



**DATE:** November 3, 2014

**TO:** Alameda County Recycling Board

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

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

**SUBJECT:** Accumulated Measure D Fund Balances Exceeding Policy Threshold –  
Revision of Policy Adopted in 2006

StopWaste staff was directed by the Recycling Board to present options for changing Board policy on the maximum dollar amount of accumulated, unspent Measure D funds that municipalities are allowed before becoming ineligible for further disbursements, absent a Board-approved plan to spend down the balance. Options for consideration are presented in this memo.

**BACKGROUND**

The County Charter (Measure D) directs that 50% of Recycling Fund revenues (from the \$8.23 per ton landfill surcharge) “...shall be disbursed on a per capita basis to municipalities for the continuation and expansion of municipal recycling programs.” (Subsection 64.060(B)(1)).

At the November 9, 2006 meeting the Recycling Board adopted Resolution #RB 2006-12 (copy attached), establishing rules regarding municipal accounting of Measure D revenues and expenditures, and eligibility to receive further disbursements when a specified unspent fund balance threshold is exceeded. These new rules took effect July 1, 2007 for the 2007/2008 fiscal year. Specifically, the policy states:

Any municipality receiving per capita disbursements of Recycling Fund monies under the Alameda County Waste Reduction and Recycling Act, Section 64.060, shall present to the Board for its approval a written expenditure plan if, at the end of any fiscal year, that municipality has an unspent balance of such monies that exceeds the sum of the municipality’s last eight quarterly Recycling Fund per capita disbursements.

If the municipality fails to provide that written plan or the Board does not approve that plan, the municipality shall be ineligible to receive further disbursements per Section 64.060. The municipality shall not be eligible for further disbursements until the required plan is submitted and approved by the Board and all such forfeited monies shall be disbursed to the remaining eligible municipalities on a per capita basis.

Two jurisdictions have reported accumulated fund balances exceeding the policy threshold since the policy took effect – the City of Hayward for FY 2007/2008 and more recently, the City of Livermore for FY 2012/2013. Each submitted expenditure plans that were approved by the Recycling Board and each remained eligible for ongoing

quarterly per capita allocations. Several other jurisdictions at times have accumulated fund balances just below the threshold.

### **REQUEST BY CITY OF LIVERMORE**

At the February 13, 2014 meeting the Recycling Board approved the expenditure plan submitted by the City of Livermore. As part of their submittal, Livermore staff asked for Recycling Board review and possible revision of the policy on unspent fund balances, and the Board directed staff to return in 2014 with options for revising the Fund Balance Threshold. Livermore staff had proposed increasing the threshold to the sum of the last four years' allocations (16 quarterly disbursements).

### **DISCUSSION**

The purpose of the Board policy on accumulated fund balances is to ensure that Recycling Fund monies are used consistently to continue and expand municipal waste reduction programs. The threshold of two years' worth of allocations (the last eight quarterly disbursements) was originally selected as the upper bound of what seemed a "reasonable" cushion of accumulated, unspent funds, absent a specific need for large capital expenditures or startup costs of a new program. At the time the policy was adopted, the economy was healthy and growing and Measure D revenues were relatively stable. Since then, the bursting of the housing bubble and the subsequent recession, waste reduction in general, and other factors have resulted in a decline in the amount of annual per capita allocations to the member agencies. In FY 2007/2008, the first year that the policy went into effect, annual per capita allocations were approximately \$4.00. In FY 12/13 the annual per capita allocations were approximately \$2.90 and FY 13/14 will be in the range of \$2.75. Such declines create a "moving target" in terms of the sum of the last two years' allocations (and a steadily lower threshold over time).

Some options for the Board to consider in revising this policy include (see Table 1):

Option 1: Increasing the number of prior quarterly disbursements comprising the threshold, as suggested by City of Livermore staff. The sum of the last 8 quarters could be increased to 12. This would still be a "moving target" but one at a higher level than the current threshold.

Option 2: Changing the threshold to a fixed dollar amount for each jurisdiction (i.e. the amount would be different for each jurisdiction) that would not change over time. The threshold for each member agency could be determined by the sum of the last 8 (Option 2a) or 12 (Option 2b) quarterly disbursements, but once set, would not change.

Option 3: Changing the threshold to a fixed per capita amount. Since per capita allocations in FY 07/08 (the first year that the current policy was in effect) were approximately \$4.00 and two years of allocations at that level would be approximately \$8.00, the threshold could be \$8.00 per capita (Option 3a), using the population estimates upon which the most current allocations are based. Adjusting for inflation since FY07/08, the threshold could be somewhat higher -- about \$9.28 per capita (Option 3b). Either of these would result in a slightly moving target (assuming population changes over time), but one that would be more predictable and also one tied both to the level of allocations and to the need for funding. A threshold of \$8.00 per capita would translate into approximately the sum of the last 11 quarterly disbursements at this time. A threshold of \$9.28 per capita would translate into approximately the sum of the last 13 or 14 quarterly disbursements at this time.

