

Board of Directors
Monterey Regional Waste Management District

RESOLUTION NO. 2008-03

**ESTABLISHING PUNITIVE MEASURES FOR NON-COMPLIANCE WITH DISTRICT'S
HAZARDOUS MATERIALS POLICY AND UPGRADED WASTE SCREENING PROGRAM**

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WHEREAS, the Monterey Regional Waste Management District (District) owns and operates solid waste management facilities, including a Class III landfill, and is required to conform to applicable federal, state and county laws; and

WHEREAS, the District is required by State and Federal regulations to implement a Waste Screening Program to detect and prohibit hazardous materials from being disposed in the District's Monterey Peninsula Class III Landfill; and

WHEREAS, an upgraded waste screening program would enhance protection of the environment and promote better customer awareness and understanding of the legal and regulatory compliance issues brought about by improper management of hazardous materials; and

WHEREAS, the Board of Directors directed staff to develop specific punitive measures for Non-Compliance with the District's Hazardous Materials Policy and Upgraded Waste Screening Program; and

WHEREAS, staff has sent several notices to the customer base regarding the implementation of the improved waste screening measures and has allowed for sufficient time for those responses to be turned back into the District.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Monterey Regional Waste Management District hereby adopts the following punitive measures for non-compliance with the District's Hazardous Materials Policy and Upgraded Waste Screening Program:

- Assessment of a higher disposal fee up to the Problem Waste rate of \$90 per ton.
- Loss of charge account privileges at the District.
- Loads subject to targeted waste screening.
- Transference of names of non-compliant customers to the Monterey County Department of Environmental Health, acting as the Local Enforcement Agency (LEA) on behalf of the California Integrated Waste Management Board.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Monterey Regional Waste Management District duly held on March 21, 2008 by the following votes:

AYES:

NOES:

ABSENT:

Leo Laska
Chair of the Board

ATTEST:

William M. Merry
General Manager



Memorandum

MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

Reviewed by Wmm Date 3/14/08
General Manager

DATE: March 12, 2008
TO: General Manager
FROM: Assistant General Manager
SUBJECT: Establishment of Punitive Measures for Non-Compliance with Hazardous Materials Policy and Upgraded Waste Screening Program

RECOMMENDATION: That the Board of Directors adopt Resolution 2008-03 Establishing Punitive Measures for Non-Compliance (customers who have not signed District Hazardous and Prohibited Waste Acceptance Policy) with 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" could be authorized by the Board to address these concerns. The Board adopted Resolution 2007-09 authorizing the Upgraded Waste Screening Program (which goes beyond that which is required by State and Federal regulations for waste screening) at their October 19, 2007 meeting.

One component of the upgraded program was to require District account customers to sign a compliance certification. The District has provided several opportunities for account holders to sign the District's compliance notification, and as referenced in a staff report (attached) provided to the Board at the February 2008 meeting, staff has outlined punitive measures for account customers who have either not signed or are unaware of the upgraded and enhanced waste screening program requirements. At their February 2008 meeting, the Board scheduled a public hearing to be held at the March 21, 2008 Board meeting and directed staff to send a notice regarding the public hearing to all account customers with a final request (attached) that they sign the certification.

DISCUSSION

To date 328 account holders (out of 511) have signed and returned the notice of compliance to the District. There are no large account customers that have not signed. Staff is recommending the following actions take place for those account customers who have failed to sign and return the compliance notification.

- Assessment of a higher disposal fee up to the Problem Waste rate of \$90 per ton.
- Loss of charge account privileges at the District.
- Loads subject to targeted waste screening.
- Transference of names of non-compliant customers to the Monterey County Department of Environmental Health, acting as the Local Enforcement Agency (LEA) on behalf of the California Integrated Waste Management Board.

As referenced in the staff report, staff and Legal Counsel **are not** recommending that the most effective form of ensuring continued on-going compliance to include the banning of customers who refuse to follow the prescribed protocol for waste screening.

District staff has contacted the Monterey Bay Unified Air Pollution Control District and will be coordinating additional staff training in conjunction with their office. The Household Hazardous Waste (HHW) presentation provided by Glen Evett, Last Chance Mercantile/Hazardous Waste Manager, at the March 21st meeting will provide up-to-date information on HHW and waste screening achievements.

