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January 30, 2023

Dave McNary
Assistant Director
Hennepin County Environment and Energy Department
701 4th Avenue South
Minneapolis, MN 55415

Mr. McNary:

MPCA is aware of confusion among cities and haulers that collect organics via subscription service. Cities and haulers want clarity on compliance for pricing organics recycling. Can customers be charged for this as an add-on service? Relevant state statutes are provided below. Minn. Stat. § 115A.93 subd. 3 (c) says that a licensing authority shall prohibit collectors from imposing a greater charge on residents who recycle than on residents who do not recycle. According to definitions in Minn. Stat. § 115A.03, subd. 25a and 25b, recycling includes the process of collecting recyclable materials. Recyclable materials include source-separated compostable materials, materials separated from MMSW for the purpose of composting, and sole source food waste streams.

Licensing authorities are therefore required to prohibit collectors from imposing a greater charge on residents who subscribe to organics collection than those who do not. MPCA expects that licensing authorities will identify ways in which to comply with this particular language. In addition, the licensing authorities should communicate this obligation to the haulers they license. If a complaint is brought to our attention, MPCA will work with the licensing authority to reach compliance. If you have questions about this letter, please reach out to Peder Sandhei at 651-757-2688 to discuss. As with all legal issues/questions, please seek advice from your local attorney to make sure that your licensing agreements are compliant with the language of Minn. Stat. § 115A.93.

Sincerely,



Peder Sandhei
Principal Planner
Minnesota Pollution Control Agency

115A.03

Subd. 25a. **Recyclable materials.**

"Recyclable materials" means materials that are separated from mixed municipal solid waste for the purpose of recycling or **composting**, including paper, glass, plastics, metals, automobile oil, batteries, **source-separated compostable materials**, and sole source food waste streams that are managed through biodegradative processes. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

Subd. 25b. **Recycling.**

"Recycling" means **the process of collecting and preparing recyclable materials** and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

115A.93

Subd. 3. **License requirements; pricing based on volume or weight.**

(a) A licensing authority shall require licensees to impose charges for collection of mixed municipal solid waste that increase with the volume or weight of the waste collected.

(b) A licensing authority may impose requirements that are consistent with the county's solid waste policies as a condition of receiving and maintaining a license.

(c) **A licensing authority shall prohibit mixed municipal solid waste collectors from imposing a greater charge on residents who recycle than on residents who do not recycle.**

(d) The commissioner may exempt a licensing authority from the requirements of paragraph (a) if the county within which the authority is located has an approved solid waste management plan that concludes that variable rate pricing is not appropriate for that jurisdiction because it is inconsistent with other incentives and mechanisms implemented within the jurisdiction that are more effective in attaining the goals of this chapter to discourage on-site disposal, littering, and illegal dumping.