



DATE: October 11, 2018

TO: Programs & Administration Committee
Planning Committee/Recycling Board

FROM: Kelly Schoonmaker, Program Manager

SUBJECT: SB 1383 Short Lived Climate Pollutant Plan: Rulemaking Overview and Implications

SUMMARY

CalRecycle is currently developing regulations to implement the Short-Lived Climate Pollutant Plan (SB 1383) to reduce greenhouse gas emissions, in large part by requiring organics recycling and edible food recovery throughout the state. Taking effect in 2022, these regulations represent a paradigm shift for local solid waste and recycling programs. This report provides an overview of the proposed regulations, rulemaking process, Alameda County's efforts to date, and potential future scenarios.

DISCUSSION

In September 2016, Governor Brown signed SB 1383 into law, with the intent that it would reduce emissions and their associated effects by targeting short-lived climate pollutants (SLCPs), such as methane. Although methane remains in the atmosphere for a relatively short period of time, it is about 80 times more powerful as a global warming pollutant than CO₂ on a 20-year time scale. Methane emissions from organic materials in the landfill constitute 21% of total methane emissions in the state. Statewide, organic materials make up one-third of the waste stream, and food continues to be the greatest single item landfilled. As such, reducing methane emissions in the near term would result in more immediate climate, air quality, and public health benefits than a strategy focused solely on CO₂.

SB 1383 directs the California Air Resources Board (ARB) to cut methane emissions by 40%. To meet this goal, the law requires:

- 50% reduction in the statewide disposal of organic waste from the 2014 level by 2020
- 75% reduction by 2025
- 20% of edible food currently disposed of recovered for human consumption by 2025

While the law establishes statewide targets, cities and counties will be responsible for implementation, enforcement, and funding at the local level. Cities and counties can designate responsibilities to a hauler or other entity, but are still ultimately responsible and accountable to

CalRecycle. The regulations:

- Include many new requirements. Rather than establish a performance-based standard of a minimum 75% reduction in organics at the local level, the regulations are highly prescriptive, with many detailed requirements for cities, generators, haulers, facilities, and food recovery organizations. To ensure jurisdictions comply with the requirements, the state sets numerous penalties on jurisdictions, haulers, and generators, ranging from \$50/violation to \$10,000/day.
- Cover many types of materials. The definition of organics is very broad, and includes paper, cardboard, textiles, carpet, manure, and biosolids, in addition to plant debris and food scraps.
- Cover all types of accounts. All generators are covered by the regulations, including commercial, multifamily, and single-family residential.
- Require cities to fund implementation. The legislation explicitly affirms that State funding is not required as cities can levy fees or other charges to increase services due to the regulations. Implementation will require new revenues, and will have franchise and rate impacts.

Timeline

The regulations take effect and are enforceable on January 1, 2022. To allow jurisdictions time to plan and implement budgetary, contractual, programmatic and other changes, the state intends to adopt final regulations in early 2019.

Scope of Regulations and Implications for Alameda County

Until the final regulation package is complete, it is uncertain exactly how SB 1383 will affect Alameda County jurisdictions and StopWaste programs. However, based on current draft, we can offer the following observations and general predictions on the how StopWaste programs align with SB 1383.

Collections, Enforcement, and Outreach Requirements

The Alameda County Mandatory Recycling Ordinance (MRO) shares many of the same generator requirements as SB 1383 for commercial and multifamily accounts, but SB 1383 has different and additional requirements. Changes to the MRO and our internal processes would be needed to comply with SB 1383. For example, SB 1383 requires more frequent inspections of accounts, route inspection for contamination, and more outreach and education.

SB 1383 also includes requirements for single-family generators, such as providing organics service to all customers and requirements for cart/bin labeling and color. Those requirements would fall on the jurisdictions to implement. Compliance will require a significant increase in StopWaste and Member Agency staff time, as well as hard costs.

Edible Food Recovery Requirements

The edible food recovery measures in SB 1383 require cities to implement edible food recovery programs to connect edible food generators with recovery organizations and services. This requirement creates an entirely new scope of work for jurisdictions, as edible food recovery has been conducted largely by non-profit organizations (often staffed by volunteers and typically crossing jurisdiction lines). Proposed requirements for cities are extensive, including conducting a study to estimate edible food disposal and additional capacity needed to reach the 20% goal. In addition, cities will be required to educate generators, maintain lists of edible food generators and recovery organizations, enforce requirements on food generators and recovery organizations, and keep extensive records.

