

Committee Members

Dave Sadoff, **Chairperson**
Castro Valley Sanitary District
Shelia Young, **Vice Chairperson**
Oro Loma Sanitary District
Keith Carson, County of Alameda
Jesse Arreguin, City of Berkeley
Don Biddle, City of Dublin
Vinnie Bacon, City of Fremont
Sara Lamnin, City of Hayward
Bob Carling, City of Livermore
Mike Hannon, City of Newark
Dan Kalb, City of Oakland
Deborah Cox, City of San Leandro
Lorin Ellis, City of Union City
Wendy Sommer, Executive Director

AGENDA
**ALAMEDA COUNTY WASTE
MANAGEMENT AUTHORITY MEETING
OF THE
PROGRAMS AND ADMINISTRATION COMMITTEE**

Thursday, November 09, 2017

9:00 A.M.

**StopWaste Offices
1537 Webster Street
Oakland, CA 94612
510-891-6500**

1. Convene Meeting

2. Public Comments

Open public discussion from the floor is provided for any member of the public wishing to speak on any matter within the jurisdiction of the Programs & Administration Committee, but not listed on the agenda. Each speaker is limited to three minutes unless a shorter period of time is set by the Chair.

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1 3. Approval of the Draft Minutes of October 12, 2017 meeting (Pat Cabrera)

5 4. Mandatory Recycling Ordinance Project Update (Rachel Balsley)
This report is for information only.

5. Member Comments

6. Adjournment

The Programs & Administration Committee is a Committee that contains more than a quorum of the Board. However, all items considered by the Committee requiring approval of the Board will be forwarded to the Board for consideration at a regularly noticed board meeting.

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**MINUTES OF THE ALAMEDA COUNTY WASTE
MANAGEMENT AUTHORITY MEETING
OF THE
PROGRAMS AND ADMINISTRATION COMMITTEE**

Thursday, October 12, 2017

9:00 A.M.

**StopWaste Offices
1537 Webster Street
Oakland, CA 94612
510-891-6500**

Members Present:

County of Alameda	Keith Carson
Castro Valley Sanitary District	Dave Sadoff
City of Dublin	Don Biddle
City of Hayward	Sara Lamnin
City of Livermore	Bob Carling
City of Oakland	Dan Kalb
City of Newark	Mike Hannon
Oro Loma Sanitary District	Shelia Young
City of San Leandro	Deborah Cox

Absent:

City of Berkeley	Jesse Arreguin
City of Fremont	Vinnie Bacon
City of Union City	Lorin Ellis

Staff Present:

Wendy Sommer, Executive Director
Pat Cabrera, Administrative Services Director
Tom Padia, Deputy Executive Director
Arliss Dunn, Clerk of the Board

Others Present:

Richard Taylor, WMA, Legal Counsel
Justin Malan, Agency Lobbyist, EcoConsult

1. Convene Meeting

Chair Dave Sadoff called the meeting to order at 9:02 a.m.

2. Public Comments

There were none.

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3. Approval of the Draft Minutes of July 13, 2017 (Pat Cabrera)

Board member Hannon made the motion to approve the draft minutes of July 8, 2017. Board member Biddle seconded and the motion carried 6-0 (Ayes: Biddle, Carling, Cox, Hannon, Sadoff, Young. Nays: None. Abstain: None. Absent: Arreguin, Bacon, Carson, Ellis, Kalb, Lamnin).

4. Rules of Procedure Committee Review (Pat Cabrera)

No staff recommendation. Should the Committee recommend any revisions to the document, staff will forward those changes to the WMA Board for approval.

Pat Cabrera introduced the item and WMA Legal Counsel Richard Taylor provided an overview of the staff report. The report is available here: [Rules-of-Procedure-Committee-Review-10-12-17.pdf](#)

Board member Hannon stated that Section 3-8 (Teleconferencing) should be updated to reflect the revision made at the WMA meeting such that when a Board member is attending via teleconference, the roll call vote is not required if the vote is unanimous. Mr. Taylor stated that state law requires that a roll call vote be conducted when a member is attending via teleconference. The Board has defined the term "roll call" as being the first action of the meeting. Therefore, if further actions at the meeting are unanimous, then separate roll call votes for those actions are not needed.

