

MERCED COUNTY REGIONAL WASTE MANAGEMENT AUTHORITY

SB 1383 Action Plan



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- A. Glossary
- B. SCS Capacity Report
- C. CalRecycle SB 1383 Compliance Process
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Introduction



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7

Member Agencies
comprise MCRWMA

283,000

residents

73,700

single-family customers

13,241

multi-family customers

1.1 Merced County Regional Waste Management Authority Overview

The Merced County Regional Waste Management Authority (MCRWMA) is a joint powers authority (JPA) with seven (7) member agencies – The Cities of Atwater, Dos Palos, Gustine, Livingston, Los Banos, and Merced, and the County of Merced (cumulatively referred to as Member Agencies). The population of MCRWMA’s service area is approximately 283,000. The MCRWMA was established in 1972 to establish a regional approach to solid waste management. The MCRWMA owns and operates two (2) regional landfills within Merced County: the Billy Wright Landfill (Billy Wright) and Highway 59 Landfill (Highway 59). Table 1 below depicts the location of these landfills within the County.

Table 1: MCRWMA’s Disposal Sites



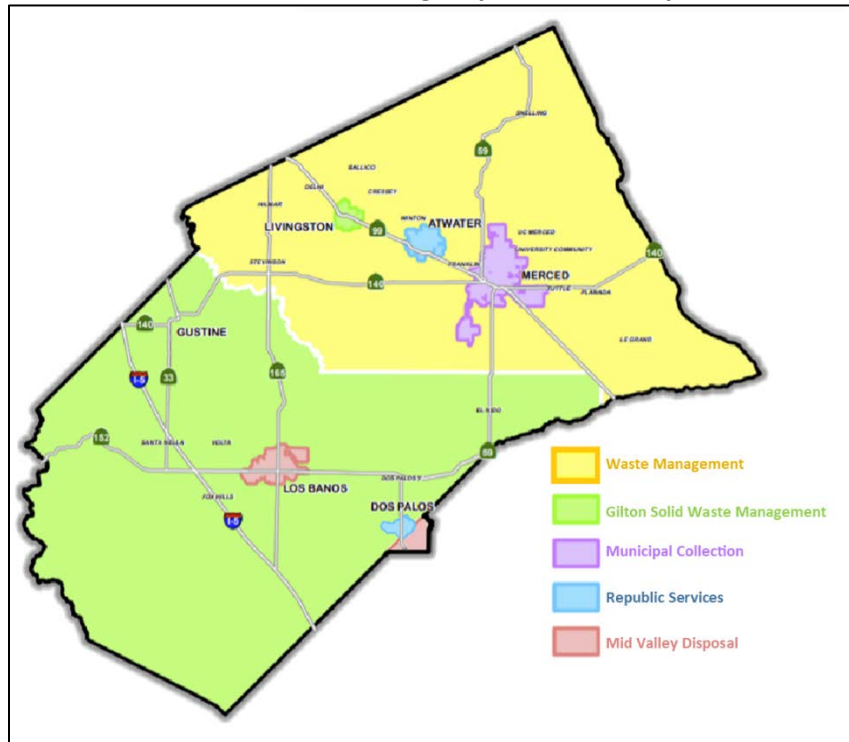
Additionally, the MCRWMA’s responsibilities include administering integrated waste management contracts and grants on behalf of the Member Agencies, providing post-collection transfer of recyclables and windrow composting of yard waste, household hazardous waste disposal, and developing and implementing programs to meet related State mandates in its Service Area.

Since the MCRWMA’s role is primarily related to post-collection services, each of the Member Agencies have individually entered into Franchise Agreements to administer their collection programs, and other supporting solid waste-related functions. Table 2 on the following page contains a summary of contracting arrangements for each Member Agency, along with the contract expiration date, while Table 3 represents the contracting arrangements on a map of the County. Additional information on contracting arrangements and Member Agency-specific programs are included in Sections 3 through 9.

Table 2: Member Agency Contracting Arrangements

Jurisdiction	Franchisee	Franchise Expiration Date
Atwater	Republic Services	June 30, 2023
Dos Palos	Republic Services	June 30, 2029
Gustine	Gilton Solid Waste Mgmt.	April 30, 2021
Livingston	Gilton Solid Waste Mgmt.	December 31, 2022
Los Banos	Mid Valley Disposal	June 30, 2031
Merced City	Municipal Collection	Not Applicable
Merced County (Zones 1-5)	Waste Management	5 year auto-renewal
Merced County (Zones 6-7)	Gilton Solid Waste Mgmt.	5 year auto-renewal
Merced County (Zone 8)	Mid Valley Disposal	5 year auto-renewal

Table 3: Member Agency Collection Map



1.2 SB 1383 - Driving Change

1.2.1 Regulatory Timeline

On September 19, 2016, Governor Brown signed into law Senate Bill No. 1383 (Chapter 395, Statutes of 2016), which established methane emissions reduction targets in an effort to reduce emissions of short-lived climate pollutants in various sectors of California’s economy. According to the California Department of Resources Recycling and Recovery (CalRecycle) “[a]ctions to reduce short-lived climate pollutants are essential to address the many impacts of climate change on human health, especially in California’s most at-risk communities, and on the environment.” With final rules released in CY 2020, the statute dictates compliance by January 1, 2022 for the majority of programs, and January 1, 2024 for others. Please see Table 4 below for further information on the SB 1383 regulatory timeline. On November 3, 2020, CalRecycle received a Notice of Approval of Regulatory Action from the Office of Administrative Law on SB 1383 Short-Lived Climate Pollutants regulations. The compliance gap analysis, and rate and resource analysis for this Action Plan were completed prior to the issuance of final regulations, and therefore this Action plan is based on October 2, 2019 draft regulations.

SB 1383 requires significant action by local jurisdictions, residential and commercial organics generators, haulers, and facilities to reduce organics disposal. It will require the MCRWMA and its Member Agencies to further enhance organics landfill reduction efforts related to food waste, green waste, wood waste, paper, cardboard, and other organics. To successfully achieve legislative compliance, increased staffing and funding will be needed by the MCRWMA, Member Agencies, Franchisees, and other stakeholders. **This SB 1383 Action Plan (Action Plan) presents a road map for the MCRWMAs compliance with SB 1383 requirements through expansion of its existing programs and implementation of new programs and policies. Acknowledging that MCRWMA is primarily responsible for post-collection, and the delineation of roles, individual Action Plans have been provided for each Member Agency in Section 3 through Section 9.**

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STATEWIDE TARGETS

50%

Statewide reduction in landfill disposal of organic material by 2020 (2014 baseline)

75%

Statewide reduction in landfill disposal of organic material by 2025 (2014 baseline)

20%

Recovery of currently disposed edible food for human consumption by 2025

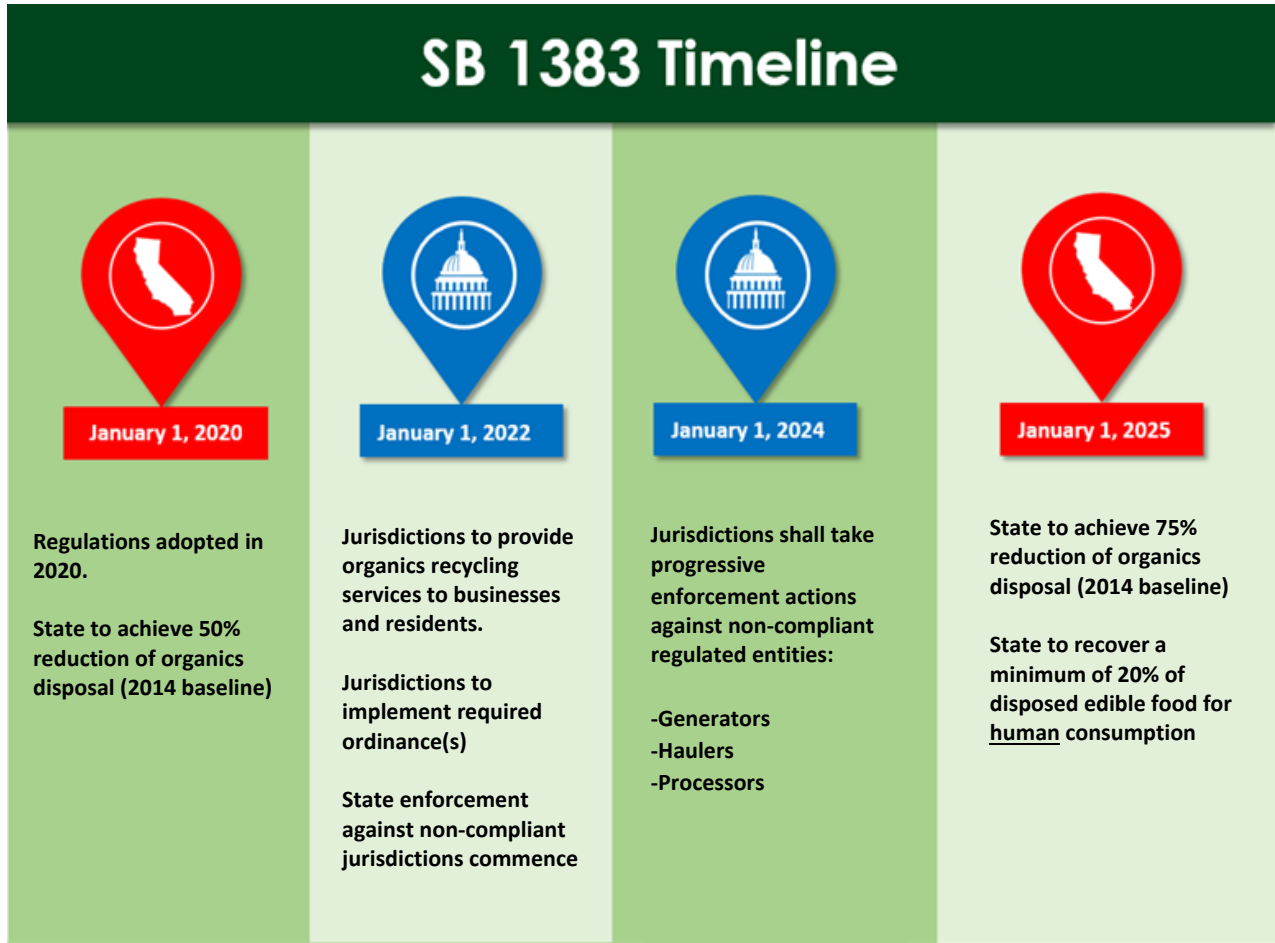
BROAD ORGANICS DEFINITION

SB 1383 focuses on “traditional” organics (yard trimmings, food scraps, and wood waste), but also focuses on a broader range of materials including fibers (i.e., paper, cardboard, cartons, coated paper), textiles, carpet, biosolids, digestate, and manure.

JANUARY 1, 2022 COMPLIANCE DATE

Commencing January 1, 2022, CalRecycle may take enforcement actions against regulated entities, including the County and its residents and businesses.

Table 4: SB 1383 Timeline



1.2.2 Organic Landfill Reduction Targets

SB 1383 identifies organic materials as a significant focus for methane emission reductions because methane emissions from landfills amount to 20% of the 2013 methane emissions sources and organics are approximately 67% of the materials disposed annually. SB 1383 includes statewide goals to reduce landfill disposal of organic material by 50% by 2020 and 75% by 2025, and to recover 20% of currently disposed edible food for human consumption by 2025 (compared to 2014 baseline data). **SB 1383 does not include jurisdiction-specific targets for organics reduction. Instead, the regulations include separate, specific program requirements for jurisdictions, generators, haulers, and processors.** To comply, the MCRWMA and its Member Agencies will need to expand the scope of current diversion policies and programs, increase funding, and enhance staffing.

1.2.3 Significant Changes for Jurisdictions and Others

SB 1383 is being compared to AB 939 in its magnitude and potential scope of requirements for jurisdictions and generators and in its inclusion of penalties for non-compliance, which extend to jurisdictions, generators, facilities, and haulers. SB 1383 expands beyond AB 341 and AB 1826 mandatory commercial recycling and organics diversion requirements through its broad organics definition and its applicability to all sectors, including single-family, multi-family, and commercial generators. SB 1383 states:

“by January 1, 2022, a jurisdiction shall adopt enforceable ordinance(s), or similarly enforceable mechanisms that are consistent with this chapter, to mandate that organic waste generators, haulers, and other entities subject to the jurisdiction’s authority comply with the requirements of this chapter.”¹

¹ 14 CCR § 18981.2

Both HF&H Consultants (HF&H) and MCRWMA Staff interpret this regulation to require that Member Agencies implement mandatory service of all waste streams (subject to allowable waivers). This requirement, and several others outlined within this Action Plan, necessitate that Member Agencies update their Codes of Ordinances. Given that each Member Agency has their own unique Code of Ordinances, each Member Agency should refer to the Ordinances and Policies Section of their individual Action Plans in Section 3 through Section 9 of this report for further information.

In addition to imposing mandatory services, SB 1383 expands the definition of organic waste significantly from definitions in AB 939 and AB 1826. While it encompasses “traditional” organic waste such as yard trimmings, food scraps, and wood waste, it has been expanded to include paper products, cardboard, textiles, carpet, biosolids, digestate, and manure. Specifically, SB 1383 defines organics as:

“solid waste containing material originated from living organisms and their metabolic waste products, including, but not limited to, food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.”²

As a result of this expanded definition, SB 1383 impacts both recyclables and organics reduction, collection, and processing programs for Member Agencies and the MCRWMA. Furthermore, SB 1383 establishes requirements for monitoring and enforcement, recovered organic waste product procurement, education and outreach, reporting and recordkeeping, and edible food recovery, most of which are not covered under current AB 939, AB 341, or AB 1826 regulations.