StopWaste works on edible food recovery as part of a larger food waste reduction project that also addresses source reduction by providing grants, technical assistance, education, and outreach to schools, residents, institutional and commercial kitchens, and community organizations. As currently structured, this project would not meet the requirements proposed in SB 1383, but the project could adapt to support member agencies' implementation of the regulations.

Procurement

The current draft of SB 1383 set the following procurement targets for recovered organic waste products:

- Paper products: 75% of jurisdiction purchases must be 30% post-consumer content
- Compost and/or renewable natural gas (RNG) procurement must meet or exceed target as determined by CalRecycle, based on per capita organics generation and number of jurisdiction's employees

In response to feedback from jurisdictions throughout the state, CalRecycle has indicated that they will adjust these procurement goals, but will retain the numerical targets.

StopWaste has supported recycled content paper purchasing and the use of compost/mulch by providing technical assistance, model policy and Measure D funding to member agencies. Even with these efforts, member agencies would need to increase procurement of recycled content paper products, compost and/or RNG to meet SB 1383's goals.

StopWaste Efforts in Rulemaking to Date

In addition to the programmatic work mentioned above, StopWaste has played an active role in the SB 1383 rulemaking process. Some of our recommendations, made via an SB 1383 working group made up of member agencies' TAC members and direct conversations with CalRecycle, have been incorporated into draft language. This working group will continue to provide recommendations to CalRecycle for the remainder of the rulemaking process. We are also convening a group of edible food recovery stakeholders.

Opportunities

It is important for SB 1383 regulations to be practical for jurisdictions, generators, haulers, facilities, and food recovery organizations. Given the concerns outlined above, staff will consider possible

tasks as part of next year's budget (FY 19/20), such as development of countywide or model ordinances for edible food recovery, countywide capacity studies on edible food recovery and organics processing, etc.

RECOMMENDATION

This item is for information only.

ATTACHMENTS

Appendix A: CalRecycle Statutory Background

Appendix B: HF&H Summary of SB 1383

LINKS

Legislative Text:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1383

Draft Regulatory Text: [Draft_SB_1383_Regulations_5.1.2018.pdf](#)

I. SB 1383 Statutory Guidance and Background

The Legislature directed CalRecycle to adopt regulations to achieve SB 1383's organic waste reduction targets.

(A) *The targets and dates established in SB 1383 include:*

1. By 2020, reduce organic waste disposal to **50 percent** below 2014 level;
2. By 2025, reduce organic waste disposal to **75 percent** below 2014 level.

The Legislature authorized CalRecycle to implement and enforce the regulations beginning in 2022. To achieve the targets the Legislature provided guidance and direction to the department regarding the design of the regulations.

(B) *Legislative guidance directs CalRecycle to:*

1. Include requirements to recover at least **20 percent of edible food** that is currently disposed by 2025;
2. Develop requirements consistent with the SLCP Strategy and the 2017 Integrated Energy Policy Report.

(C) *Legislative guidance directs CalRecycle not to:*

1. Impose organic waste disposal bans on individual landfills;
2. Require jurisdictions to issue penalties prior to 2024;
3. Impose the statewide 50 percent and 75 percent targets on individual jurisdictions;
4. Utilize the "Good Faith Effort" compliance model specified in PRC Section 41825.

(D) *Legislative guidance allows CalRecycle regulations to:*

1. Impose penalties on regulated entities of up to \$10,000 per day for noncompliance;
2. Require jurisdictions to impose requirements on relevant entities in their jurisdiction;
3. Establish different levels of requirements for jurisdictions;
4. Consider additional incentives and requirements based on a 2020 market analysis by CalRecycle and ARB.

The Legislature further authorized jurisdictions to charge and collect fees to fund compliance with the regulations, and to adopt, implement, and enforce additional requirements.

II. Primary SB 1383 Regulatory Policies

CalRecycle developed a regulatory framework that is consistent with the statutory requirements and direction included in SB 1383. The core aspects of the regulatory framework appear below. (Please see "***Policy Changes to SB 1383 Draft Regulatory Text***" for an outline of changes made to the October draft of the regulatory text).

