



City of Mission Viejo

Office of the City Manager

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Brian Goodell
Council Member

Cynthia Vasquez
Council Member

September 10, 2024

The Honorable Judge Maria D. Hernandez
Presiding Judge of the Superior Court
700 Civic Center Drive, West
Santa Ana, CA 92701

**RE: Response to 2023-2024 Orange County Grand Jury Report,
“Talking Trash: Recyclables and Organic Waste”**

Dear Honorable Judge Maria D. Hernandez:

The City of Mission Viejo has reviewed the Orange County Grand Jury Report entitled, “Talking Trash: Recyclables and Organic Waste”. As required by California Penal Code sections 933 and 933.05, the City of Mission Viejo is responding to the findings and recommendations included within the report. Each of the findings and recommendations is listed below in italics, followed by the City’s response.

Findings:

F1: The majority of Orange County jurisdictions have not yet required their haulers to distribute residential containers that meet the CalRecycle standardized colors, leaving legacy and often incorrect or illegible labeling and embossing in place.

Response: Based on the information presented in the grand jury report, the City of Mission Viejo agrees with the finding. However, just because a jurisdiction has not yet required their hauler to distribute new containers to all customers, does not mean they do not plan to comply. The City is aware of other jurisdictions that are replacing old containers with new correct color containers when a replacement is requested. SB 1383 gives jurisdictions until January 1, 2036 to implement the standardized cart colors. With respect to Mission Viejo, the City through its franchised hauler, has implemented CalRecycle’s standardized color requirements for residential containers.

F2: While a jurisdiction may not delegate its overall responsibility for compliance with State requirements to a hauler, some jurisdictions have designated the task of imposing and collecting fines from residents to the hauler in accordance with State law. However, not all jurisdictions are clear on who ultimately receives and retains the collected fines.

Response: Based on the information presented in the grand jury report, the City of Mission Viejo agrees with the finding. The City is not aware nor can comment on what other cities are doing in regards to fines. With respect to Mission Viejo, the City is the enforcing body and will retain any



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collected fines for non-compliance with SB 1383. The City's hauler is allowed limited authority through the City's franchise agreement to impose and collect fees for excessive container contamination. These contamination fees are considered a standard operational cost, not a civil penalty.

F3: All jurisdictions will eventually start collecting fines from residents for noncompliance, but some have not yet determined whether the revenues will go into a waste and recycling enterprise fund or into the jurisdiction's general fund.

Response: Based on the information presented in the grand jury report, the City of Mission Viejo agrees with the finding. With respect to Mission Viejo, the City has not yet needed to issue or collect fines. However, if any fines were collected, the revenue from these fines would be deposited into the General Fund which does support multiple environmental and solid waste programs.

F4: In most jurisdictions, education and outreach is a joint effort between jurisdiction, hauler, and sometimes consultants, with the jurisdiction reviewing the materials before publication. The methods of dissemination vary by jurisdiction and hauler but frequently rely on a resident actively seeking the information, which requires the resident to have some awareness of the new mandates in the first place. Most efforts primarily revolve around intermittent hard-copy paper mailings.

Response: Based on the information presented in the grand jury report, the City of Mission Viejo agrees with the finding. The City cannot speak to what other jurisdictions are doing in regards to education and outreach, but with respect to Mission Viejo, the City does work closely with its hauler and consultants to create and review educational materials. Once created, these materials may be distributed to residents or commercial customers in person, via email, hard-copy mailings, or social media.

F5: Most jurisdictions currently have no way to accurately determine the effectiveness of their respective education and outreach efforts other than the eventual inspections or audits that will take place.

Response: Based on the information presented in the grand jury report, the City of Mission Viejo agrees with the finding. With respect to Mission Viejo, the City agrees that currently there is no accurate way to determine effectiveness of education and outreach efforts. The City, through its franchised hauler, does perform twice annual waste composition studies that evaluate levels of contamination in each waste stream, but this only provides a snapshot in time for a limited number of participants.

F6: There is some concern that there are not enough composting facilities in Orange County to process all organic waste, forcing some jurisdictions/haulers to transport it long distances for processing.

Response: Based on the information presented in the grand jury report, the City of Mission Viejo agrees with the finding. With respect to Mission Viejo, the City's hauler is currently taking a portion of commercial organic waste to a processing facility in Sun Valley. Most organic waste is otherwise taken to facilities in Orange County, but as participation in programs continue, to grow, more material may need to be taken farther away if local capacity is not increased.



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F7: There is currently no infrastructure in the county that is a State-approved source of Renewable Natural Gas (RNG) and energy from organic waste. Jurisdictions that use vehicles running on RNG procured from non-approved sources cannot count that RNG towards fulfillment of their procurement requirement.

Response: Based on the information presented in the grand jury report, the City of Mission Viejo agrees with the finding.

F8: The formula used by the State to calculate a jurisdiction's procurement target does not account for a jurisdiction's population density or geographic size (square miles). As such, meeting the annual procurement target presents a significant challenge for most jurisdictions.

Response: Based on the information presented in the grand jury report, the City of Mission Viejo agrees with the finding.

F9: Many Orange County jurisdictions were unable to meet the requirement in SB 1383 to reduce organic waste sent to landfills by the 2020 deadline. It is unlikely the required seventy-five percent reduction will be achieved by the 2025 deadline.