1.2.4 CalRecycle Regulatory Authority

SB 1383 grants CalRecycle regulatory authority to achieve SB 1383 organic waste reduction targets. CalRecycle established a timeline for compliance that requires jurisdictions to have SB 1383 compliant programs and policies in place on or before January 1, 2022. **Entities which do not comply with regulatory requirements by January 1, 2022, will receive a Notice of Violation (NOV) from CalRecycle and will be required to correct the violation within ninety (90) days** (CalRecycle retains the ability to extend the timeframe for correction by up to ninety (90) days for a total of one hundred and eighty (180) days to correct). For violations outside of a jurisdiction’s control, where substantial effort is made by the jurisdiction, the jurisdiction may be placed on a Corrective Action Plan (CAP) for up to twenty-four (24) months; inability to increase rates does not qualify a jurisdiction for a CAP. If local infrastructure capacity is inadequate, the CAP may be extended for an additional twelve (12) months, not to exceed a total of thirty-six (36) months from issuance of the initial NOV. SB 1383 differs from AB 939 from a compliance standpoint as SB 1383 does not include a “good faith effort” related to compliance. Please see Attachment C for a memo from CalRecycle that further details the compliance and CAP process.

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² 14 CCR § 18982

Merced County Regional Waste Management Authority's Compliance Strategy



Detailed Program Action Plans for each Member Agency are provided in Section 3 through Section 9 include:

- Collection and Processing
- Monitoring and Enforcement
- Product Procurement
- Contracts
- Ordinances and Policies
- Edible Food Recovery
- Education and Outreach
- Reporting and Recordkeeping

2.1 Executive Summary



2.1.1 Action Plan Development Overview

On October 17, 2019, the MCAG Governing Board authorized the Executive Director to enter into a contract with HF&H Consultants to perform an analysis of: SB 1383 regulations, compliance requirements, compliance gaps, program options, regional infrastructure, rate and resource requirements, and program planning for both the MCRWMA and its Member Agencies. The project resulted in development of this SB 1383 Action Plan. The Action Plan presents recommended program and policy changes, implementation plans, and timelines for key actions as developed in conjunction with MCRWMA Staff and Member Agencies. Compliance centers on implementation of seven key programs (listed in the column to the left and detailed below in Program Requirements Overview section), performance of additional activities beyond those key programs, and leveraging of several existing programs; these responsibilities will be shared by the MCRWMA, Member Agencies, Franchisees, and other stakeholders. To meet SB 1383’s compliance deadlines, it’s recommended that the MCRWMA move forward with implementation of this Action Plan immediately.

2.1.2 Program Requirements Overview

This section provides a high-level overview of SB 1383 requirements. Please refer to the preceding SB 1383 Action Plan Implementation Overview Section for a discussion of the MCRWMAs path to compliance, and the delineation of roles between the Authority and Member Agencies. Individual Member Agency Action Plans, included in Section 3 through Section 9, provide more detailed descriptions of the required programs for each individual Member Agency.

2.1.2.A Mandatory Solid Waste, Recycling, and Organics Collection and Processing

As described above, in Section 1.2.3 Significant Changes for Jurisdictions and Others, SB 1383 compliance requires implementation of mandatory residential and commercial solid waste collection and mandatory recycling and organics collection and processing programs, a significant deviation from current practices. There is currently inconsistent provision of mandatory service throughout the Member Agencies’ service areas, as depicted below in Table 5 (please note Gustine is currently updating their Code of Ordinances).

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Table 5: Mandatory Service Requirements

Jurisdiction	Residential Sector				Commercial Sector			
	Refuse	Recycle	Yard Waste	Food Waste	Refuse	Recycling	Yard Waste	Food Waste
Atwater	✓				✓			
Dos Palos								
Gustine								
Livingston	✓	✓	✓		✓	✓	✓	
Los Banos	✓	✓			✓	✓		
Merced City	✓	✓	✓		✓	✓	✓	✓
Merced County (Zones 1-5)	✓				✓			

Additionally, there are inconsistent organic collection services (including green waste and food waste) available to residents and businesses located in different Member Agencies, requiring varying degrees of implementation. Currently, three (3) of the seven (7) Member Agencies offer residential curbside recycling collection services, and all member agencies, except some portions of unincorporated Merced County, have green waste programs. Table 6 below depicts the current collection and processing programs by Member Agency.

Table 6: Current Member Agency Collection Programs

Jurisdiction	Source-Separated Recyclables	Yard Waste	Food Waste
Atwater	✓	✓	
Dos Palos	✓	✓	
Gustine		✓	✓
Livingston		✓	
Los Banos ¹	✓	✓	
City of Merced ²	✓	✓	✓
County of Merced		✓	

¹ Food waste collection and processing program to be effective 6/30/2021.

² Source separated commercial food waste currently disposed at Highway 59 Landfill.

SB 1383 does allow for waivers and exemptions to the mandatory service requirements but they are limited to the following waivers:

- Low-population and elevation waivers for qualifying jurisdictions. These waivers are only applicable to certain census tracts within the County’s unincorporated areas; and
- De Minimis and space constraint waivers for commercial customers (subject to limitations). These waivers must be verified at least every five years.

Member Agencies are not required to issue waivers from the mandatory service requirements, however, if they choose to allow waivers, they must adhere to the limitations of SB 1383.

2.1.2.B Monitoring and Enforcement

SB 1383 states that “a jurisdiction remains ultimately responsible for compliance with the requirements of this chapter.” ³ Responsibility includes the compliance of residents and businesses within the County’s communities. As such, SB 1383 requires that Member Agencies implement robust monitoring and enforcement programs for all aspects of the regulations. The prescribed enforcement programs include, but are not limited to:

- Contamination monitoring for prohibited container contaminants via route reviews or waste evaluations;

³ 14 CCR § 18981.2.c

- Inspection of Tier 1 and Tier 2 Commercial Edible Food Generators to ensure that they contract with a Food Recovery Organization or Food Recovery Service. Tier 1 inspections commence January 1, 2022; Tier 2 inspections commence January 1, 2024;
- Investigate complaints received regarding non-compliant entities;
- Beginning January 1, 2022 until December 31, 2023, a jurisdiction shall provide education materials describing the applicable requirements of SB 1383 in response to violations; and
- Beginning January 1, 2024, a jurisdiction shall enforce any violations of SB 1383 (excluding prohibited container contaminants), by issuing Notices of Violations (NOVs), and issuing penalties if violations are not corrected. Penalties range from fifty dollars (\$50) to five hundred dollars (\$500) per violation.

2.1.2.C Product Procurement

SB 1383 regulations contain two primary requirements for jurisdictions surrounding product procurement:

1. Beginning January 1, 2022, jurisdictions shall annually procure a quantity of recovered organic waste products (generated in California) that meet or exceed their current annual recovered organic waste product procurement target. The procurement target will vary based on the recovered organic waste commodity chosen (or combination of commodities). A description of the mathematical calculations, and implementation considerations can be found in the Individual Member Agency Action Plans in Section 3 through Section 9. *Note: The procurement of these products may be delegated to a jurisdiction's direct service provider(s).*
2. Jurisdictions will also be required to procure paper products, and printing and writing paper if they cost the same or less than comparable virgin materials, in accordance with Public Contracts Code Sections 22150-22154. It is important to note that paper products include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling.

2.1.2.D Ordinances and Policies

SB 1383 requires that jurisdictions establish legal authority to implement and mandate programs through adoption of ordinances, policies, or similarly enforceable mechanisms. CalRecycle has been unable to clarify the definition of "similarly enforceable mechanisms" or provide examples. Therefore, jurisdictions will need to update their Ordinances and Purchasing Policies to comply. A synopsis of the required ordinance changes for each Member Agency is included in included in Section 3 through Section 9.

Additionally, the MCRWMA and its Member Agencies will have to update their Environmentally Preferable Purchasing Policies (EPPP) to comply with the requirements of SB 1383. As described above, the update will require compliance with Public Contracts Code Sections 22150-22154. There are also voluminous reporting requirements surrounding these purchasing requirements which are further described in Sections 3 through 9, and Attachment D.

2.1.2.E Education and Outreach

SB 1383 prescribes that annual education and outreach is provided through print and/or electronic media to generators within a jurisdiction, with the option to conduct additional outreach through direct contact with generators via workshops, meetings, or on-site visits. Additionally, there is another subset of specific information that must be provided to Tier 1 and Tier 2 Commercial Edible Food Generators.

All education and outreach must be translated into non-English languages spoken by a substantial number of the public provided the organic waste collection services, in accordance with Section 7295 of the Government Code. "This provides jurisdictions the flexibility to make the determination of when education and outreach materials need to be translated...If there's a lot of contamination in certain communities with linguistic isolation, the Jurisdiction will know if they need to be translating to bridge the gap."⁴

2.1.2.F Reporting and Recordkeeping

SB 1383 contains three primary reporting requirements for jurisdictions: an initial jurisdiction compliance report, annual report, and on-going maintenance of a centralized implementation record.

⁴ Morgan, Cara. "Re: You Called." Message to Philip Mainolfi. January 7, 2020. Via Email

Initial jurisdiction compliance reports are due April 1, 2022 and require at a minimum, inclusion of:

- Copies of ordinances or other enforceable mechanisms adopted pursuant to this chapter.
- Information on the type of organics collection service(s) provided by the jurisdiction. Given the diversity of the communities and contracting arrangements within Merced County, it is likely there will be an array of different collection services throughout the County.
- Total number of generators that receive organic waste collection services. Again, the multiple Member Agencies will necessitate that the MCRWMA aggregate reports from multiple entities to provide this information to CalRecycle.

Jurisdiction Annual Reports are due October 1, 2022 for the period covering January 1, 2022 through June 30, 2022. In subsequent years (beginning in CY 2023), the report will be due on August 1st for the preceding Calendar Year's activity. The records required by the Annual Report are a vast expansion on previous reporting requirements under AB 939. Please see Attachment D for a full list of reporting requirements, as they are beyond the scope of this summary.

The third and final reporting requirement is the on-going maintenance of an Implementation Record. SB 1383 requires that jurisdictions maintain all records required by SB 1383 in a central location (electronic or physical) that can be readily accessed by the Department (CalRecycle) within ten business days. *"All records and information must be included in the Implementation Record within 60 days of the creation of the record or information [and] shall be retained by the Jurisdiction for five (5) years."*⁵ The required records, as described in Attachment D, are extremely voluminous, and maintenance of the Implementation Record is likely to be one of the most burdensome tasks for the MCRWMA and Member Agencies from a staffing resources perspective (with the exception of the City of Merced where municipal collection operations may be impacted the most).

2.1.2.G Edible Food Recovery

SB 1383 requires that jurisdictions implement an edible food recovery program, subject to minimum programmatic requirements. At a minimum this includes:

- Implementation of an edible food recovery program that includes education of Tier One and Tier Two Commercial Edible Food Generators annually;
- Increase access to Food Recovery Organizations and Food Recovery Services, through collaboration with incorporated cities within the County; and
- Develop a list of Food Recovery Organizations and Services operating within the service area and update the list annually.

2.1.3 SB 1383 Action Plan Implementation Overview

While SB 1383 contains extensive program standards, it is a shared-responsibility Bill, and a strategic allocation of roles will minimize the impacts on budgets and staffing for the MCRWMA and Member Agencies.

2.1.3.A MCRWMA's Role

It is recommended that the MCRWMA continue and expand its current role by facilitating State reporting, expanding post-collection processing of organic waste at the Highway 59 Landfill, and providing supplemental education and outreach to support these programs and the Member Agencies.

Facilitation of State Reporting

The MCRWMA currently facilitates the submission of Electronic Annual Reports to CalRecycle for all Member Agencies in aggregate, using a cloud-based reporting system, Recyclist. The utilization of cloud-based software ideally positions the MCRWMA for compliance as it will minimize increased resources for the MCRWMA. Member Agencies and Franchisees will have access to upload data, limiting the MCRWMA's role to reporting on post-collection activities, following up with stakeholders on overdue data, analyzing data for accuracy and insights, and interfacing with CalRecycle where appropriate. It is estimated that the increased reporting requirements will require 0.2 to 0.25 FTEs on an on-going basis.

⁵ SB 1383, Section 18995.2

Expansion of Organic Waste Processing Capabilities at Highway 59 Landfill

One of the largest statewide challenges to successful implementation of SB 1383 is the lack of organic waste processing capacity, particularly food waste processing capacity; this holds true for the County of Merced, particularly the East Side Communities. Table 7 Below depicts which Member Agencies currently have an outlet for food waste.

Table 7: Summary of Member Agency Food Waste Outlets

JURISDICTIONS <u>WITH</u> OUTLET FOR FOOD WASTE	
Jurisdiction	Franchisee
Gustine	Gilton
Livingston	Gilton
Los Banos	Mid Valley
Merced County (Zones 6-7)	Gilton
Merced County (Zone 8)	Mid Valley

JURISDICTIONS <u>WITHOUT</u> OUTLET FOR FOOD WASTE	
Jurisdiction	Franchisee
Atwater	Republic
Dos Palos	Republic
Merced City	Municipal Collection
Merced County (Zones 1-5)	Waste Management

As depicted above, the Member Agencies on the West Side of the County currently have outlets through their Franchisees. Therefore, only the East Side communities of Atwater, Dos Palos, Merced City, and Merced County Zones 1-5 require an outlet for food waste. A study performed by SCS Engineers concluded that there is limited to no available capacity in the area for new food waste feedstock; please see the Section labeled 2.2.2.B for a summary of available capacity, and Attachment B for SCS Engineers’ Organics Disposal and Capacity Study Memorandum.

Given the lack of available food waste processing capacity, it is recommended that the MCRWMA conduct a competitive procurement for the design, build, and operation (DBO) of an organic waste processing facility at the Highway 59 Landfill, capable of processing comingled green waste and food waste. Benefits of issuing a DBO procurement for comingled organics processing include, but are not limited to:

- **Increasing Economies of Scale.** A central processing site for the East Side communities will increase the feedstock volume for the facility, reducing the cost per ton for organic waste processing;
- **Minimizing Capital Expenditures.** Delegation of the design and construction process will minimize capital expenditures for the MCRWMA. With a current landfill bond payment, outstanding capital projects, and a pending landfill gas-to-energy project, it is likely prudent to shift the capital expense and liability to a third party;
- **Leveraging Third Party Expertise.** Pre-processing and composting (or digestion) of comingled organic waste is a complex process; by leveraging an experienced contractor the MCRWMA will minimize potential oversites and issues;
- **Mitigating Impacts of Landfill Diversion on Budget.** SB 1383 programs will increase landfill diversion and reduce methane emissions, thus supporting SB 1383 organics disposal reduction. It is important to note that a reduction in tonnage volume at the MCRWMA’s landfills may impact disposal revenues, which is currently the largest source of revenue for the MCRWMA.
- **Negating the Need for a 4-Container Collection System.** Source-separated food waste and green waste collection presents several challenges, such as increased footprint inside the home and at the curb, increased container costs (\$50-\$70 per container), additional capital investment in collection vehicles (\$350,000-\$400,000 per vehicle). Furthermore, all Member Agencies expressed a desire to avoid a 4-container collection system, particularly in the residential sector.

