



# Memorandum

## MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

Reviewed by W/nm Date 2/8/08  
General Manager

DATE: February 8, 2008  
TO: General Manager  
FROM: Assistant General Manager  
SUBJECT: Consider Adoption of Punitive Measures for Non-Compliance with Upgraded Waste Screening Program

**RECOMMENDATION:** That the Board schedule a public hearing for March 21, 2008 to adopt punitive measures for non-compliance with District's Hazardous Materials Policy and Upgraded Waste Screening Program.

### BACKGROUND

On January 4, 2006, the District received a letter from the Monterey County Office of the District Attorney regarding (alleged) violations of the law related to dumping of asbestos at the District facilities. Direction provided from Special Counsel Larry Biegel indicated to the Board that an "upgraded waste screening program" from the current measures in place, could be authorized by the Board to address these concerns.

New practices and procedures have been established to develop an upgraded waste screening program. The District's consultant, Larry Sweetser, of Sweetser and Associates, has provided information which recommends a number of changes to the District's waste screening program. Staff has already begun the implementation of this upgraded waste screening program. Additionally, staff has begun to pursue an aggressive customer and public education campaign, performed in cooperation with the local franchised haulers, the County Local Enforcement Agency (LEA), municipal building departments, local regulatory and enforcement agencies, and other stakeholders and users of the Materials Recovery Facility (MRF) and the Monterey Peninsula Landfill (MPL).

At the November 2007 Board meeting, staff outlined several alternatives for customers who have either not signed or are unaware of the revised District policy regarding an upgraded and enhanced waste screening policy. The upgraded program, approved by the Board at the October meeting, goes beyond that which is required by State and Federal regulations for waste screening.

### DISCUSSION

The District has already taken several steps to minimize and prevent the delivery of hazardous waste to the MPL. One step the District undertook was to request that each of our 530 charge account customers sign a "customer certification" related to the management of hazardous materials. The letter has been signed by almost all of the franchise haulers and accounts who deliver the majority of the refuse to the landfill (see attached summary). However, not all of our account customers have signed and returned the letter. The remainder of the accounts who have not signed, staff believes may have either overlooked the letter or have not have had it routed to the appropriate personnel. Staff is proposing the Board adopt (after a Public Hearing) a policy that would include the following series of measures for customers that fail or refuse to sign the customer certification:

- Assessment of a higher disposal fee up to the Problem Waste rate, currently \$90 per ton.
- Loss of charge account privileges at the District.
- Transference of names of non-compliant customers to the LEA.
- Subject of targeted waste screening.

Staff and legal counsel **do not** recommend the banning of customers who refuse to follow the prescribed protocol for waste screening as the most effective form of ensuring continued on-going compliance. Staff believes that the refusal of such customers and loads will create the potential for illegal dumping and conflicts for the scale staff. Staff believes that a gradual increase in the fees (similar to the successful approach used for load tarping), coupled with an aggressive and targeted public education campaign to accounts who utilize the landfill on a routine basis, will in the long-run prove to be a more successful approach than a strict banning of those customers who for whatever reason refuse to sign the newly adopted and enhanced waste screening policy. Staff is working with legal counsel to draft the language for the proposed policy and will bring it to the Board for approval at the March meeting.

The implementation of an upgraded waste screening program along with a method of identifying and tracking problem customers (and referring those customers to the LEA) will reduce the potential exposure to District employees and customers for materials that are not acceptable into the District's MRF or landfill.

On a related note, the District received a response from the Monterey Bay Unified Air Pollution Control District (MBUAPCD) dated January 29, 2008, regarding a letter request from the District dated September 14, 2007, to remove the NESHAP exemption and require an environmental evaluation to detect asbestos containing material (ACM) in single family residence demolition. The MBUAPCD has informally taken the matter to their Technical Advisory Committee (TAC) and as a result has decided to take no action on the request. The MBUAPCD is about to embark on a public information and outreach campaign to highlight the issues surrounding identification and proper management of ACM, and has pledged to include the District and other affected stakeholders in the effort.

### **PUBLIC HEARING**

A Public Hearing is not required, but is considered by staff as the most effective approach with adoption of the final punitive measures for the proposed policy. The program will be closely observed as to its effectiveness over the next 18 months and staff will report to the Board as requested and necessary.

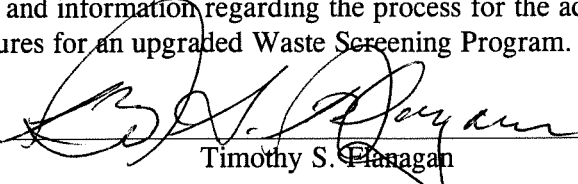
### **STRATEGIC PLANNING IMPACT**

A2b: Revise/update District Guiding Principles, Policies and Procedures.

A6a: Program focus on public awareness, increased diversion of organics and commercial wastes, proper management of hazardous and prohibited materials, litter abatement, and sustainability.

### **CONCLUSION**

Staff recommends that the Board accept the staff report and information regarding the process for the adoption of a policy authorizing the implementation of punitive measures for an upgraded Waste Screening Program.



Timothy S. Flanagan

# Analysis of Customer Response to Hazardous Waste Certification

## Refuse Loads 2007

	Count	# of Refuse Transactions		Tons	
<b>Franchise Haulers</b>					
Have signed the Certification	4	21,217	20%	130,269	52%
Have not signed the Certification - Monterey Disposal (apparently Gary Parola did sign for the Tri City Account)	1	6,770	6%	36,169	15%
<b>Charge Customers</b>					
Have signed the Certification	296	12,357	12%	25,471	10%
Have not signed the Certification	142	5,245	5%	15,198	6%
<b>Cash Customers</b>					
(Cash, Check, & Credit Card; not asked to sign Certification)		60,889	57%	41,184	17%
<b>Total</b>		<b>106,478</b>	<b>100%</b>	<b>248,291</b>	<b>100%</b>