

CITY OF YUBA CITY
STAFF REPORT

Date: February 4, 2020
To: Honorable Mayor & Members of the City Council
From: Public Works Department
Presentation by: Diana Langley, Public Works Director and
Richard Hilton, HF&H Consultants

Summary

Subject: SB 1383 Compliance Planning
Recommendation: This item is for discussion purposes only and no formal action is requested from the City Council.
Fiscal Impact: None at this time.

Purpose:

To analyze the City's current status and future compliance requirements regarding SB 1383.

Background:

In September 2016, SB 1383 (Lara, Chapter 395, Statutes of 2016) established statewide methane emissions reduction targets in an effort to reduce emissions of short-lived climate pollutants in various sectors of California's economy; it includes statewide goals to reduce the disposal of organic waste and recover edible food for human consumption. SB 1383 regulations, which are in draft form and are anticipated to be finalized in early 2020, include prescriptive requirements for jurisdictions related to recycling and organics collection, inspection, enforcement policies and programs, and edible food recovery. The City will need to comply with nearly all of these requirements by January 1, 2022. Enforcement will not need to commence until January 1, 2024.

The City entered into a 10-year franchise agreement (Agreement) with Recology Yuba-Sutter (Recology) in October 2019 for the collection of solid waste, recyclable materials, organic materials, and construction and demolition debris. Under the Agreement, Recology is required to provide single-family and multi-family customers with solid waste, recyclable materials, and green waste collection services. For commercial customers, Recology is required to provide solid waste collection service and offer recyclable materials, green waste, and food waste collection services. This Agreement provides the City with the services and information needed to comply with several of the key requirements of SB 1383. The Agreement may require an amendment to incorporate expansions in certain programs and new activities for Recology.

In addition, the City operates within a regional agency, known as the Yuba-Sutter Regional Waste Management Authority, for state diversion tracking and reporting purposes. That regional agency has formal jurisdiction over many of these activities and should be an essential partner with the City

in complying with the requirements of SB 1383. This regional approach may also offer benefits to the City from greater economy of scale.

Analysis:

Already, the City has some of the required collection programs and policies in place; however, SB 1383 will require a significant effort by the City to expand current programs, adopt new policies, and implement new programs to achieve SB 1383 compliance. The attached SB 1383 Assessment highlights the major compliance areas and the anticipated policy and program changes for the City, per HF&H Consultants' (HF&H) preliminary analysis (Attachment 1).

In order to achieve compliance with SB 1383, HF&H has identified the following high-level recommendations for City Council to consider:

1. Expand Organics Collection Service. SB 1383 draft regulations will require the City to expand food waste collection service to its residential customers. To do this, the City will need to negotiate an amendment to its existing Agreement with Recology. As more services will be provided by the City's franchised hauler, the amendment will likely impact solid waste, recycling, and/or organics collection service rates.
2. Implement a Monitoring and Enforcement Program. SB 1383 will require the City to implement a system to provide random inspections of solid waste, recycling, and organics containers for prohibited materials on each route annually. The City will need to implement a system for reviewing and tracking commercial generators, SB 1383 waivers, and complaints.
3. Develop an Edible Food Recovery Program. SB 1383 draft regulations will require the City to identify, work with, educate, and keep track of certain commercial edible generators, food recovery organizations, and food recovery services. The City will also need to work with the County to assess edible food recovery capacity.
4. Develop Policies. The regulations will require the City to adopt a number of "ordinances or similarly enforceable policies" that will govern all aspects of its solid waste system, including, but not limited to, mandatory organics recycling, edible food recovery, and procurement policies. The City will need to carefully review current affected ordinances and amend or add such ordinances or policies accordingly.
5. Implement Regional Collaborations. HF&H recommends that the City coordinate programs in tandem with other members of the Yuba-Sutter Regional Waste Management Authority. This approach will minimize duplication of efforts and will provide consistent messaging, which may result in greater participation and less community confusion about the City's available collection and edible food recovery programs.

Fiscal Impact:

There is no fiscal impact at this time, but staff time and/or professional services may be required to adopt and implement the SB 1383 programs and policies. As described above, the City may also experience fiscal impacts to its Agreement with Recology due to the changing needs, which will be brought to Council for amendment as needed.

