

# Memorandum

Date: May 20, 2019  
To: Natural Resources Commission  
From: Jennifer Gilbert, Conservation Coordinator  
Adrienne Heinig, Management Analyst  
Subject: Update on Rulemaking Related to SB 1383 (Short-Lived Climate Pollutants:  
Organic Waste Methane Emissions Reductions)

---

## **Recommendation**

Informational.

## **Background**

In September 2016, Governor Brown signed Senate Bill 1383, establishing methane emissions reduction targets in an effort to reduce emissions of short-lived climate pollutants. SB 1383 directed CalRecycle to adopt regulations to reduce statewide organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025. SB 1383 also requires new regulations to recover, for human consumption, at least 20 percent of edible food that is currently thrown away. On January 18, 2019, the California Department of Resources Recycling and Recovery (CalRecycle) issued the proposed regulations to reduce organic waste in landfills.

The proposed regulations will impose significant administrative requirements on local agencies who must implement programs requiring organic waste generators and haulers to comply with CalRecycle regulations. Local agencies that do not comply with the regulations may face hefty penalties or enforcement action.

CalRecycle estimates the costs of establishing new organic waste, collection, processing and recycling infrastructure will total \$17.4 billion statewide. The state anticipates these costs will be borne by ratepayers in the form of increased waste collection rates adopted as a part of the local agencies waste collection service. The state estimates direct costs to individuals to be about \$17 per household per year and \$662 per year for businesses.

When the proposed regulations were released for a 45-day comment period in March, staff submitted a comment letter to the California Department of Resources Recycling and Recovery on the proposed CalRecycle regulations. This letter was also forwarded to the League of California Cities, and to the Natural Resources Commission—see attachment 1. Staff had previously submitted a comment letter to CalRecycle in May 2018, during the rulemaking process as well—see attachment 2.

City staff continues to monitor the process and will keep track of any changes as a result of this rulemaking process. It is anticipated that the next public comment period will be in mid-May or early June, however preliminary comments from CalRecycle indicate no major changes to the drafted legislation are anticipated, and the comment period will be for 15 days, rather than 45.

More information on the rulemaking process, and the current proposed regulations can be found at: <https://www.calrecycle.ca.gov/laws/rulemaking/slcp>.

## **Current Status of Key Provisions in the Proposed Regulations**

### **Must Adopt Enforceable Ordinance on Organic Waste**

By January 1, 2022, local agencies must adopt an enforceable ordinance that will mandate all organic waste generators, haulers and others to comply with the SB 1383 regulations.

*Current status:* Davis Municipal Code (DMC) 32.01.065 requires waste items to be placed into the correct bins.

### **Organic Waste Collection**

Cities must implement an organics collection program for all organic waste generators.

*Current status:* Already in compliance. Davis already has an organics collection program in place and it is already mandatory for all customers.

In cities with a three cart collection system like Davis, organic waste must be collected in green-lidded containers. Trash must be collected in a grey or black-lidded container. Recycling must be collected in a blue-lidded container and if food scraps are collected separately, they must be collected in yellow containers. These color changes must be implemented by January 1, 2032.

*Current status:* Davis has a three-cart system in place and the trash carts and commercial trash bins have the correct colored lids.

All containers used to collect waste must be clearly labeled with what can and cannot go into the container.

*Current status:* Most of the hauler's bins are currently labeled with what can go into the container. Only the organics cart has a label that shows what cannot be placed inside and this label is placed on the lid, which is not a complaint color and will require replacement by 2032.

Businesses, special districts, public universities, state agencies and local educational agencies must provide green containers for organics collection and blue containers for recycling in all areas where trash containers are found. These containers must be appropriately labeled and periodically inspected for contamination. These bins shall be provided by property owners and business owners.

*Current status:* Unlimited recycling service and basic organics collection service is available at no additional cost to all customers with trash service. The City currently provides limited quantities of indoor blue recycling bins to apartments and businesses.

Schools must provide information to employees and students on methods for preventing organic waste generation

*Current status:* The City is not currently involved in this effort, and the regulations do not make it immediately clear if the City is required to provide outreach to the school district.

The City cannot require a generator to use an organic waste collection service or combination of services that do not recover at least the same types of organic waste recovered by a service the generator previously had in place (i.e. if you said they could put it in the organics bin, it must always be allowed in the organics bin).

