

### Committee Members

Dave Sadoff, **Chairperson**  
Castro Valley Sanitary District  
Shelia Young, **Vice Chairperson**  
Oro Loma Sanitary District  
Keith Carson, County of Alameda  
Susan Wengraf, City of Berkeley  
Don Biddle, City of Dublin  
Suzanne Lee Chan, City of Fremont  
Al Mendall, City of Hayward  
Laureen Turner, 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, October 13, 2016**

**9:00 A.M.**

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

**1. Convene Meeting**

**2. Public Comments**

An opportunity 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.

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|-----------|--|--------------------|
| <b>1</b>  | <b>3. Approval of the Draft Minutes of September 8, 2016 (Wendy Sommer)</b>  | <b>Action</b>      |
| <b>5</b>  | <b>4. Final Legislative Status for 2016 (Debra Kaufman)</b><br>Staff recommends that the P&A Committee receive this 2016 legislative status update and recommend to the full WMA Board to adopt a “no” position on Proposition 65. | <b>Action</b>      |
| <b>13</b> | <b>5. Business Assistance Program – Fiscal Year 2015-16 Highlights (Rachel Balsley &amp; Michelle Fay)</b><br>This item is for information only.   | <b>Information</b> |
| <b>17</b> | <b>6. Enforcement Update (Brian Mathews)</b><br>This item is for information only.   | <b>Information</b> |
|           | <b>7. Member Comments</b>  | <b>Information</b> |
|           | <b>8. Adjournment</b>  |                    |

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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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**DRAFT**

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

**Thursday, September 8, 2016**

**9:00 A.M.**

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

**Members Present:**

City of Berkeley	Susan Wengraf
Castro Valley Sanitary District	Dave Sadoff
City of Dublin	Don Biddle
City of Fremont	Suzanne Lee Chan
City of Hayward	Al Mendall
City of Newark	Mike Hannon
City of Oakland	Dan Kalb
Oro Loma Sanitary District	Dan Walters
City of San Leandro	Deborah Cox
City of Union City	Lorin Ellis

**Absent:**

County of Alameda	Keith Carson
City of Livermore	Laureen Turner

**Staff Present:**

Wendy Sommer, Executive Director  
Tom Padia, Deputy Executive Director  
Pat Cabrera, Administrative Services Director  
Cassie Bartholomew, Program Manager  
Chinwe Omani, Executive Assistant

**1. Convene Meeting**

Chair Dave Sadoff called the meeting to order at 9:03 a.m.

**2. Public Comments**

There were none.

**3. Approval of the Draft Minutes of June 9, 2016 (Wendy Sommer)**

**Action**

Board member Biddle made the motion to approve the draft minutes of June 9, 2016. Board member Wengraf seconded and the motion was carried 7-0 (Carson, Chan, Ellis, Kalb, and Turner absent).

**4. Financial Services Manager Position (Pat Cabrera)**

**Action**

That the Programs and Administration Committee recommend to the Authority

## DRAFT

Board to approve the new Financial Services Manager position, the accompanying job description and new monthly salary range of \$8,866 - \$10,773. Furthermore, staff is recommending that the P&A Committee recommend to the Authority Board to eliminate the Chief Financial Officer position, job description and monthly salary range of \$9,598 - \$11,661.

Pat Cabrera provided an overview of the staff report. The report is available here:

[Financial-Services-Manager-memo-09-08-16.pdf](#)

Board member Hannon inquired if a four year degree is required for the position. Ms. Cabrera stated that a four year degree is not required as a hard rule but it is preferred. Board member Chan inquired if the agency is required to have a CFO. Ms. Cabrera stated no, we are a governmental joint powers authority and as such the Finance Manager position will also function as the agency treasurer but it is not required that we have a Chief Financial Officer. Chair Sadoff inquired about the basis for the proposed salary range. Ms. Cabrera stated that the proposed salary range is closely aligned with the City of Alameda's Financial Services Manager position which was used as a comparable and it is also within the Program Manager II salary range.

Board Member Hannon made the motion to approve the staff recommendation. Board member Mendall seconded and the motion was carried 9-0 (Carson, Ellis, and Turner absent).

### 5. Smart Kitchen Initiative (Cassie Bartholomew)

### Information

This item is for information only.

Cassie Bartholomew shared the Ad Council's new Save the Food video (The Extraordinary Life and Times of Strawberry: <https://www.youtube.com/watch?v=WREXBUBrS8>

She then provided an overview of the staff report and presented a PowerPoint presentation. The report and presentation is available here: [SKI-Presentation-09-08-16.pdf](#)

Board member Mendall stated that the results are impressive and inquired if staff is confident in the accuracy of the results. Ms. Bartholomew stated that the metrics are based on accurate and consistent tracking. During data reviews, chefs are asked for a barometer of the food waste capture rate from production. Ms. Bartholomew added from the first 4-6 weeks of the program chefs are asked to track everything everyday and 2 weeks of good tracking are selected as their baseline. Board member Hannon stated that we must be mindful of kids with allergies when food sharing at schools. He added that it would be helpful to come up with a tax credit or incentive to offset the cost of the food that is donated to food banks. Finally, there needs to be a better expiration system for food, i.e. sell by, best by, etc. Ms. Bartholomew stated that there is legislation that has not been passed addressing this issue and the agency is working on this effort as well. Mr. Padia stated there is a report called the Dating Game that reports on this issue as well. Ms. Bartholomew added staff recently conducted household surveys and confusion regarding expiration dates resulted in the largest reason why food is discarded.