It is also recommended that the MCRWMA obtain flow guarantees for organic waste from the East Side communities prior to moving forward with the design and construction of a facility. Following the competitive procurement process, the

MCRWMA will have a more thorough understanding of the expected gate rates for comingled organic waste processing which will ensure the Member Agencies are making informed decisions. It is recommended that this dialogue is conducted concurrently with the DBO procurement process to ensure that Member Agencies are prepared to sign the flow control agreements immediately following the competitive procurement.

It is estimated that a DBO procurement will take approximately nine (9) months to one (1) year, meaning that the process will be completed by Q1 2022 at the earliest. At that point, the East Side communities will be out of compliance when the regulations take effect (January 1, 2022), but will be eligible for a Corrective Action Plan, which will allow two (2) to three (3) years for permitting and construction of the organic waste processing facility. **Given the acute timeframe for completion of this project, it is recommended that the MCRWMA direct Staff to issue a DBO competitive procurement immediately.**

Education and Outreach

Should the MCRWMA move forward with provision of an organic waste processing facility, they will have a vested interest in ensuring that the facility feedstock has minimal contamination, which will minimize preprocessing costs. A robust education and outreach campaign is critical to contamination minimization and will be primarily facilitated through Member Agencies and their Franchisees as described in their individual Action Plans. However, it will be the MCRWMA's role to communicate with facility users on current contamination levels and proper source-separation (either through staff or the facility operations contract).

The MCRWMA is also ideally positioned to fulfill SB 1383's requirement of educating self-haulers. As the operator of the Billy Wright Landfill and Highway 59 Landfill, the MCRWMA can provide information on the proper source-separation of organic materials onsite. Education could take the form of additional signage at the landfill, verbal communication at the gate or diversion areas, or distribution of print media.

Finally, the MCRWMA can provide additional support to Member Agencies' edible food recovery efforts by posting list of food recovery organizations and services on the MCRWMA website. Each jurisdiction is required to identify these food recovery organizations and services, limiting the MCRWMA's role to broadcasting on its website. While the MCRWMA is not required to post this content on their website by SB 1383, hunger is a regional issue and this is a low-effort activity that can benefit the communities of Merced County.

2.1.3.B Member Agency Responsibilities

Ultimately, the MCRWMA's Member Agencies will be responsible for the compliance of organic waste generators and Commercial Edible Food Generators within their jurisdictions. As such, each Member Agency will require a more expansive role in SB 1383 compliance than the Authority. While acknowledging the larger role of the Member Agencies, the Individual Member Agency Action plans are structured to leverage Franchisees (with the exception of the City of Merced) as much as possible. This will provide several advantages, including but not limited to:

- **Leverages the expertise of Current Franchisees.** Franchisees have been providing solid waste, recycling, and organic services to the Member Agencies and neighboring communities for decades. Their experiences in other jurisdictions, many of whom have already implemented various aspects of SB 1383, will minimize the learning curve;
- **Minimizes Impacts on Member Agency Staffing and Budgets.** In uncertain times, where revenue volatility is likely to be introduced to public entities, risk mitigation over budgets is essential. By leveraging the Member Agencies partners, programs will be sustained by service rates, opposed to taxes or fees which may not remain stable; and,
- **Increased economies of scale.** As noted above, the County's Franchisees serve several other jurisdictions, which will allow them to carpool programs and decrease costs. For example, rather than the County designing and translating educational media collateral independently, the cost could be shared amongst jurisdictions with similar programs.

Update Collection Programs through Franchise Agreement Negotiations, Competitive Procurements, or Operational Changes.

Each Member agency will need to revise, enhance, and expand current collection programs through Franchise Agreement negotiations or competitive procurements, with the exception of the City of Merced which will need to introduce operational changes to their municipal collection program. The appropriate process for each Member Agency is primarily driven by three factors: the term of their current Franchise Agreement(s), satisfaction with current Franchisee services and relationships, and

the Franchisee’s willingness to expand their scope of services. Table 8 summarizes the recommended contracting approach for each Member Agency, with further considerations detailed in Section 3 through Section 9.

Table 8: Member Agency Contracting Recommendations

Jurisdiction	Franchisee	Franchise Expiration Date	Recommendation
Atwater	Republic Services	June 30, 2023	2 Options: 1. Negotiate with Republic 2. Competitive procurement (requires CalRecycle Corrective Action Plan)
Dos Palos	Republic Services	June 30, 2029	Negotiate expansion of services with Republic
Gustine	Gilton Solid Waste Mgmt.	April 30, 2021	2 Options: 1. Negotiate with Gilton 2. Extend current Agreement with Gilton for 12-18 months and issue competitive procurement (requires CalRecycle Corrective Action Plan)
Livingston	Gilton Solid Waste Mgmt.	December 31, 2022	2 Options: 1. Negotiate with Gilton 2. Extend current Agreement with Gilton for 12-18 months and issue competitive procurement (requires CalRecycle Corrective Action Plan)
Los Banos	Mid Valley Disposal	June 30, 2031	New Franchise Agreement contemplates SB 1383
Merced City	Municipal Collection	Not Applicable	Update Municipal Hauling operations
Merced County (Zones 1-5)	Waste Management	5 year auto-renewal	Negotiate expansion of services with Waste Management
Merced County (Zones 6-7)	Gilton Solid Waste Mgmt.	5 year auto-renewal	Negotiate expansion of services with Gilton
Merced County (Zone 8)	Mid Valley Disposal	5 year auto-renewal	Negotiate expansion of services with Mid Valley

While each Member Agency has unique contracting arrangements and recommendations detailed within their individual SB 1383 plans, there are several SB 1383-related functions that should generally be considered for inclusion in Amendments and restated Franchise Agreements (again this excludes the City of Merced). These items include, but are not limited to:

- **Solid Waste Collection; and Recyclables and Organics Collection and/or Processing.** Franchisees shall provide collection and/or processing programs in accordance with SB 1383. The West Side communities currently have outlets for food waste through their service providers, Gilton and Mid Valley;
- **Container Contamination Minimization.** Delegation of container contamination minimization through route-monitoring or waste evaluations. Again, Franchisees may select the option that best suits their community, although route monitoring is often cheaper than waste evaluations. The MCRWMA may chose to conduct waste evaluations at the Highway 59 landfill if they move forward with expansion of their composting operation;
- **Education and Outreach.** Member Agencies should require at a minimum an annual distribution of print media including the topics and content required by SB 1383. This will defer the costs associated with drafting, graphic design, translation, printing, and distribution to the contractor, minimizing the impacts on Member Agency budgets;
- **Waivers and Exemptions.** If Member Agencies choose to offer waivers, it is likely prudent to impart requirements upon the Franchisees to assist with the waiver process. While Franchisees cannot ultimately approve waivers, they can conduct the operational work of verifying and documenting generators eligible for waivers and submit the applicable documentation to Member Agency Staff for approval;
- **Edible Food Recovery.** Depending on program selection, Member Agencies may wish to supplement edible food recovery programs through Franchisee involvement. For example, if Member Agencies elect to incorporate container right-sizing and training to assist with minimizing rate payer charges, they could require that the Franchisee provide contact information for Food Recovery Organizations and Services;
- **Organic Waste Capacity Planning.** Franchisees should be required to provide data on available capacity at Franchisee-owned or operated facilities if requested to assist with capacity planning;

- **Organic Waste Procurement Requirements.** To comply with the recovered organic waste procurement targets, the Member Agencies could require Franchisees to utilize renewable natural gas vehicles and/or distribute compost where it is economically and operationally feasible;
- **Compliance Reviews.** Require Franchisees to perform desktop compliance reviews to ensure generator compliance, and to provide account information upon request;
- **Recordkeeping.** Enhance recordkeeping to document aforementioned responsibilities in accordance with timeline necessitated by SB 1383 Initial Jurisdiction Compliance Report, Jurisdiction Annual Report, and Implementation Record. Please refer to Attachment D for a list of these requirements; and
- **Other Contract Cleanup.** SB 1383 revisions to Franchises effect the most important areas of Franchise Agreements such as collection programs, term length, and rates. As such, this is the ideal time to incorporate any contract cleanup items or additional services.

Ordinance and Policy Updates

As described above, SB 1383 requires that Member Agencies adopt/amend enforceable ordinances and policies to facilitate compliance by January 1, 2022. SB 1383 also identifies several policies that jurisdictions may not adopt because such policies would impede organics disposal reduction. Therefore, it is imperative that the Member Agencies begin the ordinance process in 2021. The level of effort for each Member Agency varies based on current ordinances and policies, however the following summary includes a brief synopsis of the required ordinances and policy updates that may need to occur:

- Require mandatory solid waste, recycling, and organics service (subject to allowable waivers if the County chooses to offer waivers);
- Require self-haul/back-haul reporting for commercial entities;
- Adopt enforceable California Green Building Standards Code compliance. The County already has a CalGreen Ordinance but it may need to be amended to facilitate enforcement of the program;
- Adopt enforcement ordinance/protocols to impose penalties (or point to administrative hearing process if fines are sufficient to comply with SB 1383 minimum standards);
- Update the City's Environmentally Preferable Purchasing Policy to meet the organic waste procurement requirements (see Internal County Programs section below for further specifics);
- Adopt an edible food recovery ordinance;
- Adopt/amend the hauler regulation ordinance; and
- Update water efficient landscaping ordinance to comply with SB 1383.

Member Agencies will also need to update their procurement policies to meet minimum recovered organic waste product procurement targets through the purchase of compost, mulch, renewable gas, and/or electricity from biomass conversion. Additionally, SB 1383 requires that the Member Agencies procure paper products, and printing and writing paper, consistent with Sections 22150-22154 of the Public Contracts Code (PCC). The level of effort required by each Member Agency is again dependent on current program status; please refer to Section 3 through Section 9 for further detail. Ongoing compliance with modified EPPs will require collaboration across multiple departments/divisions to ensure they are adhering to the policy and providing the required reporting.

Reporting Requirements

SB 1383 requires significantly expanded reporting, as well as on-going maintenance of a centralized Implementation Record. Member Agencies will need to amend their reporting procedures to ensure compliance; this will include a migration from quarterly reports to monthly reports, and an exponential increase in data points. Attachment D contains further information on the expansive data requirements required by SB 1383. It is recommended that this reporting occur through the MCRWMA's cloud-based software platform, Recyclist. This will ensure efficient upload and aggregation of data from multiple stakeholders and departments.

Edible Food Recovery

Edible Food Recovery programs to comply with SB 1383 will be primarily determined by the County of Merced’s decision as to whether they will support the incorporated Cities within the County with inspections of edible food generators. It is recommended that inspections of Tier One and Tier Two Commercial Edible Food Generators will be conducted by the County Department of Environmental Health. There are multiple benefits to this approach, but the primary benefits are efficiency and legal authority. From an efficiency standpoint, the County Department of Environmental Health is already in the field inspecting the businesses. Delegation of this role to the County Department of Environmental Health will amount to adding a few lines to their inspection forms and reporting back to the Member Agencies. Additionally, the Fourth Amendment of the U.S. Constitution protects citizens from illegal search and seizure, therefore the individual Member Agencies may not have legal authority to require businesses to allow them access to their property or to provide records. The County Department of Environmental Health does have the authority to enter the back of the business for inspections, or they can revoke a business’ Health Permit. It is recommended that each Member Agency collaborate with the County Department of Environmental Health to ensure all records required by SB 1383 are included in the applicable reports. Should the County decide not to perform SB 1383 inspections in conjunction with current Environmental Health inspections, then each Member Agency will be required to perform their own inspections. Additionally, each jurisdiction will be required to post information regarding food recovery organizations and services on their individual websites.

Capacity Planning

The County will also be responsible for regional capacity planning for organics processing and edible food recovery, with the support of incorporated cities within the County. Organics processing capacity guarantees should be contemplated in the Member Agencies’ Franchise Agreements and processing agreements to alleviate any questions about the sufficiency of infrastructure capacity. However, additional staff time will be required by County Staff for interfacing with CalRecycle.

Section 2.3 of this report includes initial estimates of organic waste volumes generated by the County, derived from SCS Engineers’ Organics Disposal and Capacity Study Memorandum in Attachment B.

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2.2 MCRWMAs SB 1383 Action Plan

2.2.1 Overview

As previously mentioned, the MCRWMA's role in solid waste management has historically included ownership and operation of two (2) disposal sites, post-collection transfer of recyclables, windrow composting of green waste, household hazardous waste disposal, and facilitation of State reporting. Through the development of this Action Plan, the MCRWMA and HF&H Consultants have evaluated opportunities for the Authority to expand its role to better serve the Member Agencies and introduce additional efficiency. This work culminated in three primary areas of focus for the Authority:

- Facilitate processing of organic materials (including food waste) for Member Agencies through contracting arrangements or facility expansion;
- Facilitate State reporting by expanding current reporting role and increased resources; and
- Providing supplemental education and outreach.

The MCRWMA's Individual Action Plan presented in this Section 2.2 is organized surrounding the aforementioned three topics.

2.2.2 Processing of Organic Waste

In order to determine the MCRWMA's role in the facilitation of organic waste processing, it is essential to understand four primary factors: waste generation characteristics and projections, an inventory of regional capacity available for the processing of this organic material, current Member Agency processing arrangements, and potential impacts on MCRWMA revenues. Cumulatively this data will allow the Authority to understand the volume and characteristics of organic waste needing an outlet, potential partnership or contracting opportunities, regional competitors should the MCRWMA choose to expand their own processing capabilities, and potential revenue losses if the organic material is diverted from landfill.