*Current status:* The compost facility that takes Davis' organics waste right now accepts a wide variety of items, including palm fronds and plastic coated paper.

### **Waivers**

The City can waive the organics waste collection requirements if the generator produces small volumes of waste or has specific physical space limitations. Annual monitoring and reporting is required for all exemptions that are given.

*Current status:* Davis currently provides opt-out exemptions to the organics collection program if customers already compost their waste themselves.

### **Collection frequency**

Local jurisdictions can collect recycling or trash once every 14 days if approved by the local enforcement agency.

*Current status:* DMC requires weekly and 2x weekly collection at present.

### **Contamination Monitoring**

Local agencies must monitor compliance with organic waste disposal requirements and randomly inspect recycling and organics containers on each waste hauling route every quarter. There are specific follow-up and reporting procedures for every contaminated bin that is found.

*Current status:* Recology does leave a "no service" tag on bins that are too contaminated to be serviced. Our current Agreement does require them to report all the no service tags in the quarterly reports submitted to the City.

### **Haulers**

The City must require all haulers to tell the City where they bring organics.

*Current status:* Already in compliance. This is already included in the City's waste hauler agreement, as the City currently directs the hauler where to take organics for processing.

The City must pass an ordinance requiring all self-haulers to separate out organics wastes. All non-residential self-haulers are required to keep a record (in receipts and weight tickets) of how much organic waste is delivered to each solid waste facility (in cubic yards). Self-haulers are required to report this information to the City every year.

*Current status:* Nothing implemented to date.

### **Wastewater Treatment Plant Biosolids**

Biosolids generated at a Publicly Owned Wastewater Treatment Plant shall be transported only to a solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery. Sewage sludge and biosolids not suitable for additional processing or recovery may be sent for disposal to a permitted facility that can receive that sewage sludge and biosolids and has obtained the applicable approvals by the regional, state, and federal agencies having appropriate jurisdiction. Land application of biosolids is allowed, but use as alternative daily cover will no longer be considered diversion.

*Current status:* Unknown. It is unclear exactly what this means for the City's WWTP at this time.

### **Mandatory Outreach Materials**

Property owners and business owners shall provide annual recycling information to employees, contractors, tenants and customers about organics recovery and sorting.

*Current status:* DMC 32.03.050 requires apartments to give recycling information to their tenants when a new lease is signed. The City is required to provide them with these recycling fliers. The City sends out waste sorting information in the City Utility bill every year.

Every year, the City is required to provide outreach material to all generators. This outreach must include this information: the requirements for proper waste sorting, ways to prevent organic waste generation, methane reduction benefits of reducing the disposal of organic waste, how to recycle organic wastes, public health and safety and environmental impacts associated with the disposal of organic waste, and information on programs for the donation of edible food.

*Current status:* The City sends out waste sorting information in the City Utility bill every year. Every year the city sends out recycling and organics info to businesses and multi-family residents.

The City must provide outreach to self-haulers about the regulations. This includes businesses such as Safeway that back-haul their organics as well as landscapers that haul green waste.

*Current status:* Annual outreach is sent to landscapers regarding green waste disposal options.

Where more than 5% of organic waste generators are defined as "limited English-speaking households," local agencies must provide the information in a language that those generators understand.

*Current status:* Some materials are translated into Spanish and simplified Chinese (particularly for restaurant waste sorting). U.S. Census currently shows that 6.5% of Davis residents speak Chinese and 8.9% speak Spanish.

### **CalGreen Building Codes**

The City must adopt an ordinance or other enforceable requirement that requires compliance with the provisions of the California Green Building Standards Code to provide readily accessible areas for recycling and organics recycling and 65% waste diversion on C&D projects.

*Current status:* The City has a C&D ordinance (which is monitored and enforced by PW staff) and has already incorporated, by reference, the California Green Building Standards Code (which is monitored and enforced by Building Division staff).

### **Organic Waste Recycling Capacity Planning**

Counties, in coordination with cities and regional agencies, must estimate the amount of organic waste that will be disposed of, identify existing recycling infrastructure capacity and estimate new or expanded facilities that will be needed to process organic waste. Cities and regional agencies must respond to a county's request for information within 120 days. If the county determines additional capacity is required for the City, each City must submit proof, via contracts or agreements with a composting facility, that they have secured a facility to accept all

of their organic wastes, OR submit an implementation schedule to CalRecycle on how it will meet that capacity.