Alternatives:

There are no alternatives to compliance with SB 1383.

Recommendation:

This item is for discussion purposes only and no formal action is requested from the City Council.

Attachments:

1. SB 1383 Readiness Assessment (Prepared by HF&H)

Prepared by:

Submitted by:

/s/ Diana Langley

Diana Langley
Public Works Director

/s/ Michael Rock

Michael Rock
City Manager

Reviewed by:

Finance

DB

ATTACHMENT 1

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November 27, 2019

Mr. Mandeep Chohan
Senior Engineer
City of Yuba City
1201 Civic Center Boulevard
Yuba City, CA 95993

Subject: DRAFT SB 1383 Readiness Assessment

Dear Mr. Chohan,

HF&H Consultants, LLC (HF&H) was engaged by the City of Yuba City (City) to assist with SB 1383 planning. HF&H has prepared the following SB 1383 readiness assessment (SB 1383 Assessment) as part of that engagement. This SB 1383 Assessment identifies the City's immediate needs with regard to SB 1383 compliance planning.

The SB 1383 Assessment is based on the SB 1383 October 2019 draft of CalRecycle's SB 1383 regulations. The formal SB 1383 rule-making process is expected to be complete in early 2020. The City is strongly advised to review and adjust the SB 1383 Assessment, to align with the final SB 1383 regulations.

Background

SB 1383 Requirements

Recently-adopted State legislation, SB 1383 (Lara, Chapter 395, Statutes of 2016, Short-Lived Climate Pollutants: Methane Emissions Reductions), requires significant action by local jurisdictions. SB 1383 establishes State-wide goals to reduce landfill disposal of organic material 50% by 2020 and 75% by 2025, and to recover 20% of edible food for human consumption by 2025. To accomplish these targets, SB 1383 outlines separate, specific minimum program requirements for jurisdictions, generators, haulers, and processors. It expands the definition of organics, increases reporting requirements beyond existing State laws, and applies to all single-family, multi-family, and commercial generators. The regulations go into effect on January 1, 2022. At that time, CalRecycle will be granted regulatory authority to impose penalties of up to \$10,000 per day on jurisdictions that are not in compliance. The City will be required to implement enforcement actions on entities under its jurisdictions beginning January 1, 2024.

Compliance Approaches

Jurisdictions may comply with SB 1383 in one of two primary ways. The first is to follow a standard compliance approach, which has minimum program requirements for organic material collection, contamination monitoring, public education and outreach, record keeping and reporting. The second is a performance-based compliance approach. This approach has three main requirements: 1) jurisdictions must implement a three-container collection system for ninety percent (90%) of customers (90% of

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residential customers and 90% of commercial customers); 2) collected organic material must be processed at facilities that meet certain organic material recovery targets; and, 3) by conducting prescriptive waste evaluations, jurisdictions must ensure that the presence of organic material collected in the solid waste container does not exceed an annual average of twenty-five percent (25%). Jurisdictions that implement a performance-based compliance approach are exempt from a number of enforcement, public education, and reporting requirements than those mandated under the standard approach.

City's Current Collection System

The City entered into a ten (10) year franchise agreement (Agreement) with Recology Yuba-Sutter (Recology) in October 2019 for the collection of solid waste, recyclable materials, organic materials, and construction and demolition debris (C&D debris). Under the Agreement, Recology is required to provide single-family and multi-family customers with solid waste, recyclable materials, and green waste collection services. For commercial customers, Recology is required to provide solid waste collection service and offer recyclable materials, green waste, and food waste collection services. This Agreement provides the City with the services and information needed for compliance with several of the key programmatic and administrative requirements of SB 1383. However, the Agreement may require amendment to incorporate expansions to certain programs and some new activities for Recology.

In addition, the City operates within a Regional Agency (the Yuba-Sutter Regional Waste Management Authority) for state diversion tracking and reporting purposes. That Regional Agency has formal jurisdiction over many of these activities and should be a key partner to the City in complying with the requirements of SB 1383. This regional approach may also offer benefits to the City from greater economies of scale.