Board member Hannon asked for clarification on Section 4-6, with respect to a member being declared ineligible to vote. Mr. Taylor stated that the Political Reform Act states that you cannot vote on a matter where there is a conflict of interest and you must leave the dais and possibly leave the room under certain circumstances. There have been occasions where a member was required to recuse themselves under legislative circumstances due to their employer although it may not pose a conflict of interest. Our rules state that a member must leave the table under such circumstances. Mr. Taylor stated that we can remove the wording since the PRA already has this requirement or we can clarify and make it more transparent. Board member Hannon stated that he would prefer to leave the language, but provide additional clarification. Board member Hannon stated that in Section 5-1 it states that a member will not be compensated if they do not attend a Committee meeting and recommended that the language be added to the WMA rules if it applies. Mr. Taylor affirmed that the same rule applies to the WMA and the language will be added to their rules as well. Ms. Sommer stated that staff will be bringing an item referring to the Board per diem policy that will make it clearer and the resolution will supersede all of the existing resolutions. Board member Hannon stated that Section 4-4 states that the roll will be called in alphabetical order, with the President being called last, although he was not sure if we have been following that rule. The Committee recommends that the rule remains as stated. Board member Lamnin referred to Section 5-4, Term of Office, and asked for clarification on whether a member is able to serve more than one term as an elected official or as an officer of the committee as the wording is unclear and added she has recommended language if permitted. Ms. Sommer stated that it is as an officer of the committee. Board member Lamnin inquired if a member can serve more than once as an officer and if there are term limits. Mr. Taylor stated that the current language indicates that a member can serve only once as an officer and invited Board member Lamnin to forward her recommendations. Board member Young suggested that officers be eligible to serve more than once. Chair Sadoff recommended that the rules should also state that the Vice Chair not be precluded from serving as the Chair in subsequent years. Mr. Taylor stated that he will revise the language to state that a member cannot serve a consecutive term as Chair, but can serve again after a two year period, and will also insert language that the Vice Chair cannot be precluded from serving as Chair in subsequent years.

Board member Young requested permission to work with the Clerk regarding punctuation issues. The Chair granted the latitude to work with staff regarding punctuation. Board member Young expressed concern

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that we apply consistency with respect to the name of the Board as we are technically called the WMA Board, and not the Authority Board. Ms. Sommer stated that she has been using the title WMA Board and will apply consistency going forward. Board member Young referenced Section 2-7:iii, *Maintain all records of the Authority and Board*. Mr. Taylor stated that the Authority is the broad institution that includes the Board, but to maintain consistency we can state “Maintain all records of the WMA.” Board member Young expressed concern about members attending a meeting via teleconference if they have an alternate and are out of the country as it creates financial implications for the agency and it makes it virtually impossible for the public to be able to attend at the teleconference location. Board member Young added she would like to eliminate the ability to teleconference if out of the country. Chair Sadoff inquired if there are legal implications in prohibiting a member from teleconferencing from outside of the USA. Mr. Taylor stated that while the Brown Act allows teleconferencing, it does not mandate it nor provide an elected official with the right to teleconference. It is within the discretion of the agency whether it wants to use teleconferencing or not. Board member Biddle stated that teleconferencing is fine in some circumstances but feels that it is somewhat abused and it slows down the meeting. Board member Hannon agreed with Board member Young and stated that we should strongly encourage members to use their alternate if they will be out of the country and unable to attend a meeting in person. Ms. Sommer stated that she is also cognizant of the hardship created for the public to attend the meeting if the member is outside of the country and inquired if the same sentiment applies if the member is out of the state. Board member Young stated that it may be okay if it is permissible for the Clerk to inform the member of the requirement to post the agenda in a publicly-accessible location. However, if the intent is to allow the people that we represent to be present when decisions are made, the teleconferencing location should be in the county. Board member Biddle stated that the amendment which could allow up to 4 members to simultaneously teleconference may pose difficulty for the members attending in person and suggested limiting it to one or two people. Ms. Sommer stated that agency technology can now accommodate a number of members to teleconference. Chair Sadoff recommended including language which recommends that the member utilize their alternate if they are unable to attend a meeting. Mr. Taylor stated that he would craft and include such language.

