50% of the HOG accounts are currently subscribed to organics collection service.
- Union City: Opted out of Phase 2 due to unsustainable rate provisions for commercial organics service under 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. For FY 15/16, Union City staff submitted documentation showing well over three hours of commercial organics outreach per HOG business in Union City.

## **RECOMMENDATION**

This report is for information only.

## **ATTACHMENT A**

### **Compliance Requirement for Recyclables and Organics**

#### **COMMERCIAL RECYCLABLES**

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.

#### **COMMERCIAL ORGANICS**

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.