Board member Chan inquired if there is a plan to reach out to corporate kitchens other than Guckenheimer. Ms. Bartholomew stated yes, we are currently recruiting kitchens to participate in this fiscal year's program including corporate kitchens and other sectors such as hospitals, assisted living and hotels with onsite dining. Board member Chan inquired about the total cost of the program and inquired if staff has projected the scale of the program and anticipated costs going forward. Ms. Bartholomew stated the entire package for a small to mid scale kitchen including training cost \$4,500 for the first year. Larger kitchens can range between \$8-9,000. The total cost for last fiscal year for 15 kitchens was approximately \$60,000. Ms. Bartholomew stated that we are currently piloting the program and have not brought it to scale. We are now just working with the current limit of 10-15 kitchens with the idea that they will assume the cost going forward. Ms. Sommer added food waste is the largest single category of material

## **DRAFT**

being landfilled and the program looks promising but will be one of the projects that we will be evaluating during the priority setting process. Board member Chan inquired how food pantries can connect with companies such as LeanPath. Ms. Bartholomew stated that we are attempting to be the conduit for connecting businesses with food rescue groups and we currently partner with the Alameda County Community Food Bank that works with hundreds of smaller food pantries throughout Alameda County. We are connecting Guckenheimer with Chefs to End Hunger, a food recovery program provided by their food supplier SF Specialties. We are also partnering with Supervisor Wilma Chan's office on a county-wide initiative, 'All in to End Hunger.' They represent most of the food rescue groups in the County and they are looking at pooled grants and funding through CalRecycle and other sources.

Board member Cox stated that there is a new construction in San Leandro that should be occupied in October but she is unsure about their food provider. She added there is a non-profit shelter in San Leandro, Building Futures for Women and Children that could benefit greatly from food donations. Board member Wengraf inquired about how much of the corporation's food budget allocates for overproduction and over purchasing. Ms. Bartholomew stated they allocate for a 3-5% loss margin.

Board member Sadoff stated that he agrees that a tax write off is a good incentive and inquired if there is concern about liability with respect to food borne illnesses. Ms. Bartholomew stated yes that is one of the biggest concerns but there is also misconception and a lack of awareness around protection through the Good Samaritan Act and safe food handling requirements. Through our program with the schools, we are actively partnering with inspectors from the Alameda County Public Health Department and the Environmental Health Department to develop guidance tools for schools and restaurants that clearly outlines regulations from Cal Code around food donation. Board member Mendall inquired about second year costs if businesses opt to continue the program. Ms. Bartholomew stated it would probably cost half of the initial cost due to the lack of training required. Board member Mendall added he agrees with the expiration date issues and encouraged the agency to take a position on any pending legislation towards this effort. Ms. Sommer stated that the agency has taken a position however the legislation has not moved forward. Board member Chan added Costco makes significant food donations and encouraged food rescue agencies to contact them directly.

Chair Sadoff thanked Ms. Bartholomew for a wonderful presentation.

### **6. Member Comments**

Board member Cox stated that she would like presentations such as this to be emailed to Board members. Ms. Sommer agreed to do this and also reminded the Board that all presentations are included as links in the Board minutes. Board member Chan stated that she was in Los Angeles and they do not have an organics program. Mr. Padia stated that the city of Los Angeles does have a residential organics collection program that includes food scraps, however many jurisdictions in LA County only allow plant debris in the green bin. Board member Sadoff stated that he has been working in Kenai, Alaska and they have a zero recycling effort.

### **7. Adjournment**

The meeting adjourned at 9:50 a.m.

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**DATE:** October 13, 2016

**TO:** Programs & Administration Committee

**FROM:** Wendy Sommer, Executive Director

**BY:** Debra Kaufman, Senior Program Manager

**SUBJECT:** Final Legislative Status for 2016

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## **SUMMARY**

The second year of the 2015/16 legislative session has adjourned. This memo provides the final status of the 27 bills on which the Agency took a position. In November 2016, the Waste Management Authority Board approved three legislative priorities:

- Organics
- Extended Producer Responsibility
- Environmentally Preferable Purchasing

Staff will return in November to obtain input from the Boards on priorities for the 2017 legislative year.

## **DISCUSSION**

### Organics

Of special note at the state level this year was the emphasis on addressing organics as a way to reduce greenhouse gases, especially methane, a short lived and powerful climate pollutant. Also of note was the successful resolution of the year-long battle over the allocation of greenhouse gas reduction funds from cap and trade auctions. In the final days of the legislative session, the legislature and Governor agreed to allocate \$940 million of the funds to a variety of causes, including \$7.5 million for healthy soils and \$40 million to CalRecycle for waste diversion programs. Staff and our lobbyist advocated for these allocations.

Other relevant bills include SB 1383, which sets short-lived climate pollutant reduction goals including statewide organic recycling targets. The targets include a 50 percent reduction in the level of statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent

reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. The bill authorizes the Department of Food & Agriculture in consultation with CARB to develop regulations to achieve these targets. The regulations are also intended to meet the stated goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025.

#### Environmentally Preferable Purchasing

In the area of Environmentally Preferable Purchasing (EPP), AB 2530 requires recycled content labeling on plastic bottles and AB 1419 enables CRT glass to be recycled more readily. Both were signed by the Governor.

#### Extended Producer Responsibility

In the area of Extended Producer Responsibility (EPR), the sharps bill died fairly early in the legislative session, but a Jackson bill to limit retailers' liability who participate in pharmaceutical take back on-site was signed into law and is expected to lead to more retail locations accepting pharmaceuticals for take back.

#### Other Issues

Another important bill that we didn't take a position on, but is relevant to the work of the Agency, is the passage of SB 32. SB 32 is a companion to AB 32, which established a target of reducing greenhouse gases to 1990 levels by 2020, and the state is on target to meet that goal. SB 32 establishes a target of a 40% reduction in GHG below 1990 levels by 2030, and an 80% reduction below 1990 levels by 2050.

An issue that has risen in importance over this past legislative year is addressing problems associated with the state's historically successful beverage container deposit bill. This year, declining scrap values caused one third of the state's redemption centers to close. One of CalRecycle's top priorities in the coming year is to address the deposit legislation and also to address packaging in general. Discussions have begun on the possibility of an EPR solution for packaging, and the expectation is that this discussion will continue into next year with many stakeholders at the table.