Board member Young referenced Section 4-1 concerning open public discussion and its provisions limiting each speaker to three minutes. Board member Young recommended adding language that allows the President or the Chair to adjust the time allowed. Mr. Taylor stated that he would do so. Board member Hannon referenced Section 4-3 and inquired about the history for requiring a two-thirds majority of the total authorized vote shall be required for expenditures of \$500,000 or more. Mr. Taylor stated that this is a requirement of the Joint Powers Agreement. Ms. Sommer added that although Ms. Dunn has been acting as the Clerk of the Board, the rules also include an amendment that would formalize the position of the Clerk of the Board. Board member Hannon inquired if this item will come before the WMA Board. Mr. Taylor stated yes, and as an advisory to the Energy Council staff will be making conforming changes to the Energy Council rules as well. Board member Hannon recommended including the draft changes along with the finalized version when submitting to the WMA Board. Mr. Taylor affirmed the request. Chair Sadoff requested that staff forward the final changes to both Board member Young and Chair Sadoff prior to distributing to the WMA Board. Mr. Taylor stated that he would do so.

5. 2017 Legislative Update (Eric Engelbart)

This item is for information only.

Eric Engelbart provided an overview of the staff report and introduced Justin Malan, the Agency’s contract lobbyist. The report is available here: [2017-Legislative-Update-10-12-17.pdf](#)

Mr. Malan provided a legislative update on the various bills and other legislative efforts for which the Agency took a position or played an active role. Board member Lamnin inquired if CalRecycle or StopWaste

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will be working with Senator Wieckowski on the next iteration of the bottle bill. Mr. Engelbart replied yes, StopWaste intends to continue to work with Senator Wieckowski's office on the bottle bill during the upcoming legislative session. Mr. Malan added that StopWaste has very strong partnerships and working relationships with Californians Against Waste (CAW) and the Product Stewardship Council and CAW is taking the lead on the bottle bill. Board member Biddle commented that this year the legislature focused on transportation and housing issues and inquired about the legislative trends for next year. Mr. Malan stated that from an environmental perspective, the renewable portfolio standards are important and a high priority because they send a critical market signal as to whether or not we are continuing on the track to renewable energy. Other important legislative priorities for next year could include water conservation, and finally the bottle bill. Mr. Malan added there are other issues with organics and we are continuing to work with sustainable agricultural groups to make accommodations either through permitting or incentivizing in order for us reach our goals. Board member Young inquired if CalRecycle can use a portion of the \$40 million cap and trade funds to support the bottle bill. Mr. Malan stated yes, approximately a third of the \$40 million is allocated to non-organics related issues, but there may be a reluctance to use the money without a nexus to greenhouse gas issues. Ms. Sommer inquired as to why the Governor chose to veto bills that would ban smoking on beaches and in public parks. Ms. Malan stated that it was due to the cost to state parks for enforcing the bill.

Chair Sadoff thanked Mr. Engelbart and Mr. Malan for the update.

6. Mattress Product Stewardship Update (Tom Padia)

This item is for information only.

