



**DATE:** October 11, 2018

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

**FROM:** Rachel Balsley, Senior Program Manager

**SUBJECT:** Mandatory Recycling Ordinance Project Update

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## **SUMMARY**

This memo provides an update of the Mandatory Recycling Ordinance (MRO) and highlights some of the progress through Fiscal Year 2017/18. Staff will also share a presentation at the October 11, 2018, Programs & Administration and Planning Committee/Recycling Board meetings.

## **DISCUSSION**

### Program Overview

Ordinance 2012-01, the Mandatory Composting and Recycling Ordinance, was adopted in January 2012. Phase 1 was effective July 1, 2012, with recycling requirements for commercial accounts with four or more cubic yards of weekly garbage service and multifamily properties (five or more units). Phase 2 started July 1, 2014, in participating jurisdictions,<sup>1</sup> adding discarded food and compostable paper to the list of covered materials and expanding to all businesses.

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

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

Before a citation is issued, it is reviewed and approved by the member agency's Primary Enforcement Representative. Fines range from \$100 to \$150 per violation for the first citation. Fine amounts increase on subsequent citations at the same account within 12 months.

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

The WMA has prioritized enforcement of commercial accounts with one or more cubic yard of weekly garbage service, about 69% of covered commercial accounts. Smaller commercial accounts (once a week garbage *cart* customers) are not currently being inspected. Accounts with consecutive compliant inspections receive inspections less frequently than accounts found in violation of the ordinance, freeing up inspection resources for non-compliant accounts.

Given the MRO simply requires the *provision* of recycling and/or organics collection service combined with difficulty gaining access at multifamily sites, an administrative process is used to review hauler service data for multifamily enforcement. 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. Note, routine on-site inspections were performed at roughly 50% of multifamily sites in each participating jurisdiction during 2013 and 2014.

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

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, website, or Free Indoor Food Scrap Bin program. 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 2017/18

#### **Expanded ordinance requirements in three jurisdictions**

In FY 2017/18, Phase 2 MRO organics requirements went into effect in Fremont, Newark, and Union City. All member agencies now have the same MRO requirements, with the exception of the City of Dublin who has opted-out of the MRO.

#### **A high volume of enforcement activities continue**

The WMA conducted over 11,000 inspections in FY 2017/18 with three full-time contracted inspectors for the majority of the year. Over 2,200 commercial accounts were sent an enforcement letter based on an observed violation. In addition, close to 7,000 administrative notifications were mailed to accounts officially informing them of the MRO requirements.

#### **Enforcement is progressing**

In FY 2017/18, 471 accounts were sent a citation (and fine), compared to 247 accounts in FY 2016/17. Of the nearly 1,200 citations issued to-date, 23 have been appealed by the cited parties and all have been upheld after formal appeal hearings were conducted.

### **Increased quality control of inspections**

Historically, inspectors took photos only when a sorting violation was observed. To have more visibility into what WMA staff were “not seeing,” and to increase the quality control of inspections, a protocol change was made to have inspectors take photos at every inspection effective February 1, 2018. Coupled with increased inspector training, this led to a significant increase in the violation rate for inspections, particularly sorting-based violations. Since the new protocol has been in place, 50% of all completed inspections result in a MRO violation, compared to 18% in calendar year 2017.

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

Increased MRO enforcement and efforts by member agencies and haulers to address contamination is particularly important in light of stricter contamination standards for both international recycling markets and domestic organics processors.

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

More businesses subscribe to new recycling service every year, with 70 to 96% of commercial garbage accounts in most member agencies now having some level of recycling service. This is a significant increase when compared to 20 to 82% in 2011, prior to implementation of the MRO. The percentage of commercial garbage accounts that have organics service in most member agencies is now between 9 to 46%<sup>2</sup> compared to 0 to 17% in 2011, although it’s not expected that all commercial garbage accounts will need organics service.

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

In FY 2017/18, multifamily properties began receiving Notice of Violation/Warning letters sent for a lack of recycling and/or organics collection service. Of the approximately 920 multifamily accounts in five jurisdictions, 170 accounts were sent enforcement letters for lack of service (usually organics service). This city-by-city batched administrative warning process for multifamily properties will continue through FY 2018/19. Member agency reported data for FY 2016/17 indicates approximately 95% of multifamily properties have recycling service and 82% have organics service.