Option 4: Changing the threshold to \$10 per capita, which would be equivalent to 14 or 15 prior quarterly disbursements. It has the advantage of being easy to calculate, of increasing if a city is growing, and of not declining as the landfill tonnage and Recycling Fund disbursements decline. It also allows for several years of inflation from today, so that inflation will not be an issue for several years at least.

**Table 1 – Accumulated Fund Balance Threshold Options**

Jurisdiction	Reported Fund Balance – End of FY 13/14	Current Threshold – Last 8 Qtrs. (Option 2a)	Last 12 Quarters (Option 1 and 2b)	Population Used to Calculate April-June 2014 Allocation	\$8 Per Capita – Status Quo at policy adoption (Option 3a)	\$9.28 Per Capita – 2007 Status Quo adj. for inflation (Option 3b)	\$10 Per Capita – (Option 4)
Alameda	-0-	\$ 420,509	\$ 631,207	75,988	\$607,904	\$705,169	\$759,880
Albany	\$94,816	\$ 103,916	\$ 152,690	18,472	\$147,776	\$171,420	\$184,720
Berkeley	\$93,810 (draft)	\$ 647,208	\$ 955,085	117,372	\$938,976	\$1,089,212	\$1,173,720
Castro Valley SD	\$128,076	\$ 299,539	\$ 447,463	54,144	\$433,152	\$502,456	\$541,440
Dublin	\$72,597	\$ 267,603	\$ 402,871	53,462	\$427,696	\$496,127	\$534,620
Emeryville	\$52,931	\$ 57,537	\$ 86,169	10,491	\$ 83,928	\$97,356	\$104,910
Fremont	-0-	\$1,211,654	\$1,653,051	223,972	\$1,791,776	\$2,078,460	\$2,239,720
Hayward	\$739,215	\$ 829,680	\$1,254,178	151,037	\$1,208,296	\$1,401,623	\$1,510,370
Livermore	\$543,326**	\$ 464,890	\$ 701,743	84,852	\$678,816	\$787,427	\$848,520
Newark	\$256,610	\$ 239,262	\$ 328,381	43,856	\$350,848	\$406,984	\$438,560
Oakland	-0-	\$2,228,567	\$3,408,941	404,355	\$3,234,840	\$3,752,414	\$4,043,550
Oro Loma SD*	-0-	\$ 665,194	\$ 991,982	120,258*	\$962,064	\$1,115,994	\$1,202,580
Piedmont	\$28,575	\$ 60,900	\$ 92,115	11,023	\$88,184	\$102,293	\$110,230
Pleasanton	\$401,453	\$ 401,869	\$ 600,388	73,067	\$584,536	\$678,062	\$730,670
San Leandro*	\$157,369	\$ 290,919	\$ 432,025	52,615*	\$420,920	\$488,267	\$526,150
Union City	\$347,111	\$ 392,830	\$ 542,369	72,155	\$577,240	\$669,598	\$721,550

\*Population is adjusted to reflect transfer of 40% from City of San Leandro to Oro Loma Sanitary District

\*\*Multi-year Expenditure Plan approved for Livermore in FY 13/14

Based on the current policy and the reported fund balances at the end of FY 13/14 in the above table, the City of Newark would join the City of Livermore in exceeding the current threshold. The Recycling Board has already approved a multi-year Expenditure Plan from the City of Livermore, but Newark would be required to submit a similar plan for approval. Additionally, the City of Pleasanton is extremely close to the threshold, and the cities of Albany and Emeryville are above 90% of the threshold.

#### **TECHNICAL ADVISORY COMMITTEE INPUT**

Solicitation of input from the TAC on this issue produced several comments, all to the effect of supporting an increase in the threshold, but without strong opinions by anyone on the specific number or method of calculation.

#### **RECOMMENDATION**

It is recommended that the Recycling Board:

Adopt by the attached resolution a revision to “Rule 2” in Resolution #2006-12, changing the threshold of member agency unspent Recycling Fund monies that triggers ineligibility for further allocations absent an approved Expenditure Plan from the sum of the last eight quarterly per capita allocations to one of the options listed in the staff report. If an option includes an adjustment for population, the population figures used in the first quarterly disbursement of each fiscal year shall be applied each fiscal year to calculate the threshold. It is recommended that this revised threshold apply to the fund balances reported at the end of FY 13/14 and each year forward.