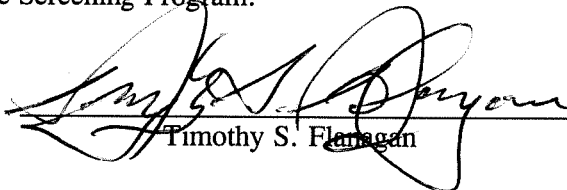
STRATEGIC PLANNING IMPACT

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

The implementation of the Upgraded Waste Screening Program along with a method of identifying and tracking problem customers (and referring those customers to the LEA), coupled with an aggressive customer and public education and outreach effort, will reduce the potential exposure to District employees and customers for materials that are not acceptable into the District's MRF or landfill. It is therefore recommended that the Board adopt Resolution 2008-03 establishing punitive measures for customers that are non-compliant with the Hazardous Materials Policy and Upgraded Waste Screening Program.



Timothy S. Flanagan



Memorandum

MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

Reviewed by W/mm 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.

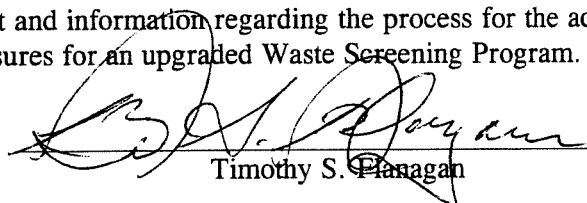
STRATEGIC PLANNING IMPACT

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



Memorandum

MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

DATE: March 6, 2008
TO: District Customers
FROM: General Manager
SUBJECT: Public Hearing for Establishing Punitive Measures for Non-Compliance with District Waste Screening Program Protocol

IMPORTANT!!
Final Notice to Company Owner/Manager

State and Federal regulations require the Monterey Regional Waste Management District (District) to have an effective waste screening program in place to prevent hazardous and prohibited materials from being deposited into the Monterey Peninsula Landfill (MPL) and at the Materials Recovery Facility (MRF). The District has upgraded its waste screening program (first implemented in 1987) for all waste loads of arriving to the District facilities.

One of the provisions of the upgraded waste screening program is to require District charge account customers to sign a statement (see attached) certifying that as the owner of a company which generates waste and/or deposits waste materials at the District's facilities, you have received and read the District's Hazardous and Prohibited Waste Policy ("the Policy"). Companies that generate waste are required to take all reasonable measures to ensure that employees of the company have been trained in the proper management, handling, and disposal of hazardous materials and materials prohibited from disposal at the MPL and MRF. **The District Board, at its March 21, 2008 Board meeting will consider adoption of punitive measures for customers who have not signed the certification** (see attached legal notice). Those measures would include the following:

- 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 Local Enforcement Agency (LEA) the Monterey County Department of Environmental Health.
- Subject of targeted waste screening.

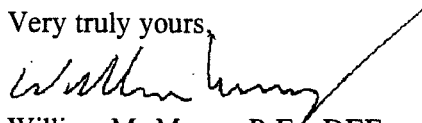
If you have signed the certification, thank you for doing so. If you have not, please sign and return it to: MRWMD, PO Box 1670, Marina, CA, 93933. You may wish to attend the March 21st Board meeting and public hearing. Please call the following staff or me at 384-5313 if you have any questions:

Glen Evett
Last Chance Mercantile/
Hazardous Waste Manager
gevett@mrwmd.org

Rick Shedden, P.E.
Senior Engineer
rshedden@mrwmd.org

Tim Flanagan
Assistant General Manager
tflanagan@mrwmd.org

Very truly yours,



William M. Merry, P.E., DEE
General Manager

Attachments

cc: Allen Stroh, Monterey County Environmental Health Department
John Ramirez, Monterey County Environmental Health Department
Steve Johnson, SVSWA
Dan Niles, RWQCB

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HAZARDOUS AND PROHIBITED WASTE POLICY
for the
Monterey Peninsula Landfill and Materials Recovery Facility

Customer Certification

Hazardous and other Prohibited Wastes, as defined under California and federal law, in any amount, may not be disposed at the Monterey Peninsula Landfill (MPL) or the Materials Recovery Facility (MRF). All incoming loads are subject to detailed waste screening procedures by District personnel. If hazardous or prohibited wastes are found in loads, the hauler is responsible for all costs associated with management of the hazardous materials including cost recovery by the District. Companies or individuals who violate the District's Policy on hazardous and prohibited waste may be excluded from the future use of District facilities, including the MPL and the MRF. Furthermore, failure to adhere to this District Policy may result in notification of federal, state, and local regulatory agencies, including the Monterey County District Attorney's office, and the responsible party or parties may be subject to civil or criminal prosecution, or both. The illegal transport and disposal of hazardous waste is subject to penalties of up to **\$25,000 per day**.