### **The TA team assisted 769 commercial and multifamily accounts**

The Cascadia TA team contacted 918 commercial and multifamily accounts to offer assistance. A total of 686 commercial accounts, and 83 multifamily accounts received on-site, phone, and/or email assistance in FY 2017/18. The TA team documented 142 services changes to start or expand recycling and/or organics collection programs. These service changes equate to approximately 9,100 cubic yards of annual new diversion. A little more than half (54%) of the service changes resulted in a cost savings, while 38% resulted in an increased solid waste bill, and 8% had no change in cost.

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<sup>2</sup> The percentage commercial garbage accounts that have recycling and organics services is based on member agency data submitted for FY 2016/17 in the Fall of 2017 in their Measure D annual report. FY 2017/18 data is expected to be available in November/December 2018.

Additional details regarding technical assistance is in the StopWaste Business Assistance Program Fiscal Year 2017/18 Annual Report. A full copy of the annual report is available [here](#).

### **Technical assistance needs are shifting**

As more accounts add recycling and organics collection services each year, and as enforcement identifies more improper sorting violations, the type of support businesses need is shifting. The team is spending less time advising on service level changes, and more time helping businesses improve indoor infrastructure and training employees how to properly sort.

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

The Free Indoor Food Scrap Bin Program continues to be a popular service. A total of 620 sites were approved to receive free indoor green bins in FY 2017/18. Over 20,000 stickers were mailed to over 500 sites last fiscal year. The new Bags to Bins customizable poster tool, enhanced Sign Maker tool, and Indoor Bin Guide are available on the ordinance website for both the TA team and businesses that opt to tackle compliance on their own.

### **Resident outreach offered at multifamily properties**

New for FY 2017/18, the Cascadia TA team offered resident outreach at multifamily properties with 25 or more units. Door-to-door outreach and/or group presentations were conducted at 12 properties, reaching 323 households with information about proper recycling and composting at their site.

### **Studies show there's more work to do**

A longitudinal study was conducted in FY 2017/18 with a focus on food generating accounts such as restaurants and small markets, to test for before/after effects from MRO actions such as enforcement. The study sampled accounts in Livermore and Dublin, to compare a city with mandatory organics requirements since 2015 (Livermore) and a city without any MRO requirements (Dublin). The study also compared accounts in Newark and Union City both before and after the onset of organics requirements (although before enforcement). No significant differences were detected in the accounts before and after the onset of requirements, with similar high proportions of organics and recyclables in the garbage.

Since the study was conducted before the increased focus on enforcement protocols and inspector training, the next study period will be an opportunity to detect whether this new approach has been effective in changing behavior at these accounts.

### Looking Ahead

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

Historically in MRO enforcement, a commercial account has only been given a violation for lack of organics service if a significant quantity of organics was observed in the garbage during the inspection. Significant quantity is currently defined as 20 gallons in a garbage bin. However, given recent study data showing the continued high amounts of organics going to the landfill and the

state regulation AB 1826 moving down in the threshold of accounts that are expected to have organics service, staff plans to change protocols in January 2019. After inspection, in addition to accounts where a significant quantity of organics is observed, violations for lack of organics service will also be given to accounts that have 4 or more cubic yards of weekly garbage service and that are known to have a food generator permit.

#### **Fewer inspections, but higher quality**

In FY 2018/19, the WMA has moved down from three inspectors to two. This was done in part to reduce costs in order to help the agency work toward more closely matching revenues with expenses, but also to have more staff time to focus on quality control, analyzing MRO data from the last five years of implementation and to identify areas for program improvement.

#### **New videos to assist properties with compliance**

Two new training videos were released in Q1 2018/19 providing a new format to communicate steps for setting up indoor recycling and organics bins, and how to sort properly for compliance with the MRO. A third video is in progress and will offer viewers an overview of the recycling rules. All videos will be translated into Spanish and Chinese, both in voice over and captioning.

#### **Alignment with SB 1383**

A separate SB 1383 presentation will discuss aggressive new state requirements to become effective in 2022, requiring significantly more organics diversion from landfill (including paper and cardboard). Some of the mandates on generators to divert more and on jurisdictions to enforce the requirements are expected to be similar to what the WMA has been doing for MRO implementation. However, based on CalRecycle draft regulations, it is also anticipated that an ordinance amendment will be required to better align the MRO with SB 1383 compliance.

#### **RECOMMENDATION**

This report is for information only.