#### Attachments:

Attachment A – RB Resolution #2006-12

Attachment B: Draft Resolution replacing “Rule 2” from Resolution 2006-12

**ATTACHMENT A**

**ALAMEDA COUNTY SOURCE REDUCTION AND RECYCLING BOARD**

**RESOLUTION #RB 2006-12**

**MOVED: Quan**

**SECONDED: Jeffery**

**AT THE MEETING HELD NOVEMBER 9, 2006**

**ADOPTION OF RULES REGARDING MUNICIPAL ACCOUNTING AND FUND BALANCES OF RECYCLING FUND PER CAPITA ALLOCATIONS**

**WHEREAS**, the Alameda County Charter Section 64 (the Alameda County Waste Reduction and Recycling Act of 1990, hereinafter 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 Act states that fifty percent of the monies from the Recycling Fund shall be disbursed on a per capita basis to municipalities for the continuation and expansion of municipal recycling programs (Subsection 64.060 (B)(1)); and

**WHEREAS**, Subsection 64.040 (C) of the Act requires the Recycling Board to conduct an independent audit every five years of recycling programs within the County including, but not limited to, an accounting of the monies spent from the Recycling Fund, and to develop recommendations based on the audit findings; and

**WHEREAS**, the Recycling Board has concluded "Phase One" of the current 5 Year Financial and Compliance Audit for the period FY 2001/02 through FY 2003/04 and has considered and discussed recommendations relating to the accounting and accumulation of Recycling Fund monies by the municipalities; and

**WHEREAS**, the Recycling Board has distributed copies of the "Phase One 5 Year Financial and Compliance Audit" by R3 Consulting Group, Inc. to staff of the municipalities and has solicited comments from municipal staff on the proposed rules; and

**WHEREAS**, the Recycling Board itself has discussed the proposed rules at the October 12, 2006 meeting and set the November 9, 2006 meeting for final consideration and adoption; and

**WHEREAS**, the Recycling Board hereby finds that the adoption of rules, policies and procedures clearly defining municipal responsibilities to monitor, track and report on Recycling Fund revenues, expenditures and fund balances will facilitate implementation of the Act; and

**WHEREAS**, the Recycling Board hereby finds that the adoption of rules, policies and procedures establishing guidelines regarding municipal use of Recycling Fund per capita disbursements, the accumulation of unspent fund balances, plans for the use of such accumulated funds, and eligibility to receive further per capita disbursements 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 rules:

Rule 1: Municipalities receiving per-capita disbursements of Recycling Fund monies under the Alameda County Waste Reduction and Recycling Act, Section 64.060 shall account for those disbursements in a manner that provides the following information for each fiscal year:

the balance of unexpended per capita disbursements at the beginning of each fiscal year;  
Recycling Fund per capita disbursements received during each fiscal year;  
Recycling Fund per capita monies expended during each fiscal year; and  
the ending balance of unspent Recycling Fund per capita disbursements on hand at the end of each fiscal year.

The disbursements may be accounted for through the use of a pooled or separate account. In the event the Recycling Fund per capita revenues and expenditures are pooled with other monies within the accounts of the municipality, the municipality shall utilize a separate and distinct account code, such as an account number, object code, sub-object code, etc., to segregate the Recycling Fund per capita monies for accounting purposes in a manner that provides the required information.

**Rule 2:** Any municipality receiving per capita disbursements of Recycling Fund monies under the Alameda County Waste Reduction and Recycling Act, Section 64.060, shall present to the Board for its approval a written expenditure plan if, at the end of any fiscal year, that municipality has an unspent balance of such monies that exceeds the sum of the municipality's last eight quarterly Recycling Fund per capita disbursements.

If the municipality fails to provide that written plan or the Board does not approve that plan, the municipality shall be ineligible to receive further disbursements per Section 64.060. The municipality shall not be eligible for further disbursements until the required plan is submitted and approved by the Board and all such forfeited monies shall be disbursed to the remaining eligible municipalities on a per capita basis.

In evaluating a municipality's proposed expenditure plan, the Board shall consider the following:

- The proposed specific use(s) of the remaining balance and future disbursements.
- The proposed length of time, or schedule over which disbursed funds or fund balances would be used.
- The scope or amount of funds proposed to be expended over the term of the plan.
- The extent to which the plan is designed to meet or promote the provisions, goals or policies of the Act including but not limited to timely expenditure of the funds "for the continuation and expansion of municipal recycling programs."
- Any other objective and reasonable factors that may be presented by the municipality to support its contention that its proposed plan meets or promotes the provisions, goals or policies of the Act.

These proposed rules shall take effect July 1, 2007. Rule 2 will be applied to the Measure D Annual Reports submitted after the end of FY 07/08 and each year thereafter.

