



Board Agenda Item 13

DATE: May 17, 2022

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Senate Bill 1383 Organics Disposal Reduction Ordinance

RECOMMENDED ACTION(S):

- 1. Conduct first hearing of Ordinance to add Chapter 8.27 - Organics Disposal Reduction as a result of the enactment of California Senate Bill 1383 and subsequent adoption of regulations governing the reduction of Short-Lived Climate Pollutants; waive the reading of the Ordinance in its entirety; and set second hearing for June 7, 2022;**
- 2. Designate County Counsel to prepare a fair and adequate summary of the proposed Ordinance; and**
- 3. Direct the Clerk of the Board to post and publish the required summary in accordance with Government Code, Section 25124(b)(1).**

The recommended actions allow the County to become compliant with the regulations set forth in 14 CCR Sections 18981.1 et seq. by adopting an ordinance that mandates that organic waste generators, haulers, and other entities subject to the County of Fresno's jurisdictional authority comply with the regulations. The regulations require, among other things, that single-family, multifamily, and commercial generators of organic waste divert and recycle said waste to facilitate significant reductions in landfill disposal of organic waste, the decomposition of which is a substantial contributor to the production of Short-Lived Climate Pollutants such as methane. Additionally, the regulations require that "edible food recovery" programs be implemented that divert still-consumable food destined for disposal to residents in need to reduce food insecurity within Fresno County. This item is countywide.

ALTERNATIVE ACTION(S):

There are no viable alternative actions. Adoption of an enforceable ordinance or similarly enforceable mechanism requiring organic waste collection and recycling and edible food recovery programs is required of all California jurisdictions as set forth in 14 CCR Section 18981.2(a). Not adopting an ordinance places the County at significant risk of being issued a Notice of Violation by the Department of Resources Recycling and Recovery (CalRecycle) and subjected to administrative penalties up to \$10,000 per day for continued non-compliance.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. Organics collection will be a service included in the package of services offered to residents through the County's Exclusive Service Area Program (ESAP), and any monthly service charges are paid by customers. Sufficient appropriations have

been included in the FY 2021-22 Adopted Budget for the Department of Public Works and Planning's Resources Division Org 9015 for implementation and administration of County solid waste programs, including staff preparation and drafting of associated documentation.

DISCUSSION:

On September 19, 2016, The State of California enacted Senate Bill 1383 (Chapter 395, Statutes of 2016), which has quickly become known as one of the most sweeping pieces of solid waste management legislation since the enactment of the Integrated Waste Management Act in 1989. Senate Bill 1383 (SB 1383) focuses on organic waste management and establishes strict standards for achieving significant reductions in Short-Lived Climate Pollutants (SLCP), as part of its strategy for addressing air quality throughout the State. SB 1383 calls for a 75 percent reduction in organic waste disposed of in landfills, as well as a 20 percent reduction in the amount "edible food," which is surplus food inventory that is destined for landfill disposal but is still fit for human consumption, by 2025. SB 1383 regulations address a multitude of areas pertaining to organic waste management and SLCP reduction. Noteworthy regulatory requirements include:

Adoption of an Ordinance or Other Enforceable Mechanism

14 CCR Section 18981.2(a) requires that all California jurisdictions adopt an Ordinance or other enforceable mechanism that establishes recycling requirements for organic waste generators. Ordinance adoption is one of the most critical steps necessary for achieving compliance with SB 1383 requirements. Additionally, adoption of the proposed ordinance allows the County to be eligible for SB 1383 Local Assistance Grant monies that will assist the County in meeting its obligations under the regulations.

Amendment of the ESAP Agreements

Staff will need to meet with the ESAP haulers to negotiate amendments to the Agreements that address the various requirements of SB 1383 regulations, including the scope of services as it pertains to organic waste collection, service offerings and rates, transportation and processing, route/container inspections, and compliance/tonnage reporting specific to SB 1383.