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Executive Summary

SB 1383 Readiness Assessment

The SB 1383 Assessment presents SB 1383 regulatory requirements, the City's current compliance status, and the actions the City needs to take to achieve compliance for each requirement, within the following subject areas:

- (1) Mandatory Organics Recycling Programs;
- (2) Generator Requirements; and,
- (3) Ordinance and Policy Changes.

The general requirements described herein are not comprehensive as SB 1383 mandates dozens of specific jurisdictional requirements. As the City does not yet meet the minimum requirements for complying via the performance-based approach, our SB 1383 Assessment was based on the standard compliance approach.

SB 1383 Priority Planning

Based on our SB 1383 compliance analysis, we recommend the City focus on implementing the following priority activities prior to January 1, 2022:



Expand Organics Collection Service. SB 1383 draft regulations will require the City to expand food waste collection service to its residential customers. To do this, the City will need to negotiate an amendment to its existing Franchise Agreement. As more services will be provided by the City's franchised hauler, Recology Yuba-Sutter, the amendment will likely impact solid waste, recycling, and/or organics collection service rates.



Implement monitoring and enforcement program. SB 1383 draft regulations will require the City to implement a system to accomplish random inspections of some solid waste, recycling, and organics containers for prohibited materials on each route annually. The City will need to implement a system for reviewing and tracking commercial generators, SB 1383 waivers, and complaints.



Develop Edible Food Recovery Program. SB 1383 draft regulations will require the City to identify, work with, educate, and keep track of, certain commercial edible generators, food recovery organizations, and food recovery services. The City will also need to work with the County to assess edible food recovery capacity.



Develop Policies. SB 1383 draft regulations will require the City to adopt a number of "ordinances or similarly enforceable policies" that will govern all aspects of its solid waste system, including, but not limited to, mandatory organics recycling, edible food recovery, and procurement policies. The City will need to carefully review current affected ordinances and amend or add such ordinances or policies accordingly.



Coordinate on Regional Programs. We recommend the City coordinate programs in tandem with the other members of the Yuba-Sutter Regional Waste Authority. This approach will minimize duplication of efforts and will provide consistent messaging that may result in

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greater participation and less community confusion about the City's available collection and edible food recovery programs.

Compliance Gap Analysis

The compliance status for each SB 1383 regulation is illustrated with color-coded leaves. The table below describes the color code used to represent the City's compliance status for each represented regulation.




Compliance Status Legend

Compliant – Current City programs meet the requirements.	
Partially Compliant – Current City programs partially meet requirements; however, further expansion and/or policy modifications are required.	
Non-compliant – Current City programs do not meet the requirements.	

1. Mandatory Organics Recycling Program



1.1. Organics Collection Program

SB 1383 draft regulations will require all residential and commercial organic waste generators to divert organics materials, including food waste, green waste, and paper from disposal.

Ref.	SB 1383 Regulation: Organics Collection	Compliance Status
January 1, 2022 Deadline		
1.	Offer organic waste collection services and recycling (3, 2-, or 1-container system) (§18984.1-18984.3)	
2.	Place and maintain labels on new containers or lids (§19894.8)	
January 1, 2032 (or sooner) Deadline		
3.	Provide collection containers to generators that comply with color requirements when replacing containers or by January 1, 2032 (§19894.7)	

1.2. Contamination Monitoring

SB 1383 draft regulations will require the City to monitor contents of solid waste, recycling, and organics containers for contaminants, provide customers with contamination education information, and take enforcement action against noncompliant generators.

Ref.	SB 1383 Regulation: Contamination Monitoring	Compliance Status
January 1, 2022 Deadline		
1.	Conduct route reviews of randomly selected containers for contaminants such that all routes are inspected annually (§18984.5)	
2.	Contact generator and notify generator of source-separation requirements if contamination is found (§18984.5.b)	






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Ref.	SB 1383 Regulation: Contamination Monitoring	Compliance Status
3.	Maintain container contamination notices issued by designee to noncompliant generators (§18984.5.d)	

1.3. Enforcement & Penalties



Compliant enforcement programs are to include monitoring and enforcement by local jurisdictions on all regulated entities including single-family, multi-family, commercial, and institutional generators of all sizes, haulers, and facilities.