(A) **Activities Constituting a Reduction in Landfill Disposal**

1. Disposal activities are actions that incorporate organic waste into a landfill.
2. Recovery activities are actions that remove organic waste from landfills and reduce methane release.

(B) **Organic Waste Collection Services**

1. Jurisdictions and haulers must provide residential and commercial organic waste collection services.
2. Jurisdictions must conduct minimum levels of education, outreach, and contamination monitoring.
3. Generators must subscribe to collection services for organic waste not reduced or managed on-site.

(C) **Edible Food Recovery Programs and Services**

1. Jurisdictions must implement and oversee food recovery programs.
2. Commercial edible food generators must establish documented arrangements with food recovery services.

(D) **Procurement of Recovered Organic Waste Products**

1. Jurisdictions must procure minimum levels of compost, renewable natural gas, or both.
2. Jurisdictions must meet minimum recycled content and recyclability standards for paper products.

(E) **Reporting by Regulated Entities**

1. Jurisdictions, haulers, and facilities must report annually or quarterly on compliance with the regulations.

(F) **Enforcement and Oversight**

1. CalRecycle will primarily oversee jurisdictions and entities outside of local government regulatory authority.
2. Jurisdictions will primarily oversee entities subject to their authority (generators, haulers, other entities).

(G) **Organic Waste Recovery and Processing Standards for Facilities**

1. Facilities must achieve recovery rates for organic waste that is collected with non-organic waste.
2. Facilities must reduce contamination in organic waste prior to sending for additional processing or recovery.

SB 1383 Summary Checklist

This SB 1383 Jurisdictional Checklist was prepared by HF&H Consultants, LLC based on CalRecycle's

May 2018 Draft SB 1383 regulations. HF&H provides this as a guidance document to highlight key requirements for jurisdiction compliance. In this checklist, jurisdiction means city or county. Requirements that pertain only to counties are labeled accordingly. Several items in this checklist may be assigned to a jurisdiction's designee; however, it is ultimately the responsibility of a jurisdiction to comply with SB 1383 pursuant to General Provisions, Section 0.1.2.c. Unless otherwise stated, jurisdiction compliance with SB 1383 shall occur by January 1, 2022. SB 1383 also includes requirements for generators, haulers, food recovery services, food recovery organizations, and facility operators, which are not summarized in this checklist.

Collection & Processing

- Offer organic waste collection services and recycling **(30.a)**
- May comply with Section 30.a by offering three-container collection system where **(30.1)**:
 - Green container is for organics and is taken to organics recovery facility
 - Blue container is for paper, wood, dry lumber, and nonorganic recyclables and is taken to facility for recovery
 - Black container is for nonorganic waste; may include organic waste if it is taken to a high diversion organic waste processing facility
- May comply with Section 30.a by offering two-container collection system where **(30.2)**:
 - Green container is for organics and is taken to organics recovery facility
 - Blue container is for paper, wood, dry lumber, and nonorganic waste
- May comply with Section 30.a by offering single-container collection system where **(30.3)**:
 - Black container is for all materials and is transported to a high diversion organic waste processing facility
- Conduct route reviews of randomly selected containers for contaminants such that all routes are inspected quarterly **(30.5)**
- Contact generator and notify generator of recycling requirements if contamination is found **(30.5.b)**
- Physically inspect containers along routes if notified by processor that route contains contamination **(30.5.d)**
- Provide collection containers to generators that comply with color and labeling requirements when replacing containers or by January 1, 2032 **(30.7-30.8)**
- Place or replace labels on all containers with SB 1383 compliant labels by January 1, 2025 **(30.8)**
- Allow limited waivers for de minimums volumes and physical space constraints, and maintain records **(30.11)**
- Apply to CalRecycle for waiver or exemption if jurisdiction qualifies for low population waiver or rural jurisdiction exemption **(30.12)**

Edible Food Recovery

- Implement edible food recovery program that educates commercial generators and increases access to edible food recovery **(10.1)**
- Increase edible food recovery capacity if current capacity is insufficient **(10.1)**
- Develop and maintain list of food recovery organizations by February 1, 2022 **(40.2.a)**
- Annually provide Tier One and Two edible food generators with information about food recovery program, generator requirements, and food recovery organizations **(40.2.b)**