2.2.2.A Member Agency Generation Characteristics and Projections

HF&H Consultants utilized a subconsultant, SCS engineers (SCS), to project organic material generation for the MCRWMA service areas. This Section 2.2.C summarizes SCS's findings and a dialogue of how they influence the MCRWMA's role in organic waste processing; the complete report generated by SCS Engineers can be found in Attachment B.

In order to determine the volume of organic waste generated within the service area, SCS used 2018 annual disposal and processing data from the MCRWMA combined with CalRecycle's 2014 waste characterization. The results of this analysis are presented in Table 9.

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Table 9: SCS Engineers Summary of Organic Materials Managed by the MCRWMA

Material	Proportion	Annual Tons
Organics in Disposed General Refuse		
Other Miscellaneous Paper - Compostable	0.2%	400
Remainder/Composite Paper - Compostable	6.6%	14,700
Food	18.1%	40,300
Leaves and Grass	3.8%	8,500
Prunings and Trimmings	3.1%	6,900
Branches and Stumps	1.7%	3,800
Clean Dimensional Lumber	3.2%	7,100
Clean Engineered Wood	1.7%	3,800
Clean Pallets & Crates	2.1%	4,700
Subtotal	40.5%	90,200
Separated Organics		
Grass/Leaf		686
Green - Clean		14,401
Brush/Prune-W		7,274
Subtotal		22,361
Separated Organics Disposed		
Green - Rejected		2,013
LF Brush		1,225
LF Grass		914
LF Greenwaste		9,832
LF Wood		1,796
Subtotal		15,780
Total		128,341

Note: Proportion of organic materials in general refuse estimated from 2014 CalRecycle Statewide Waste Characterization Study of Overall Disposed Waste

While understanding 2018 baseline generation is useful, it's important to account for population growth when projecting future diversion levels. Additionally, it is unlikely that 100% of organic materials is captured in the appropriate diversion program and therefore diverted from landfill. SCS applied tonnage growth to the baseline generation figure, and then projected organics diversion ramping up to the statewide goal of 75% diversion; the results of this forecast may be found in Table 10.

Table 10: SCS Engineers Organics Recovery Projections

Year	Population Growth	Waste Managed (Tons)	Organics Generated (Tons)	Organics Diverted (Tons)	Proportion Organics Diverted
2018	1.1%	276,898	128,341	22,361	17%
2019	1.4%	280,800	130,200	45,600	35%
2020	1.4%	284,800	132,000	66,000	50%
2021	1.4%	288,800	133,800	73,600	55%
2022	1.4%	292,800	135,600	81,400	60%
2023	1.4%	296,900	137,500	89,400	65%
2024	1.4%	301,100	139,400	97,600	70%
2025	1.4%	305,200	141,300	106,000	75%

While it is unlikely that the MCRWMA will achieve 75% diversion by 2025, this exercise is important for understanding potential future tonnage volumes that may occur in subsequent years. This will ensure that the MCRWMA and its Member Agencies avoid a capacity shortage. Several factors will impact the realized diversion level and timing including, but not limited to:

- Program design and the manner in which programs are implemented;
- Level of program participation by residents and businesses;
- Ongoing commitment of the County to the programs;
- Changes in demographic conditions, number and types of businesses, collection and processing methods; and
- Program selection and on-going support by jurisdictions and companies utilizing the Solid Waste Disposal System.

2.2.2.B Available Processing Capacity

With an understanding of current generation statistics and projections for future organics diversion, SCS was then tasked with quantifying locally available processing capacity that may be able to receive additional organic waste. (See Attachment B for full report). Using CalRecycle’s Solid Waste Information System (SWIS) Database, SCS was able to identify ninety-seven (97) current and planned processing facilities within a one hundred twenty (120) mile radius of the service area. This list was triaged to exclude chip and grind facilities, as well as some facilities in distant areas that were determined to be geographically prohibitive. After filtering the data, SCS contacted the remaining forty (40) facilities to obtain the following information:

- Quantity of Material Used as Alternative Daily Cover (ADC)
- Accepted Materials
- Current Quantities Received
- Sectors Material is Received from (Residential, Commercial, Industrial, Institutional)
- Estimated Available Capacity
- Plans to Increase/Decrease the Types of Materials Accepted
- Does Facility Accept Animal Waste, Manure, Compostable Diapers, or Farm Waste?
- Facility Outlook Regarding Future Organics Market Changes 5 Years From Now
- Perceived Barriers to Increased Organics Diversion
- Facility Issues with Material Quality or Contamination
- Facility Tipping Fees

Of the forty (40) facilities contacted, 33 responded. Their responses were aggregated to summarize available capacity, with the results summarized in Table 11.

Table 11: SCS Engineers Summary of Available Organics Processing Capacity by County

County	Permitted Capacity (Tons/Year)	In-Use Capacity (Tons/Year)	Available Capacity Tons/Year	Planned / Future Capacity Tons/Year
Alameda	443,950	443,950	0	160,000
Fresno	419,231	Unknown	Unknown	0
Madera	364,000	364,000	0	0
Mariposa	20,000	Unknown	Unknown	0
Merced	176,451	128,319	48,132	0
Monterey	198,975	179,225	19,750	100,000
San Benito	36,040	Unknown	Unknown	0
San Joaquin	481,419	Unknown	Unknown	0
Santa Clara	590,680	585,056	5,624	260,000
Stanislaus	1,074,919	732,990	341,929	0
Tuolumne	6,250	6,250	0	0
Subtotal (without Alameda and Santa Clara County)	2,810,054	1,411,784	409,811	100,000
Total	3,844,684	2,440,790	414,435	520,000

While the initial survey results indicated that there may be over 400,000 tons per year of available organic waste processing capacity, it's important to note that over 90% of the available capacity does not accept food waste. Understanding that an outlet for food waste processing is critical to Member Agency compliance, the list was further refined to exclude processors who do not accept food waste. Removing capacity at facilities that only accept green waste resulted in a final figure of approximately 17,500 tons of available capacity locally to accept food waste; results by County are included in Table 12.

Table 12: Regional Organics Processing Capacity (Food Waste Accepted)

County	Total Permitted Capacity (Tons/Year)	GW Capacity Available (Tons/Year)	FW Capacity Available (Tons/Year)	Planned / Future Capacity Tons/Year
Merced	176,451	48,132	0	0
Stanislaus	1,074,919	341,929	0	0
Other	1,558,684	19,750	17,500	100,000
Total	2,810,054	409,811	17,500	100,000

Through this survey, it became evident that there is a substantial lack of local capacity currently available for processing of food waste (whether source-separated or comingled). This lack of food waste processing capacity narrows the decision tree for the MCRWMA to expand the MCRWMA's current organic waste processing capabilities or require Member Agencies to obtain their own processing capacity.

2.2.2.D Member Agency Processing Arrangements

In order to determine whether to expand the MCRWMA's current organic waste processing capabilities or require Member Agencies to obtain their own processing capacity, it is imperative to understand the effects of this decision on both the Member Agencies and the MCRWMA. To begin answering this question HF&H Consultants reviewed the Franchise Agreements and tonnage reports for each Member Agency, as well as conducting telephone interviews when necessary, to determine which Member Agencies require additional processing capacity. Table 13 below shows which Member Agencies have an outlet for food waste processing, and which do not.

Table 13: Summary of Member Agencies Organic Waste Processing Arrangements

JURISDICTIONS <u>WITH</u> OUTLET FOR FOOD WASTE	
Jurisdiction	Franchisee
Gustine	Gilton
Livingston	Gilton
Los Banos	Mid Valley
Merced County (Zones 6-7)	Gilton
Merced County (Zone 8)	Mid Valley

JURISDICTIONS <u>WITHOUT</u> OUTLET FOR FOOD WASTE	
Jurisdiction	Franchisee
Atwater	Republic
Dos Palos	Republic
Merced City	Municipal Collection
Merced County (Zones 1-5)	Waste Management

Based on this research, it became apparent that the processing limitations of current Franchisees primarily effect the East Side jurisdictions. Communities on the West side who utilize Gilton and Mid Valley for their post-collection processing currently have outlets for both green waste and food waste processing. It is important to note, that this may change or evolve based on whether the City of Livingston or Gustine choose to issue competitive procurements for new collection companies (although it is assumed that any competitive procurement would require a capacity guarantee for all waste streams). The results of this analysis further refine the MCRWMA's decision to expanding organic waste processing capacity at the Highway 59 Landfill or requiring the Member Agencies on the East Side to obtain their own processing capacity. Understanding that Merced City is the largest generator in the County, the City of Merced's choice of collection system (comingled or source-

separated collection of food waste) and whether to transport their waste to the MCRWMA for processing or pre-processing would be critical to the MCRWMA’s decision.

2.2.2.E Comingled Organics Processing Verses Source Separated

The City of Merced currently collects source-separated food waste from the commercial sector, however they do not have an outlet for the pre-processing or processing of this material. As such, the City will need to determine whether to retain this source-separated approach and invest in food-waste preprocessing and anaerobic digestion, or to comingle food waste with yard waste for collection and processing.

On June 15, 2020 the City of Merced approved the Fifth Amendment to their Professional Services Agreement with Stantec Consulting Services, Inc. for additional updates to the City of Merced’s Wastewater Collection System Master Plan (6/15/2020 meeting agenda item I.11). Through this engagement, the City of Merced is evaluating treatment technology and specific equipment that is best suited for the Merced Waste Water Treatment Facility (WWTF); among the options considered is the inclusion of food waste import for co-digestion. In order to accommodate food waste injection, it is likely that the WWTF will require updates to the headwork, primary and secondary treatment processes, digesters, and energy recovery systems (currently the facility utilizes flares to burn excess methane). It is possible that some of these costs will be offset by infrastructure investment intended to increase the facility’s capacity from 12 million gallons per day (MGD) to 16 or 20 MGD. Since the results of this study were not available during the drafting of this SB 1383 Action Plan, HF&H analyzed similar WWTF co-digestion facilities to determine if source-separated collection, pre-processing, and anaerobic digestion is a feasible approach. A list of these facilities is included below in Table 14, and further detail is included within this Section 2.2.2.E.

Table 14: Operational Co-digestion Facilities in CA

Facility	Location	Biogas Use	Operation Status as of March 2020	WWTP Facility Capacity
Central Marin Organic Waste Receiving Program	San Rafael	Electricity	Operational	30 MGD
East Bay Municipal Utilities District – Wastewater Treatment Plant	Oakland	Electricity	Operational	168 MGD (secondary treatment)
Los Angeles County Sanitation District – Joint Water Pollution Control Plant	Carson	Electricity	Operational	280 MGD
City of Manteca Wastewater Quality Control Facility Waste-to-Fuel Program	Manteca	CNG Transportation Fuel	Pending	27 MGD
Victor Valley Wastewater Reclamation Authority – Wastewater Treatment Plant	Victorville	Electricity	Operational	18 MGD

Central Marin Organic Waste Receiving Program Overview.

In 2013, Marin Sanitation Service and Central Marin Sanitation Agency partnered to construct food to energy facilities and began accepting both FOG and food waste in 2014. The initial project sought to improve existing digesters and create an organic waste receiving station. To accept food waste and convert to energy, the project required a new food waste separation facility at the city’s transfer station and construction of new processing facilities at the WWTP (digester improvements, energy recovery, etc.). Each digester can hold up to 90 tons of food waste and 5,000 gallons of FOG, and as of 2017 was accepting 7 tons of food waste per day and 23,000 GPD of FOG (Finton). A performance measurement report created several years after food waste was added to the digesters noted that digester health remained stable and unaffected by adding food waste. In total, the organic waste receiving facility cost \$1.9 million, with an annual operating cost of \$ 103,000 per year (Lim). Tipping fee revenue in 2016 was \$146K while Biogas Energy Value came out to roughly \$122K. Pre-processing equipment cost \$ 530,000 with an annual operating cost of \$ 130,000.

East Bay Municipal Utilities District Overview

East Bay Municipal Utilities District began accepting FOG and food waste at its WWTP since the early 2000’s. The plant currently has 11 in-service anaerobic digesters, with a cumulative capacity of 19.8 MGD (Hake) . Food waste is preprocessed and ground at a nearby transfer station, and then delivered to the plant, where a dilution liquid and grinding process further removes contaminants before entry into the digesters. Pre-existing infrastructure allowed the District to transition into food waste with minimal obstacles.

Los Angeles County Sanitation District Overview

Los Angeles County Sanitation District currently operates one of the largest co-digestion projects in the U.S., with 85 tons of food waste accepted per day and a max capacity of 550 tpd (Sarber). The district works with Waste Management and Insinkerator to bring slurried food waste to be co-processed at the plant, where co-digestion began in 2019. The district purchased a bioseparator for use at the Puente Hills MRF to start manufacturing slurry for up to 165 tons/day of food waste. The plant owns and operates 24 anaerobic digesters and currently uses several digesters for co-digestion. By mid-2020, the district expects their new slurry receiving station to be ready to accept 124 tpd of diverted food waste. Though the district powers its plant and exports excess biogas generated electricity, the district plans to upgrade its existing CNG fueling station to increase RNG production (estimated cost \$5.4M).

Manteca Water Quality Control Facility Overview

The City of Manteca operates two anaerobic digesters and biogas utilization facilities at its Water Quality Control Facility (WQCF). Due to aging existing infrastructure, increasing capacity demand, and a desire to lead in waste management, the City of Manteca began to improve and expand existing capabilities in 2016, which included food waste injection equipment, enhanced RNG production capabilities, and a compressed biogas fueling facility. Completed in 2019, this project expanded the facility's capacity to 27 MGD, which is approximately 2.25 times larger than the City of Merced's current capacity. The project's total capital expenditure was about \$50.5 million, approximately \$15.6 million of which was allocated to food waste and FOG receiving and CNG production and distribution infrastructure. Total operating expenditures per year are estimated to range from \$390K to \$650K; operating costs related to CNG production, treatment, maintenance and inspection account for \$95K to \$280K per year. Even when considering biogas credit revenue, the city expects a return on the investment only under several favorable conditions, including whether supply is developed to meet demand and expenditures are managed accordingly over the 18 year payback period. It should also be noted that the city's treatment plant had preexisting access to PG&E's gas main, where similar access would likely cost Merced approximately \$ 5–10 million.

