

STAFF REPORT

DATE: September 21, 2021

TO: City Council

FROM: Stan Gryczko, Public Works Utilities and Operations Director
Adrienne Heinig, Assistant to the Director
Jennifer Gilbert, Conservation Coordinator

SUBJECT: An Introduction to Senate Bill 1383 Regulations and City Implementation Planning Update

Recommendation

1. Receive informational presentation on key elements of Senate Bill (SB) 1383 (also called: Short-Lived Climate Pollutants: Organic Waste Methane Emissions Reductions); and
2. Receive update on the City's implementation planning process for SB 1383.

Fiscal Impact

There is no fiscal impact associated with this informational update.

Council Goal(s)

Key goals of the implementation of SB 1383 (including the reduction of methane emissions associated with organic materials breaking down in landfills) are consistent with the City Council goal to Pursue Environmental Sustainability.

Commission Input

The Natural Resources and Utilities Commissions have been receiving short updates on SB 1383 and the status of the City's planning effort since January 2021. On July 21, 2021, the Utilities Commission received an informational presentation on SB 1383, nearly identical to the presentation prepared for the City Council. At their meeting on September 27, 2021, the Natural Resources Commission will receive links to the Utilities Commission and Council presentations, as well as a report from staff. Once completed, the City's Implementation Plan/Roadmap will be presented to applicable commissions for review and feedback prior to recommendations being brought to City Council on achieving compliance with SB 1383.

Background

Landfills are the third largest source of methane emissions in California. When buried in landfills, organic waste (including paper, cardboard, food scraps, food-soiled paper products, yard trimmings and other organic-based wastes) emit 20% of the state's methane (a climate super pollutant 84 times more potent than carbon dioxide) and air pollutants like PM 2.5 (which contributes to health conditions like asthma). Organics wastes make up half of what Californians send to landfills. Reducing the amount of organic waste in landfills can have a direct impact on the climate crisis.

In September 2016, SB 1383 was signed into law, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants in various sectors of California's economy¹. As it pertains to solid waste, SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste by 2020, and a 75 percent reduction by 2025. In addition, the regulations require that at least 20 percent of edible food that is currently disposed of is recovered for human consumption by 2025. These regulations represent the most far-reaching changes to the solid waste industry in California since 1989, when AB 939 first required recycling and waste diversion programs. The regulations include specific details for organics waste collection and food recovery programs that must be implemented by all jurisdictions, and requires enforcement and reporting on these programs to demonstrate compliance.

The final rulemaking was completed by CalRecycle on November 3, 2020, and jurisdictions have a short time to prepare, as many of the regulations go into effect January 1, 2022. Fortunately for Davis, solid waste programs and policies already in place contribute to the community being well on the way toward compliance with SB 1383, especially with the introduction of mandatory organics waste collection in 2016. However, there are many other parts of SB 1383 that will take work to develop and implement.

The Six Main Elements of SB 1383

The chart to the right shows the six main elements of the SB 1383 regulations that apply to the City of Davis. Some aspects of these elements are explained briefly below along with the City's current status and potential next steps. *The full text of the regulations can be found*

The 6 Main Elements of SB 1383



¹ Given the significant changes to California's handling of waste, this bill has been in the rulemaking process for a number of years, and was delayed further by the COVID-19 pandemic.

online: <https://www2.calrecycle.ca.gov/Docs/Web/118371> Each section below includes a link to the CalRecycle guidance (where available).

- **Organics and Recycling Collection**. One of the main requirements, ensuring that all residents and business have access to recycling and organics collection, has been in place in Davis since July 2016. SB 1383 requires specific colors for waste collection containers: trash containers must be grey or black, organics containers must be green, and recycling containers must be blue. All new containers must be clearly labeled with what does and does not go into them.
 - **Current status:** Davis already has recycling and organics collection available to all customers. Single-family trash carts are grey and Recology Davis has already been repainting commercial trash bins grey. However, City organics carts have brown lids, commercial recycling carts are green, and single-family recycling carts are blue and black lidded.
 - **Anticipated Updates to Comply with Regulations:** While the City does not need to replace all of the existing carts until 2036, any new cart purchased after January 1, 2022 and provided to City customers must be color compliant. The City needs to decide if the goal will be to slowly phase into the new color changes or if the carts should be updated sooner.