Tom Padia provided an overview of the staff report. The report is available here:

[Mattress-Product-Stewardship-Update-10-12-17.pdf](#)

Mr. Padia stated that in March, through a contract with the city of Oakland, Environmental Science Associates (ESA) conducted a survey about illegal dumping. The survey carried out by ESA over three weeks looked at 75 illegal dumping piles throughout the city. The study found that approximately 70% of illegal dumping was from residential sources and that of the piles where it was possible to establish jurisdiction of origin, 78% were attributed to the city of Oakland. Board member Hannon stated that the City of Newark offers bulky pick up services for residential customers and inquired if most cities in Alameda County offer bulky pick-up services. Mr. Padia stated yes, and increasingly new franchise agreements are offering bulky pick-ups to multi-family as well as to single family accounts. Mr. Padia added promoting this service could help. Board member Hannon inquired regarding the retailer side if there has been any discussion regarding offering a customer rebate to people that may purchase a mattress if they return the old mattress. Mr. Padia stated that he has not heard of any discussions of that type and in general EPR (Extended Producer Responsibility) proponents are not keen on upfront deposits but would prefer any disposal costs be built into the price of the product. Chair Sadoff stated that Castro Valley Sanitary District offers two bulky pick-ups per year. Chair Sadoff thanked Mr. Padia for the report.

7. Member Comments

There were none.

8. Adjournment

The meeting adjourned at 10:06 a.m.



DATE: November 9, 2017
TO: Programs & Administration Committee
FROM: Pat Cabrera, Administrative Services Director
BY: Rachel Balsley, Senior Program Manager
SUBJECT: Mandatory Recycling Ordinance Project Update

SUMMARY

This memo provides an update of the Mandatory Recycling Ordinance (MRO) and highlights some of the progress through Fiscal Year 2016-17. Enforcement and technical assistance activities work in tandem to increase the diversion of readily recyclable and compostable materials from the commercial and multi-family sectors. Staff will also share a presentation at the November 9, 2017 Programs & Administration meeting.

DISCUSSION

Enforcement Overview

The Alameda County Waste Management Authority (WMA) adopted Ordinance 2012-01, the Mandatory Recycling Ordinance, in January 2012. Phase 1 was effective July 1, 2012, with recycling requirements for commercial accounts with four or more cubic yards of weekly garbage service and multi-family properties. Phase 2 started July 1, 2014 in participating jurisdictions¹, adding discarded food and compostable paper to the list of covered materials and expanding to all businesses.

The MRO website, www.RecyclingRulesAC.org, provides detailed information about the requirements, support materials and tools to assist in compliance, and online request forms for technical assistance, free indoor food scrap bins, and stickers for indoor containers.

The WMA has a routine inspection program with progressive enforcement, meaning regulated parties receive two notices before a citation (and fine) is issued:

- Official Notification Letter – officially informs covered accounts of the ordinance requirements; may or may not be the result of an observed violation
- Notice of Violation/Warning Letter – sent after an official notification has been issued, and upon observation of a violation

Before a citation is issued, it is reviewed and approved by the member agency’s Primary Enforcement

¹ Member Agencies were given the option to opt-out or delay aspects of each Ordinance phase.

Representative. Fines range from \$100 to \$150 per violation for the first citation. Fine amounts increase on subsequent citations at the same account within 12 months.

The WMA has prioritized enforcement of commercial accounts with one or more cubic yard of weekly garbage service, about 70% of covered commercial accounts. Smaller commercial accounts (garbage *cart* customers) are not currently being inspected. Accounts with consecutive compliant inspections receive inspections less frequently than accounts found in violation of the ordinance, freeing up inspection resources for non-compliant accounts.

At this time, multi-family accounts are only inspected upon receipt of an official complaint from a tenant. An online form is used to inform the WMA of sites not providing recycling and/or organics collection service to residents. In some cases, an inspection may also occur at a multi-family site when the site type is misclassified in the data received from franchised haulers. Note: a significant number of multi-family accounts received on-site inspections in 2013 and 2014.

Ordinance 2008-01, the Plant Debris Landfill Ban, is enforced in conjunction with the MRO.

Technical Assistance (TA) Overview

The WMA contracts with Cascadia Consulting Group to provide technical assistance to businesses and multi-family properties focused primarily on compliance with the MRO. Properties may directly request assistance through the ordinance help line, website, or Free Indoor Food Scrap Bin program. In addition, the TA team proactively contacts many businesses after they violate the Ordinance to offer compliance assistance.