The Board requested more information on food labeling bills at the September Committee meeting. A federal (HR 5298) and state bill (AB 2725) on this topic closely align. The summary is that existing food labels would be replaced with "best if used by" for non-perishable, non-food borne illness causing foods, and "expires on" for foods that are perishable and/or could cause food borne illness if eaten after a certain date. These new requirements would apply to food products that are labeled 2 years after enactment.

The federal bill has been referred to the Committee on Energy and Commerce and Committee on Agriculture. The state bill is dead for now, never getting out of its first committee assignment. The



author pulled the bill for lack of votes amid strong opposition from a variety of business and food industry groups.

#### Oppose Position Recommended for Proposition 65

On September 28, the Board took a support position on Proposition 67 to uphold the statewide single use plastic bag ban (SB 270). At that meeting, the WMA Board requested staff to return with a recommended position on Proposition 65. Staff is recommending an “oppose” position on Proposition 65 as this measure is sponsored by the plastics industry and widely recognized as an effort to confuse voters and dilute support for Proposition 67. Proposition 65 requires that the fees collected for paper and reusable plastic bags be directed to an environmental fund for unknown purposes. The text of Proposition 65 is included as Attachment A.

If 67 fails, there will be no statewide ban on single-use plastic bags. If 67 passes and 65 passes with a greater number of “yes” votes than 67, then the statewide ban will stand but fees collected at checkout counters for paper and reusable plastic bags will not be retained by retailers. This is contrary to existing local bag ordinances, which allow the retailers to retain these fees. If 67 fails and 65 passes, then revenue from any future statewide law similar to SB 270 would be directed to environmental programs. The State Legislative Analyst’s Office notes that a provision of 65 could be interpreted by the courts as preventing SB 270 from going into effect at all. Neither proposition will impact our Agency’s current ordinance or planned expansion.

#### **Final Status of Bills the Agency took positions on in 2016**

Bills in bold are the ones signed by the Governor.

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| 1. <b><u>AB 1103</u></b> (Dodd) Organics. Watch<br>Status: Signed by the Governor  | 6. <u>SB 778</u> (Allen) Oil change frequency<br>information. Support<br>Status: Dead   |
| 2. <b><u>AB 2396</u></b> (McCarty) Annual Reports<br>for State Agencies. Support<br>Status: Signed by the Governor       | 7. <b><u>SB 970</u></b> (Leyva) GHG grants for in state<br>recycled product manufacturing.<br>Support<br>Status: Signed by Governor |
| 3. <b><u>AB 2530</u></b> (Gordon) Plastic bottle<br>recycled content labeling. Support<br>Status: Signed by the Governor | 8. <b><u>SB 1229</u></b> (Jackson) Secure drug take-<br>back bins. Support<br>Status: Signed by Governor                            |
| 4. <b><u>AB 2812</u></b> (Gordon) Recycling in state<br>facilities. Support<br>Status: Signed by Governor                | 9. <b><u>AB 1005</u></b> (Gordon) Bottle Bill. Support<br>Status: Signed by Governor  |
| 5. <b><u>SB 423</u></b> (Bates) Standards for handling<br>of nonprescription drugs. Watch<br>Status: Signed by Governor  | 10. <b><u>AB 2153</u></b> (Garcia) Lead Acid Battery<br>EPR. Support<br>Status: Signed by the Governor                              |

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|---|--|
| <p>11. <u>AB 761</u> (Levine) Carbon sequestration.<br/>Support<br/>Status: Dead</p> <p>12. <u>AB 1063</u> (Williams) Solid Waste Tip<br/>Fee. Watch<br/>Status: Dead</p> <p>13. <u>AB 1239</u> (Gordon) Tire recycling.<br/>Support<br/>Status: Dead</p> <p>14. <u>SB 367</u> (Wolk) Incentives for farmers to<br/>use compost and reduce GHG. Support<br/>Status: Dead</p> <p>15. <u>SB 1233</u> (McGuire) Water Bill Savings<br/>for water efficiency measures. Support<br/>Status: Dead</p> <p>16. <u>AB 45</u> (Mullin) HHW. Oppose. This bill<br/>prioritized funding for door-to-door<br/>HHW collection and had no extended<br/>producer responsibility element. It<br/>was opposed by many local<br/>governments as it provided no<br/>financial assistance for existing HHW<br/>programs.<br/>Status: Dead</p> <p>17. <u>AB 2579</u> (Low) Food service packaging.<br/>Watch<br/>Status: Dead</p> <p>18. <u>AB 2111</u> (Dahle) HHW. Watch<br/>Status: Dead</p> | <p>19. <u>AB 2525</u> (Holden) Water Efficient<br/>Landscaping. Support<br/>Status: Dead</p> <p>20. <u>AB 2576</u> (Gray) Market Development<br/>for glass. Support<br/>Status: Dead</p> <p>21. <u>SB 1043</u> (Allen) Biogas funding Watch<br/>Status: Dead</p> <p>22. <u>SB 1402</u> (Pavley) Low carbon fuels.<br/>Support<br/>Status: Dead</p> <p>23. <u>AB 2039</u> (Ting) Sharps EPR. Support<br/>Status: Dead</p> <p>24. <u>AB 2725</u> (Chiu) Food labeling<br/>consistency. Support<br/>Status: Dead.</p> <p>25. <u>SB 1346</u> (Allen) Electronic Delivery of<br/>Medication Guides option. Support<br/>Status: Dead</p> <p>26. <u>SB 1383</u> (Lara) Organics reduction<br/>goals: <b>Support</b><br/><b>Status: Signed by Governor</b></p> <p>27. <u>AB 1419</u> (Eggman) CRT glass recycling<br/><b>Support</b><br/><b>Status: Signed by Governor</b></p> |
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## RECOMMENDATION

Staff recommends that the P&A Committee receive this 2016 legislative status update and recommend to the full WMA Board to adopt a “no” position on Proposition 65.

