



**SAN BENITO COUNTY  
AGENDA ITEM  
TRANSMITTAL FORM**

Dom Zanger  
District No. 1

Kollin Kosmicki  
District No. 2

Mindy Sotelo  
District No. 3  
Vice-Chair

Angela Curro  
District No. 4  
Chair

Bea Gonzales  
District No. 5

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**Item Number: 3.2**

**MEETING DATE:** 02/06/2024

**DEPARTMENT:** RESOURCE MANAGEMENT AGENCY

**AGENDA ITEM PREPARER:** Kathryn Ramirez

**DEPT HEAD/DIRECTOR:** Steve Loupe

**SUBJECT:**

**RESOURCE MANAGEMENT AGENCY – S. LOUPE, PUBLIC WORKS ADMINISTRATOR**

(To be heard at 1:30 PM or as soon thereafter as the matter may be heard)

Accept a presentation and hold a public hearing to introduce and waive the first reading of the ordinance transitioning from Non-Exclusive Franchise Agreements to Hauling Permits and direct staff to hold a second hearing for adoption at the February 27, 2024 meeting. Adopt a Memorandum of Understanding between the Integrated Waste Management Regional Agency Members for the establishment of a Hauler Permit System and authorize the chair to sign.

SBC DEPT FILE NUMBER: 142

ORDINANCE NO.:1063

**AGENDA SECTION:**

PUBLIC HEARING

**BACKGROUND/SUMMARY:**

**SB 1383 Background**

In September 2016, Governor Brown signed into law Senate Bill 1383 (SB 1383) establishing methane emissions reduction targets. Methane emissions result from the decomposition of organic waste in landfills and are a source of greenhouse gas (GHG) emissions. Senate Bill 1383 directs the Department of Resources Recycling & Recovery (CalRecycle) to adopt regulations and requirements to achieve state-wide goals including a goal to reduce organic waste disposal at landfills by 75 percent by the year 2025; and requires that not less than 20% of edible food that is currently disposed of be recovered for human consumption by 2025.

To meet the state-wide goals of SB 1383 and its January 1, 2022, compliance implementation deadline,

CalRecycle has established numerous organic waste disposal program requirements impacting municipal jurisdictions, generators, processors, and haulers. Some of the program requirements include:

- Providing organic waste collection service to all residents and businesses;
- Establishing an edible food recovery program that recovers edible food from the waste stream;
- Conducting outreach and education to all affected parties, including generators, haulers, facilities, edible food recovery organizations, and county and city departments;
- Procuring recycled organic waste products like compost, mulch, and renewable natural gas (RNG);
- Inspecting and enforcing compliance; and
- Maintaining accurate and timely records of compliance.

Under SB 1383, CalRecycle has the authority to financially penalize non-compliant jurisdictions up to \$10,000 per day.

### **SB 1383 Rural Exemption for the San Benito County Integrated Waste Management Regional Agency**

Per Section 18984.12 (c) of the SB 1383 regulations, a qualifying rural county may adopt a resolution exempting the county from specific SB 1383 requirements based upon findings as to the purpose of and need for the exemption. The San Benito County Integrated Waste Management Regional Agency members qualified for the exemption if the rural jurisdiction (the County) receives delegation authority to applied for the exemption on the Agency members' behalf, which was previously granted. On October 26, 2021, the Board of Supervisors approved and affirmed a resolution that allows the County as Lead Agency to apply for a rural exemption on behalf of the Regional Agency members for SB 1383. The rural exemption was approved and put into effect by CalRecycle on June 9, 2022.

The rural exemption exempts the San Benito County Integrated Waste Management Regional Agency members from the mandatory organics collection requirements and other associated requirements, until December 31, 2026.

### **Non-Exclusive Franchise Agreement History**

Non-Exclusive Franchise Agreements (NEFAs) are required to be held by any solid waste haulers active in San Benito County for garbage, recyclables, organic materials, and/or construction and demolition materials. This program is administered by the Integrated Waste Management (IWM) division of San Benito County. The John Smith Road Landfill operator, Waste Connections, Inc. has supported Integrated Waste Management with NEFA compliance at the landfill scale house. The NEFAs are agreements between each hauler and the County as well as the two incorporated cities, Hollister and San Juan Bautista (Cities). The current NEFAs do not expire unless terminated for cause.