Edible Food Recovery Program

SB 1383 requires that jurisdictions establish a program that addresses the recovery of edible food, which is excess food product that is traditionally disposed as trash, but is still fit for human consumption. Regulations have defined Edible Food Generators, commercial entities that produce excess food, into two categories and have required each tier to donate excess food to a Food Recovery Organization, and to maintain records of all donations made. Edible Food Recovery program activities include coordinating with food recovery organizations to collect, transport, and redistribute excess food to populations that are food insecure. Jurisdictions will need to establish a relationship with one or more entities such as private food recovery services, food banks, non-profits, and/or other community-based organizations to plan and implement food recovery activities as well as require that these organizations maintain recordkeeping of volumes of food donated and/or recovered for purposes of reporting to CalRecycle on an annual basis.

Jurisdictional Procurement

SB 1383 regulations require each jurisdiction to procure a designated volume of recycled organic waste products annually based on a calculated target which factors in a jurisdiction's population. Additionally, each jurisdiction is required to procure paper products that contain 30 percent or more of postconsumer when available at no greater cost than non-recycled products. Regulations stipulate that both recycled organic and paper products must be tracked for CalRecycle reporting purposes.

The proposed ordinance would establish a new Chapter 8.27 titled "Organic Waste Disposal Reduction Program." Proposed language included in Chapter 8.27 includes:

- Defining the County's Designated Collection System as a three-container system consisting of a Green Organic Waste container, a Blue Recyclable Materials container, and a Gray container for all other materials not designated for separation into the Green or Blue containers.

- Recycling Requirements for Single-Family Generators of Organic Waste.
- Recycling Requirements for Multi-Family Generators of Organic Waste or Responsible Parties of Multi-Family Generators.
- Recycling Requirements for Commercial Generators of Organic Waste or Responsible Parties of Commercial Generators.
- Exemption from organics waste collection requirements for areas that fall into a CalRecycle-approved Unincorporated County Low Population Waiver area.
- Requirements for the application and issuance of waivers to Multi-Family and Commercial Generators/Responsible Parties, including De Minimis and Physical Space waivers.
- Requirements for Commercial Edible Food Generators including arranging for food donation and recordkeeping of food donated.
- Requirements for Food Recovery Services that pick up edible food inventory from Commercial Edible Food Generators and redistribute to populations in need.
- Requirements for Haulers and Facility Operators including annual notification of facilities utilized by Haulers for delivery of collected materials, transportation to material recovery facilities for recyclables and organic waste, education and outreach, and reporting.
- Self-Hauler Requirements for waste generators who opt to haul their own organic and recyclable materials, including source-separating materials, transportation to material recovery facilities for recyclables and organic waste, and recordkeeping.
- Requirements for inspections and reviews of the program, including customer containers and use of containers, and investigations of complaints involving violations of this Ordinance Code.
- Requirements for Enforcement of this Chapter, consistent with the protocols specified in Chapter 1.13 of the County's Ordinance Code and penalty specifications stipulated in 14 CCR Section 18997.2.

Adoption of the proposed ordinance is consistent with the action plan included with the County's Notification of Intent to Comply (NOIC), which was adopted by the Board at the February 22, 2022 meeting. The NOIC was submitted because of the County's SB 1383 implementation status. Although the County has completed some requirements stipulated by the SB 1383 regulations, full implementation was not realized as of January 1, 2022, due primarily to the impacts of the COVID-19 pandemic, as well as the Creek Fire emergency limiting staff's ability to effectively plan and fully implement organics recycling programs. Accordingly, CalRecycle staff strongly recommended the County submit a NOIC to avoid the potential for a Notice of Violation and subsequent administrative penalties. Throughout the upcoming months of 2022, staff will be continuing its implementation activities with anticipated completion by January 1, 2023.

REFERENCE MATERIAL:

BAI #56, February 22, 2022

BBR, Senate Bill 1383 Implementation, March 17, 2021

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Ordinance Chapter 8.27

On file with Clerk - Summary of Ordinance

CAO ANALYST:

Ron Alexander