## Attachment A: Proposition 65 text

PROPOSITION  
**65** CARRYOUT BAGS. CHARGES.  
INITIATIVE STATUTE.

## OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Redirects money collected by grocery and certain other retail stores through sale of carryout bags, whenever any state law bans free distribution of a particular kind of carryout bag and mandates the sale of any other kind of carryout bag.
- Requires stores to deposit bag sale proceeds into a special fund administered by the Wildlife Conservation Board to support specified categories of environmental projects.
- Provides for Board to develop regulations implementing law.

**SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:**

- Potential state revenue of several tens of millions of dollars annually under certain circumstances. Revenue would be used to support certain environmental programs.

## ANALYSIS BY THE LEGISLATIVE ANALYST

## BACKGROUND

**Carryout Bag Usage.** Stores typically provide their customers with bags to carry out the items they buy. One type of bag commonly provided is the "single-use plastic carryout bag," which refers to a thin plastic bag used at checkout that is not intended for continued reuse. In contrast, "reusable plastic bags" are thicker and sturdier so that they can be reused many times. Many stores also provide single-use paper bags. Stores frequently provide single-use paper and plastic carryout bags to customers for free, and some stores offer reusable bags for sale. Each year, roughly 15 billion single-use plastic carryout bags are provided to customers in California (an average of about 400 bags per Californian).

**Many Local Governments Restrict Single-Use Carryout Bags.** Many cities and counties in California have adopted local laws in recent years restricting or banning single-use carryout bags. These local laws have been implemented due to concerns about how the use of such bags can impact the environment. For example, plastic bags can contribute to litter and can end up in waterways. In addition, plastic bags can be difficult to recycle because they can get tangled in recycling machines. Most of these local laws ban single-use plastic carryout bags at grocery stores, convenience stores, pharmacies, and liquor stores. They also usually require the store to charge at least 10 cents for the sale of any carryout bag. Stores are allowed to keep the resulting revenue. As of June 2016, there were local carryout bag laws in about 150 cities and counties—covering about 40 percent of California's population—mostly in areas within coastal counties.

**Statewide Carryout Bag Law.** In 2014, the Legislature passed and the Governor signed a statewide carryout bag law, Senate Bill (SB) 270. Similar to many local laws, SB 270 prohibits most grocery stores, convenience stores, large pharmacies, and liquor stores in the state from providing single-use plastic

carryout bags. It also requires a store to charge customers at least 10 cents for any carryout bag that it provides at checkout. Certain low-income customers would not have to pay the charge. Under SB 270, stores would retain the revenue from the sale of the bags. They could use the proceeds to cover the costs of providing carryout bags, complying with the measure, and educational efforts to encourage the use of reusable bags. These requirements would apply only to cities and counties that did not already have their own carryout bag laws as of the fall of 2014.

**Referendum on SB 270.** Under the State Constitution, a new state law can be placed before voters as a referendum to determine whether the law can go into effect. A referendum on SB 270 qualified for this ballot (Proposition 67). If the referendum passes, SB 270 will go into effect. If it does not pass, SB 270 will be repealed.

## PROPOSAL

**Redirects Carryout Bag Revenue to New State Environmental Fund.** This measure specifies how revenue could be used that resulted from any state law that (1) prohibits giving certain carryout bags away for free and (2) requires a minimum charge for other types of carryout bags. Specifically, this measure requires that the resulting revenue be deposited in a new state fund—the Environmental Protection and Enhancement Fund—for various environmental purposes rather than be retained by stores. The fund would be used to support grants for programs and projects related to (1) drought mitigation; (2) recycling; (3) clean drinking water supplies; (4) state, regional, and local parks; (5) beach cleanup; (6) litter removal; and (7) wildlife habitat restoration. The measure allows a small portion of these funds to be used for grant administration and biennial audits of the programs receiving funds.

## ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

**Other Provisions.** Additionally, the measure allows local governments to require that money collected from local carryout bag laws go to the new state fund rather than allowing that revenue to be kept by stores. It also includes a provision regarding the implementation of this measure and any other carryout bag measure on this ballot. This provision could be interpreted by the courts as preventing Proposition 67 (the referendum on SB 270) from going into effect. This provision would only have an effect if both measures pass and this measure (Proposition 65) gets more "yes" votes. However, this analysis assumes that in this situation the provisions of Proposition 67 not related to the use of revenues—such as the requirement to ban single-use plastic carryout bags and charge for other bags—would still be implemented.

## FISCAL EFFECTS

If the requirements of this measure (that there is a state law prohibiting giving certain carryout bags away for free and requiring a minimum charge for other bags) are met, then there would be increased state revenue for certain environmental programs. This revenue could reach several tens of millions of dollars annually. The actual amount of revenue could be higher or lower based on several factors, particularly future sales and prices of carryout bags.

At the present time, there is no state law in effect that meets this measure's requirements. As such, there would be no fiscal effect as long as that continued. As noted earlier, however, Proposition 67 on this ballot would enact such a state law. If both Proposition 67 and this measure (Proposition 65) pass, the impact on the state would depend on which one receives the most votes:

- **Proposition 67 (Referendum) Receives More Votes.** In this situation, revenue collected by the stores

would be kept by the stores and there would not be a fiscal impact on the state related to Proposition 65.

- **Proposition 65 (Initiative) Receives More Votes.** In this situation, any revenue collected by stores from the sale of carryout bags would be transferred to the new state fund, with the increased state revenue used to support certain environmental programs.

