



**DATE:** October 28, 2020  
**TO:** Waste Management Authority Board  
**FROM:** Rachel Balsley, Senior Program Manager  
**SUBJECT:** Mandatory Recycling Ordinance Project Update

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## **SUMMARY**

This memo provides updates on the Mandatory Recycling Ordinance (MRO), including highlighting some of the progress through Fiscal Year 2019-20 as well as the impacts of the COVID-19 pandemic on program operations. Staff will also share a presentation at the October 28, 2020 Waste Management Authority Board meeting.

## **DISCUSSION**

### Program Overview

Ordinance 2012-01, the Mandatory Composting and Recycling Ordinance, was adopted in January 2012 and requires commercial and multifamily accounts to subscribe to recycling and organics collection services. Additionally, businesses are required to sort materials properly.

The WMA has a routine inspection program with progressive enforcement, meaning regulated parties receive two notices before a citation and fine are issued. 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.

Enforcement is prioritized at larger commercial accounts: those with four or more cubic yards of total weekly service. This was changed in early 2019 from accounts with one or more cubic yard of weekly garbage service, both to align with AB 1826, which requires organics collection service at accounts covered by the law, and to reduce the overall size of the inspection pool from approximately 13,000 to 7,000 accounts, so that inspected accounts could be reached more frequently.

For multifamily enforcement, an administrative process is used to review hauler service data since the MRO simply requires the *provision* of recycling and/or organics collection service and gaining access at multifamily sites is often difficult. If an official complaint is submitted through the Ordinance website to inform the WMA of a site that is not providing the required service to residents, that account may receive an on-site inspection.

Technical assistance is provided by WMA's contracted TA provider, Cascadia Consulting Group, focusing primarily on Ordinance compliance. Properties may directly request assistance through the Ordinance help line or website. In addition, the TA team proactively contacts many businesses and multifamily properties to offer compliance assistance after they violate the Ordinance. The MRO website, [www.RecyclingRulesAC.org](http://www.RecyclingRulesAC.org), is the hub of outreach and TA with detailed information about the requirements, support materials, and tools to assist in compliance.

### Highlights from Fiscal Year 2019-20

#### **Impacts of the COVID-19 pandemic**

In mid-March as the COVID-19 pandemic hit and resulting public health orders mandated shelter-in-place, MRO inspections and the mailing of enforcement letters were suspended. This decision was made to protect the health of our site inspector, and since many businesses had to shut their doors, switch to remote work, or otherwise modify their operations, their waste generation was likely significantly different than during normal operations. Due to continued significant community transmission of COVID-19 and public health order restrictions in Alameda County, it is likely that inspections will not resume until 2021.

#### **Enforcement activities throughout the county**

The WMA conducted nearly 3,000 inspections throughout the county in FY 2019-20 (through mid-March) with two in-house inspectors. This equates to 40% of the accounts in the inspection pool or 15% of the total covered commercial accounts (19,600 accounts). Over 1,800 commercial accounts were sent an enforcement letter based on an observed violation. Moreover, close to 1,300 administrative notifications were mailed to primarily new accounts to officially inform them of the MRO requirements.

About 150 accounts that were in line to receive an enforcement letter based on inspections conducted just prior to shelter-in-place orders were sent a courtesy notification about the violations found at their site. This was done in lieu of an official violation letter and to encourage action, while being mindful of the challenging times many businesses face during the pandemic.

In FY 2019-20, 685 accounts were sent a citation and fined, compared to 610 accounts in FY 2018-19. Of the approximately 2,400 citations issued to date, 30 have been appealed by the cited parties and all have been upheld after formal appeal hearings were conducted.

#### **Businesses continue to add recycling and organics service**

More businesses subscribe to new recycling service every year. Depending on the jurisdiction, approximately 72-93% of commercial garbage accounts now have some level of recycling service. This is a significant increase when compared to 20-82% in 2011, prior to implementation of the MRO. The percentage of commercial garbage accounts that have organics service in jurisdictions is now between approximately 23-58%<sup>1</sup> compared to 0-17% in 2011, although it's not expected that all commercial garbage accounts need organics service. More than 7,500, or 38%, of the nearly 20,000 covered commercial garbage accounts have organics service.

#### **Providing more feedback on improper sorting**

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<sup>1</sup> The percentage commercial garbage accounts that have recycling and organics services is based on member agency data submitted for FY 2018-19 in the fall of 2019 in their Measure D annual report. FY 2019-20 data is expected to be available in November/December 2020.

In FY 2019-20, 48% of the inspections resulted in at least one ordinance violation. A violation for recyclables in the garbage was the most common and was issued in 30% of inspections, while 13% of inspections found a violation for garbage in the recycling. While not all businesses generate organics and discarded food is often more difficult to see in significant quantities, 12% of inspections had a violation for organics in the garbage and 7% had a garbage in organics violation.

### **Stricter enforcement on organics service**

Historically in MRO enforcement, commercial accounts were given a violation for lack of organics service only when an inspector identified 20 or more gallons of organics in the garbage. However, given that study data showed continued high volumes of organics going to landfill, stricter enforcement protocols were implemented in 2019. In addition to accounts found with 20+ gallons of organics in the garbage, any commercial account with four or more cubic yards of total weekly solid waste service that also has a food generator permit must subscribe to organics service.