**ADOPTED BY THE FOLLOWING VOTE:**

**AYES: Boone, Bourque, Jeffery, Landis, Leider, McCormick, Quan, Spencer, Storti, Wilson**

**NOES: None**

**ABSENT: Henson**

**ABSTAINED: None**

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Karen Smith, Executive Director



**ATTACHMENT B**

**ALAMEDA COUNTY SOURCE REDUCTION AND RECYCLING BOARD**

**RESOLUTION #RB 2014-2**

**MOVED:  
SECONDED:**

**AT THE MEETING HELD NOVEMBER 13, 2014**

**REVISION OF RECYCLING BOARD RESOLUTION #RB 2006-12 REGARDING FUND BALANCES OF RECYCLING FUND PER CAPITA ALLOCATIONS**

**WHEREAS**, the Alameda County Charter Section 64 (the Alameda County Waste Reduction and Recycling Act of 1990, hereinafter 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 Act states that fifty percent of the monies from the Recycling Fund shall be disbursed on a per capita basis to municipalities for the continuation and expansion of municipal recycling programs (Subsection 64.060 (B)(1)); and

**WHEREAS**, on November 9, 2006 the Recycling Board adopted Resolution #RB 2006-12, including the following:

Rule 2: Any municipality receiving per capita disbursements of Recycling Fund monies under the Alameda County Waste Reduction and Recycling Act, Section 64.060, shall present to the Board for its approval a written expenditure plan if, at the end of any fiscal year, that municipality has an unspent balance of such monies that exceeds the sum of the municipality's last eight quarterly Recycling Fund per capita disbursements.

If the municipality fails to provide that written plan or the Board does not approve that plan, the municipality shall be ineligible to receive further disbursements per Section 64.060. The municipality shall not be eligible for further disbursements until the required plan is submitted and approved by the Board and all such forfeited monies shall be disbursed to the remaining eligible municipalities on a per capita basis.

In evaluating a municipality's proposed expenditure plan, the Board shall consider the following:

- The proposed specific use(s) of the remaining balance and future disbursements.
- The proposed length of time, or schedule over which disbursed funds or fund balances would be used.
- The scope or amount of funds proposed to be expended over the term of the plan.
- The extent to which the plan is designed to meet or promote the provisions, goals or policies of the Act including but not limited to timely expenditure of the funds "for the continuation and expansion of municipal recycling programs."
- Any other objective and reasonable factors that may be presented by the municipality to support its contention that its proposed plan meets or promotes the provisions, goals or policies of the Act.

These proposed rules shall take effect July 1, 2007. Rule 2 will be applied to the Measure D Annual Reports submitted after the end of FY 07/08 and each year thereafter.

And **WHEREAS**, the absolute dollar amount and the per capita amount of Recycling Fund municipal allocations have declined significantly since 2006, resulting in a declining threshold represented by the sum of the last eight quarterly Recycling Fund per capita disbursements, and

**WHEREAS**, municipalities have requested that the Recycling Board revise the “Rule 2” policy to increase the threshold of unspent per capita allocations that triggers the requirement for an approved Expenditure Plan or ineligibility to receive further disbursements,

**NOW THEREFORE, BE IT RESOLVED**, that the Alameda County Source Reduction and Recycling Board hereby revises and replaces “Rule 2” from Resolution #RB 2006-12 with the following:

Rule 2: Any municipality receiving per capita disbursements of Recycling Fund monies under the Alameda County Waste Reduction and Recycling Act, Section 64.060, shall present to the Board for its approval a written expenditure plan if, at the end of any fiscal year, that municipality has an unspent balance of such monies that exceeds ~~the sum of the municipality’s last eight quarterly Recycling Fund per capita disbursements~~ \$            *(insert description of the option chosen)*.

If the municipality fails to provide that written plan or the Board does not approve that plan, the municipality shall be ineligible to receive further disbursements per Section 64.060. The municipality shall not be eligible for further disbursements until the required plan is submitted and approved by the Board and all such forfeited monies shall be disbursed to the remaining eligible municipalities on a per capita basis.

In evaluating a municipality’s proposed expenditure plan, the Board shall consider the following:

- The proposed specific use(s) of the remaining balance and future disbursements.
- The proposed length of time, or schedule over which disbursed funds or fund balances would be used.
- The scope or amount of funds proposed to be expended over the term of the plan.
- The extent to which the plan is designed to meet or promote the provisions, goals or policies of the Act including but not limited to timely expenditure of the funds “for the continuation and expansion of municipal recycling programs.”
- Any other objective and reasonable factors that may be presented by the municipality to support its contention that its proposed plan meets or promotes the provisions, goals or policies of the Act.

~~These proposed rules shall take effect July 1, 2007.~~ Rule 2 will be applied to the Measure D Annual Reports submitted after the end of FY ~~07/08~~ 13/14 and each year thereafter.

**Passed and adopted this 13th day of November, 2014 by the following vote:**

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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**Gary Wolff, Executive Director**