The NEFAs include several requirements that help regulate haulers active in the area and are identical to each other except for the franchise fees. The most important requirements are listed below:

- Monthly reporting and franchise fee payments
- NEFA haulers are required by their Agreements to submit a recycling Plan that demonstrates 50% diversion of the waste that is hauled to assist the County to meet state recycling laws
- Franchise fee of 5% for projects located in the County and Hollister, and 10% for residential customers and 15% commercial customers located in San Juan Bautista
- Insurance and Indemnification clauses

San Benito County's IWM division has been administering the NEFAs, which includes receiving regular reporting from the haulers and ensuring the haulers comply with the NEFA agreement language.

Three zones dictate the extent of Recology's exclusive franchise agreement, which in turn affects the areas in which the NEFA haulers are allowed to operate and the types of service they can perform. The zones are as follows:

1. **Mandatory** – Recology is required to provide solid waste collection service in this zone, and generators are required to subscribe to solid waste collection service. Recology's franchise does not include C&D debris collection in temporary roll-off/debris boxes and Drop Box service (which can be provided as regular service), and other permitted haulers are allowed to provide such service in the Mandatory zone.
2. **Discretionary** – Recology isn't required to provide solid waste collection service and generators are not required to subscribe, but if requested by a generator, Recology is obligated to provide service.
3. **Voluntary** – Generators aren't required to subscribe to service and Recology is not obligated to provide service. The voluntary zone is primarily rural agricultural land and the majority of generators in this area self-haul their solid waste.

Attachment 1, shows the three zones with red indicating mandatory Recology service, orange representing the discretionary zone, and green indicating the voluntary area. The red zones are inclusive of both incorporated cities as well as portions of Unincorporated County. Importantly, regardless of zone, all residents and businesses are legally allowed to haul their own solid waste in their own vehicles, which is known as "self-haul" (among other exemptions to the franchise). Self-haul would typically be in addition to regularly scheduled service.

### **Proposed Changes to NEFA**

The current NEFA system, while effective in regulating the haulers active in the County, requires modernization. The main benefits to modernization include the following:

1. **Legislative compliance.** IWM is required to report the number of businesses that are subject to certain state laws, and with the current reporting requirements for NEFA, IWM does not have sufficient information to meet the State's reporting standards. Additionally, the new State law SB 1383 requires mandatory recycling and organics participation, which may require significant changes for haulers currently providing regularly schedule service, including the NEFA haulers. There are other related requirements of the State law that are best performed by the NEFA haulers for their own customers; the proposed revisions to the permit will help to transition into SB 1383 compliant service for NEFA.
2. **Save staff & hauler time.** The proposed MOU would consolidate responsibility for administration of State requirements in IWM and streamline a system that might otherwise require a separate NEFA agreement or permit from each City and the County, separate reporting, and additional overhead and coordination between City staff and IWM to meet State requirements. Additionally, we are recommending reducing reporting frequency from monthly to quarterly.

Most importantly, while the Cities currently receive franchise fee payments from the NEFA haulers, they have not been approving the NEFA contracts. The County wishes to simplify the NEFA system by receiving authorization from the Cities to execute hauling contracts at its discretion without requiring the Cities to individually approve each contract via MOU. This would formalize the existing procedures in place now. Because the Cities are all in the mandatory zones for Recology, the only NEFA activity in the Cities would be temporary and on-call roll-off service, which is expected to primarily be provided for construction and demolition (C&D) activity. Schools also operate outside of the Recology exclusive franchise. The proposed revisions would also align the permit system with the existing governance/contractual framework under which the Recology exclusive franchise has already been awarded by the cities of Hollister and San Juan Bautista, and the County of San Benito

The County currently and would continue to collect all NEFA franchise fee payments and distributes the City of Hollister and the City of San Juan Bautista payments to each respective city.

### **Memorandum of Understanding for Hauling Permit**

An MOU between the Regional Agency members is necessary to outline the roles and responsibilities of each member agency for the establishment of the new permit system. The responsibilities of each member agency are outlined in the MOU.

### County Responsibilities

Per the MOU, the County will administer the new permits. County will be responsible for the following:

- 1) Receiving and processing permit applications, hauler reports, and fee payments
- 2) Executing permits
- 3) Reporting and recordkeeping of compliance for County use and for reporting to CalRecycle
- 4) Enforcing all permit requirements

### City Responsibilities

The Cities will be responsible for the following:

- 1) Enter into the Memorandum of Understanding
- 2) Adopt and make part of their municipal codes adjustments establishing the permit system, including the specific provisions provided to the Cities by the County
- 3) Provide program related information to the County as requested
- 4) Assist the County on any related issues requiring jurisdictional assistance or lead in resolving issue(s) related to complaints or noncompliance.

