

DISCUSSION

Bag Usage and Impacts

Approximately 13 billion single-use carryout plastic bags are consumed annually in California yet only 6% of these bags are recycled (CalRecycle 2014 and 2013). On a per-capita basis this is approximately 339 bags per person per year, or almost one bag per person per day. Assuming the statewide rate of usage also applies locally, over 142 million bags per year are used collectively in the County and 12 cities. At this rate over 35 million bags would be used by consumers living in the unincorporated areas of Monterey County. The proposed ordinance, if adopted, would be expected to reduce single-use carryout bags usage by 95% -- a reduction of approximately 33 million single-use bags. A more detailed analysis is contained in the Categorical Exemption Report (Attachments 3 and 4).

History of Ordinance Development

In June 2011 the Board of Supervisors' Alternative Energy and Environment Committee (AEE Committee) began discussions of the development of an ordinance. The initial approach recommended was to develop an ordinance consistent with those adopted by adjacent cities and counties. This is still the case. The counties of Santa Clara and Santa Cruz, and the cities of Monterey, Gonzales, Watsonville and Santa Cruz have adopted substantially similar plastic bag bans. The cities of Salinas, Greenfield, Soledad and King are currently preparing similar ordinances. A number of minor modifications were suggested by AEE Committee members, as well as by the public and local organizations. Both the AEE Committee and the Board emphasized the importance of coordination and co-facilitation with the City of Salinas and other interested cities.

Proposed Ordinance

The key elements of the potential ordinance are that it:

- Applies to the unincorporated area of Monterey County
- Prohibits retailers from providing thin-film plastic single-use carryout bags, free recycled paper bags, or free reusable bags to customers.
- Requires a minimum charge of ten cents (\$0.10) to provide a recycled paper bag or reusable bag to a customer, with exceptions made for customers who participate in certain governmental or non-profit programs.
- Allows the ten cent charge to be retained by the retailer to recover the cost of the paper or reusable bags.
- Applies to retail establishments that sell perishable or nonperishable goods including clothing, food, personal items and farmers markets.
- Does not apply to restaurants, take-out food establishments, and wholesale agricultural produce packing and shipping businesses.
- "Single-use carry-out bags" are defined as a bag, other than a reusable bag or recycled paper bag, provided by the retailer for the purpose of transporting food or merchandise out of the retail establishment.
- Exempts bags no larger than 11" by 17" without handles provided to the customer: (1) to transport produce, bulk food or meat from a product, bulk food or meat department within a store to the point of sale; (2) to transport produce, bulk food, or other items to the point of sale at a farmers' market; (3) to hold prescription medication dispensed from a pharmacy; (4) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag; or (5) Garment Bags regardless of size.
- Specifies reusability standards for "reusable bag" as a bag with handles that is specifically designed and manufactured to be reused at least 125 times and that is either (1) made of cloth or other

washable natural or synthetic fibers that can be cleaned and disinfected, or (2) made from plastic film that is at least four (4.0) mils thick and capable of being cleaned and disinfected.

- Enforcement would be under the Monterey County Environmental Health Bureau.
- Incorporates a six month “grace period” from the effective date of the ordinance in order to allow retail establishments time to make necessary arrangements for compliance and to expend current stocks of plastic single-use carry-out bags. The grace period also gives County staff time to maximize the usage rate of reusable bags by implementing focused outreach and education of both the public and retailers and distributing reusable bags.