Participating properties are offered free:

- On-site waste assessments with customized reports including recommended service levels and cost estimates (often resulting in a cost savings)
- Coordination with service providers to order new recycling or organics collection service
- Staff trainings and support setting up indoor recycling and/or organics stations, and
- Follow-up assistance and trouble-shooting, if needed, after new services are implemented

Cascadia technical assistance representatives are assigned to specific member agencies to foster continuity within a jurisdiction, knowledge of local rates and services, and maintain relationships with hauler and member agency staff.

In addition to direct technical assistance, the Agency offered free *indoor* organics bins valued up to \$500 per approved business or multi-family site. Property owners/managers complete a simple online application, and if approved, select green containers from a variety of options from one of the WMA's partner vendors. Free stickers are also available to label indoor containers.

Highlights from Fiscal Year 2016/17

Expanded ordinance requirements in five jurisdictions

In FY 2016/17, new MRO requirements went into effect in Hayward, Oakland, Oro Loma Sanitary

District, Pleasanton, and San Leandro. Outreach activities, such as direct mail and communication through business associations were conducted in those member agencies. Outreach in Fremont also began in preparation of new organics requirements effective July 1, 2017. Regulated parties are given six months to comply before enforcement actions begin on new requirements.

Conducted over 14,000 on-site inspections

The WMA conducted over 14,000 inspections in FY 2016/17 with three full-time contracted inspectors. A breakdown of MRO commercial covered accounts and enforcement activities conducted in FY 16/17 by member agency is included in Table 1 below.

Table 1: Commercial Sector Enforcement Activities by Member Agency in FY 16/17

Member Agency*	# of Covered Accounts	# of Accounts in Inspection Pool**	# of Accounts Inspected	# of Accts Sent Notifications and/or Warnings for Violations	# of Accounts Sent Citations
Alameda	809	479	399	24	8
Alameda County	150	139	99	13	1
Albany	295	141	123	6	0
Berkeley***	436	427	230	11	2
Castro Valley SD	519	212	272	9	6
Emeryville	389	309	243	10	4
Fremont	2,229	1,913	1,587	196	54
Hayward	3,438	2,578	2,133	288	11
Livermore	1,257	1,089	947	77	20
Newark	540	494	415	103	6
Oakland	5,786	3,805	2,954	612	81
Oro Loma SD	540	461	368	76	7
Piedmont	27	16	19	0	0
Pleasanton***	342	342	273	28	25
San Leandro	1,240	954	834	135	18
Union City***	242	242	201	16	4
Grand Total	18,239	13,601	11,097****	1,604	247
%		75% of covered	82% of pool	12% of pool	1.8% of pool

*The City of Dublin is opted-out of the MRO. **Accounts with one or more cubic yard of weekly garbage service are in the inspection pool. ***The Cities of Berkeley, Pleasanton, and Union City only had accounts with 4 or more cubic yards of weekly garbage service in FY 16/17. ****The total number of accounts inspected is lower than the total number of inspections conducted because some accounts were inspected more than once.

The MRO is effective at motivating businesses to recycle

Most violations are issued to accounts for not having recycling service and for disposing recyclable materials in the garbage. Approximately 70% of accounts that received an enforcement letter as the result of violations are found compliant at their next inspection. The percent of commercial garbage accounts with some level of recycling service in most member agencies is 70 to 96% compared to 20 to 82% in 2011, prior to implementation of the MRO.

Organics violations are an increasing focus area

While all commercial accounts are assumed to need recycling service, only those that generate significant quantities of organics (as observed in the garbage) are given a violation for lack of organics service. Significant quantity is currently defined as 20 gallons in a garbage bin. As enforcement of organics requirements is effective at more accounts, the number of violations issued for organics-related violations is increasing. The MRO supports the WMA's (and the state's) focus on reducing disposal of organics in landfill.