In addition, if only this measure passes and Proposition 67 fails (which means there would not currently be a statewide law to which this measure would apply), there could still be a fiscal impact if a state carryout bag law was enacted in the future. Figure 1 shows how this measure would be implemented differently depending on different voter decisions.

Visit <http://www.sos.ca.gov/measure-contributions> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html> to access the committee's top 10 contributors.

Figure 1  
**Implementation of Proposition 65  
Would Be Affected by Outcome of Referendum**

	Proposition 67 (SB 270 Referendum) Passes	Proposition 67 (SB 270 Referendum) Fails
Proposition 65 (Initiative) Passes	Statewide carryout bag law in effect. Use of revenues from sale of carryout bags depends on which proposition gets more votes: <ul style="list-style-type: none"> <li>• If more "yes" votes for referendum, revenue is kept by stores.</li> <li>• If more "yes" votes for initiative, revenue goes to state for environmental programs.<sup>a</sup></li> </ul>	No statewide carryout bag law. Revenue from any future statewide law similar to SB 270 would be used for environmental programs.
Proposition 65 (Initiative) Fails	Statewide carryout bag law in effect and revenue from the sale of carryout bags is kept by stores.	No statewide carryout bag law.

Alternatively, a provision of Proposition 65 could be interpreted by the courts as preventing Senate Bill (SB) 270 from going into effect at all.

65

★ ARGUMENT IN FAVOR OF PROPOSITION 65 ★

**STOP THE SWEETHEART BAG TAX DEAL. HELP THE ENVIRONMENT**

Proposition 65 is needed to STOP grocery stores from keeping all the money collected from carryout bag taxes as profit instead of helping the environment.

Grocery stores stand to gain up to \$300 million in added profits each and every year unless you vote yes on Prop. 65.

That money should be dedicated to the environment, not more profits for corporate grocery chains.

Proposition 65 will STOP THE SWEETHEART DEAL WITH GROCERY STORES and dedicate bag fees to worthy environmental causes.

**A SWEETHEART DEAL IN SACRAMENTO**

Who in their right mind would let grocery stores keep \$300 million in bag fees paid by hardworking California shoppers just trying to make ends meet? The State Legislature!

In a sweetheart deal put together by special interest lobbyists, the Legislature voted to let grocery stores keep bag fees as *extra* profit.

The grocery stores will get \$300 million richer while shoppers get \$300 million poorer.

**SHAME ON THE LOBBYISTS AND LEGISLATORS**

The big grocery store chains and retailers gave big campaign contributions to legislators over the past seven years.

And legislators rewarded them with \$300 million in new profits—all on the backs of shoppers.

Stop the sweetheart special interest deal . . . VOTE YES ON PROP. 65.

**A BETTER WAY TO HELP THE ENVIRONMENT**

You can do what the legislators should have done—dedicate these bag fees to real projects that protect the environment.

Proposition 65 dedicates the bag fees to environmental projects like drought relief, beach clean-up and litter removal.

It puts the California Wildlife Conservation Board in control of these funds, not grocery store executives, so Californians will benefit.

**PROTECT THE ENVIRONMENT. STOP THE SWEETHEART DEAL AND HIDDEN BAG TAX.**

VOTE YES ON PROP. 65.

**THOMAS HUDSON**, Executive Director  
California Taxpayer Protection Committee

**DEBORAH HOWARD**, Executive Director  
California Senior Advocates League

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 65 ★

The *San Jose Mercury News* calls Proposition 65 a “tricky strategy” and adds “Prop. 65 deserves consideration as one of the most disingenuous ballot measures in state history.”

The out-of-state plastic manufacturers behind Prop. 65 don’t care about protecting California’s environment. They want to confuse you. Don’t be fooled.

Bags aren’t free; they cost your local grocer up to 15 cents each. The out-of-state plastic bag industry figures are bogus. The state’s nonpartisan analysis projects that total revenue from Prop. 65 is in the range of “zero” to, at best, \$80 million.

Remember: there will be “zero” funding for the environment from Prop. 65 unless voters approve Prop. 67 to phase out plastic bags.

But the plastic manufacturers behind Prop. 65 are spending millions to persuade voters to oppose Prop. 67. Confused? That’s the plastic industry’s plan!

If you care about protecting wildlife and standing up to the out-of-state plastic bag industry, Vote Yes on Prop. 67, not this measure.

If you care about reducing plastic pollution, litter and waste, Vote Yes on Prop. 67, not this measure.

If you care about reducing taxpayer costs for cleaning up plastic litter, Vote Yes on Prop. 67, not this measure.

**MARK MURRAY**, Executive Director  
Californians Against Waste

## ★ ARGUMENT AGAINST PROPOSITION 65 ★

## THE SOLE PURPOSE OF PROP. 65 IS TO CONFUSE VOTERS

Prop. 65 promises a lot but—in reality—will deliver little for the environment. It was placed on the ballot by four out-of-state plastic bag companies who keep interfering with California's efforts to reduce plastic pollution.

65 is without real significance, designed to distract from the issue at hand: phasing out plastic shopping bags. All 65 would do is direct funding from the sale of paper bags (an option under the plastic bag ban) to a new state fund. The money for this fund is a drop in the bucket and will shrink over time as people adjust to bringing reusable bags.

## TO ACTUALLY PROTECT OUR ENVIRONMENT, VOTE YES ON 67

*The priority for California's environment this election is to reduce harmful plastic pollution by voting Yes on Prop. 67. This will continue efforts to keep wasteful plastic shopping bags out of our parks, trees, neighborhoods and treasured open spaces.*

Prop. 65 is not worth your vote. Make your voice heard on the more important issues and uphold California's vital plastic bag ban further down the ballot.

**MARK MURRAY**, Executive Director  
Californians Against Waste

## ★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 65 ★

The opponents of Prop. 65 want to dismiss it as "of no real significance".