### **Studies suggest high-touch interventions improve sorting**

A study was completed in FY 2019-20 with a focus on food generating accounts such as restaurants and small markets, to test the effects of various MRO actions. Accounts in Newark and Union City were sampled on three occasions: 1) before their Phase 2 organics requirements took effect, 2) after the onset of the organics requirements (and notification letters were sent), and 3) several months after the start of organics enforcement activities. No significant differences were detected in the accounts between the first two rounds of sampling; notification letters *alone* do not appear to be effective. Results from the third round of sampling after MRO warning letters were issued did show a reduction in the percent of organics found in the garbage (64% to 55%) and an increase in the percent of recycling (11% to 15%). Combining these two measurements, we saw a five percent overall reduction in the percentage of recyclable and compostable material in the garbage (from 75% to 70%).

The third round results were more significant when separated by city. Newark accounts showed no statistical difference from previous rounds, while Union City had a 28% reduction of organics found in the garbage (72% down to 53%). The most likely reason for this difference is the increased follow-up conducted by Union City and hauler outreach staff, larger rate discounts for organics, and a more established organics collection program for Union City businesses.

An additional study was completed in Livermore in early 2020 to measure the effects of organics bin cameras combined with real-time feedback and significant customer education. The results of the sampling showed a substantial improvement in organics sorting—organics in the garbage went from 66% (2018 baseline study) to 38%.

Overall, these studies suggest that current MRO outreach and enforcement letter methodology may not be sufficient to drive significant organics diversion. Food service establishments and other high organics generating businesses need more frequent and deeper touch interventions to get the large amount of compostable and recyclable materials into the right bins.

### **Enforcement is advancing at multifamily properties**

Beginning in FY 2019-20, enforcement progressed to the citation stage for multifamily properties. Review of service at multifamily accounts is batched by jurisdiction and five jurisdictions were reviewed in FY 19-20. Of the approximately 3,570 multifamily accounts, 37 accounts were found to lack the required service (usually organics) and were sent a warning letter, or received a citation and were issued a fine. Member agency reported data for FY 2018-19 indicates approximately 95% of multifamily properties have recycling service and 92% have organics service.

### **The TA team assisted 441 commercial and multifamily accounts**

The Cascadia technical assistance team contacted 652 commercial and multifamily accounts to offer assistance. A total of 371 commercial accounts, and 70 multifamily accounts, received on-site, phone, virtual and/or email assistance in FY 2019-20. Of the multifamily properties assisted, 13 properties requested and received residential outreach, including group presentations, door-to-door communication or virtual trainings about proper recycling and composting at their site. The TA team documented 52 service changes to start or expand recycling and/or organics collection programs. These service changes equate to approximately 4,200 cubic yards of annual new diversion. Approximately 62% of the service changes resulted in an increased solid waste bill, while 25% resulted in a cost savings, and 13% had no change in cost.

The MRO TA team ceased in-person site visits and trainings beginning in mid-March, and pivoted by offering virtual assistance. There has been less receptivity to offers of assistance since enforcement letters have been suspended and businesses are understandably dealing with other challenges. However, technical assistance representatives have been working collaboratively with member agency and hauler representatives to reach out to targeted lists of accounts and have had success connecting with businesses through educational webinars.

Additional details regarding technical assistance are in the StopWaste Business Assistance Program Fiscal Year 2019-20 Annual Report, available here: [StopWaste-TA-Annual-Report](#)

### **Sites are utilizing free indoor green bins and support materials**

The Free Indoor Food Scrap Bin Program continues to help businesses build internal infrastructure for proper sorting of organics. Over 278 sites were approved to receive free indoor green bins and over 2,000 pieces of equipment were distributed in FY 2019-20. Over 13,000 stickers to label indoor bins were mailed to 359 sites last fiscal year. Additional translated support tools in Spanish, Chinese, Korean, and Vietnamese were developed in FY 2019-20, and a new landing page, [www.RecyclingRulesAC.org/languages](http://www.RecyclingRulesAC.org/languages), was created as a central place for translated resources. Other materials that continue to support sites as they set up or improve diversion programs include the series of three instructional videos, Bags to Bins customizable poster tool, enhanced Sign Maker tool, and Indoor Bin Guide. These materials can be found at [www.RecyclingRulesAC.org/resources](http://www.RecyclingRulesAC.org/resources).

### Looking Ahead

#### **Uncertainty of COVID-19 impacts**

It is unclear what the full impacts of COVID-19 and the public health order restrictions will have on businesses in the near and long term, but they are likely to be significant. The team continues to monitor COVID-19 restrictions and impacts to Alameda County businesses and look for ways to support covered accounts in their recycling and composting efforts, while being thoughtful about messaging and sensitive to changing needs during this time.

#### **Program evaluation efforts for MRO project**

In the coming months staff will conduct a “deep dive” evaluation of the Mandatory Recycling Ordinance project. This may help identify lessons learned and best practices from MRO activities that could be useful in changes to enforcement processes expected with SB 1383.

#### **Compliance assistance with state regulations**

CalRecycle announced in September 2020 that the State has not achieved 50% diversion of organics from landfills by 2020. CalRecycle has therefore lowered the AB 1826 threshold for sites that are

required to have organics collection service from four or more cubic yards of total weekly service (garbage plus recycling service) to two or more cubic yards of total weekly service. Planning is currently underway to mail a letter on behalf of member agencies to accounts that are not compliant with AB 341 and/or AB 1826 requirements to have recycling and organics service. This is a service that StopWaste is providing to member agencies.

A separate SB 1383 presentation at the November 18 Board meeting will provide updates on the development of the significant new state requirements. Staff are currently working to determine the Agency's best suited roles to support member agencies in SB 1383 planning and implementation efforts in preparation for the January 2022 effective date.

## **RECOMMENDATION**

This item is for information only.