Victor Valley Wastewater Reclamation Authority Overview

Victor Valley Wastewater Reclamation Authority partnered with Anaergia, Inc. in 2014 to improve existing digester infrastructure at its WWTP to accept food waste. The total cost of constructing the retrofitted digesters was \$2.6 million (Better Buildings), partially funded with investment by Anaergia.

Conclusion on Comingled Verses Source Separated Processing

After reviewing similar co-digestion projects and operational costs, HF&H determined that source-separated collection and processing of food waste is a cost-prohibitive endeavor for both the City of Merced, the MCRWMA, and other surrounding communities. Some of the factors contributing to this decision are the following:

- Source separated collection requires additional collection vehicles (\$350k-\$400k per vehicle);
- Source separated collection requires additional collection containers (\$50-\$70 per container);
- Source separated collection requires additional operating expenses (e.g. labor, fuel, insurance);
- Source separated food waste collection requires additional footprint at the curb and additional effort from residents and businesses to place additional containers at the curb; and
- Capital investment in WWTF upgrades may be cost prohibitive to the City of Merced (prior to consideration of additional pre-processing infrastructure).

It is recommended that the MCRWMA review the City of Merced's Wastewater Collection System Master Plan when it is available.

2.2.2.F Impacts of Increased Organic Waste Diversion on the MCRWMA's Revenue

In March of 2020, HF&H Consultants projected the impacts of organic waste diversion on the MCRWMA's landfill tonnage and revenue. Based on this analysis, if the Member Agencies are successful in diverting 55% of organic waste by 2025 (short of the state-wide target of 75%), this would decrease tonnage at the MCRWMA disposal sites by approximately 77,700 tons per year and decrease revenue by approximately \$3,342,0000 dollars per year. Table 15 shows the projected decrease in tonnage and revenue at the MCRWMA's landfills.

Table 15: Projected Impacts of Organic Waste Diversion on the MCRWMA's Revenue

Year	Organic Waste Capture Rate	Organics Diverted from Landfill	Revenue Impact on MCRWMA
2018	17%	22,361	\$ (962,000)
2019	17%	22,685	\$ (975,000)
2020	20%	26,400	\$ (1,135,000)
2021	20%	26,760	\$ (1,151,000)
2022	30%	40,680	\$ (1,749,000)
2023	45%	61,875	\$ (2,661,000)
2024	48%	69,700	\$ (2,997,000)
2025	55%	77,715	\$ (3,342,000)

2.2.2.G Organic Waste Processing Recommendation

Given the lack of available food waste processing capacity, it is recommended that the MCRWMA conduct a competitive procurement for the design, build, and operation (DBO) of an organic waste processing facility at the Highway 59 Landfill, capable of processing comingled green waste and food waste. Benefits of issuing a DBO procurement for comingled organics processing include, but are not limited to:

- **Increasing Economies of Scale.** A central processing site for the East Side communities will increase the feedstock volume for the facility, reducing the cost per ton for organic waste processing;
- **Minimizing Capital Expenditures.** Delegation of the design and construction process will minimize capital expenditures for the MCRWMA. With a current landfill bond payment, outstanding capital projects, and a pending landfill gas-to-energy project, it is likely prudent to shift the capital expense and liability to a third party;
- **Leveraging Third Party Expertise.** Pre-processing and composting (or digestion) of comingled organic waste is a complex process; by leveraging an experienced contractor the MCRWMA will minimize potential oversites and issues;
- **Mitigating Impacts of Landfill Diversion on Budget.** SB 1383 programs will increase landfill diversion and reduce methane emissions, thus supporting SB 1383 organics disposal reduction. It is important to note that a reduction in tonnage volume at the County's landfills may impact disposal revenues, which is currently the largest source of revenue for the MCRWMA; and
- **Negating the Need for a 4-Container Collection System.** Source-separated food waste and green waste collection presents several challenges such as increased footprint inside the home and at the curb, increased container costs (\$50-\$70 per container), additional capital investment in collection vehicles (\$350,000-\$400,000 per vehicle). Furthermore, all Member Agencies expressed a desire to avoid a 4-container collection system, particularly in the residential sector.

2.2.3 Facilitation of State Reporting

2.2.3.1 Current Program Summary

SB 1383 contains three primary reporting mechanisms: an Initial Jurisdiction Compliance Report; an Annual Report; and an Implementation Record. The Initial Jurisdiction Compliance Report is due April 1, 2022 and shall include copies of ordinances and other enforceable mechanisms adopted pursuant to SB 1383, the contact information for the primary reporting contact, and information on the implementation of organic waste collection programs. SB 1383 requires that jurisdictions maintain an Implementation Record demonstrating their compliance with SB 1383 in a central location, physical or electronic, that can readily be accessed by CalRecycle within ten (10) business days of request. And finally, SB 1383 requires that annual reporting to CalRecycle is significantly expanded. Please refer to Section 2.2.3.2 for more specific submittal requirements, and Attachment D for a detailed list of reporting requirements.

The MCRWMA currently facilitates the submission of Electronic Annual Reports (EARs) to CalRecycle, in collaboration Member Agencies, through CalRecycle's Recycling and Disposal Reporting System (RDRS). To facilitate the efficient

aggregation of data, the MCRWMA currently subscribes to the cloud-based software program, Recyclist. Finally, the MCRWMA supports member agencies in their reporting compliance by attending annual calls with CalRecycle⁶.

2.2.3.2 State SB 1383 Reporting Requirements for Jurisdictions

- By April 1, 2022, jurisdictions shall submit the Initial compliance Report with a copy of adopted ordinances, reporting items identified in §18994.2, and contact information of the jurisdiction’s designated employee for compliance-related issues. (§18994.1)
- Commencing August 1, 2022, jurisdictions shall submit an Annual Report to CalRecycle containing the information required in §18994.2.b through §18994.2.k. Note that the first report is due October 1, 2022 and will be for the period beginning January 1, 2022 through June 30, 2022, while subsequent reports will be for the entire previous calendar year (January 1 through December 31). Some of this information must also be maintained with the jurisdiction’s Implementation Record.
- Maintain records including ordinances, contracts, franchise agreements, policies, procedures, or programs and a description of hauler programs.
- Maintain an Implementation Record that is stored in a central location (either physical or electronic) that must be made available to CalRecycle within 10 business days of their request. See Attachment D for a complete list of reporting requirements to be included in the Implementation Record.

2.2.3.4 MCRWMA’s Recommended Reporting Role

Since the MCRWMA currently facilitates the submission of Electronic Annual Reports to CalRecycle for all Member Agencies in aggregate, using a cloud-based reporting system, it is recommended that the MCRWMA continue to provide this service. The utilization of cloud-based software ideally positions the MCRWMA for compliance as it fosters a consistent regional approach and interface with CalRecycle, without creating duplicative efforts and unnecessary additional communication channels. It is recommended that the MCRWMA’s role be limited to reporting on post-collection activities, following up with stakeholders on overdue data, analyzing data for accuracy and insights, and interfacing with CalRecycle where appropriate. It is estimated that the increased reporting requirements will require 0.2 to 0.25 FTEs on an on-going basis.

2.2.4 Supplemental Education and Outreach

Under this Action plan education and outreach is primarily delegated to individual Member Agencies, as different communities utilize different contractors and programs. Additionally, the hyperlocal education allows Member Agencies to address issues specific to their communities. While the Member Agencies will ultimately be responsible for their own compliance with education and outreach there is a tremendous opportunity to provide additional value to the Member Agencies with minimal costs and staffing demand.

If the MCRWMA decided to expand its composting facility at the Highway 59 Landfill, they will have a vested interest in ensuring that the facility feedstock has minimal contamination, which will minimize preprocessing costs and enhance the quality of the outbound compost. A robust education and outreach campaign is critical to contamination minimization, and education programs implemented by Member Agencies and their franchisees may prove to be insufficient. Therefore, it is recommended that the MCRWMA monitor contamination at the Highway 59 Composting Facility and communicate with facility users on current contamination levels and proper source-separation. Furthermore, it is recommended that the contamination monitoring, communication with facility users, and development/dissemination of educational materials is delegated to the facility operator (assuming the MCRWMA issues a DBO procurement).

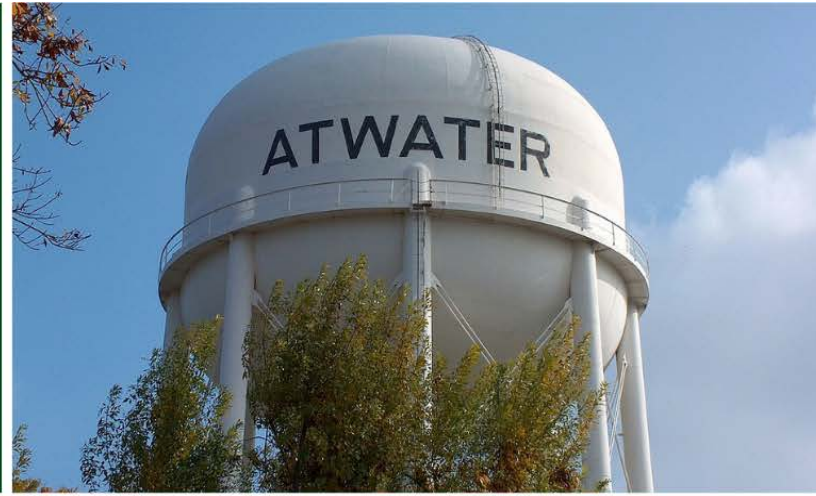
The MCRWMA is also ideally positioned to educate self-haulers utilizing the MCRWMA’s processing sites and diversion areas. As the operator of the Billy Wright Landfill, Highway 59 Landfill, and associated diversion/processing activities, the MCRWMA should provide information on the proper source-separation of organic materials onsite. It is recommended that education could take the form of additional signage at the landfill, verbal communication at the gate or diversion areas, or distribution of print media at the scale house. Additional signage will likely be necessary as the MCRWMA expands its processing capabilities at the Highway 59 Landfill to direct users on proper source-separation of commodities. Furthermore, enhanced and robust signage may have positive implications on the MCRWMA operations as materials will be placed in the correct areas more frequently and traffic flow may even be enhanced. In addition to signage, the MCRWMA could train staff at the

⁶ Information confirmed via phone with Eric Zetz on July 14, 2020.

Landfills to assist users with proper separation and source reduction. This would require minimal effort from the MCRWMA and could lead to more insightful dialogue with Landfill users, ultimately increasing customer satisfaction.

Finally, it recommended that the MCRWMA provide a regional education platform on the Authority’s website. It is anticipated that the MCRWMA would not be responsible for content creation, but rather offering a centralized location for broadcasting programs Countywide. As the steward of the Member Agencies’ reporting system, the MCRWMA will have access to all of the Member Agencies educational collateral that is uploaded to the Implementation Record. Therefore, minimal resources would be required to repost educational materials developed by Member Agencies and their franchisees. In addition to broadcasting Member Agency Public Education and Outreach, the MCRWMA can provide additional support to Member Agencies’ edible food recovery efforts by posting list of food recovery organizations and services on the MCRWMA website (again this information will be primarily aggregated and uploaded to the Implementation Record by Member Agencies). While the MCRWMA is not required to post this content on their website by SB 1383, hunger is a regional issue and this is a low-effort activity that can benefit the communities of Merced County.

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Atwater SB 1383 Action Plan



3.1 Collection and Processing



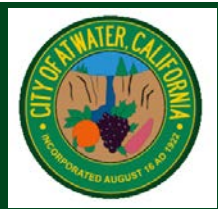
3.1.1 Program Summary

Beginning January 1, 2022, the State requires that jurisdictions provide collection service to all residential and commercial generators to divert organic waste (including food waste, green waste, food-soiled paper, and other organic materials, as defined) from landfill disposal. The City of Atwater currently offers residents weekly automated collection of solid waste, recycling, and green waste. Multi-family residences and businesses are offered collection of solid waste, recyclables, and green waste, at their discretion, but at least once a week⁷. To achieve compliance with SB 1383 source-separation requirements, the City of Atwater will need to expand their collection program to include food waste to all generators and mandatory recycling service to commercial and multi-family customers.

The City of Atwater currently disposes all refuse at the Highway 59 Landfill, processes green waste at the Highway 59 composting facility (food waste cannot currently be processed at Highway 59), and processes source-separated recyclables at Recology's Newby Island Resource Recovery Park located in Milpitas, CA. To comply with SB 1383, Atwater will need to expand their organic waste program to accept food waste. Finding a processing facility that will accept food waste will be crucial in running a SB 1383 compliant program. As of October 2020, there are a limited number of facilities in Merced and surrounding counties that accept comingled green and food waste, and those that do have limited capacity. It is recommended that Atwater continue to utilize the Highway 59 composting site if the authority expands the operation to accept food waste. If the MCRWMA does not expand their processing capabilities to accept food waste, it is recommended that the City seek alternative food waste processing capacity from a third party.

The City's Franchise Agreement with Republic is scheduled to conclude on June 30, 2023, which offers multiple options for program expansion. The City may choose to negotiate with Republic Services to incorporate new programs and extend the Franchise Term or the City may issue a competitive Request for Proposals (RFP). Negotiating with Republic will allow the City to leverage the incumbent's expertise in providing service to the City and offer continuity in service provider. A competitive procurement offers the City the ability to test market pricing, solicit various collection/processing approaches from multiple vendors, and offer transparency to the community. Should the City of Atwater choose to issue a competitive procurement they would likely be placed on a Corrective Action Plan by CalRecycle as mandatory programs will not be implemented prior to January 1, 2022 as required by SB 1383 (see Attachment C for further details on the Corrective Action Plan process). This has the added benefit of deferring rate increases associated with the new programs to a later date. Whether the City chooses to negotiate with Republic Services or issue a competitive procurement, it is imperative that they begin the selected process immediately in order to meet the "Substantial Effort" requirements for Corrective Action Plan eligibility.