Response: Based on the information presented in the grand jury report, the City of Mission Viejo agrees with the finding. Additionally, the City of Mission Viejo would like to note that this is a state-wide compliance deadline, not jurisdiction specific. The City agrees that achieving the statewide goal of reducing total organic waste disposal by seventy-five percent by 2025 is unlikely.

F10: The current procurement requirements mandated by SB 1383 are unrealistic and likely unachievable by most jurisdictions.

Response: Based on the information presented in the grand jury report, the City of Mission Viejo agrees with the finding.

Recommendations:

R1: All jurisdictions should expedite the acquisition and distribution of residential containers that meet the CalRecycle standardized colors. Additionally, until the compliant containers can be distributed, all jurisdictions should ensure the distribution of labeling for non-compliant containers that explain the current SB 1383 requirements applicable to their jurisdiction by June 30, 2025.

Response: The recommendation has been implemented. Mission Viejo abides by CalRecycle's standardized color requirements. At the end of 2021 into early 2022, the City, through its franchised hauler, facilitated the acquisition and distribution of new color compliant containers to all single-family homes and condominiums/townhomes with cart service.

R2: By December 31, 2024, all jurisdictions should ensure their waste hauling agreements are in compliance with State statute so that haulers may be designated to perform certain required tasks but are not improperly delegated overall responsibility for compliance. Additionally, all jurisdictions should ensure that any fines collected by a hauler are forwarded to the jurisdiction.



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Response: The recommendation has been implemented. The City adopted a Collection Services Franchise Agreement on January 1, 2021 that incorporated all of the requirements of SB 1383. As stated in response F2, the City of Mission Viejo is the enforcing body and will retain any collected fines for non-compliance with SB 1383.

R3: The OCGJ recommends that all jurisdictions utilize a dedicated waste and recycling enterprise fund for collection of fines for non-compliance with SB 1383 by December 31, 2024.

Response: The recommendation will not be implemented because it is not warranted. The City of Mission Viejo has not yet needed to issue fines and expects any future fines to be minimal and inconsequential in terms of total revenue. Should fines become necessary, the revenue from these fines would be deposited into the General Fund which does support multiple environmental and solid waste programs.

R4: By December 31, 2024, all jurisdictions should diversify the methods and media used for education and outreach to include, among others, various social media platforms, emails to residents, newspaper, television, flyer mailings, community events, and appearances at other public gatherings.

Response: The recommendation has been implemented. The City has extensively diversified education and outreach efforts in recent years. When the City's residential organics collection program was first rolled out, the City provided multi-page hard-copy brochures educating residents on all aspects of SB 1383. During this rollout, the City also hosted townhall meetings to educate residents about recycling organic waste. The City created and published an informative video illustrating best practices for participating in the food scrap recycling program. The video was posted on all social media platforms and played on Mission Viejo Television. Educational materials are regularly distributed at all possible City events. Mission Viejo's SB 1383 residential program is advertised in quarterly newsletters that are sent out to all residents. The City intends to continue to expand diversification of education and outreach.

R5: By December 31, 2024, and in order to gauge the effectiveness of their education and outreach efforts, all jurisdictions should develop new methods to engage residents directly to help determine their awareness of the requirements associated with SB 1383, such as surveys, online quizzes, and door-to-door polling.

Response: The recommendation has not yet been implemented, but the City intends to implement it by June 30, 2025. The City is considering distributing a survey to all residents to gather feedback on participation in the SB 1383 program.

R6: By June 30, 2025, the OCGJ recommends that all jurisdictions participate in the OCW&R-led efforts to develop a coordinated county-wide approach to the organics recycling infrastructure and programs as well as procurement requirements associated with SB 1383, working towards creating circular economy as a long-term goal.

Response: The recommendation has been implemented. The City meets with OCWR on a quarterly basis and participates in all OCWR-led efforts.



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R7: By December 31, 2024, the Orange County Board of Supervisors and all Orange County cities should lobby appropriate members of the State Legislature and/or CalRecycle to revise the organic waste diversion targets to better reflect Orange County's waste amounts, revise the jurisdictions' procurement requirements to better represent the limited options currently available for procurement, the jurisdictions' varying populations, population densities, and geographic size, and to delay associated enforcement actions by the State.

Response: The recommendation has not yet been implemented, but it will be implemented in the future. The City believes these efforts should be coordinated at the County level and will collaborate with the County and other Orange County jurisdictions on how best to approach this by December 31, 2024.

Should you have any questions or need any additional information, please contact Mark Chagnon, Public Works Director, at 949-470-3091 or via e-mail at mchagnon@cityofmissionviejo.org.

Respectfully,



Elaine Lister
City Manager
City of Mission Viejo

cc: Trish Kelley, Mayor
Bob Ruesch, Mayor Pro Tem
Brian Goodell, Council Member
Wendy Bucknam, Council Member
Cynthia Vasquez, Council Member
William P. Curley, III, City Attorney
Jerry Hill, Dir. of Public Works/Asst. City Manager
Mark Chagnon, Director of Public Works
Rich Schlesinger, City Engineer, Public Works
Hazel McIntosh, Associate Engineer, Public Works