**YOU DECIDE: IS A \$300 MILLION MONEY GRAB BY GROCERY STORES NOT SIGNIFICANT?**

Without Prop. 65, not one penny of the \$300 million customers will be required to pay if California's ban on plastic bags goes into effect will help the environment.

All \$300 million will go to grocery store profits.  
**THAT'S \$300 MILLION EVERY YEAR!**

**VOTE YES ON 65—STOP THE SWEETHEART GIVEAWAY TO GROCERS.**

In a sweetheart deal put together by special interest lobbyists, the Legislature voted to BAN plastic bags and REQUIRE grocery stores keep bag fees as profit.

Their "plastic bag ban" REQUIRES grocery stores to charge every consumer given a bag at check-out no less than 10 cents per bag.

They could have banned plastic bags without a fee or dedicated fees to environmental projects.

They didn't.

Instead, they made grocery stores \$300 million richer and shoppers \$300 million poorer every year.

**A BETTER WAY TO PROTECT THE ENVIRONMENT.**

You can do what the Legislature should have done—dedicate bag fees to projects that protect the environment.

Prop. 65 dedicates bag fees to environmental projects like drought relief, beach clean-up and litter removal.

It puts the California Wildlife Conservation Board in control of these funds, not grocery store executives.

**PROP. 65 WILL DEDICATE BAG FEES TO THE ENVIRONMENT.**

It's simple and significant.

Join us—vote YES.

**THOMAS HUDSON**, Executive Director  
California Taxpayer Protection Committee

**DEBORAH HOWARD**, Executive Director  
California Senior Advocates League



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**DATE:** October 13, 2016

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

**FROM:** Wendy Sommer, Executive Director

**BY:** Rachel Balsley, Senior Program Manager  
Michelle Fay, Program Manager

**SUBJECT:** Business Assistance Program – Fiscal Year 2015-16 Highlights

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## SUMMARY

This memo serves to provide a summary of the Business Assistance program and highlights some of the achievements as detailed in the StopWaste Business Assistance Program Fiscal Year 2015-16 Annual Report. A full copy of the report is available at: [2015-16 Annual Report.pdf](#). Staff will also share a brief presentation at the October 13, 2016 Programs & Administration meeting.

## DISCUSSION

The StopWaste Business Assistance program (formerly “The StopWaste Partnership”) has provided waste reduction and diversion assistance to Alameda County businesses since 1998. Until 2011, the program primarily served only large businesses. Over the last several years, the Business Assistance program has evolved to address the changing needs of businesses as they seek to comply with ACWMA’s Mandatory Recycling Ordinance 2012-01, effective July 1, 2012. To align with the Mandatory Recycling Ordinance (MRO), the StopWaste Business Assistance program expanded its services to include all businesses covered by the Ordinance, regardless of garbage volume, and as of FY 2014-15 also provides organics collection assistance to multi-family properties. Efforts are focused on building awareness of the ordinance and helping covered accounts comply with the ordinance requirements.

The technical assistance provided is in addition to enforcement-related direct communication and general ordinance outreach through direct mail sent to account holders with new requirements, as well as communications through chambers of commerce, business associations, and other media outlets. In many jurisdictions, assistance is also provided by hauler or member agency staff.

### Overview of Contractors and Services

After a competitive RFP process in spring 2014, Cascadia Consulting Group was contracted to provide technical assistance and implement new or increased recycling and organics services at businesses and multi-family properties located in jurisdictions participating in the MRO.

Businesses are targeted in two primary ways:

1. Through enforcement referrals after official notification or warning letters are issued
2. Upon direct request for assistance submitted through the Ordinance Help Line or website

Participating properties are offered free on-site waste assessments, customized reports with recommended service levels and cost savings estimates, communication with service providers to coordinate new recycling or organics collection service, staff training, and follow-up assistance after new services are implemented. Cascadia business 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.

#### Technical Assistance Highlights from the Past Year

- In FY 2015-16, the Business Assistance program reached 1,286 businesses and 54 multi-family through direct contact made by the team or in response to requests for assistance submitted to the Agency.
- Of the businesses reached, approximately 739 were provided with at least some level of assistance, ranging from phone or email support to on-site waste assessments, reports and trainings. Not surprisingly, member agencies with new ordinance requirements effective in the last year had higher numbers of businesses requesting and taking the offer of assistance.
- A total of 209 documented services changes were implemented to begin new or expanded recycling and/or organics collection programs at businesses. An increasing number of accounts worked with already have the appropriate services in place, but need support to improve their programs with staff trainings, indoor containers, and/or color-coded signage.
- These service changes resulted in an estimated 10,490 cubic yards or 634 tons of new diversion in FY 2015-16. By volume, 78% of the new diversion was single stream recycling and 22% was from food scraps/organics collection. By weight, however, the new diversion was 71% organics and 29% recycling since organics weigh significantly more than single stream recyclables.
- Of the businesses that were contacted but did not utilize our assistance (574 or 43%), approximately half informed the representative that they initiated compliance measures on their own and/or directly with their service provider as a result of receiving communication about the MRO. The remaining approximately half simply declined assistance or did not respond to the representative's contact attempts.
- Of the 54 multi-family accounts reached, 12 multi-family properties added new organics and/or recycling service. While the reach to multi-family properties was small compared to business assistance efforts, multi-family property managers and owners often receive assistance directly from their service providers.
- Nearly half (48%) of businesses and multi-family complexes that made service changes saw an increase in their garbage bill, 25% realized a cost savings, and 27% had no change in cost. On average, bills were increased by \$66 per year.
- The addition of the use of tablet computers for on-site waste assessments and site visits has improved efficiency of the business assistance representatives.
- The Rethink Disposable program was integrated with StopWaste Business Assistance outreach. Businesses with opportunities to reduce single-use food service ware were identified during



MRO site assessments, and implementation assistance was provided directly by Cascadia staff.