⁷ As stated in the Franchise Agreement



Additional items for consideration, are whether the City would like to provide residential and multi-family customers with kitchen pales, and whether the City would like to offer biannual bin cleanings for commercial customers (services provided through Franchisee). While these programs are not required by SB 1383, both programs offer noticeable benefits to rate payers with minimal rate impacts. Kitchen pales provide residents with a vehicle to transport food waste to the appropriate curbside container, opposed to discarding food waste in their kitchen refuse receptacles, which increases diversion. It is estimated that kitchen pales will cost between seven cents (\$0.07) and sixteen cents (\$0.16) per home when amortized over a ten (10) year Franchise term.

3.1.2 State SB 1383 Requirements for Jurisdictions

- Provide organic waste collection and recycling services to all generators, except self-haulers using a 3-, 2-, or 1-container collection system. (§18984.1-18984.3, §18998.1)
- Jurisdictions may allow limited waivers for generators with de minimis volumes and/or physical space constraints, and if so, must conduct reverification inspections, maintain records, and submit reports. (§18984.11, §18984.14, §18995.1.a)
- Provide education annually to collection customers and self-haulers (§18985.1)
- Provide collection containers to generators that comply with color and labeling requirements when replacing containers or by January 1, 2036, whichever comes first. (§18984.7)
- Implement a hauler oversight program and report required hauler information. (§18994.2.f)
- Ensure organic waste is sent to a facility or operation deemed to constitute a reduction in landfill disposal (§18983.1)

3.1.3 State SB 1383 Requirements for Generators

- Subscribe to organics collection services provided by jurisdiction (§18984.9) or self-haul organics to facility that processes source-separated organic waste (§18984.9)
- For commercial businesses, provide organics and recyclables containers for customers and employees; require employees to source separate organic materials; periodically inspect organics containers for contamination; and, educate employees on source separation if contamination observed (§18984.9)
- For commercial businesses self-hauling, record and report self-hauling activities (§18988.3)

3.1.4 Ordinance and Policy Needs

The City of Atwater's current Municipal Code will need to be amended to include provisions requiring compliance with SB 1383 for collection and processing programs. SB 1383 requires mandatory refuse, organic waste (including food waste) and recyclables collection services for all single-family, multi-family and commercial customers. It is recommended that the City utilize a three-container collection system as allowed under SB 1383 (pending processing availability). Additional applicable laws such as Mandatory Commercial Recycling (AB 341) and Mandatory Organics Recycling (AB 1826) will also need to be considered in the code amendment(s). For generators that choose to self-haul or back-haul their organics, the City of Atwater will be required to expand its self-haul registration and reporting requirements, as well as provide specific education materials to those generators. More details can be found in Section 3.5, Ordinance and Policies.

3.1.5 Contract Implications

The City of Atwater has two pathways to compliance:

1. Amend or restate its current Franchise Agreement with Republic Services to include SB 1383 provisions. Negotiations with Republic Services should begin as early as possible to avoid a delay in mandatory collection programs beginning January 2022. The amendment will need to include new and relevant provisions needed to support the City of Atwater's programs and SB 1383 compliance needs. Examples of provisions that are critical to include in the new agreement include, but are not limited to, the following: expansion of organic materials and recyclables collection services, new and enhanced inspections and contamination monitoring, and identification of available or potential processing capacity and/or transfer options. Additional requirements that should be prioritized include specifications of containers, facility evaluations, record keeping and reporting, education and outreach campaigns, and other program support of some or all organic materials.



2. Immediately conduct a competitive request for proposals (RFP) for SB 1383 compliant services to commence at the conclusion of Republic’s current Franchise Agreement. The details needed in the updated Franchise Agreement are found in Section 3.4.

3.1.6 Education and Outreach Needs

The new collection program will need to educate all generators regarding information on the SB 1383 regulations, new collection programs, and the benefits of organics recycling. Education before and during the implementation of new collection services may alleviate some of the negative feedback that may arise with establishment of mandatory requirements and associated increased collection costs. Additionally, robust education and outreach will be essential to proper source-separation of waste streams, which may result in lower processing and contamination monitoring costs. See Section 3.7 of this Action Plan for more details on the education and outreach requirements.

3.1.7 Infrastructure Needs

Additional processing capacity and infrastructure will be required as the implementation of new collection programs and processing requirements take effect. Currently green waste is transported to Highway 59 landfill for composting, which is not permitted to accept and process food waste. Furthermore, there is a lack of processing capacity locally for source-separated food waste, or comingled green waste and food waste. Please see Section 2.2.2.B for a further description of local processing capacity. The City of Atwater has three primary options to fulfill their infrastructure needs: contract with Republic, contract with the MCRWMA, or rely on a competitive procurement. It is recommended that the City of Atwater contract with the MCRWMA for processing of comingled organic waste (assuming the MCRWMA expands their current composting operation to accept comingled food waste and green waste).

3.1.8 Staffing and Budgetary Considerations

The City of Atwater will have increased staffing needs and costs associated with implementing new programs. City staff, City Attorney, and consultant time will be needed to draft the mandatory enforcement ordinances, Franchise Agreement(s), and/or Processing Agreement(s). The City of Atwater did not respond to data requests for staffing and salary information so staffing and budget impacts could not be reasonably projected.

3.1.9 Step-by-Step Action Plan

Table 16: City of Atwater Collection & Processing Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Enter into sole-source negotiation process or competitive procurement (further detail under Contracting Section of this Action Plan)	City & Hauler	See Contracts Section
2	Plan organics collection program including education and distribution of carts (and kitchen pails or compostable bags if applicable)	City & Hauler	See Contracts Section
3	Establish protocols for approving and documenting commercial de minimis and space constraint waivers, if providing, which may involve collaboration with Republic	City	Jul - Jan 2021
4	Pre-implementation education of generators about new organic waste program and mandatory service requirement	City and/or Hauler	3-6 months prior to program implementation
5	Implement expanded organics collection program (no later than January 1, 2022. Under CAP deadline may extend to January 1, 2024)	Hauler	Dependent on negotiation or RFP
6	Implement a hauler oversight program and report required hauler information	City	Dependent on negotiation or RFP
7	Adopt new rates	City	Dependent on negotiation or RFP



3.2 Monitoring and Enforcement

3.2.1 Program Summary

By January 1, 2022, jurisdictions shall begin enforcing SB 1383 requirements through adoption of ordinances and/or other enforceable policies and procedures as well as through development of an inspection and enforcement program. To meet these requirements, the City of Atwater’s enforcement obligations will need to be significantly expanded to include verification of SB 1383 compliance by generators, self-haulers (including back-haulers), franchise haulers, construction and demolition debris haulers, food recovery organizations and services, and other entities. In order to establish a fully compliant and comprehensive enforcement program, the City of Atwater will need to amend its existing ordinances, policies, and procedures. The program will include provisions for notices of violations (NOVs), and fines or penalties for non-compliant regulated entities, which shall be actively enforced no later than January 1, 2024.

The enforcement program’s main goal will be to ensure that each residential and commercial generator subscribe to recyclables and organics collection services or similarly complies through self-hauling requirements (with the exception of commercial entities and multi-family dwellings that have been granted waivers such as de minimis or physical space waivers). Currently, most customers have access to organics collection services through Republic. Since there are few recycling drop off centers in Atwater, the majority of early enforcement efforts will be focused on ensuring single-family, multi-family, and commercial customers are either subscribed to recyclables services, or have met enforceable self-hauling requirements.

Generally, SB 1383 requires a desktop review of all commercial garbage accounts generating two (2) cubic yards of solid waste or more and all multi-family garbage accounts with five (5) or more units. The regulations also mandate additional inspection for certain regulated entities, route reviews or waste evaluations, and monitoring for container contaminants for all generators. SB 1383 requires distribution of educational material and issuance of NOVs and/or fines to non-compliant entities (see below for further details on requirements). By imposing mandatory service of all three (3) waste streams and providing the appropriate containers to all generators, the City of Atwater will minimize the effort required to complete desktop compliance reviews. Similarly, a targeted and thoughtful educational program will raise awareness of the requirements and help minimize the amount of future violations and container contamination incidents. It is recommended that the City of Atwater delegate the contamination monitoring to their franchise hauler through annual route reviews to minimize impacts on City budget and staffing. Even if the initial route monitoring for prohibited container contaminants is delegated to the franchise hauler, the City will be responsible for managing NOVs and fines beginning January 1, 2024.

3.2.2 State SB 1383 Requirements for Jurisdictions

- Conduct contamination monitoring either through route reviews for prohibited container contaminants such that all routes are inspected annually or through twice yearly waste evaluation studies of all container types; and, notify generators if contamination is found. (§18984.5)
- Implement an inspection and compliance program including: conducting compliance reviews of all commercial garbage accounts producing over two cubic yards of solid waste and multi-family garbage accounts with five (5) or more units; inspecting Tier One Commercial Edible Food Generators, food recovery organizations, and food recovery services; and, conducting generator compliance reviews through route reviews or waste evaluations. (§18995.1)
- Conduct inspections at least once every five (5) years to verify de minimis and physical space waiver conditions, if applicable. (§18995.1)
- Starting January 1, 2022 through December 31, 2023, provide non-compliant generators with educational material. (§18995.1)
- Beginning January 1, 2024, take enforcement action, including issuing NOVs and imposing penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities (with the exception of violations of container contamination provisions, for which a penalty is optional). (§18995.4; §18997.2)
- Conduct a sufficient number of route reviews, inspections, and compliance reviews to determine compliance, and generate an electronic or written record for each inspection or review. (§18995.1)



- Provide a procedure for the receipt and investigation of complaints, including the method for notifying the complainant of the result of the complaint; investigate complaints received; and, maintain a record of all complaints and responses. (§18995.3)
- Pay penalties assessed by CalRecycle for the jurisdiction’s failure to comply, which includes many possible violations, ranging from minor, moderate, or major, and with associated penalties ranging from \$500 per violation to \$10,000 per violation per day. (§18997.3)

3.2.3 Ordinance and Policy Needs

The City of Atwater will need to amend certain sections of the Municipal Code to integrate the enforcement process and penalties specified in SB 1383 for non-compliant generators, food recovery organizations, haulers, and other entities. The City of Atwater will also need to develop protocols and policies for customer compliance reviews, route reviews, receipt and investigation of complaints, and documentation of its monitoring and enforcement efforts.

Construction and demolition procedures will need to be updated to better enforce CALGreen requirements surrounding waste management plans. These code updates will ensure that organic waste is source-separated from construction and demolition debris, and that weight tickets for all applicable projects are submitted to the City of Atwater for reporting purposes.

3.2.4 Contract Implications

Delegating portions of the monitoring and enforcement programs will minimize the impacts on the City of Atwater’s budget and staffing requirements. If the City of Atwater delegates contamination monitoring to its franchise hauler, it will need to amend its current Franchise Agreement to include such provisions, and/or include those provisions in a competitively procured Agreement. In addition to the contamination monitoring programs, adequate record keeping and reporting provisions in the agreement associated with the contamination reviews will aid the City in meeting SB 1383 reporting requirements and track program progress. The City of Atwater can also delegate part of the NOV procedure in the franchise agreement as well as consider hiring a third- party contractor to notify generators when they are out of compliance.

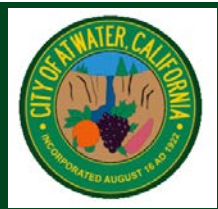
The City of Atwater may consider the potential benefits of conducting these operations internally. In some cases, contamination monitoring services conducted by a designee may be interpreted as punitive by residents and businesses, particularly if there are contamination fees imposed. However, the additional budget and staffing required for this level of monitoring may be better suited for the resources and experience available to the franchise hauler. If the hauler is chosen to conduct monitoring and enforcement measures, the City of Atwater should reaffirm the franchise hauler’s authority to residents and businesses in order to temper possible pushback.

3.2.5 Infrastructure Needs

To comply with SB 1383 Implementation Record requirements, the City of Atwater will need to develop a strategy for documenting monitoring and enforcement efforts that will not be delegated to the franchise hauler. This documentation may include:

- Edible food recovery program requirements;
- A procedure for the receipt and investigation of complaints, and copies of complaints;
- A procedure for issuing waivers, and copies of waivers;
- Compliance with procurement policies; and
- Copies of NOV and imposed penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities.

The City of Atwater may be able to collect some of this information from the MCRWMA’s current software application, Recyclist.



3.2.6 Education and Outreach

The City of Atwater can collaborate with their hauler to integrate SB 1383-specific information into the educational materials by contractually obligating education program standards in the amended or competitively procured Franchise Agreement. The City of Atwater, with its franchise hauler as its potential designee, will be required to educate non-compliant customers no later than January 1, 2022 and at least until December 31, 2023. After this timeframe, the City of Atwater can continue its education program as it sees fit and will be required to initiate an NOV process among other enforcement actions.

3.2.7 Budgetary and Staffing Implications

City of Atwater staff and City Attorney time will be needed to amend the Municipal Code and draft a Franchise Amendment or revised Franchise Agreement. A model Franchise Agreement is available on CalRecycle’s website. Additional staff time will be needed to develop and oversee public education and outreach materials, as well as maintain recordkeeping and reporting needs.

The City of Atwater has three primary options for staffing the contamination monitoring program required by SB 1383; the City of Atwater may choose to staff the programs with Public Works Staff, Code Enforcement Staff, or may delegate the responsibility to Republic. If the route monitoring is performed by Republic, there will be no staffing or budget impact to the City of Atwater.

In addition to contamination monitoring, the City of Atwater will be required to perform a desktop review of all commercial garbage accounts generating two (2) cubic yards of solid waste or more and all multi-family garbage accounts with five (5) or more units. Again, this requirement may be delegated to a designee to mitigate impacts on the City’s budget and Staff.

