



County of Monterey

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

Board Report

File #: 21-647, Version: 1

- ~~a. Receive an update from Environmental Health and Sustainability Program staff regarding the County Action Plan and enforceable ordinance for SB 1383; and~~
~~b. Provide a recommendation to staff on discretionary policy questions involving whether to allow Self Hauling of organic waste, inspection, and enforcement; and~~
~~c. Provide direction to staff. (REMOVED VIA SUPPLEMENTAL)~~

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 SB 1383; and
b. Provide a recommendation to staff on discretionary policy questions involving whether to allow Self Hauling of organic waste, inspection, and enforcement; and
c. Provide direction to staff.

SUMMARY:

SB1383 (Lara, Chapter 395, Statutes of 2016) 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. This is an update on the progress and a request for 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 the fees for violations.

Current System for Collection

Consistent with essential public health service item 6) and 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.) per Title 10, Chapter 10.41 Solid Waste Collection and Disposal of the Monterey County Code. The County of Monterey has a Unified Franchised 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.

The Incorporated Cities in the County have their own franchised 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 under the following criteria:

(b) 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 this article.

Section 18988.3. Self-haulers of Organic Waste.

(a) Generators of organic waste may, in compliance with Section 18988.1 of this division, self-haul their own organic waste.

(b) A generator who is a self-hauler of organic waste shall comply with the following:

(1) The generator shall source separate all organic waste generated on site in a manner consistent with Sections 18984.1 and 18984.2, or haul organic waste to a high diversion organic waste processing facility as specified in Section 18984.3.

(2) The generator shall haul source separated organic waste to a solid waste facility operation, activity, or property that processes or recovers source separated organic waste.

(3) The generator shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the jurisdiction.

(A) The records shall include delivery receipts and weight tickets from the entity accepting the waste.

(B) The record shall indicate the amount of material in cubic yards or tons transported by the generator to each entity.

(C) Notwithstanding Subdivision (b)(3)(A), if the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of waste received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste.

(4) A residential organic waste generator that self-hauls organic waste is not required to record or report the information identified in Subdivision (b)(3).

(c) A generator that is located in a jurisdiction or area that received a waiver under Section 18984.12 of this division and is not a business subject to the requirements of Section 42649.81 of the Public Resources Code is not required to comply with the requirements of this section.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

Reference: Public Resources Code Section 42652.5 and Health and Safety Code 42 Section 39730.6.

Currently violations stemming from a complaint would be billed at the rate of \$171 per hour.

Recommended Fees for Consideration

The regulations for SB 1383 suggest the following penalties for non-compliance with the ordinance:

(1) For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.

(2) For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.

(3) 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, or it may select a specific dollar amount within these ranges. The

County could also charge higher fees, but not lower fees, for noncompliance.

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.

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:

CAO, Environmental Health, Procurement, PWWP

FINANCING:

There is no financial impact to receiving this information, however SB1383 will require resources to implement. The state estimates that the cost to implement SB1383 to the County will be approximately \$1M 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 is working to execute an MOU with MRWMD to share certain costs through the administrative fee of the franchise agreement and will bring that MOU before the Board of Supervisors.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

SB 1383 is a state law that the County is required to implement.

Mark a check to the related Board of Supervisors Strategic Initiatives

☐ Economic Development
☒ Administration
☒ Health & Human Services
☐ Infrastructure
☐ Public Safety

Prepared by: Brian Azevedo, Environmental Health Specialist IV, 796- 1274

Approved by:

Date: _____

Ashley Paulsworth, Sustainability Program Manager, 755-5344

Date: _____

Elsa Mendoza Jimenez, Director of Health, 755-4526