

Policy Considerations for the Short-Lived Climate Pollutants Act

Monterey County Board of
Supervisors 9.28.21

Recommendations:

- a. Receive an update from Environmental Health and Sustainability Program staff regarding the County Action Plan and enforceable ordinance for Senate Bill 1383; and
- b. Provide direction to staff on discretionary policy questions involving whether to allow Self Hauling of organic waste and penalty fees.

JURISDICTION RESPONSIBILITIES

**Provide Organics
Collection Services to All
Residents and Businesses**



**Conduct Education
and Outreach to
Community**



**Secure Access to
Recycling and Edible
Food Recovery Capacity**



**Establish Edible
Food Recovery
Program**



**Procure Recyclable
and Recovered
Organic Products**



**Monitor Compliance
and Conduct
Enforcement**

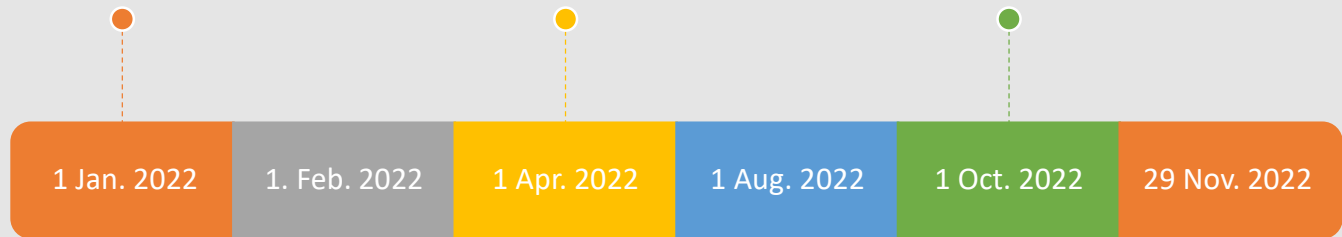


Major Deadlines

- Adopt Enforceable Ordinance
- Begin Procurement of Organic Products
- Begin Recordkeeping
- Develop Inspection and Enforcement Program

Initial Compliance Report and Ordinance due to CalRecycle

Initial Implementation Record- including Collection Services, Procurement numbers and Education and Outreach Compliance



Provide Education and Outreach materials to businesses and residents

-Food Recovery and Organics Capacity Study Due to CalRecycle

Implementation Schedule Due for Capacity Studies

Cost Estimates

Cost Estimates	Statewide	Monterey (Countywide)	Unincorporated Area
Capacity Study	\$2,000,000	\$22,500	\$6,300
Education and outreach for organic separation and collection	\$234,000,000	\$2,632,500	\$737,100
<i>Annual Going forward*</i>		\$263,250	\$73,710
Education and outreach for edible food recovery	\$10,000,000	\$112,500	\$31,500
Enforcement	\$45,000,000	\$506,250	\$141,750
<i>Annual Going forward*</i>		\$151,875	\$42,525
Procurement*	\$25,000,000	\$281,250	\$78,750
Coordination of Food Recovery	\$2,000,000	\$22,500	\$6,300
Reporting*	\$4,000,000	\$45,000	\$12,600
Year 1	\$322,000,000	\$3,622,500	\$1,014,300
<i>Annual Going forward (* included)</i>			\$207,585

Compliance Penalties- Enforced on County by CalRecycle (per violation per day)

- Minor- \$500-\$4,000
- Moderate- \$4,000-\$7,500
- Major- \$7,500-10,000
 - No enforceable ordinance adopted
 - Failure to require hauler compliance
 - Failure to have edible food recovery program
 - Failure to submit implementation record or required reports
 - Implementation or enforcement of a prohibited ordinance, policy, procedure, condition, or initiative that is prohibited under Sections 18990.1 or 18990.2.
- Penalty for Recovered Organic Waste Product is different: Based on days in violation in one year.

Policy Considerations



Self-Hauling of Organic Waste:
Whether to allow this?



Penalties for violations:
A range or a set amount?

Current Code:

- Allows for recyclables and green waste to be self-hauled. Does not allow for solid waste.
- Inspection and permitting in Monterey County occurs on any vehicle that hauls solid waste commercially.