Discussion Items

- Definition of reusable bags. The definition of, and charges for, reusable bags have evolved since the first bag bans were passed in California. This proposed ordinance can be called a “fourth generation” ordinance because it includes provisions to close loopholes found in earlier ordinances. Many second generation ordinances only charged for alternative paper bags but still allowed “reusable” bags to be provided for free. The stores that used this loophole simply began distributing thicker plastic bags for free at every transaction. Customers did not have an incentive to bring their own bags since they could still assume free bags would be provided. Third generation ordinances began requiring a minimum charge for reusable bags but still did not adequately define the term “reusable” and often included poorly defined promotional exceptions such as “during limited-duration promotional events.” Based on these exceptions grocery stores, including local stores in neighboring cities/counties, began implementing practices that are technically in compliance with the ordinances but not with their intent. For example the City of Watsonville, during the first year of implementation, saw several local stores still giving away free film-plastic bags to customers. The bags met the technical ordinance definition of “reusable” in that they were 2.25 mils thick, have handles, are made from LDPE plastic, and are labeled “reusable.” Some of these stores also sold at the checkout stand the same type of film plastic bags for \$.25. However the customers were not observed to be bringing these or other bags back to reuse. As a result, more, not less, plastic was being used in each of these thicker bags and the practice of single-use shopping bags continued. As observed by the local environmental organization, Save Our Shores, this practice of selling a reusable bag for \$.25 is also taking place in other jurisdictions in Santa Cruz, Monterey and Santa Clara counties as a way to comply with letter of bag ban ordinances while still supplying most customers with a plastic bag that is likely used only once as a shopping bag. This practice is not compatible with the intent to eliminate the distribution of single-use plastic bags at every transaction or to incentivize customers to bring their own shopping bags and reduce overall bag use.
- Senate Bill 270. SB 270 is still progressing through the State legislature. Of the several bills proposed in the last several years it is the first bill to pass out from the State Senate and appears to have a reasonably high probability of passage. If passed as drafted, it would preempt local ordinances unless local action is taken prior to September 1. SB270 would preempt local ordinances with the following exception, “*A city, county, or other local public agency... that, before September 1, 2014, has passed a first reading of an ordinance or resolution expressing the intent to restrict single-use carryout bags and, before January 1, 2015, adopts an ordinance to restrict single-use carryout bags, may continue to enforce and implement the ordinance that was in effect before January 1, 2015.*” While the final outcome of SB270 cannot be known, it appears to have a reasonably high probability of passage creating a need to act prior to September 1.
- Level of CEQA analysis. When the ordinance returns on August 26, 2014 for the Board’s consideration of adoption, staff intends to present findings for the Board’s adoption that the ordinance is categorically exempt under sections 15307 and 15308 of the CEQA Guidelines because the

ordinance involves procedures for protection of natural resources and the environment. In March 2014, staff sought direction from the Board of Supervisors on the development of the ordinance and preparation of environmental review. The Board directed that: (1) The County and each participating city could separately adopt ordinances with independent environmental review; (2) consider the preparation of a categorical exemption for a County-only ordinance if appropriate under CEQA; (3) The County could assist the cities (if requested) by hiring consultant to draft ordinances and findings and conduct supporting research; and (4) propose a 10 cents/bag charge with subsequent evaluation after a set period of time. Since the March 2014 Board meeting, staff has finalized a draft of the ordinance and contracted with Rincon Consultants Inc. to conduct environmental analysis of the ordinance. The analysis prepared by Rincon Consultants shows that substantial evidence supports a determination that the ordinance is categorically exempt under sections 15307 and 15308 of the CEQA Guidelines. This evidence is found in Attachments 3 and 4, Categorical Exemption Report and Appendices. As shown in the Categorical Exemption Report, the ordinance will maintain, enhance and protect the natural resources and environment of Monterey County by reducing the amount of litter than enters the storm drain system and waterways. Among other things, the report compiles evidence that reducing the number of thin-film plastic bags that end up as litter protects Monterey County's unique environmental resources, including the Monterey Bay National Marine Sanctuary and the Elkhorn Slough National Estuarine Research Reserve and the species found in these habitats, including endangered species such as leatherback turtles and threatened species such as sea otters.

- **Coordination and status with Cities.** The AEE Committee and Board of Supervisors have consistently encouraged a high level of coordination with the City of Salinas as well as any other interested cities. The County retained the professional services of Rincon Consultants to assist each city with their own independent CEQA processes if they so choose. City of Gonzales adopted an ordinance in July. The cities of Seaside, Salinas, Soledad, Greenfield and King City have directed staff to pursue ordinances. The Peninsula cities of Marina, Pacific Grove and Del Rey Oaks are considering the idea.
- **Public Outreach.** During the six month implementation period of the ordinance, staff intends to conduct an education and outreach program to assist both the public and retailers in shifting from single-use bags to reusable bags. Components of the outreach and education campaign include the five following elements: (1) Branding of the effort as a "reusable bag ordinance" to place the emphasis on increasing the use of reusable bags rather than simply just banning plastic bags; (2) A separate dedicated website with pages focused on assisting retailers as well as the public; (3) A six month implementation period to allow enough time to conduct outreach; (4) Targeted outreach with an emphasis on local "mom and pop" stores, bilingual materials, individual visits, and the provision of several thousand free reusable bags; and (5) Targeted outreach with an emphasis on visitor/tourist population. While ordinances banning thin-film plastic bags are increasing around the state, many visitors may not know about the bans; information will be provided to tourist/visitor information centers and free reusable bags can be distributed from participating centers.