- **Contamination Monitoring** The regulations require waste audits to be conducted on each trash, recycling, and organics route regularly, to check bins for contamination (recycling and organics not being sorted correctly). Specific recording, reporting and follow-up is required for any contamination that is found.
 - **Current status:** While some audits are conducted by Recology Davis drivers, this is not currently done on all routes in order to monitor contamination levels.
 - **Anticipated Updates to Comply with Regulations:** The City will be working with Recology to design a full contamination monitoring program to fulfill the SB 1383 requirements.

- **Education and Outreach**. SB 1383 regulations will require the City to conduct specific outreach to residents, schools, businesses and edible food generators on an annual basis. The outreach must be translated into multiple languages, based on the most recent census results.
 - **Current status:** The City does already provide annual outreach to these groups regarding waste sorting and recycling.
 - **Anticipated Updates to Comply with Regulations:** The City will need to review its outreach program to ensure that every aspect follows the language, timing, and translation requirements of SB 1383.

- **Capacity Planning**. The City must collaborate with the County and the other jurisdictions located within the county to determine the necessary organic waste recycling and edible food recovery capacity needed to divert organic waste and edible food from the landfill as required under the regulations.
 - **Current status:** Recology Davis brings all the organic waste collected in Davis to the Yolo County Central Landfill composting operations, however this arrangement has not been formally approved. The County has a robust food recovery network via a number of organizations, with the necessary capacity needs identified through a recently completed capacity study which should be released to the County Board of Supervisors soon.
 - **Anticipated Updates to Comply with Regulations:** The City is working on securing a short-term, organics waste flow agreement to ensure that all of the organics that are collected in Davis will be composted. The City will also be considering long-term, organics waste processing plans. City staff are working with a county-wide team to assess the county's current edible food recovery capacity and determine if it needs expansion.

- **Procurement Requirements**. Beginning January 1, 2022, the City must annually procure a certain quantity of recovered organic waste products. Jurisdictions can fulfill their target by procuring any combination of eligible products such as compost, mulch, and renewable energy. The City is also required to purchase recycled-content paper.
 - **Current status:** The City has a long-established purchasing policy in place that requires the purchasing of recycled-content paper. The City does use some compost in parks and greenbelts each year, but not enough to fulfill the SB 1383 target.
 - **Anticipated Updates to Comply with Regulations:** The City's Implementation Plan will provide some alternative options for the City to utilize to meet the additional procurement quantity for recovered organic waste products.

- **Edible Food Recovery**. The City must identify the edible food recovery generators that are required to implement edible food recovery programs, connect them with local food recovery organizations, provide annual outreach to the edible food generators about their requirements under SB 1383, and perform annual inspections to ensure they have contracts in place with edible food recovery organizations, and are keeping records of all recovered edible food.
 - **Current status:** The efforts related to edible food recovery programs are being led by the County. More detail on this is included below in this report. The City has been working with the County to identify all the edible food generators in Davis that will be affected by SB 1383.

- **Anticipated Updates to Comply with Regulations:** Edible food recovery outreach and inspection programs will need to be fully developed in partnership with the County and County jurisdictions.

Edible Food Recovery - A Countywide Effort

City staff continues to work closely with the staff and consultants from other jurisdictions in Yolo County on a county-wide edible food recovery program to meet the requirements of SB 1383. In June 2021, the consultants assisting the Cities and the County with their various implementation plans generated a letter to address the status of the planning on edible food recovery effort. This letter is included as Attachment 1.

At the Yolo County Board of Supervisors meeting on July 13 2021, County staff presented an update on the countywide edible food recovery effort. During the discussion, staff addressed several different points related to edible food recovery:

- The SB 1383 regulations require solid waste programs to report on edible food recovery, estimate capacity for food recovery and increase capacity when needed for Tier 1 and Tier 2 generators to recover edible food. Addressing the Tier 1 and Tier 2 edible food recovery has been the primary focus of solid waste staff in order to fulfill the SB 1383 regulatory requirement.
- Under the requirements of SB 1383, each jurisdiction is responsible for funding the additional capacity need for the Tier 1 and Tier 2 generators within their own jurisdiction. Davis has 7 Tier 1 businesses that will need to recover edible food by January 2022 (most already have some kind of food recovery program in place already). There are an additional 6 Tier 2 businesses that will need to recover edible food by January 2024.
- The County had (at the time of the Board meeting) nearly completed the edible food capacity study that will provide each County jurisdiction with the total amount of edible food recovery capacity that currently exists, and what capacity is needed for full compliance with SB 1383. This is an essential step to complete before jurisdictions can make decisions about funding.
- County staff suggested, and the Board seemed in agreement, that a countywide model that requires all Tier 1 and Tier 2 businesses to work with a single food recovery organization is likely not going to succeed. Particularly with restaurants and large events, a flexible and local food recovery effort might be better suited than a county-wide model. Transporting food from a rural Tier 1 generator to a centralized food recovery organization, then back out to the rural areas would likely take potentially unnecessary time, could be an impact to food safety, and would affect climate action goals. In addition, the Yolo Food Bank has indicated that they are not able to accept food from Tier 2 generators (which is largely prepared food from restaurants, cafeterias and large events) as that food is not

shelf-stable and requires more immediate and careful handling and distribution, further highlighting the need for local food recovery efforts.

Edible Food Recovery - Solid Waste Service & Social Service Overlap

An important consideration for jurisdictions throughout the planning process of developing edible food recovery programs will be to determine (if and when applicable) when edible food recovery services are a *solid waste* program (through the requirements within SB 1383) and when the service (should it supersede the requirements) becomes a *social service* program. This is an important consideration as the City revisits the SB 1383 regulations in the future to discuss possible funding opportunities.

Edible Food Recovery - The Question of Funding

There is currently ambiguity of whether solid waste rate funds can be used towards food recovery service under Proposition 218 regulations. Under SB 1383, the regulations do permit recovery organizations to charge distributors for services, however a funding mechanism for an edible food recovery program has not yet been identified by the jurisdictions as the County's capacity study has only been very recently completed (and not yet made public). While the jurisdictions are required to increase the edible food recovery capacity if required, the State has made it clear that the cost of the program does not need to be carried by any particular entity.

More Information on SB 1383

City staff has developed several webpages for the City's website on SB 1383, how it will impact businesses and residents, and a separate page to address the food recovery portion of the regulations. These pages will continue to be updated as more information becomes available and the City's implementation plan develops.

The pages are available via a link on DavisRecycling.org. Here is the direct link to the SB 1383 webpages: <https://www.cityofdavis.org/city-hall/public-works-utilities-and-operations/solid-waste-and-recycling/sb-1383-calrecycle-organics-regulations>

CalRecycle continues to release more information on SB 1383 implementation on webpages dedicated to collection, procurement, food recovery, and resources for jurisdictions, food donors, and food recovery organizations and services. CalRecycle's webpages can be found here: <https://www.calrecycle.ca.gov/organics/slcp>

The City's July Utility Bill contained an insert introducing the SB 1383 Organic Waste Regulations and encouraging customers to visit the website for more information. This insert is included as Attachment 2.

Preparing for SB 1383 Implementation

The Implementation Plan/Roadmap

On December 15, 2020, Council approved the selection of SCS Engineers to complete the City's SB 1383 Implementation Plan/Roadmap. The Plan, which will help identify how the City is currently meeting requirements, and what gaps in compliance currently exist, will be presented to relevant City Commissions (including the Natural Resources and Utilities Commissions). The Commissions will use the Plan and work with staff to advise Council on the City's path forward towards the ultimate implementation of the regulations.

Ordinance Update

Concurrent with the effort to develop the Plan, City staff have been working to update the existing Chapter 32 of the City's Municipal Code: *Management of Garbage, Other Wastes, Recyclables, and Fees Therefor* with the changes required to bring the Ordinance into compliance with SB 1383. Most of the changes will be prescriptive, with limited flexibility provided to jurisdictions on the adoption of these regulations, since CalRecycle is providing more specific guidance than previous rulemakings on solid waste programs. Staff will bring the draft ordinance changes to the Natural Resources Commission for input prior to review and potential adoption by the City Council. CalRecycle has indicated that an "enforceable" ordinance to implement the requirements of SB 1383 needs to be in place by January 1, 2022.

The anticipated timeline for the implementation plan and ordinance revision is provided below.