#### Free Indoor Food Scrap Bin Program

In addition to technical assistance, the StopWaste Business Assistance project offered free indoor organics collection containers valued up to \$500 per approved business. The Free Indoor Food Scrap Bin Program was implemented in December 2014 and replaced the Business Mini-Grant Program. Typically, haulers provide the outdoor organics collection carts or bins to accounts but it is left up to each business to set up their own internal separation system, including indoor collection bins.

The Free Food Scrap Bin Program was designed to expand the Agency's reach to businesses in need of indoor organics bins. Businesses complete a simple online application at [www.RecyclingRulesAC.org/containers](http://www.RecyclingRulesAC.org/containers), and if approved, select green containers from a variety of options from one of three partner vendors. StopWaste covers the cost of the order up to \$500, including taxes and shipping. These containers are often placed in break rooms, work stations, and kitchens to help employees keep food scraps and food-soiled paper separate from garbage.

A total of 374 business sites were approved in FY 2015-16 to receive free indoor organics bins. Of the approved applications, 246 businesses completed the process and ordered equipment valued at approximately \$90,000 for FY 2015-16 with an average order amount of \$366 per business. Business assistance representatives reported that the program was an efficient way for them to connect with willing candidates for organics program set-up assistance, as well as for businesses to more comprehensively set up their indoor collection infrastructure.

#### Looking Ahead

The FY 2016-17 Business Assistance project incorporates an increased focus on delivering quality customer service, reducing the response time between technical assistance activities to move properties through the process more efficiently, and improving the quality of participation in waste diversion programs. With thousands of Administrative Official Notifications planned to be mailed to businesses in FY 2016-17, in addition to a continued level of enforcement inspections, the Business Assistance team anticipates an increased number of direct requests for assistance.

The Free Indoor Food Scrap Bin Program is expected to see a significant increase in participation over the next year as organics requirements become effective in more cities and multi-family properties begin to utilize the assistance. New for 2016-17, the program is offered to multi-family property managers and owners to purchase containers in common areas such as lobbies and chute rooms, or to purchase in-unit kitchen pails if unavailable from their city or service provider. In the first quarter of 2016-17 alone, 312 business and multi-family sites were approved for free bins.

Emphasis will be placed on reaching more multi-family properties, particularly large multi-family property management companies with multiple sites that could use organics set-up assistance.

An RFP process is scheduled for spring 2017 to solicit proposals for consulting services for the Business Assistance project. The project team generally conducts an RFP process for business assistance services every three years.

#### **RECOMMENDATION**

This report is for information only.

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**DATE:** October 13, 2016

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

**FROM:** Wendy Sommer, Executive Director

**BY:** Brian Mathews, Senior Program Manager & Enforcement Officer

**SUBJECT:** Enforcement Update

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## **SUMMARY**

This memo provides an update on activities related to the enforcement of Alameda County Waste Management Authority ordinances. The Board requested that staff provide an annual update on the prior year's enforcement activities. This year the update will occur at the Board committee meetings on October 13, 2016.

## **BACKGROUND**

The agency's enforcement approach is to emphasize education and technical assistance prior to taking any enforcement action and this is reflected in how resources are allocated. The progressive enforcement approach means multiple opportunities are given to the regulated party, including coordinated offers of assistance from the city, hauler, and the Authority, before penalties are assessed.

There are four projects that have an enforcement component to them: Waste Prevention - Reusable Bag Implementation; Mandatory Recycling Ordinance Implementation; Household Hazardous Waste Facilities; and Fee Enforcement. Of the four, the majority of the enforcement budget will be spent on Mandatory Recycling (\$1,096,685) and Fee Enforcement (\$417,046). The Reusable Bag expansion enforcement activities will not take effect until next year, so only a small amount (\$35,000) is budgeted for this year.

## **MANDATORY RECYCLING ORDINANCE**

The table on the next page lists the number of covered accounts in each jurisdiction and their compliance status based on the most recent inspection (inspections as of September 16, 2016). The table also lists the citations issued in each jurisdiction. Approximately one-third of the accounts listed in the "No Violations Noted" column are smaller cart accounts that have not yet been inspected. The other two-thirds are larger commercial accounts that have been physically inspected or multi-family accounts that have been physically inspected or administratively reviewed for compliance (multi-family

accounts cannot be cited for incorrect disposal of materials, only for failure to provide recycling and/or organics service).

#### Enforcement Activities by Member Agency

Member Agency	No Violations Noted	# of Accounts out of Compliance	Total # of Citations
Alameda	1,404	34	15
Alameda County	134	14	0
Albany	362	4	1
Berkeley	1,813	136	3
Castro Valley	560	21	7
Dublin	N/A		
Emeryville	425	14	4
Fremont	2,457	269	65
Hayward	3,204	204	14
Livermore	1,319	63	23
Newark	536	86	3
Oakland	7,521	1,148	89
Oro Loma (L1)	N/A		
Oro Loma (L2 & L3)	522	75	8
Piedmont	40	0	0
Pleasanton	350	57	36
San Leandro	1,347	144	18
Union City	754	19	8
<b>Grand Total</b>	<b>22,748</b>	<b>2,288</b>	<b>294</b>
<b>%</b>	<b>91%</b>	<b>9%</b>	

Under the Mandatory Recycling Ordinance, progressive enforcement means regulated parties are given several notices before a citation is issued. The inspection frequency is also adjusted based on compliance history. A business or multi-family property that has two consecutive inspections without violation is inspected less frequently (annually), while a regulated party that has consecutive violations is inspected at increasingly shorter intervals with the objective of bringing them into compliance sooner. The objective is compliance, not penalties.

Official Notification is the first step in the progressive enforcement process to inform the regulated community of obligations under the Ordinance. Notifications are currently being sent in batches of several hundred per week via First Class Mail to all businesses that have not yet received an Enforcement letter. These letters officially inform them of the Ordinance requirements and are not the result of an observed violation.

