



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 21-814

September 28, 2021

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- a. Receive an update from Environmental Health and Sustainability Program staff regarding the County Action Plan and enforceable ordinance for Senate Bill 1383; and
- b. Provide direction to staff on discretionary policy questions involving whether to allow Self Hauling of organic waste and whether to use the state's suggested penalty fees.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Receive an update from Environmental Health and Sustainability Program staff regarding the County Action Plan and enforceable ordinance for Senate Bill 1383; and
- b. Provide direction to staff on discretionary policy questions involving whether to allow Self Hauling of organic waste and whether to use the state's suggested penalty fees.

SUMMARY:

Senate Bill 1383 (Lara, Chapter 395, Statutes of 2016), addressing Short Lived Climate Pollutants, is the most significant waste reduction mandate to be adopted in California in the last 30 years. It requires the state to reduce organic food waste disposal by 75% by 2025, which is equivalent to approximately 20 million tons of food waste. On January 5th, 2021 the County Board of Supervisors directed staff to develop an interdepartmental coordination plan and coordinate with external County agencies in the solid waste management industry to achieve the goals of SB1383. An update on the progress of the interdepartmental coordination efforts was presented to the Alternative Energy and Environment Committee on August 26, 2021; staff return to today to present this update to the Board, request recommendations and request further staff direction regarding discretionary policy questions within the enforceable ordinance.

DISCUSSION:

By January 1, 2022, the County must adopt an enforceable ordinance for organic waste generators, haulers, and other entities subject to the jurisdiction's authority, such as residents and businesses. County staff has been meeting regularly to integrate the required regulations language into our code. SB1383 regulations are relatively prescriptive, however there are some areas where the County has discretion such as in whether to allow self-hauling of organic waste and in whether to use the state's suggested fee structure for establishing the County's fees for violations.

Current System for Collection

Pursuant to Title 10 - Health and Safety, Chapter 10.41 - Solid Waste Collection and Disposal, MCC Section 10.41.030 - Mandatory collection, Subsection A provides that, "...All solid waste shall be collected from every occupied residence, apartment, or business...at least once a week."

In the unincorporated areas of Monterey County, the Board of Supervisors awarded the exclusive franchise agreement (UFA Agreement A-11631) to Waste Management, Inc., dba USA Waste of California, Inc., dba Carmel Marina Corporation (Waste Management, Inc.) The County of Monterey has a Unified Franchise Agreement with Waste Management whose vehicles are inspected and permitted by Environmental Health Bureau to haul solid waste, and also offer recycling and green waste collection for businesses and residents. In addition, the incorporated cities in the County have their own franchise agreements with their haulers whose vehicles are also inspected and permitted by the Environmental Health Bureau.

Businesses are currently allowed to self-haul recyclables and green waste to approved recycling centers, compost operations or other permitted solid waste facilities. However, these businesses cannot contract for a fee or pay another entity to haul these materials generated from their business or premises. Self-hauling is allowed by the SB 1383 regulations; if a jurisdiction allows generators subject to its authority to self-haul organic waste, it shall adopt an ordinance or a similarly enforceable mechanism that requires compliance with the requirements in Section 18988.3 of Title 14 of the State's regulations, the text of which is included with this report as Attachment 1, Section 18988.3. Self-haulers of Organic Waste.

Currently, complaint violations responded to by Environmental Health inspectors are billed at the rate of \$171 per hour, based on the Environmental Health Bureau's Fiscal Year 2021-22 approved fee schedule. The regulations for SB 1383 suggest the following penalties for non-compliance with the ordinance:

For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.
For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.
For a third or subsequent violation, the amount of the base penalty shall be \$250 to \$500 per violation.

The County may choose to use these ranges, with authority for the enforcing official to determine the appropriate dollar amount within the range, or it may select a set dollar amount for each level of violation. The County could also charge higher fees, but not lower fees, for noncompliance. The intended use of fee for penalties is to deter noncompliance and to bring businesses into compliance. Penalty fees are not intended to be a revenue source.

In addition to these fees for noncompliance, the County may also choose to implement fees for container contamination. Generally, this type of fee has been issued by the hauler rather than the County per the terms of the UFA.

On August 26, 2021, the Alternative Energy and Environment Committee received an update from staff regarding the progress and implementation status of SB1383. The AEE Committee discussed the pros and cons of Organic Waste Self-Hauling and explored the concept of violation fees based upon the size of business. The Committee also identified the potential efficiencies of offering the cities a contract with County staff to conduct inspections for the cities since the Health Department is already conducting inspections of food-serving businesses. After this discussion, the Committee requested that staff conduct a survey of the jurisdictions regarding these items.

In response to feedback received from the AEE Committee, staff initiated a survey of the respective jurisdictions regarding the inclusion or exclusion of self-hauling of organic waste in the ordinance, assessment of penalties, facility inspections and if an agreement for inspections is under consideration. The results of this survey are included with this report as Attachment 2, Jurisdiction Self Hauling Survey Results.

Staff seek direction on discretionary policy questions regarding allowing self-hauling of organic waste and violation penalties.

Action Plan Update

County staff has also been working to update the Action Plan for implementation with important deadlines and cost estimates.

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Initiatives: 1. Empower the community to improve health through programs, policies, and activities. It also supports one of the ten essential public health services, specifically: 6. Enforce laws and regulations that protect health and ensure safety.

OTHER AGENCY INVOLVEMENT:

The County Administrative Office, Environmental Health Bureau, Office of Procurement and Public Works, Facilities and Parks have worked collaboratively on SB1383 implementation.

FINANCING:

There is no financial impact to receiving this information, however SB1383 will require resources to implement this unfunded mandate. The state estimates that the cost to implement SB1383 to the County will be approximately \$1million at its outset and about \$200,000 annually going forward. The bulk of the initial costs are in education and outreach and staff believes these costs could be reduced through streamlining efforts, web-based outreach and sharing costs with the jurisdictions within the County. Staff has executed a Fair Share Agreement with MRWMD to share certain costs of implementation through the administrative fee of the Unified Franchise Agreement.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in

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collaboration with communities.

Infrastructure:

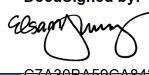
- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Robin Kimball, Management Analyst III, 796-1297

Approved by:

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Date: 9/22/2021 | 11:12 AM PDT

Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachments:

Attachment 1 - Section 18988.3. Self-haulers of Organic Waste

Attachment 2 - Jurisdiction Self Hauling Survey Results