Ref.	SB 1383 Regulation: Enforcement and Penalties	Compliance Status
January 1, 2022 Deadline		
1.	Implement annual inspection and compliance program, for organic waste generators, edible food generators, and edible food recovery organizations (§18995.1)	
2.	Provide educational materials to regulated entities not in compliance from January 1, 2022 through January 1, 2024 (§18995.1)	
3.	Annually verify that businesses granted de minimis or physical constraint waivers meet waiver requirements (§18995.1)	
4.	Investigate and maintain records of all complaints received (18995.3)	
January 1, 2024 Deadline		
5.	Take enforcement actions, including issuing notices of violations and penalties equivalent to or greater than those outlined in Articles 14 and 16 (§18995.4)	

2. Generator Requirements

2.1. Edible Food Recovery Program

Commencing January 1, 2022, SB 1383 draft regulations will require the City to implement a food recovery program to support recovery of edible food for human consumption from commercial generators for distribution by food recovery organizations and/or services.





Ref.	SB 1383 Regulation: Edible Food Recovery	Compliance Status
January 1, 2022 Deadline		
1.	Implement edible food recovery program that educates commercial generators and increases their access to edible food recovery services and organizations (§18991.1)	
February 1, 2022 Deadline		
2.	Develop and maintain a list of food recovery organizations and services (§18985.2.a)	

2.2. Organics Self-Haul Program

For generators that choose to self-haul or back-haul their organics, SB 1383 draft regulations will require the City to implement a self-haul registration and reporting program.

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Ref.	SB 1383 Regulation: Self-hauling	Compliance Status
January 1, 2022 Deadline		
1.	Implement an organics self-haul program to identify and track organics generators that self-haul their organics material to processing facilities.	
2.	Generators that self-haul organics must source-separate organic material consistent with requirements of the mandatory organics, 3-cart system (§18988.3.b.1)	
3.	Self-hauled organics materials must be transported to a facility that processes or recovers source-separated organic waste (§18988.3.b.2)	
4.	Commercial generators that self-haul organics must maintain records of the amount of organic waste delivered to each processing facility and annually report to jurisdictions the amount of organics waste self-hauled. (§18988.3.b.3-18988.3.b.4)	

3. Ordinance and Policy Changes



3.1. Ordinances and Policies

SB 1383 draft regulations will require the City to adopt enforceable ordinances or similar mechanisms to achieve local compliance.

Ref.	SB 1383 Regulation: Ordinances and Polices	Compliance Status
January 1, 2022 Deadline		
1.	Adopt enforceable ordinance or similar mechanism requiring compliance with SB 1383 (§18981.2.a)	
2.	Require organics haulers to identify facilities they will utilize as a condition of contract or agreement authorization (§18988.1)	
3.	Adopt ordinance(s) or similar mechanism(s) requiring compliance with Sections 18984.9, 18988.3, 18989.1, 18990.1, 18991.1, 18993.1 and 18997.1.b.	
4.	Allow limited waivers for de minimums volumes, physical space constraints, and collection frequency waivers; maintain records (§18984.11)	

3.2. Procurement of Recovered Organic Materials

Commencing January 1, 2022, SB 1383 draft regulations will require the City to procure recovered organic waste products (e.g., compost or renewable transportation fuel) in quantities that comply with SB 1383 requirements.

Ref.	SB 1383 Regulation: Procurement	Compliance Status
January 1, 2022 Deadline		
1.	Procure a quantity of recovered organic waste, such as compost or renewable transportation fuel, that meets or exceeds the organic waste product procurement target as determined by CalRecycle (procurement may be satisfied by direct service provider to the jurisdiction) (§18993.1)	
2.	Procure paper products purchased by jurisdictions must be consistent with Sections 22150-22154 of the Public Contracts Code (§18993.3)	

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Limitations

As noted, the SB 1383 Assessment is based on the SB 1383 October 2019 draft of CalRecycle's SB 1383 regulations. The formal SB 1383 rule-making process is expected to be complete in early 2020. The City is strongly advised to review and adjust the SB 1383 Assessment, to align with the final SB 1383 regulations.

The SB 1383 Assessment was informed by the City's current Agreement and solid waste ordinance. Such documents may not represent the full extent of the City's discarded materials collection system. As such, it is imperative that the City assess systems, policies, and operations affected by SB 1383 to best identify the full scope of actions needed.

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