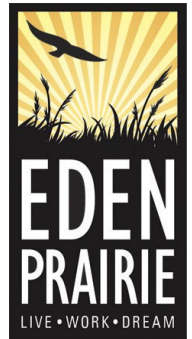


May 3, 2023

RE: **MPCA/Hennepin County Determination on Organics Recycling Fees**



Dear Licensed Waste Hauler,

The Minnesota Pollution Control Agency has recently interpreted Minnesota Statutes § 115A.93, subd. 3(c) to mean that licensing authorities, such as cities, are required to prohibit waste haulers from imposing a greater charge on residents who subscribe to curbside organics recycling collection service than to those who do not. Please see the attached email and letter regarding this finding and subsequent directive to cities from the MPCA.

The City of Eden Prairie is now required to ensure that its licensed waste haulers are complying with this statute and the MPCA's interpretation of its impact on curbside organics recycling charges. As such, customers who subscribe to residential curbside organics recycling services should not be charged more than customers who do not. Please make the necessary changes in your billing systems to ensure compliance by no later than December 1, 2023. You will be required to verify compliance as part of your licensure renewal application. Haulers not in compliance will not be eligible to have their license renewed in 2024.

If you have questions about the requirements of this statute, please contact Peder Sandhei, Minnesota Pollution Control Agency, at 651-757-2688, or Ben Knudson, Hennepin County Environment and Energy Department, at 612-596-1176.

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Fierce".

Jennifer Fierce
Sustainability Coordinator
City of Eden Prairie

From: [Kaitlin Keller](#)
Cc: [Kaitlin Keller](#); [Kira Berglund](#); [Ben Knudson](#)
Subject: MPCA Letter Re: City Organics Programs
Date: Friday, February 17, 2023 3:17:40 PM
Attachments: [MPCA Hennepin Organics 115A.93.pdf](#)
Importance: High

Hello City recycling coordinators,

The Minnesota Pollution Control Agency (MPCA) has issued a letter that may affect your city organics recycling program, unless you already charge all residents for organics service. The MPCA addresses the following question: do all residents need to pay for organics service, or only those who subscribe to the service?

Per the attached letter, the MPCA has clarified that in order to comply with state statute, licensing authorities (such as cities) are required to prohibit collectors from imposing a greater charge on residents who subscribe to organics collection than those who do not. In other words, all residents must pay for organics service if the service is provided, just as all residents must pay for traditional recycling service, whether or not the residents use the service.

The MPCA expects that licensing authorities will identify ways to comply with the requirements of Minn. Stat. § 115A.93. Licensing authorities should communicate this obligation to the haulers they license.

If you have questions or comments, please feel free to contact me and Kira. We have also shared this information with city managers/administrators. We can help facilitate discussions, provide information about organics programs, and assist with program changes.

-Kaitlin and Kira

[Kaitlin Keller](#) (she/her)
Waste Reduction and Recycling Specialist
Hennepin County Environment and Energy

Disclaimer: If you are not the intended recipient of this message, please immediately notify the sender of the transmission error and then promptly permanently delete this message from your computer system.

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.