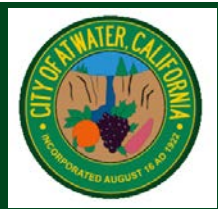
3.2.8 Program Metrics and Reporting

The City of Atwater will need to track a number of program metrics. First, the City will need to track the percentage of compliant generators with collection service, self-hauling registration, or generator waivers. Additionally, the City will need to report the monthly or quarterly number of the following: compliance reviews, route reviews, NOVs issued, penalties assessed, repeat NOVs and penalties, follow-up inspections completed, educational material provided to noncompliant customers, and other metrics as defined in Attachment D. Much of this information may be obtained through reports submitted by the franchise hauler; consequently strong reporting provisions in the Franchise Agreement will be critical to ensure the efficacy of such reports.

3.2.9 Other Considerations

Whether the City of Atwater chooses to delegate some enforcement actions to the franchise hauler or conduct them internally, the City must develop its inspection and enforcement program by January 1, 2022. As such, the City of Atwater will need to provide sufficient Code Enforcement or other staffing to develop and implement the plan, as well as manage and perform on-going enforcement activities. The City of Atwater may also consider engaging a contractor to assist with monitoring efforts, as needed.

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3.2.10 Step-by-Step Action Plan

Table 17: City of Atwater Monitoring & Enforcement Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Discuss and map out SB 1383 compliant monitoring and enforcement program.	City	Mar-Jun 2021
2	Draft amendment to Ordinance(s) to conform with SB 1383 enforcement requirements	City	Jul - Dec 2021
3	Hire or appoint staff person to manage enforcement program	City	Jul - Dec 2021
4	Plan inspection and enforcement program through route reviews or biannual waste studies.	City & Hauler	Jul - Sep 2021
5	Develop protocols for customer compliance reviews; route review; receipt and investigation of complaints; documentation of enforcement efforts.	Hauler	Jul - Sep 2021
6	Hire part-time enforcement staff or contractor if necessary	City and/or Hauler	Sep – Dec 2021
7	Conduct <u>compliance reviews</u> of businesses that generate 2CY+ of solid waste/week and produce organic waste and educate non-compliant entities.	Hauler	Jan – Mar 2022 (annually)
8	Conduct <u>route reviews</u> of commercial businesses and resident areas including inspection of contamination, and educate non-compliant entities	Hauler	Jan – Dec 2022 (annually)
9	Inspect Tier One Commercial Edible Food Generators and food recovery organizations, and educate non-compliant entities through the technical assistance program	City	Apr – Jun 2022
10	Investigate and maintain record of complaints, on an as needed basis, through inspections, route reviews, or compliance reviews	City & Hauler	(on-going)

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3.3 Product Procurement

3.3.1 Program Summary

As SB 1383 requirements begin taking effect January 2022, jurisdictions will need to procure specific amounts of product(s) derived from organic waste recovered in California. These products, which will be purchased on a per capita basis, may include: mulch, compost, renewable natural gas (RNG) used for transportation, electricity or heating applications, electricity produced from biomass conversion, or a combination of these products. The City of Atwater will need to satisfy an annual minimum procurement target, which is calculated by multiplying the jurisdiction’s population (approximately 31,470 residents for the City of Atwater) by a per capita procurement target of 0.08 tons per resident, which results in a recovered organic waste procurement target of 2,518 tons for the City of Atwater. The recovered organics waste products reduce greenhouse gas emissions to varying degrees, and as such are assigned different conversion factors. See Table 18 below for a list of conversion factors. Apart from yearly purchases, the City of Atwater is also required to identify additional procurement opportunities within their departments or divisions in order to expand usage of recovered organic waste products over time.

Table 18: City of Atwater Procurement Target

Commodity	Conversion Factor	Procurement Requirement
RNG	21 Diesel Gallon Equivalents (DGE)	52,870 DGE
Compost	1.45 yards of compost/ton	3,651 cubic yards
Mulch	1 ton of mulch	2,518 tons
Electricity	650 kWh	1,636,440 kWh

Though jurisdictions can take responsibility for these requirements, the City of Atwater should exercise their right to delegate this procurement requirement to their organic waste processor, as allowed under Section 18981.2 of SB 1383. Delegation possibilities may include The MCRWMA or the City’s franchise hauler distributing compost derived from organic waste collected in the City of Atwater to local farms or organizations. Additionally, compliance could also be achieved by requiring the franchise hauler to procure renewable natural gas (RNG) on behalf of the City of Atwater for use in their collection vehicles.

The City of Atwater is also required to procure recycled-content paper products such as printing and writing paper derived from recycled content in accordance with Sections 22150-22154 of the Public Contracts Code. These statutes direct local governments to give preference to suppliers of recycled products when quality is equal to, or greater than, non-recycled items and when cost is less than or equal to non-recycled items. Vendors will need to certify a minimum percentage of post-consumer material in their offered products, among other requirements. Documentation and records of purchases will need to be maintained in the City of Atwater’s implementation record.

Finally, the City of Atwater will need to develop an Environmentally Preferable Purchasing Policy (EPPP) as a result of the changes delineated above. For further information on the required changes, please reference Section 3.3.2 below.

3.3.2 State SB 1383 Requirements for Jurisdictions

- Commencing January 1, 2022, a jurisdiction shall annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by article 12. (§18993.1.a)
- Beginning on or before January 1, 2022 and every 5 years thereafter a jurisdiction must calculate the annual recovered organic waste product procurement target based upon multiplying the per capita procurement target by the jurisdiction population where (§18993.1.b):
 - Per capita procurement target = 0.08 tons of organic waste per California resident per year. (§18993.1.b.1)

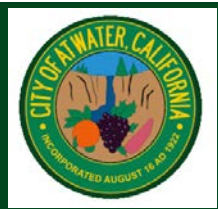


- Jurisdiction population equals the number of residents in a jurisdiction, using the most recent annual data reported by the California Department of Finance. (§18993.1.b.2)
- A jurisdiction shall comply with the product procurement target by directly procuring recovered organic waste products for use or giveaway and/or requiring, through a written contract or agreement, that a direct service provider to the jurisdiction procure recovered organic waste products and provide written documentation of such procurement to the jurisdiction. (§18993.1.e.1 and §18993.1.e.2)
- For the purposes article 12, the recovered organic waste products that a jurisdiction may procure to comply with article 12 are (§18993.1.f):
 - Compost from a compostable material handling operation, facility, or a large volume in-vessel digestion facility.
 - Renewable gas used for fuel, electricity, or heating applications.
 - Electricity from biomass conversion.
 - Mulch, provided that the jurisdiction is in compliance with land application requirements specified in 4 Section 17852(a)(24.5)(A) and the mulch is produced at a compostable material handling operation, a transfer/processing facility, or a solid waste landfill.
- The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products (§18993.1.g). One ton of organic waste in a recovered organic waste procurement target shall constitute:
 - 21 diesel gallon equivalents, or “DGE,” of renewable gas in the form of transportation fuel.
 - 242 kilowatt-hours of electricity derived from renewable gas.
 - 22 therms for heating derived from renewable gas.
 - 650 kilowatt-hours of electricity derived from biomass conversion.
 - 0.58 tons of compost or 1.45 cubic yards of compost.
 - One ton of mulch.
- Renewable gas procured from a POTW may only count toward a jurisdiction’s recovered organic waste product procurement target provided the conditions outlined in article 12 are met for the applicable procurement compliance year. (§18993.1.h)
- Electricity procured from a biomass conversion facility may only count toward a jurisdiction’s recovered organic waste product procurement target if the biomass conversion facility receives feedstock directly from a compostable material handling operation, a transfer/processing facility, or a solid waste landfill. (§18993.1.i)
- Procure paper products, and printing and writing paper consistent with the requirements of Section 22150-22154 of the Public Contracts Code. These paper products shall be eligible to be labeled with an unqualified recyclable label as defined in 16 C.F.R. 260.12. Jurisdiction shall require all businesses that it purchases paper products and printing/writing paper to certify minimum percentage of postconsumer material in the paper products. (§18993.3)

3.3.3 Ordinance and Policy Needs

It is recommended that the City of Atwater, at a minimum, develop an EPPP and update its Municipal Code to include the aforementioned requirements of SB 1383. Specifically, the City of Atwater should add in language that will describe (1) how recovered products will be procured, (2) how interdepartmental purchasing of these products will be supported, and (3) how it will commit to reaching the annual procurement target.

The updated EPPP will need to include procedures for paper purchases and post-procurement tracking/monitoring. One way track and monitor would be to acquire recycled paper content from a vendor’s online purchasing portal, which can track



purchases and aid in verification of compliance (e.g., Staples Exchange platform). The City of Atwater should also consider the resources available on the CalRecycle website which include an updated database of recycled-content product manufacturers.

3.3.4 Contract Implications

The City of Atwater will be required to amend or update its agreement with their Franchisee and/or the MCRWMA to include SB 1383’s recovered organic waste product procurement requirements depending on which party the City of Atwater chooses to assign responsibility to. For example, if the City of Atwater designates the hauler to complete the recovered organic waste product procurement requirements, language in the Franchise Agreement should be added that directs the hauler to procure a pre-identified amount of RNG for use in their collection vehicles. Alternatively, the City of Atwater could include tailored language in their agreement(s) with the hauler and/or the MCRWMA requiring them to procure and distribute compost on the City of Atwater’s behalf.

3.3.5 Budgetary Planning

Budgets and fiscal planning may be impacted by the purchasing of recovered organic waste products and cost of distribution logistics and transportation (depending on the recovered waste product chosen). It is recommended that the City of Atwater utilize a third party to fulfill their recovered organic waste product procurement requirements, in order to minimize impact on the City’s budget and staff.

The City of Atwater will not be able to delegate its responsibility to procure paper products, and printing and writing paper consistent with the requirements of Section 22150-22154 of the Public Contracts Code. The City of Atwater did not respond to requests for their Environmental Purchasing Policy, organizational chart and salary schedules. Therefore, the impacts on budget and staffing could not be projected.

3.3.6 Metrics and Reporting

SB 1383 notes jurisdictions will have several reporting and recordkeeping requirements pertaining exclusively to recovered organic waste product procurement. As part of these efforts, the City of Atwater will need to calculate the per capita procurement target every five (5) years and annually maintain records for inclusion in the implementation record. This record will be key as it tracks procurement statistics of recovered organic waste products and post-consumer recycled paper and will support the City of Atwater’s compliance. Forms of evidence and records will include certifications, procurement source information, proof of purchase, and background information of relevant suppliers. Please refer to Attachment D for a complete list of reporting requirements.

3.3.7 Step-by-Step Action Plan

Table 19: City of Atwater Procurement Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Review SB 1383 procurement target and requirements for compost, natural gas, mulch, paper and others and identify needed modifications to policies	City	Mar – Jun 2021
2	Develop paper product purchasing policies	City	Mar – Jun 2021
3	Execute purchasing policy changes including provision of example language for contracts and selection of new paper suppliers	City & Hauler	Jul - Dec 2021
4	Submit final procurement policy and related procedures and agreements to the MCRWMA for inclusion in the Authority's Implementation Record	City	Jan - Feb 2022
5	Submit procurement records to the MCRWMA for inclusion in the Authority's Implementation Record	City	On-going



3.4 Contracts

3.4.1 Current Contract Summary

SB 1383 requirements take effect January 1, 2022, with the potential to extend the compliance deadline up to three (3) years for infrastructure limitations. The City's Franchise Agreement with Republic is scheduled to conclude on June 30, 2023, providing the City with optionality. The City of Atwater will need to make a decision whether to renegotiate its current Franchise Agreement with Republic or issue a competitive procurement process for a new Franchise Agreement. Should the City choose to conduct a procurement/RFP process, they will likely be subject to the Corrective Action Plan (CAP) Process described in Section 3.4.5 and Attachment C. SB 1383 mandates will affect a broad range of provisions within an Amendment or new Franchise Agreement; this Section 3.4 is intended to assist the City of Atwater with expected changes to the Agreement(s) as well as the recommended timing for each procedural step towards SB 1383 compliance.

3.4.2 General Timeline Overview

The first option for Atwater to consider is entering into negotiations with Republic. The City of Atwater's agreement with Republic will end on June 30, 2023, at which time both parties may consider an additional 10-year extension to the term. It is not recommended that the City exercise the 10-year extension to their current Franchise Agreement as the current Franchise Agreement does not contemplate numerous requirements of SB 1383. Instead, if the City chooses to negotiate with Republic, it is recommended that they draft a new Franchise Agreement, potentially utilizing CalRecycle's Model Franchise Agreement as a starting point. Typically, negotiations and implementation of substantive new programs takes a minimum of eight (8) to twelve (12) months. Therefore, it is recommended that the City begin negotiating with Republic Services immediately, if the City does not wish to conduct a competitive procurement.

In lieu of renewing the current Franchise Agreement, the City may opt to conduct a competitive procurement process. The RFP process typically takes eighteen (18) months, therefore starting the formal RFP process prior to January 1, 2022 is critical for the City if they wish to begin services under a new Franchise Agreement on July 1, 2023. In order to delay implementation of SB 1383 programs past the January 1, 2022 regulations effective date, the City will need to participate in CalRecycle's Corrective Action Plan process detailed in Section 3.4.5. and Attachment C. In order to qualify for the CAP process CalRecycle will consider whether a jurisdiction has made "substantial effort" to comply. In order to demonstrate "substantial effort" it is imperative that the City begin the RFP process prior to January 1, 2022 (either through internal City resources or hiring of a consultant).

3.4.3 Expected Contract Impact and Changes

If the City of Atwater decides to amend its existing Franchise Agreement, there are a number of considerations that should be taken into account regarding the range and scope of updates. The current Franchise Agreement references the collection and processing of green waste, specifically. The City of Atwater will need to modify existing language or replace the language to accommodate for the collection of all organics, which includes both green waste and food waste throughout the existing agreement. In addition to collection, the City should include in the scope of the Agreement a description of the exact processing expectations for the hauler for each waste type, or a delivery designation if materials are transported to the MCRWMA for processing. It will be important to outline these terms to ensure compliance with the processing requirements of SB 1383. The City of Atwater will also need to look for other minor updates such as expansion of complaint tracking, from receipt up until resolution, so that it can be included in the hauler reports.