The Ordinance became effective on July 1, 2012 with jurisdictions participating at different levels and on different schedules. The Authority began issuing citations in August of 2015. Each citation is reviewed and approved by the member agency Primary Enforcement Representative before it is issued. To date, 294 citations have been processed and are either closed, delinquent, or open. Most violations are for

not having recycling service and disposing of recyclable materials in the garbage. Three Mandatory Recycling Ordinance citations have been appealed by the cited parties and all have been upheld.

### **REUSABLE BAGS**

The Reusable Bag Ordinance (ACWMA 2012-02) (RBO) became effective January 1, 2013. The ordinance affects approximately 1,274 retail stores in Alameda County. They include grocery stores, pharmacies, convenience stores that sell milk, bread, soda and snack food, and liquor stores.

After inspecting all covered stores in the first year and a half of the Ordinance, enforcement has focused on those stores which were out of compliance for the most egregious violations: distributing single use bags, not charging at least \$0.10 per bag, and/or not itemizing the bag charge on a customer's receipt. We also inspected 10% of the compliant stores to maintain an enforcement presence and prevent back-sliding of compliance within the regulated community, as well as conducting inspections in response to non-compliance reports submitted online via [www.ReusableBagsAC.org](http://www.ReusableBagsAC.org). The current compliance rate is 95% based on the rates of compliance from maintenance and warning inspections.

#### **Bag Ordinance Enforcement Activity to Date**

<b>Activity</b>	<b>Count</b>
Regulated Parties	1,274
Warning Inspections Conducted	123
"Maintenance" Inspections Conducted	130
Stores with continued noncompliance	66
Compliance rate of all stores	94.8%

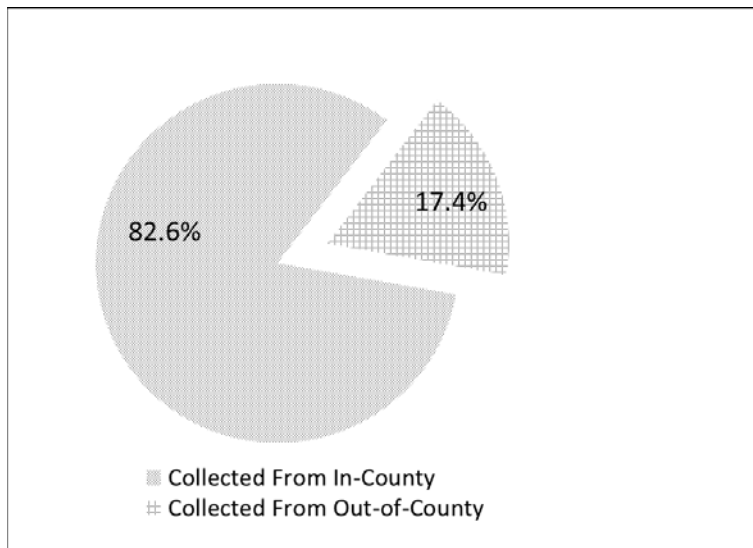
With the adoption of the expanded ordinance, there will be a large increase in covered stores (13,000 new stores). The ten-fold increase in covered accounts along with the change to a complaint based enforcement program will require adjustments to the implementation of the ordinance. Staff recommends compiling and responding to a years' worth of complaints prior to consideration of broadening the enforcement effort with a random inspection protocol. Allowing a year for an "assessment period" would be the most cost effective and prudent use of Agency resources prior to revising/enhancing a complaint based inspection process.

### **FACILITY FEE COLLECTION**

The Authority's facility fee of \$4.34 per ton landfilled applied historically only to 'disposed tons' (mostly, conventional waste from residences and businesses) at landfills in Alameda County, or disposed tons hauled by franchised haulers to out-of-county landfills.

The Authority Board adopted the Facility Fee Ordinance (ACWMA Ord. 2009-01) in 2009 in order to provide clear administrative procedures for enforcing collection of the facility fee. Prior to adopting the ordinance, the only means of enforcing the fee was by litigation. The chart below illustrates the relative amount of waste to which the facility fee applies in-county versus out-of-county. The chart is based on

calendar year 2015 and may not reflect the actual tons due to adjustments made for misreported, misclassified waste, or fraudulent disposal activity.



The Facility Fee enforcement effort is targeted toward collection of the \$4.34 Facility Fee on waste that is transported by non-franchised haulers and landfilled outside the county. For 2015, if 100% could be collected the amount would be \$854,730. However, due to certain limitations the amount actually collected is lower. Limitations include the number of landfills which cooperate by providing the disposal information versus those that don't, misallocation of waste to Alameda County, misreporting of disposal tonnage, and misclassification of waste. Last year the legislature passed AB-901, which requires landfills to disclose their customer information to local jurisdictions for the purpose of fee collection. The majority of landfills cooperate, three don't. The disposal tonnage represented by the non-cooperating landfills is 28% of the out of county disposal. Regardless, approximately 8% of fees owed on the tons disposed at uncooperative landfills is voluntarily paid, leaving a deficit of approximately \$170,000.

The remaining cooperative landfills make up 72% of the out-of-county disposal. For 2015 fees owed, the enforcement staff is taking action to collect approximately \$411,860. The remaining amount is uncollectable for the reasons stated above. As more voluntary payments are made, staff will review the procedures and methods to secure the fees which support agency operations and the solid waste infrastructure of the county.

#### **Household Hazardous Waste and Plant Debris Landfill Ban Ordinances**

The Household Hazardous Waste ordinance is a fee collection activity with a limited number of regulated parties. No enforcement action has been initiated since its adoption, and if enforcement is needed resources from the Facility Fee enforcement will be used. The Plant Debris Landfill Ban ordinance is monitored and enforced as part of the Mandatory Recycling Ordinance implementation.

#### **RECOMMENDATION**

This report is for information only.