*Current status:* The City's organics processing feasibility study is looking at the City's options to build or utilize different facilities to process our organics. Currently the City sends its organics to the Yolo landfill for composting, but no contract or agreement is in place. The County is building a compost facility at the landfill and is interested in securing a waste flow agreement from the City. Recology has a composting facility and is willing to accept our organics as well.

### **Edible Food Recovery Program**

By February 1, 2022, local agencies must develop and maintain a list of food recovery organizations and food recovery services operating within the jurisdiction, and maintain the list on the jurisdiction's website. The City must implement an edible food recovery education and outreach program and provide commercial businesses that generate edible food an annual notice that includes information on how to find edible food recovery organizations to which they can donate food.

*Current status:* Some food recovery organizations are known and posted on the City recycling website already.

The City must maintain a list of commercial edible food generators within the City that have arrangements with edible food recovery organizations or services as well as a list of edible food recovery organizations in the jurisdiction and their edible food recovery capacity. The City must keep documentation of the actions taken to increase edible food recovery capacity.

*Current status:* No implementation to date.

By January 1, 2022, all tier one commercial edible food generators (grocery stores) must arrange to recover edible food that would otherwise be disposed. By January 1, 2024, all tier 2 commercial edible food generators (schools with cafeterias and restaurants, hotels and health facilities of a certain size) must do so as well. All tier 1 and tier 2 commercial edible food generators must keep records of each place they donate food to, all contracts, written agreements or other documents from the food recovery organization(s) they work with, and the quantity of food donated.

*Current status:* Some grocery stores and restaurants already donate edible food. Some schools offer a "free table" during lunch for edible food leftovers from the cafeteria.

A large venue or large event operator that does not provide food services, but allows food to be provided, shall require food facilities operating at the event to comply with the requirements.

*Current status:* No implementation to date.

Food recovery organizations or services that collect or receive 6 tons or more of edible food from edible food generators per year shall maintain a record of every place they received food from, the quantity of food received and transported to each edible food recovery organization (in pounds), and the number of meals served per month.

*Current status:* No implementation to date.

The City must monitor commercial edible food generators for compliance. The City must increase edible food recovery capacity if there is not sufficient capacity to meet its edible food recovery needs.

*Current status:* The Yolo Food Bank has recently increased its capacity and should have sufficient capacity to accept all edible food donations from the City.

The City may fund the actions taken to comply with this section through franchise fees, local assessments, or other funding mechanisms.

*Current status:* These regulations were not included in the last Prop 218 rate increases, so additional increases may be required in order to fund all of these new programs.

### **Procurement Targets of Recovered Organic Waste**

Starting January 1 2022, Local agencies (and/or their contractors) must procure or buy recycled compost and renewable transportation fuel in a quantity that meets an annual recovered organic waste procurement target (for Davis, this is estimated to be 2639 tons of compost or 86,450 gallons of fuel). The target will be established by CalRecycle for each local agency and recalculated every 5 years. Local agencies are required to report the name, physical location, type and quantities of the compost of fuel that was used. All invoices, records and contracts of procurement must be kept and reported to the State.

*Current status:* Recology Davis and Unitrans use CNG—depending on the quantity used, this may be sufficient to meet the requirements.

Starting January 1 2022, at least 75 percent of a jurisdiction’s annual purchases of paper products, including printing and writing paper, shall be recycled content (30% postconsumer). A jurisdiction shall require all businesses from whom it purchases paper products and printing and writing paper to certify in writing (or verify by a product label, certification, invoice or product website) the minimum percentage of postconsumer recycled content. A jurisdiction shall include all documents supporting its compliance with this article including, but not limited to, copies of invoices or receipts for all paper purchases and copies of all certifications or other verification.

*Current status:* The City has a recycled content purchasing policy in place that requires all copy and writing paper to be 30% postconsumer recycled content.

### **Annual Reporting Requirements**

Each jurisdiction shall report to CalRecycle on its implementation and compliance with the requirements by February 1, 2022. This report must include a copy of ordinances adopted as required, and the estimated date by which the jurisdiction will have all collection containers in color compliance.

*Current status:* The City does report some of these items as part of the annual report.

