



DATE: October 10, 2019

TO: Programs & Administration Committee
Planning Committee/Recycling Board

FROM: Rachel Balsley, Senior Program Manager

SUBJECT: Mandatory Recycling Ordinance Project Update

SUMMARY

This memo provides an update of the Mandatory Recycling Ordinance (MRO) and highlights some of the progress through Fiscal Year 2018-19. Staff will also share a presentation at the October 10, 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,¹ 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.

¹ 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 68% of covered commercial accounts. Smaller commercial accounts (typically once a week garbage *cart* customers) are not currently being inspected.

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. Routine on-site inspections were performed at roughly 50% of multifamily sites in each participating jurisdiction during 2013 and 2014.

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, 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 2018-19

Enforcement activities throughout the county

The WMA conducted over 5,300 inspections throughout the county in FY 2018-19 with two full-time contracted inspectors for the majority of the year. Close to 1,300 additional inspections were conducted in Oakland with direct funding provided by the City of Oakland. Over 1,400 commercial accounts were sent an enforcement letter based on an observed violation. Moreover, about 1,800 administrative notifications were mailed to primarily new accounts officially informing them of the MRO requirements.

Enforcement is progressing

In FY 2018-19, 610 accounts were sent a citation (and fine), compared to 471 accounts in FY 2017-18. Of the approximately 2,000 citations issued to-date, 26 have been appealed by the cited parties and all have been upheld after formal appeal hearings were conducted.

Providing more feedback on improper sorting

In FY 2018-19, 54% of the inspections resulted in at least one MRO violation. After inspection protocol changes were implemented in February 2018, businesses are receiving more feedback about improper sorting than in prior years. A violation for recyclables in the garbage was the most common and given in 38% of inspections, while 15% 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, 15% of inspections had a violation for organics in the garbage and 8% had a garbage in organics violation.

Stricter enforcement on organics service

Historically in MRO enforcement, a commercial account was only 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 study data showing the continued high amounts of organics going to the landfill and the state regulation AB 1826 lowering the threshold of accounts that must have organics service, enforcement protocols were modified earlier this calendar year. In addition to accounts where a significant quantity of organics is observed, violations for lack of organics service are also now given to accounts that have four or more cubic yards of total weekly solid waste service and that are known to have a food generator permit.

Businesses continue to add recycling and organics service

More businesses subscribe to new recycling service every year, with 70-92% of commercial garbage accounts in most member agencies now having 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 most member agencies is now between 15-69%² compared to 0-17% in 2011, although it's not expected that all commercial garbage accounts will need organics service. More than 7,000 of the nearly 20,000 covered commercial garbage accounts have organics service.

Enforcement is advancing at multifamily properties

In FY 2017-18, multifamily properties began receiving Notice of Violation/Warning letters for a lack of recycling and/or organics collection service, with letters batched in a city-by-city process. Of the approximately 2,700 multifamily accounts reviewed in seven jurisdictions in FY 2018-19, 357 accounts were sent enforcement letters for lack of service (usually organics service). Member agency reported data for FY 2017-18 indicates approximately 97% of multifamily properties have recycling service and 89% have organics service. It is expected that non-compliant multifamily accounts will begin getting citations in FY 2019-20.

The TA team assisted 574 commercial and multifamily accounts

The Cascadia TA team contacted 673 commercial and multifamily accounts to offer assistance. A total of 527 commercial accounts, and 47 multifamily accounts, received on-site, phone, and/or email assistance in FY 2018-19. Of the multifamily properties assisted, 14 properties requested and received residential outreach including group presentations or door-to-door communication about proper recycling and composting at their site. The TA team documented 80 service 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 (58%) of the service changes resulted in an increased solid waste bill, while 34% resulted in a cost savings, and 8% had no change in cost.

² The percentage commercial garbage accounts that have recycling and organics services is based on member agency data submitted for FY 2017-18 in the fall of 2018 in their Measure D annual report. FY 2018-19 data is expected to be available in November/December 2019.

Additional details regarding technical assistance are in the StopWaste Business Assistance Program Fiscal Year 2018-19 Annual Report. A full copy of the annual report is available [here](#).

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 310 sites were approved to receive free indoor green bins and over 2,700 pieces of equipment were distributed in FY 2018-19. Close to 18,000 stickers to label indoor bins were mailed to 435 sites last fiscal year. A new series of three instructional videos in English, Spanish and Chinese provide an overview of the recycling rules, steps for setting up indoor recycling stations, and proper sorting. These videos are utilized by the TA team when in the field and by businesses that opt to tackle compliance on their own. Other support materials including the Bags to Bins customizable poster tool, enhanced Sign Maker tool, and Indoor Bin Guide are also helpful resources for setting up and improving diversion programs.

Looking Ahead

Inspectors on staff

This fiscal year, the WMA has transitioned from contracted inspectors to two full-time employee inspectors that work primarily on the MRO, but also support enforcement of the Reusable Bag Ordinance, and data sampling for the Measurement & Analysis project.

Strategic planning and more outreach to high organics generators

Strategic planning efforts are underway regarding the project's communications and outreach tactics. This includes a campaign targeted at high organics generating businesses, as well as possible revisions to the MRO website, enforcement letters, and other support materials.

Full county participation

The City of Dublin, the last jurisdiction in the County to participate, is now opted-in to the MRO with requirements effective January 1, 2020, and enforcement actions on their approximately 550 commercial and multifamily accounts will begin in July.

Compliance assistance with state regulations

Planning is underway to conduct an AB 341/AB 1826 mailing on behalf of the jurisdictions to non-compliant accounts. A separate SB 1383 presentation in November will provide updates on the development of the aggressive new state requirements. Some of the mandates on generators to divert more and on jurisdictions to enforce the requirements are similar to what the WMA has been doing for MRO implementation. However, based on CalRecycle draft regulations, it is anticipated that an ordinance amendment will be required prior to the 2022 effective date to better align the MRO with SB 1383 compliance.

RECOMMENDATION

This report is for information only.