Action	Timeline
Working on implementation plan/roadmap	January 2021 – October 2021
Present SB 1383 Introduction to City Council	September 2021
Present draft implementation plan options to Commissions for recommendation	October – November 2021
Present draft SB 1383 Ordinance to NRC for review	October 2021
Present draft implementation plan options to City Council for review and direction	October – December 2021

Present draft SB 1383 Ordinance to NRC to City Council (First and Second Reading)	November – December 2021
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Attachments

1. Consultant Edible Food Recovery Letter
2. July Utility Bill Insert: SB 1383 Introduction



TOTAL COMPLIANCE MANAGEMENT



CONSULTING GROUP, INC.
RESOURCES · RESPECT · RESPONSIBILITY



Abound Food Care



DIVERSION STRATEGIES

June 10, 2021

RE: Edible Food Recovery Capacity Study for SB 1383 Compliance in Yolo County

SB 1383, the Short-Lived Climate Pollutant Reduction Strategy Regulation, requires jurisdictions to make significant changes to divert organics from landfill disposal. A key part of the regulation is the requirement for specific types of businesses, defined as Tier 1 and Tier 2 edible food generators in the regulation, to participate in food recovery programs (i.e., food donation). Defined edible food generators are required to establish agreements with a recovery organization or service, donate their available edible food, and keep records of donations.

CalRecycle, the State agency responsible for implementing the regulation, defined these edible food generators based on their relative contribution to the statewide disposal of edible food. SB 1383 edible food generator definitions intentionally include both entities that are likely have existing food recovery programs and entities that do not currently participate in food recovery and have relatively significant quantities of food available for donation.

The edible food recovery sections of the regulation also require counties and jurisdictions to complete a “Capacity Study” by August 1, 2022. In this study, the County, in conjunction with jurisdictions, will estimate the quantity of edible food in the disposal stream and identify the aggregated food recovery capacity available to accept the edible food currently disposed in the region. The Capacity Study will identify if there is sufficient food recovery infrastructure within a region. If the study identifies a lack of recovery capacity, CalRecycle requires submission of an implementation plan 120 days after the capacity study is submitted (December 1, 2022). The implementation plan will outline how the region will secure recovery capacity.

Jurisdictions must establish local ordinances to require food recovery organizations and services to report specific data to the jurisdiction. They must also establish an inspection and enforcement protocol for edible food generators, recovery organizations, and recovery services.

The cities of Davis, West Sacramento, Winters, and Woodland and the County of Yolo have contracted with experienced consultants to help complete their Capacity Study, conduct surveys of food recovery agencies and identify Tier 1 generators, and prepare a ‘gap analysis’ of the required investment in

infrastructure is needed to ensure each jurisdiction is fully compliant with the regulation. There have been regular, collaborative meetings and communications between the jurisdictions and consultants for several months, as the group has worked toward the final report delivery.

Specifically, the following items have been completed, or will be completed in the next 10 business days:

- The Yolo Food Bank has been engaged in discussions on their current level of service to Tier 1 generators and estimated need for additional infrastructure.
 - An evaluation and analysis of Yolo Food Bank’s funding request is underway.
- Consultants have surveyed 57 other Food Recovery Agencies (out of 61 Food Recovery Agencies in the County¹) to assess their current level of service to Tier 1 generators and estimated need for additional infrastructure.
 - Analysis of the surveys are being conducted to evaluate trends and gaps in infrastructure.
- All Tier 1 generators in the County who do not currently subscribe to service with the Food Bank have been, or are currently being, surveyed regarding participation and experience with food recovery and any barriers, or past challenges with food recovery.
 - In Yolo County, including each city, 23 individual Tier 1 generators currently do not subscribe to service with the Yolo Food Bank. Surveys will determine if they have available excess to food that can safely be donated and/or if they subscribe to food recovery through another non-profit agency.
- The disposal tons, and required recovery capacity, for all Tier 1 and Tier 2 generators have been estimated using the CalRecycle Model Tool, which is used to determine the “need” for infrastructure.
- Additionally, County Public Health has been engaged and has completed a site visit checklist to ensure the site inspection process has been integrated into their permit inspection program.