SB1383 provides for an option to allow Self-Hauling of organic waste.

- Only applies to commercial businesses.
 - Residential payment for trash collection is not separated out by waste type.
- The generator shall source separate all organic waste generated on site.
- The generator shall haul source separated organic waste to a solid waste facility operation, activity, or property that processes or recovers source separated organic waste.
- The generator would be required to track any organic waste they self-haul.

Self-Hauling Organic Waste (Optional)

Pros

- Flexibility to businesses – **Additional option if included in the Ordinance**
- Green waste currently allowed to be self-hauled – **Does not include Food Waste**

Cons

- Loss of revenue to the County from Franchise Hauler fees– **Fees collected by Franchise Hauler**
- Need to develop an enforcement process for tracking self-hauling including a potential permit and associated fees for inspection and enforcement
- May cause vector, odor and contamination problems if not handled/contained properly and removed weekly?
- May be more costly for self-hauler

Survey Questions to Incorporated Cities:
Is your Jurisdiction going to allow self-hauling of "Organics Waste" in your Ordinance per SB 1383?

King City	King City is recommending it be allowed.
Greenfield	Proposing to allow self-haul.
Soledad	Proposing to allow self-haul.
Gonzales	Proposing to allow self-haul.
Salinas	No response.
Marina	Might allow self-haul for businesses that generate a significant number of organics.
Seaside	Working on gathering information.
Sand City	No Response.
Del Rey Oaks	have limited staff and are working on getting the answers to me but may take some time.
Monterey	Yes – this will not apply for residential.
Pacific Grove	Proposing to allow self-haul for landscape and C&D material.
Carmel	Yes – only for landscape material and C&D.

SB1383 Penalty Amount Considerations

Penalties- A Range or a Set Amount?

Education period January 1, 2022 – December 31, 2023

The regulations for SB1383 suggest the following penalties for non-compliance with the ordinance:

- For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.
- For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.
- For a third or subsequent violation, the amount of the base penalty shall be \$250 to \$500 per violation.

*Fees may be higher but not lower than those listed above

The regulations allow a generator to be out of compliance for a total **210 days**, before penalties must be issued.

Majority of jurisdictions are looking to adopt the penalties prescribed by SB 1383

Factors Considered in Determining Penalty Amount

The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range:

- (1) The nature, circumstances, and severity of the violation(s).
- (2) The violator's ability to pay.
- (3) The willfulness of the violator's misconduct.
- (4) Whether the violator took measures to avoid or mitigate violations of this chapter.
- (5) Evidence of any economic benefit resulting from the violation(s).
- (6) The deterrent effect of the penalty on the violator.
- (7) Whether the violation(s) were due to conditions outside the control of the violator.

Survey Questions to Incorporated Cities:

How will penalties be assessed for violations in your Jurisdiction per SB 1383?

King City	Residential is the at the low end of the range, and commercial is at the high end. Residential \$50-\$250, Commercial \$100-\$500.
Greenfield	The penalty range as prescribed in SB 1383 guidance.
Soledad	The penalty range as prescribed in SB 1383 guidance.
Gonzales	The penalty range as prescribed in SB 1383 guidance.
Salinas	No response.
Marina	The penalty range as prescribed in SB 1383 guidance.
Seaside	No response.
Sand City	No response.
Del Rey Oaks	No response.
Monterey	Penalties will be assessed within the range determined by SB 1383, although there may need to be some slight adjustments to ensure compliance.
Pacific Grove	Penalties will stay in the same range but might have a different range for businesses exceeding violations.
Carmel	The penalty range as prescribed in SB1383 guidance.

Survey Questions to Incorporated Cities:

In terms of inspections in your jurisdiction, are you looking to have the Monterey County Environmental Health Bureau conduct the inspections?

King City	Has not been discussed, could be an option.
Greenfield	TBD
Soledad	TBD
Gonzales	TBD
Salinas	No response.
Marina	Has not been discussed.
Seaside	No response.
Sand City	No response.
Del Rey Oaks	No response.
Monterey	We may need to request assistance from the MCEHB with regards to the edible food recovery program.
Pacific Grove	Not sure.
Carmel	Inspections will be in house unless its beneficial for both parties.

Questions?
