

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: 6/4/03
Department Name: County Counsel
Department No.: 011
Agenda Date: 6/17/03
Placement: Administrative
Estimate Time: 30 minutes
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors
FROM: Shane Stark, County Counsel
STAFF CONTACT: David C. McDermott, Deputy County Counsel
x2979
SUBJECT: Resolution to Create a Commercial Recycling Program Protocol

Recommendation(s):

That the Board of Supervisors:

Set a hearing for June 24, 2003 to consider and approve the attached Resolution (and the Exhibit attached thereto) to Create a Commercial Recycling Program Protocol (hereinafter "Protocol") that shall be applicable to all persons and responsible parties associated with commercial premises operating in the unincorporated areas of the County and to add the Protocol to the Solid Waste and Utilities Division Rules and Regulations as Chapter 2-100.

Alignment with Board Strategic Plan:

The recommendation(s) are primarily aligned with Goal No. 2.
A Safe and Healthy Community in Which to Live, Work, and Visit.

Executive Summary and Discussion:

Mandatory Commercial Recycling Program: On December 12, 2002, your Board approved a Commercial and Multi-family Recycling Program (hereinafter "Program"). A principal component of the Program is a disposal ban on any of the recyclable materials collected in the residential recyclable program (excluding green waste). At the time of the hearing on December 12, 2002, it was recognized that a disposal ban on specified commercial recyclables would essentially be the same as mandatory recycling of specific commodities. County Code Section 17-6 authorizes the Board of Supervisors, by ordinance or resolution, to require any person or responsible party, including but not limited to a, firm, partnership, association, corporation, owner, tenant, lessee, occupant or other person responsible for the day-to-day operation or otherwise in charge of any commercial premises in the unincorporated area of the County, to subscribe to the mandatory collection and transportation of recyclables by an authorized collector of the County.

The County currently has five separate Exclusive Solid Waste, Recyclables and Organics Collection and Transportation Agreements with various authorized collectors to provide regular and commercial solid waste handling services in each of the five geographic zones of the County. At the present time, the use of one of the County's authorized collectors for the collection of both solid waste and recyclables is voluntary on the part of any person, homeowner or business. The adoption of the Resolution and the approval and creation of the Commercial Recycling Program Protocol (hereinafter "Protocol" or "Protocols") would make the recyclable collection portion of such solid waste services mandatory for all businesses operating in the unincorporated areas of the County (unless the business applied for and received a waiver or an exemption from the Protocol) even if the business does not currently subscribe to an authorized collector.

Waiver or Exemption: 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 to be in compliance with the Protocol. The requirements of the Protocol are not 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 Of Public Works, 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.

Business Right to Appeal: If the County determines a Business is not entitled to the waiver or exemption, a Business may appeal this determination 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.

Non-Compliance Fee/Rate: If a Business refuses to recycle or receives recycling containers but does not use them appropriately (high levels of contamination or trash), and the Business 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.

Diversion Rate of County: Staff has determined that a separate commercial recyclables collection program has the potential to increase the County's diversion rate while potentially lowering the cost of solid waste collection services to commercial entities that are currently subscribing to the services of an authorized collector.

Mandates and Service Levels: These Protocols will allow the County to implement a more aggressive commercial recycling program. If a business chooses to actively participate in the program, its service rates will not increase and may decrease depending on its waste stream.

Fiscal and Facilities Impacts: Depending on the level of participation by Business and the success of the recently approved Multi-Family recycling program, the County could realize an increased diversion level of 3%, thereby saving valuable Tajiguas Landfill airspace. The resolution creating the Refuse Collection Rate for Non-Compliance with the Commercial Recycling Program has been submitted by the Solid Waste and Utilities Division and shall be heard and considered by your Board today, June 17, 2003.

Special Instructions: Please send a copy of the executed Resolution to David McDermott at County Counsel.

Concurrence: Risk Management, Public Works and Auditor-Controller