Examples of typical hazardous and other prohibited wastes that are not accepted for disposal at the MPL and MRF are listed on the back of this form.

The MRWMD's Household Hazardous Waste Collection Facility, located next to the Last Chance Mercantile, accepts hazardous wastes from households (for free) and small businesses (for a fee and by appointment). Contact District staff or visit our website (www.mrwmd.org) for more information on eligibility for this program.

If you have any questions on what materials are considered hazardous or prohibited, you can contact the Monterey County Environmental Health Division at (831) 755-4511. Any questions on the District's Hazardous and Prohibited Waste Policy should be directed to District staff at (831) 384-5313.

CUSTOMER CERTIFICATION: As a duly authorized agent for my company, I certify and acknowledge that I have received and read the above District Policy regarding the disposal of hazardous and other prohibited wastes.

Company Name

Date

Company Authorized Agent

Signature

Monterey Regional Waste Management District

**HAZARDOUS AND PROHIBITED WASTES
for the**

Monterey Peninsula Landfill (MPL) and Materials Recovery Facility (MRF)

Examples of typical hazardous and other prohibited wastes that are not accepted for disposal at the MPL and MRF are listed below:

- Friable Asbestos.
- Toxic wastes: pesticides, PCBs (ballasts and transformers), arsenic, mercury (switches, thermometers, thermostats), cleaners, phenols, brine, antifreeze, dry cleaning fluids, chemical and biological warfare agents.
- Corrosive wastes: acids (pool, boric, muriatic, sulfuric, hydrochloric, phosphoric), car batteries, naval jelly, cleaners (ammonia-based, oven, drain, metal, battery terminal), alkaline solutions.
- Reactive wastes: pyrophorics, cyanides, sulfides, explosives (ammunition, fireworks, flares).
- Ignitable wastes: solvents, oil-based paints, gasoline, diesel, kerosene, brake fluid, transmission fluid, flammable liquids, acetone, ethanol, aerosols, lighter fluid, fingernail polish and remover, floor/furniture polish, linseed oil, paint thinners/strippers, turpentine, varnish, wood stain.
- Paint and paint sludge.
- Photographic chemicals.
- Oil, oil filters, and other liquid petroleum products.
- Appliances.
- Whole tires & car bodies.
- Universal wastes: fluorescent lamps, batteries (all types), electronic wastes, CRT's (televisions and computer monitors).
- Propane and other compressed gas tanks.
- Medications and other pharmaceuticals and infectious medical wastes.
- Radioactive materials (glow in the dark watches, smoke alarms) and decommissioned radioactive materials.

LEGAL NOTICE

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on March 21, 2008, at 9:30 a.m. or as soon thereafter as the matter can be heard, at the Board Meeting Room located in the administration building at the Monterey Peninsula Landfill, 14201 Del Monte Blvd. (2 miles north of Marina) Marina, California, the Board of Directors of the Monterey Regional Waste Management District (District) will consider adopting Resolution 2008-02 establishing punitive measures for non compliance with the District's Hazardous Materials Policy and Upgraded Waste Screening Program.

Information regarding the proposed punitive measures for non compliance with the District's Hazardous Materials Policy and Upgraded Screening Program can be obtained from the General Manager at the District offices, telephone number (831) 384-5313. All persons interested in this matter are invited to appear at the above-mentioned meeting to present testimony and evidence regarding the proposed punitive measures for non compliance with the District's Hazardous Materials Policy and Upgraded Waste Screening Program. Written comments to the Board may be submitted to Post Office Box 1670, Marina, California, 93933, and must be received at the District offices prior to March 12, 2008.

Dated: March 3, 2008.

(s) William M. Merry
WILLIAM M. MERRY

Publication dates: March 9 and March 16.