Starting August 2022 and every year after, local agencies must submit annual reports relating to: organic waste collection efforts, contamination monitoring requirements, waivers, education and outreach, hauler oversight requirements, implementation of California Green Building Standards, edible food recovery requirements, organic waste and edible food recovery capacity planning requirements, procurement requirements of recovered organic waste products, and compliance, monitoring and enforcement requirements. Local agencies must maintain all records of compliance efforts, in addition to ordinances, contracts, and agreements. Records must be updated within 30 days of a reporting period, made available to CalRecycle within 1 business day upon request, and retained for 5 years.

*Current status:* The City does report some of these items as part of the annual report.

### **Enforcement Program Implementation Timing**

### *Update on Rulemaking Related to SB 1383*

Local agencies must adopt enforceable ordinances or mechanisms by Jan. 1, 2022 and establish an enforcement program that requires commercial and residential organic waste generators to comply with organic waste requirements. If a violation occurs between Jan. 1, 2022 and Dec. 31, 2023, local agencies must provide violators with educational materials.

*Current status:* The City does offer education as the first resource for any solid waste violation.

If a violation occurs after Jan. 1, 2024, local agencies are required to issue a notice of violation. For subsequent violations, local agencies must impose fines against noncompliant generators and haulers that are equal to, or stricter than, the base penalties established by the regulations. The base penalties range from \$50 to \$500 per type of violation, and take effect in January 2024.

*Current status:* The City currently offers multiple reminder notices and offers educational resources for the first several violations. No notice of violations have been issued for any solid waste violation to date (other than for yard material piles).

Agencies are required to report on all enforcement actions and fines.

*Current status:* The CalRecycle annual report already asks for non-compliance with Mandatory Commercial Recycling and Mandatory Commercial Organics Recycling to be reported.

CalRecycle will evaluate a local agency's compliance and provide written findings to the agency. If a local agency's ordinance is inconsistent with CalRecycle regulations, the agency has 90 days to cure the deficiency or face enforcement action. If a local agency commits a regulatory violation, CalRecycle can issue a Notice of Violation, provide a 180-day cure period, issue a Corrective Action Plan and impose penalties. CalRecycle can impose administrative penalties on local agencies for noncompliance. Base penalties vary depending on the type and frequency of violations. Base fines range from \$50 to \$10,000 per day for each type of violation.

*Current status:* The City is in compliance with all of the current CalRecycle regulations and CalRecycle uses Davis' programs as a model for others to emulate.

Agencies must provide a method for anyone to report a violation of these regulations, must follow up with the complainant within 90 days, maintain and submit records of all complaints and must provide a method for a complainant to find out the results of their complaint.

*Current status:* Anyone can submit complaints via email to PWWeb or through the CRM.

### **Anticipated Timeline**

- Mid-May to early June 2019: Updated regulations are released for a 15-day comment period
- Late 2019: Final regulations are adopted
- January 1, 2022: Regulations take effect and State enforcement begins; edible food recovery requirements for Tier 1 commercial edible food generators (i.e. large grocery stores)
- January 1, 2024: Regulations require local agencies to take enforcement action; edible food recovery requirements for Tier 2 commercial edible food generators (i.e. restaurants and other food establishments)

### *Update on Rulemaking Related to SB 1383*

- January 1, 2032: All the lids of waste hauler collection bins and carts must meet the color requirements of the regulations (black/grey for trash, blue for recycling and green for organics).

### **Attachments**

1. March 2019 Comment Letter – CalRecycle Rulemaking on SB 1383 Short-Lived Climate Pollutants: Organic Waste Methane Emissions Reductions
2. May 2018 Comment Letter – CalRecycle Rulemaking on SB 1383 Short-Lived Climate Pollutants: Organic Waste Methane Emissions Reductions

### **Links**

- **An Overview of SB 1383’s Organic Waste Reduction Requirements** (PowerPoint Presentation): <https://www.calrecycle.ca.gov/docs/cr/organics/slcp/sb1383pptalk.pptx>
- **Start Planning Now: An Overview of SB 1383’s Organic Waste Reduction Requirements** (YouTube video): <https://www.youtube.com/watch?v=enW7SgSt1U&feature=youtu.be>
- **CalRecycle SB 1383 Rulemaking webpage** (draft regulations, comment letters, public hearing transcript, etc.): <https://www.calrecycle.ca.gov/laws/rulemaking/slcp>