Enforcement is progressing to the citation stage

The first citations for MRO violation were issued in August 2015. Since then through FY 16/17, 496 citations have been issued to 382 accounts (some accounts have received multiple citations). This equates to approximately 3% of the covered commercial accounts in the inspection pool. Five citations have been appealed by the cited parties and all have been upheld.

The TA team documented new recycling and/or organics service at 126 accounts

As a result of MRO technical assistance, the TA team documented 126 services changes to start or expand recycling and/or organics collection programs. These service changes resulted in approximately 5,693 cubic yards or 528 tons of new diversion in FY 2016-17, which takes into account when in the year the service started. This equates to approximately 9,000 cubic yards of new diversion per year. Nearly half (48%) of the service changes resulted in a cost savings, while 34% resulted in an increased garbage bill, and 18% had no change in cost.

Adding collection service is only one aspect of technical assistance

As the ordinance progresses, an increasing number of accounts assisted by the TA team already have the appropriate services in place, but need support to improve their programs. In these cases, trainings, indoor containers, and/or color-coded signage and stickers are provided. Table 2 below provides information about technical assistance activities performed in FY 16/17.

Table 2: Technical Assistance Activities in FY 16/17

Member Agency*	# of Accounts Contacted	# of Commercial Accounts Assisted	# of Multi-family Accounts Assisted	# of Site Visits
Alameda	41	32	2	11
Alameda County	7	4	0	0
Albany	12	9	0	3
Berkeley	48	42	3	12
Castro Valley SD	15	11	0	2
Emeryville	18	10	0	2
Fremont	98	78	2	38
Hayward	147	109	3	28
Livermore**	1	0	0	0
Newark	44	34	0	10
Oakland	450	312	24	134
Oro Loma SD	69	46	4	24
Piedmont	0	0	0	0
Pleasanton	82	64	5	34

San Leandro	136	98	2	35
Union City	7	7	0	2
Grand Total	1,176	857	45	335

*The City of Dublin is opted-out of the MRO and their franchised hauler provides technical assistance.

**Livermore Sanitation, Inc. provides all the technical assistance to Livermore accounts.

The Free Indoor Food Scrap Bin Program continues to be a popular service

A total of 916 sites were approved in FY 2016-17 to receive free indoor green bins. Of the approved sites, 631 completed the process and ordered equipment with an average order amount of \$348/site.

Some accounts get assistance elsewhere

In many member agencies, MRO technical assistance is provided via a combination of jurisdiction staff, hauler representatives, and the WMA’s contracted TA representatives. Of the businesses that were contacted by Cascadia but declined assistance, approximately half informed the representative that they initiated compliance measures on their own and/or directly with their service provider after receiving communication about the MRO. The remaining half simply declined assistance or were non-responsive.

Additional details regarding technical assistance is in the StopWaste Business Assistance Program Fiscal Year 2016-17 Annual Report. A full copy of the report is available at: [Cascadia-FY16-17-Annual-Report.pdf](#).

Looking Ahead

MRO project implementation continues in 2017/18. Below are a few of the anticipated highlights:

Expanded Ordinance coverage

On January 1, 2018, Newark business and multi-family accounts will have new organics requirements and the City of Union City will begin implementing Phase 2. Outreach letters will be sent to inform account holders of the new requirements.

Multi-Family properties will receive Notice of Violation/Warning letters

In Winter FY 2017/18, the WMA plans to start mailing warning letters to multi-family accounts identified as not having recycling and/or organics collection service. Lack of service will be verified with franchised haulers prior to issuance of the letters. Multi-family properties may utilize new technical assistance options including resident education or door-to-door outreach.

New tools to assist properties with compliance

New and improved online tools were released in Q1 2017/18 to support businesses with ordinance compliance. The new Bags to Bins tool and enhanced Sign Maker tool are available on the ordinance website. New tools continue to be developed, including training videos.

RECOMMENDATION

This report is for information only.