

2-100 Commercial Recycling Program Protocols

2-101-Compliance Protocol

The Commercial Recycling Program Protocols (hereinafter “Protocol” or “Protocols”) shall be applicable to and mandatory for all “persons” and “responsible parties” associated with “commercial premises” (hereinafter “Business” or “Businesses”) as these terms are defined in County Code Chapter 17, excluding public and private educational institutions (i.e., schools). A Business will be in compliance with the Protocol if the Business subscribes to the collection services of an authorized collector, or the Business chooses to donate or sell its recyclables to a commercial recycler that does not charge for its service, or the Business provides its own collection and transportation of recyclables services (self-haul to drop-off facilities). Otherwise, the Business must obtain a waiver or exemption as described in Section 2-102 to be in compliance with the Protocol.

The key component to the recyclables disposal ban is compliance by Business. The following describes the steps for achieving compliance.

STEP 1 (Visual inspection schedule): Each Business trash and recycling container will be checked by the route driver bi-monthly for the grace period following implementation of the program. The grace period will last from September 1, 2003 through February 29, 2004. Following the grace period, Businesses will be checked semi-annually for compliance. To ensure consistent inspections, a driver will be given a list of Businesses that must be checked for that day. Results of the visual inspections will be written and submitted to the office at the end of the day.

STEP 2 (Visual inspection process): If recyclables are found in the trash container, the driver will document responses to the following questions:

- a. Does the Business have recycling containers?
- b. Are the containers being used?
- c. Does the Business need more recycling containers?

If the answer to question “a” is no, the driver will inform office staff that the Business is in non-compliance. Office staff will make a follow-up phone call to the Business explaining the requirements of the Protocols, options available, and repercussions of non-compliance.

If the answer to question “b” is no, the driver will inform office staff that the Business needs to be educated on the appropriate use of the containers. If the Business chooses to not use the containers, they will be informed of the non-compliance fee or rate.

If Business requests an exemption from the Protocols, see Exemption Protocol below.

If the answer to question “c” is yes, the driver will inform office staff that the Business requires additional recycling containers.

STEP 3 (County participation): County staff will either ride with drivers or conduct separate audits of each Business annually to ensure compliance. County staff will periodically review materials being tipped at area landfills to gauge the quantity of recyclables that continue to be buried from the commercial sector and identify any particular routes that appear to be in non-compliance.

2-102 Exemption Protocol

The following outlines the procedure a Business shall use to obtain a waiver or exemption from the requirements of the Protocols

STEP 1: Business expresses an interest in obtaining a waiver or being exempt from participating in the program.

STEP 2: Hauler gives Business a form developed by the County formally requesting an exemption from the program. For purposes of this section, the Business will have the burden to produce evidence sufficient to allow the County to make the determination that the Business is exempt from the requirements of the Protocol. Business submits waiver/exemption request form to the County. The requirements of the Protocol shall not be applicable to and mandatory for a Business if the County determines that one or both of the following exists:

- a. the Business is exempted according to County Code 17-6, and the Director, or his or her designee, after receiving a written application from the Business, finds that the requirements of the Protocol are infeasible or unnecessary to maintain the required level of service, or;
- b. the Business would suffer undue or unreasonable hardship by participating in the Protocol.

STEP 3: Hauler and County make a site visit.

STEP 4: County determines if exemption is granted or not. County shall notify Business by mail or personal service by a public officer of this determination (hereinafter, “Notice of Determination”).

- a. If the County determines Business is not entitled to the waiver or exemption, Business may appeal by requesting an administrative review hearing of the adverse determination within ten (10) working days of personal service or the date of the mailing of the Notice of Determination.
- b. The Notice of Determination shall contain a statement that if the Business fails to request an appeal of an adverse determination, the Notice of

Determination shall be deemed a final administrative order or decision for purposes of Code of Civil Procedure Section 1094.5.

- c. An appeal of the Notice of Determination shall be heard by the Director of Public Works (or his or her designee) as the hearing examiner. The administrative appeal hearing shall be set no sooner than twenty (20) and no later than forty-five (45) days following a request for an appeal hearing. Notice of the appeal hearing shall be mailed at least twelve (12) calendar days before the date set for the hearing. Failure to appear timely will cause the Notice of Determination to become a final order or decision.
- d. After the hearing, the hearing examiner shall uphold, vacate or modify the initial determination of the County. The decision of the hearing examiner shall be deemed a final administrative order or decision for purposes of Code of Civil Procedure 1094.5. The hearing examiner's decision shall be deemed served within two days after the date it was mailed to the address provided by the Business.

2-103 Non-Compliance Fee or Non-Compliance Collection Rate for Non-Compliance

The following explains the process for collecting the Non-Compliance Fee or the Refuse Collection Rate for Non-Compliance with the Commercial Recycling Program, how the fee or rate is imposed and collected, and the use of the fee or rate funds.

STEP 1 (Levying fee or rate): If a Business refuses to recycle or receives recycling containers but does not use them appropriately (high levels of contamination or trash), and is not eligible for an exemption, the Business will pay a Non-Compliance Fee or a Refuse Collection Rate for Non-Compliance with the Commercial Recycling Program. This fee or rate will be included in the Business trash bill and will be 20% of the Business's trash collection rate (not including bin rentals). Prior to paying the non-compliance fee or rate, a Business:

- a. Will be granted a six-month grace period (September 1, 2003 through February 29, 2004),
- b. Will be contacted via a letter that introduced the program, and
- c. Will have received follow-up telephone calls from the haulers following visual inspections of their containers.

In addition, haulers will advise County staff of non-complying Businesses before levying the fee or rate. County staff will contact the non-compliant Businesses a final time to ensure that they are aware of the Protocol and the repercussions of not participating.

STEP 2 (Fee or Rate distribution): Each month, haulers will submit a report identifying Businesses that are being assessed the non-compliance fee or rate and shall forward all fee or rate monies to the County. The County will expend funds generated by the fee or rate on recycling education and promotion programs.

2-104 Contamination Protocol

A significant increase in the contamination of recyclables being collected can negatively impact the quality of all materials collected, increase the cost for processing, and decrease the revenues associated with the sale of the materials. Because of these significant impacts, a protocol for minimizing contamination is very important.

First, no level of putrescibles will be accepted. Second, there can be no more than 25% overall contamination of the commingled recyclables collected. If putrescibles or more than 25% contamination are found in the recyclables collection containers, the Business will be notified immediately and educational materials will be delivered regarding the appropriate use of the containers. Large stickers will be placed on each container emphasizing that they are for recyclables collection only. If a Business continues to contaminate their containers, the containers will be pulled and the non-compliance fee or rate will be assessed on the Business.