

ALAMEDA COUNTY SOURCE REDUCTION AND RECYCLING BOARD

RESOLUTION #RB 2003-10

**MOVED: Thomsen
SECONDED: Irizarry**

AT THE MEETING HELD JULY 10, 2003

**POLICY ADOPTION – MUNICIPAL ELIGIBILITY TO RECEIVE RECYCLING FUND
PER CAPITA DISBURSEMENTS**

WHEREAS, the Alameda County Charter Section 64 (the Alameda County Waste Reduction and Recycling Act of 1990, hereinafter the “Act”) establishes five requirements that municipalities must meet to qualify to receive a per capita share of the 50% of Recycling Fund revenues allocated to municipalities, but none of those requirements explicitly address the issue of whether or how much of the landfilled wastes under the control of a municipality are subject to the surcharge established by the Act; and

WHEREAS, the Act does establish a connection between municipal eligibility to receive monies from the Recycling Fund and municipal rate-setting powers for the collection of wastes under its control (Subsection 64.070 (A)); and

WHEREAS, the Act states that “The Recycling Board shall formulate rules for its own procedures and other rules as necessary to facilitate the implementation of the provisions of this Act,” (Subsection 64.130(J)); and

WHEREAS, the Recycling Board has received a request from the City of Fremont to develop a “participation ratio” policy for municipal disbursements that would allow municipalities from which a portion of municipally-controlled wastes were subject to the surcharge, to receive a corresponding portion of their per capita share of Recycling Fund disbursements; and

WHEREAS, the Recycling Board Legal Counsel has issued an opinion stating that adoption of such a rule is within the discretion of the Recycling Board if the Board determines that a pro-rata participation rule would facilitate the implementation of the goals and policies of the Act; and

WHEREAS, the Recycling Board has consulted extensively with municipal staff throughout the County over the past year on this issue and has invited haulers, facility operators and other stakeholders to provide input, and no one has expressed any objections to the proposed rules; and

WHEREAS, the Recycling Board itself has discussed these issues over the course of the past year and a half at several Board and Committee meetings, and has conducted a public hearing on the proposed rules at the meeting held July 10, 2003; and

WHEREAS, the Recycling Board hereby finds that the adoption of a rule clearly delineating municipal eligibility to receive per capita disbursements from the Recycling Fund in instances where a municipal hauler delivers franchised wastes to an out-of-county landfill but reports and pays “in-lieu” fees to the Recycling Fund, in instances where none of a jurisdiction’s municipally-

controlled wastes are subject to the surcharge, and in instances where a municipality's controlled wastes are split between facilities where a portion of the wastes are subject to the surcharge and a portion are not, among other instances, will facilitate implementation of the Act;

NOW, THEREFORE, BE IT RESOLVED, that the Alameda County Source Reduction and Recycling Board approves and adopts the following policies, procedures and definitions:

- For those Alameda County municipalities whose participation in the Measure D system is 25% or greater, the percentage of their population used to calculate quarterly Measure D disbursements will be equal to their quarterly participation in the Measure D system. For those whose participation is 99% or greater, 100% of their population shall be used to calculate quarterly disbursements.
- Those municipalities whose participation is less than 25% will not be eligible for any per-capita Measure D municipal disbursements.

The policy includes the following definitions, clarifications and procedures:

- "Participation" refers to the percentage of municipally-controlled landfilled wastes upon which the Measure D surcharge or an equivalent amount is levied and paid into the Recycling Fund.
- "Municipally-controlled" landfilled wastes refers to the universe of landfilled wastes for which a municipality establishes rates for collection and/or disposal.
- Participation will be calculated per calendar quarter. Municipalities whose participation is less than 100% must submit (or require their contractors to submit) reports to the Recycling Board within 30 days of the end of each calendar quarter detailing the total quantities of municipally-controlled solid wastes landfilled during that quarter, broken down by disposal destination and by "paying Measure D fee" and "not paying Measure D fee." Submitted municipal reports will be used for the purpose of the quarterly disbursements and later reconciled against state-mandated disposal reports subsequently received from solid waste facilities both in- and out-of-county. Any adjustments will be applied to the next disbursement. If Agency staff is unable to reconcile discrepancies in a timely manner, the data that results in the lower payment to the municipality will be used.
- If any fully participating municipality moves to a less than 100% participation level, before any pro-rated payments are released to that municipality, that municipality must demonstrate to the Recycling Board how they will continue to support the goals and objectives of the Charter, and how they expect to at least maintain their diversion level in the future.
- All other policies and rules regarding Measure D municipal disbursements remain in effect.
- After an appropriate period of time (e.g. one year) this system will be evaluated for efficiency and functionality and any appropriate changes may be proposed.

ADOPTED BY THE FOLLOWING VOTE:

AYES: Irizarry, Lockhart, Ott, Pianin, Sly, Thomsen, Waespi, Wan, Wolff, Young

NOES: None

ABSENT: Bloom

ABSTAINED: None



Karen Smith, Executive Director