Procurement Requirements

- Procure a quantity of recovered organic waste, such as compost and renewable natural gas, 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) **(12.1)**
- Purchase at least 75% of paper products with recycled content of at least 30 percent (by fiber weight, postconsumer fiber) **(12.3)**

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Ordinances & Policies

- Adopt enforceable ordinance or similar mechanism requiring compliance with SB 1383 (Title 14, Division 7, Chapter 12) **(0.1.2.a)**
- Require organics haulers to identify facilities they will utilize as a condition of contract or agreement authorization **(70.1)**
- Adopt ordinance(s) or similar mechanism(s) requiring compliance with Sections **30.9, 70.3, 80.1, 9, 10.1, 12 and 16.1.b**

Enforcement & Penalties

- Implement inspection and compliance program for organic waste generators, edible food generators, and edible food recovery organizations by January 31, 2022 **(14.1)**
- Provide educational materials to regulated entities not in compliance from January 1, 2022 through January 1, 2024 **(14.1.a.4)**
- Investigate and maintain records of all complaints received **(14.3)**
- Take enforcement actions, including issuing notices of violations and penalties equivalent to or greater than those outlined in Articles 14 and 16 by January 1, 2024 **(14.4)**
- Pay penalties if assessed by CalRecycle **(15)**
- Impose penalties on non-compliant entities **(16.2)**

Education & Outreach

- By February 1, 2022, annually provide generators utilizing two or three-container system with information on properly separating materials, organic waste prevention, on-site recycling, methane reduction benefits, how to recycle organic waste, a list of approved haulers, and information related to food recovery **(40.1.a)**
- By February 1, 2022, annually provide self-haulers with information regarding their requirements (outlined in Section 70.3) **(40.1.b)**
- By February 1, 2022, annually provide generators utilizing single-container system information on organic waste prevention, on-site recycling, methane reduction benefits, how to recycle organic waste, a list of approved haulers, and information that their waste is processed at a high diversion organics facility **(40.1.c)**
- If more than five percent of jurisdiction's generators are "Limited English Speaking Households" or "Linguistically Isolated", outreach must be in a language or languages that assure information is understood by that community. **(40.1.f)**
- By February 1, 2022, annually provide businesses that generate edible food waste with information regarding the jurisdictions edible food recovery program, generator requirements, and food recovery organizations **(40.2.b)**

Record Keeping & Reporting

- By February 1, 2022, file an initial compliance report containing the ordinance(s) adopted, the date when containers will comply with standards in Sections 30.7-30.8, and the reporting items listed in the annual reporting section **(13.1, 13.2)**
- Commencing August 1, 2022, shall submit an annual report relative to their compliance with SB 1383 **(13.2)**
- Maintain all implementation records in a central location (physical or electronic) that can be made available to or accessed by CalRecycle within one business day **(0.1.d, 30.4.a, 30.6, 30.14, 40.3, 70.4, 10.2, 12.2, 14.2)**
- Counties shall report on capacity planning activities conducted in accordance with Sections 11.1, 11.2, and 11.3 beginning February 1, 2022. **(13.2.i)**

Capacity Planning

- Conduct organics waste recycling and edible food recovery capacity planning described below and report in 2022, 2024, 2029, and 2034 **(11.3)**
- Estimate the amount of organic waste disposed, verifiable organic waste recycling capacity available to the jurisdiction, and estimate the amount of new or expanded capacity required **(11.1)**
- If verifiable available organic waste recycling capacity is insufficient for jurisdiction's needs, submit an implementation schedule (including timelines and milestones) demonstrating how capacity will be secured by the end of the reporting period **(11.1)**
- Estimate the edible food that will be disposed by applicable generators, identify existing food recovery capacity available, identify new planned capacity, and calculate minimum capacity necessary to recover 20% of edible food disposed **(11.2.a)**
- If existing and planned edible food recovery capacity is insufficient for jurisdiction's needs, submit an implementation schedule (including timelines and milestones) demonstrating how capacity will be secured by the end of the reporting period **(11.2.b)**