### **Integrated Waste Management Regional Agency Local Task Force**

Integrated Waste Management staff has presented the current NEFA process and the proposed NEFA Permit System, MOU and Code revisions to the Local Task Force (LTF) in 2022 Quarters 2 and 4 and in 2023 Quarters 2,3 and 4. This local task force includes an elected representative from each jurisdiction. During the 2023 Quarter 4 meeting of the LTF the members voted to recommend to their respective bodies to adopt the NEFA code updates and MOU.

### **County Code Revisions**

Adjustments to the existing County Code Section 15.01.041 are recommended. These adjustments remove the relevant references to the prior Non-Exclusive Franchise Agreement system and transition the County to the new permit system.

### **Hauling Permit**

In order to prepare San Benito County and the Cities of Hollister and San Juan Bautista for the end of the rural exemption, the proposed permit introduces some improvements that are intended to slowly transition the existing NEFA haulers to SB 1383 compliant collection services. The proposed permit would add the following requirements:

1. Requirement to provide recycling and organics service to regularly scheduled service for generators that subscribe to garbage service only; with an allowance for some waivers as appropriate & documented.
2. Introduction of container color and labeling standards.
3. Requirement to divert recycling and organics to appropriate facilities for diversion and not land application or disposal.
4. Introduction of certain customer education requirements, and the inclusion of web-based educational content for San Benito customers.
5. Contamination monitoring requirements via route audit or waste evaluation.
6. Requirement to process all construction and demolition materials at an approved facility.
7. Reporting of vehicle lists to the County every three years.
8. Additional regulation on overweight vehicles.
9. Introduction of liquidated damages.
10. Expansion of insurance requirements; and inclusion of performance bond.
11. Regular annual reporting of customer subscription data for CalRecycle and compliance monitoring generally; and submission of additional materials upon permit application, including customer rates.
12. Current monthly tonnage and revenue/fee reporting and payment are updated to quarterly to reduce administrative overhead for the permitted haulers, as well as costs for IWM staff time (paid by all RA members).
13. Removal of the requirement to submit a Recycling Plan.

14. Authority to approve the new permit system would reside with the County of San Benito Board of Supervisors.

**RESOLUTION OR ORDINANCE NEEDED FOR THIS ITEM:**

Yes

**CONTRACT NEEDED FOR THIS ITEM:**

No

**CONTRACT AND RFP HISTORY:**

San Benito County Integrated Waste Management Regional Agency  
Per the Joint Power Integrated Waste Management Agreement signed in 1995 between the County of San Benito, the City of Hollister, and the City of San Juan Bautista, the County is the Lead Agency of the Regional Agency and staffs/manages the Integrated Waste Management programs to meet waste and recycling state mandates and reporting requirements for the Regional Agency members.

**LAST CONTRACT AMOUNT OR N/A:**

N/A

**STATE IF THIS IS A NEW CONTRACT/ HOW MANY PAST AMENDED CONTRACTS/ OR N/A:**

N/A

**STRATEGIC PLAN GOALS: 1. Operational Development & Excellence**

Yes

**STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth**

Yes

**STRATEGIC PLAN GOALS: 3. Technology**

No

**STRATEGIC PLAN GOALS: 4. Community Engagement**

No

**STRATEGIC PLAN GOALS: 5. Health & Safe Community**

No

**BUDGETED:**

No

**BUDGET ADJUSTMENT NEEDED:**

No

**SOURCE OF FUNDING:**

N/A

**UNFUNDED MANDATE:**

Yes

**SBC BUDGET LINE ITEM NUMBER:**

N/A

**CURRENT FY COST:**

0

**STAFF RECOMMENDATION:**

Staff respectfully recommends that the Board:

- 1) Receive presentation from staff and waive first reading of the ordinance transitioning from Non-Exclusive Franchise Agreements to Hauling Permits and direct staff to hold a second hearing for adoption at the February 27, 2024 meeting.
- 2) Adopt a Memorandum of Understanding between the Integrated Waste Management Regional Agency Members for the establishment of Hauler Permit System and authorize the chair to sign.

**BOARD ACTION RESULTS:**

Received presentation, waived first reading, and adopted Memorandum of Understanding per staff recommendation. (5/0 vote)

**ATTACHMENTS:**

[Ordinance RE Non-Exclusive Franchise Hauling Permit System](#)

[MOU IWM Regional Agency - Non-Exclusive Permit System for Solid Waste Collection](#)

[DRAFT COSB Permit - Non-Exclusive Permit System for Solid Waste Collection](#)

[01.26.24 Public Hearing Notice - Ordinance Amendment for Chapter 15.01.041 Collection Franchise](#)

[02.06.24 Non-Exclusive Franchise Hauling Permit System Presentation](#)

[Fully Executed MOU - IWM Regional Agency](#)