Next steps include:

- Determine the available and needed capacity for edible food recovery in the County based on what is required in the regulations and the guidance provided by CalRecycle to date.
- Determine the appropriate amount of funding needed on a Countywide basis to enable edible food generators to donate as required by law.
- Develop a mechanism to provide funding based upon need (potentially via a grant program or other means).
- Finalize the analysis from the funding request for the Yolo Food Bank.
- Finalize the analysis from the food recovery agency surveys.
- Finalize the analysis from the Tier 1 Generator surveys.
- Consolidate the information from all consultant work in each City into a singular Countywide report that will provide a summary of the results of the surveys, the capacity evaluation, an analysis of the Yolo Food Bank funding request, and recommendations on funding a program that will be compliant with SB 1383. This report will serve as a guidance document with tangible steps that the region can take to ensure compliance with the regulation.
 - A Draft report will be provided no later than August 2, 2021.
 - A Final Report will be completed no later than August 31, 2021.

¹ Three Food Recovery Agencies did not respond. One chose not to participate.

Yolo County, and each jurisdiction within its boundaries, are making exceptional steps to ensure compliance with the SB 1383 regulation and have been in continual contact with CalRecycle on the specificities of the requirements. This investment in professional time and resources is a demonstration of that effort. Significant progress has been made to fully understand the current landscape of food recovery in the region, which is made up of a range of 61 non-profit providers in addition to the Yolo Food Bank. Funding for this program must be transparent, reasonable for the ratepayers, and result in tangible recovery of edible food. The County is committed to these results and is working in lockstep with numerous stakeholders involved in this process.

SB 1383: Short-lived Climate Pollutants

Statewide Organic Waste Regulations Starting January 2022

Senate Bill 1383: Short-lived Climate Pollutants is part of a statewide effort to reduce the emissions of short-lived climate pollutants (like methane gas) in various sectors of California's economy. SB 1383 establishes specific statewide targets:

- Reduce the amount of organic waste going to landfills (50% reduction by 2020 and 75% by 2025)
- Rescue at least 20% of edible food that is currently going to landfills by 2025 and redirect it to people in need

What is Organic Waste?
The State defines organic waste as food, landscape trimmings, lumber, wood, manure, cardboard, paper products, and other plant and animal-based products.

The California Department of Resources, Recycling and Recovery (CalRecycle) finalized the regulations to achieve the goals of SB 1383 in November 2020 and these regulations take effect in January 2022.

The State has committed to reduce greenhouse gas emissions, improve health, and create clean jobs that support resilient local economies. Organic waste makes up half of what Californians send to landfills, where it emits 20% of the state's methane, a climate super pollutant 84 times more potent than carbon dioxide. Implementing the statewide plan under SB 1383 will reduce methane emissions and is essential to achieving California's climate goals.

What will the new State law mean for me?

Here are some of the changes that we will all see under the new State law:

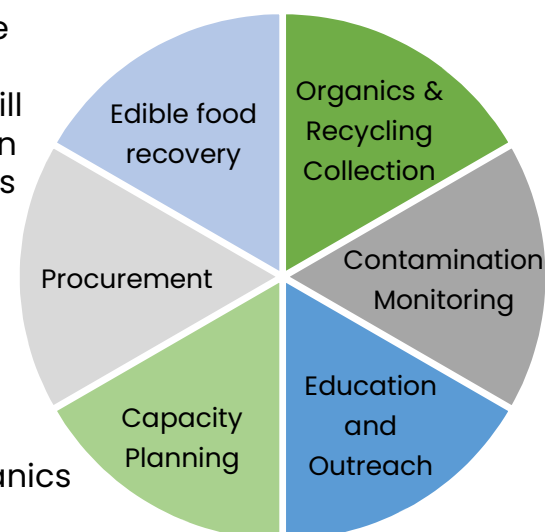
- Everyone will be required to divert all organic waste (paper, cardboard, yard waste, food scraps, and food-soiled paper) from the landfill.
- Businesses will need to place labeled bins for recycling and organics recycling next to all trash cans. Labels must be compliant with State regulations.
- Some businesses will need to recover edible food and redirect it those in need.



Davis is preparing for the SB 1383 Regulations

Fortunately for Davis, we are well on our way toward compliance since Davis has had mandatory organics waste collection since 2016. However, there are many other parts of the new law that will take work to implement. The chart to the right shows the six main elements of SB 1383 that Davis will need to address (more details are available at DavisRecycling.org).

The City is working on an Implementation Plan with a roadmap of options for how we might look to meet the requirements of these new State regulations. Once this roadmap is complete, City Commissions and City Council will review it and determine which options the City will enact to move forward. There will be some changes to the City's waste collection, recycling, and organics programs over the next few years.



For more information about SB 1383, visit DavisRecycling.org