In addition to revisions of existing contract language, the City of Atwater will need to create new sections that cover SB 1383 mandates. One such section would be contamination monitoring, which will require significant additions to the current agreement. If delegated to the hauler, details on when and how the hauler will complete the route reviews (e.g., route reviews or waste evaluation studies) will need to be addressed. Associated record keeping and reporting requirements should be included in the Franchise Agreement so that the City of Atwater can adequately monitor program progress and adhere to State reporting requirements.



It is recommended that the City of Atwater expand hauler reporting requirements to adequately meet the needs of SB 1383. Items to be considered include monthly report submission along with an increase in detail compared to what is currently provided by the hauler. Should the City of Atwater wish to utilize the MCRWMA’s cloud-based software to streamline record retention and organization (as recommended), a provision should be included requiring the hauler to use this system.

Delegating some SB 1383 educational requirements to the hauler will allow the City of Atwater to leverage the hauler’s direct contact with customers while minimizing use of City resources. These responsibilities could also be divided between the City of Atwater and the hauler (e.g. the City creates the materials while the hauler prints and delivers the materials). A coordinated effort would create a unified message to generators and ultimately a more effective education and outreach campaign, as further defined in Section 3.7.

A new section should be included to delegate the City of Atwater’s Recovered Organic Waste Product Procurement Target. It is recommended that the City require its hauler to utilize renewable natural gas and/or require its organic waste processor to distribute compost on behalf of the City. The specifics of these programs will be primarily driven by whether the City negotiates with Republic or issues an RFP, and whether the City utilizes the MCRWMA for organic processing or a third party.

In the event that the City of Atwater decides to put out an RFP for collection services, these provisions should be included in the RFP to ensure that proposers meet the basic collection, education, reporting, contamination monitoring, and procurement requirements of SB 1383.

3.4.4 State SB 1383 Requirements for Jurisdictions

- A jurisdiction may designate a public or private entity to fulfill its responsibilities under this chapter. A designation shall be made through any one or more of the following (§18981.2.b):
 - Contracts with haulers or other private entities: or,
 - Agreements such as MOUs with other jurisdictions, entities, regional agencies as defined in Public Resources Code Section 40181, or other government entities, including environmental health departments
- Notwithstanding Subdivision (b) of this section, a jurisdiction shall remain ultimately responsible for compliance with the requirements of this chapter (§18981.2.c)
- If a jurisdiction designates another entity as allowed in Subdivision (b) of this section, the jurisdiction shall include copies of all agreements and contracts in the Implementation Record required by Section 18995.2. (§18981.2.e)
- “Designee” means an entity that a jurisdiction contracts with or otherwise arranges to carry out any responsibilities of this chapter, as authorized in Section 18981. 2 of this chapter. A designee may be a government entity, a hauler, a private entity, or a combination of those entities. (§18982)

3.4.5 Corrective Action Plans

If CalRecycle determines a jurisdiction is violating one or more requirements and decides to take enforcement action, they will issue a Notice of Violation and agencies will have ninety (90) days to correct the violation. This can be expanded an additional ninety (90) days (for a total of 180 days) if the department feels additional time is needed. For violations outside of the jurisdictions control and when substantial effort is made towards compliance, CalRecycle may place the agency on a Corrective Action Plan allowing up to twenty-four (24) months (from the date the first NOV was issued) to come into compliance. Finally, this twenty-four (24) month timeframe may be extended by up to twelve (12) additional months due to inadequate organic waste processing capacity if the jurisdiction demonstrates substantial effort.

In the event that negotiations with Republic take longer than expected, or the City of Atwater decides to issue an RFP for a new Franchise Agreement, and the January 1, 2022 compliance deadline will not be met, the City may be put on a Corrective Action Plan which would provide ample time to complete negotiations or the RFP process. However, it is still the City of Atwater’s responsibility to complete or make substantial efforts towards the other SB 1383 jurisdiction requirements (e.g.



ordinances, edible food recovery, education and outreach requirements etc.) in order to be potentially eligible for a Corrective Action Plan.

3.4.6 Step-by-Step Action Plan

This Section contains a sample step-by-step action plan for a sole-source negotiation with Republic. Should the City wish to conduct a competitive RFP process they will need to determine if it will be conducted by internal City Staff or a third party consultant as this will significantly impact the timing of the process. Regardless of which approach the City takes, it is imperative that they begin immediately.

Table 20: City of Atwater Franchise Negotiation Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe ⁽¹⁾
1	Negotiate Franchise Agreement Amendment or Restated Franchise Agreement	City & Hauler	Mar - Jul 2021
2	Draft Addendum or Franchise Agreement	City & Hauler	Aug – Sep 2021
3	Present recommendation to City Council	City	October 2021
4	Pre-implementation education	City & Hauler	Nov – Dec 2021
5	Implement new collection services under new Franchise Agreement	Hauler	Beginning January 1, 2022

(1) Schedule subject to change should the City choose a competitive procurement process.

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3.5 Ordinances and Policies

3.5.1 Program Summary

Jurisdictions subject to SB 1383 will be required to implement several ordinances and policies to align with State mandated objectives. The City of Atwater has several ordinances and enforceable mechanisms that will need to be reviewed in detail and, in some cases, significantly modified for SB 1383 compliance including the Solid Waste Ordinance, Water Conservation Ordinance, building code, enforcement procedures, and procurement policies. Additionally, ordinance language for self-haulers, edible food generators, food recovery organizations, and haulers, as well as procedures for inspections and investigations will need to be included in the code amendments. These ordinances and policies will need to be implemented and enforceable by January 1, 2022, and revisions should begin as soon as possible to ensure they are completed on time.

Significant revisions will need to be made to Title 8, Chapter 8.16, Garbage and Refuse Collection, of the Municipal Code. This chapter does not currently include mandatory organic waste service, organic waste generator requirements for single- and multi-family customers, commercial customers, and self-haulers, or requirements for edible food generators, and food recovery organizations/services. Mandatory refuse, recyclables, and organics collection services will be pivotal in maintaining the City's compliance with SB 1383; however, there are no such provisions for recycling and organics in the current code.

Currently, the enforcement section of the Garbage and Refuse Collection chapter is limited in its prescription for what constitutes a violation to scavenging activities and disposing of garbage in green waste containers. SB 1383 requires a stronger enforcement program than currently employed by the City of Atwater. The City may look to CalRecycle's model ordinance for example language.

SB 1383 requires updates for CALGreen, MWELo and procurement programs. The City of Atwater has implemented a Water Efficient Landscape and Irrigation Ordinance (Title 8, Chapter 8.36), however this ordinance does not appear to meet the most recent MWELo standards. The City has enacted an ordinance codifying the 2019 CALGreen Building Standards Code in their entirety (Title 15, Chapter 15.10), which will require an update to conform to 2020 CALGreen standards. With respect to procurement, the City of Atwater does not currently have an environmentally preferable purchasing policy, and will need to implement one.

To address the changes needed for the Garbage and Refuse chapter to meet SB 1383 requirements, an almost complete re-write of the chapter is recommended. The revised or restated ordinance(s) will need to pass through two City Council readings prior of January 1, 2022. It is therefore recommended the City of Atwater prepare to pass and/or update applicable Municipal Code sections simultaneously to meet the State's mandate, and for those changes to begin as soon as possible.

3.5.2 State SB 1383 Requirements for Jurisdictions

- By January 1, 2022, a jurisdiction shall adopt enforceable ordinances (or similarly enforceable mechanisms), requiring compliance by generators, haulers, and other entities regulated under the SB 1383 regulations. (§18981.2.a)
- Adopt an ordinance that requires organic waste generators to subscribe to organics collection programs, annually provide information about organics requirements, provide new information to tenants within 14 days of occupation of the premises, and arrange for access to their properties for inspections. (§18984.10)
- Adopt an ordinance that requires commercial organic waste generators to provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are provided for customers, except for restrooms. These containers must comply with SB 1383 regulations. (§18984.9.b, §18984.9.d, and §18984.9.e)
- Adopt an ordinance that prohibits organic waste generator employees from placing organic waste in a container not designated to receive organic waste as set forth in sections 18984.1(a)(5) and 18984.2(a)(5). Jurisdiction shall inspect containers for contamination.
- If jurisdiction allows self-hauling, jurisdiction shall adopt an ordinance that requires self-haulers to comply with SB 1383 requirements per sections 18988.1.b and 18988.3.



- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring Tier One Commercial Edible Food Generators to comply with the following by January 1, 2022, and Tier Two Commercial Edible Food Generators to comply with the following by January 1, 2024 (§18991.3):
 - Arrange to recover the maximum amount of edible food for human consumption that would otherwise be disposed by contracting with a food recovery organization or service, or by self-hauling edible food to a food recovery organization.
 - Prohibit a commercial edible food generator from recovering no edible food unless there is insufficient recovery capacity or an act of God.
 - Prohibit a commercial edible food generator from intentionally spoiling edible food that could be recovered for human consumption.
- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring edible food recovery services and organizations that collect or receive edible food directly from commercial edible food generators to maintain records of the contact information for each commercial edible food generator that collects and receives food from, the quantity in pounds of edible food collected or received and transported per month, and lastly the contact information for each food recovery service. (§18991.5)
- Adopt an ordinance to regulate haulers collecting organic waste. A jurisdiction's ordinance/mechanism shall require hauler compliance with SB 1383 regulations, including: compliance with collection program requirements and identification of facilities where they will transport organic waste. (§18988.1.a, §18988.1.c, and §18988.2)
- Adopt enforceable ordinance(s), or similarly enforceable mechanisms requiring compliance with Sections 492.6(a)(3)(B)(C), (D), and (G) of the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. (§18989.2)

3.5.3 Ordinance and Policy Needs

Collection

In order to meet SB 1383 requirements, the City of Atwater will need to make significant changes and additions to the Municipal Code. The most substantial and impactful change to the current municipal code will be the imposition of mandatory solid waste, recyclable materials, and organic waste collection and processing for all generators (including single-family, multi-family, and commercial businesses).

While the ordinance requirements under SB 1383 are fairly prescriptive, there are a number of policy decisions left to the City of Atwater's discretion, including additional optional program decisions that could aid in reporting, recordkeeping, and enforcement, as well as possible delegation of some tasks to the hauler. For instance, the City of Atwater may allow commercial generators to apply for a de minimis, physical space, and/or collection frequency waivers, although they are not required to do so. Procedures for applying and recertification of waivers would need to be outlined in the amended code. If the City chooses to allow self-hauling, the Municipal Code would need to specify source-separation requirements for self-haulers in order to waive the new mandatory collection service requirements. Jurisdictions have the option to require self-haulers to register as such, and/or report tonnage and drop off locations to facilitate reporting.

Edible Food Recovery

A new section of code for regulating food recovery programs and commercial edible food generators will need to be implemented. Commercial Edible Food Generators are subject to recordkeeping requirements under SB 1383. The City of Atwater has the option to mandate edible food generators and food recovery organizations report to the City as a means of tracking the movement and capacity of recovered food. It is highly recommended that such optional provisions under SB 1383 be included in this new section of Municipal Code to facilitate the City's reporting requirements to CalRecycle. Additional details on reporting requirements can be found in Section 3.8.



Contract Haulers

SB 1383 outlines requirements for contracted haulers. To meet State law requirements, basic requirements for contracted refuse collectors should be added to the Municipal Code. It is recommended that the Code be limited to a description of the Franchise hauler program and that more specific SB 1383 requirements be fully described and in an amended or restated Franchise Agreement. This would allow for more timely changes and limit the often lengthy code amendment process for changes to manage the City and hauler’s contract.

CALGreen and MWELo

The City of Atwater’s Municipal Code will need to include the most recent standards for the MWELo, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. Specifically, Sections 492.6(a)(3)(B), (C), (D), and (G), which mandates specific levels of compost and mulch, and sets a precedent for mulch made from recycled or post-consumer materials. Both CALGreen and MWELo chapters within the existing Municipal Code need minor modifications to ensure that applicable sections are up to date. The City of Atwater may want to consider a provision that would allow both MWELo and CALGreen standards to automatically update to the most recent version to prevent bringing minor code revisions to City Council.

The City of Atwater will need to reinforce its monitoring, inspections, and enforcement procedures so that generators will be liable for complying with SB 1383 requirements and allow for inspections and investigations to check for contamination and overall compliance. Some of these tasks may be delegated to the hauler and outlined in the Franchise Agreement. However, the Municipal Code will need to allow regulatory entities to conduct inspections to confirm compliance, maintain records of inspections, and track complaints of potential non-compliance.

Enforcement

It is recommended that the City of Atwater explicitly define enforcement policies and procedures in the Garbage and Refuse Collection Chapter of the Municipal Code. Accordingly, the code will need to specify how enforcement responsibilities will be delegated among the City of Atwater’s applicable departments, or, in the case of contamination monitoring, the hauler or another third-party. Additionally, enforcement will need to extend to all instances of non-compliance within the amended code. These changes can be done by either (1) updating or writing a new section of code in the Garbage and Refuse Collection chapter, (2) linking the chapter to the current enforcement related chapters of the Municipal Code, and/or (3) amending the City’s general enforcement procedures to meet the baseline requirements of SB 1383 (if needed).

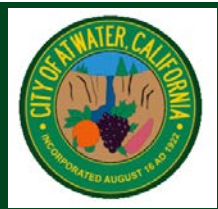
A clear procedure for enforcing the amended Garbage and Refuse Collection Chapter, including notices of violation and fees, will help provide City Staff with the tools needed to ensure generator compliance and assist in maintaining requirements outlined in Section 3.8, Reporting and Recordkeeping. Additional City staff time to implement investigations, inspections and enforcement will need to be considered. This is further discussed in Section 3.2.

EPP and Procurement

Currently, the City of Atwater does not have an Environmental Preferable Purchasing Policy. The City will need to assess procurement policy gaps and implement policies that align with the paper product requirements, among others, outlined in SB 1383. The policy will need to mandate and standardize purchasing of organic products throughout the City.

3.5.4 Contract Implications

Upon ratification of an ordinance expanding the City of Atwater’s collection program, the City of Atwater may find it useful to implement additional provisions in the Franchise Agreement to further stipulate conditions of the current and future haulers’ contract. These contract provisions are described further in Section 3.4.



3.5.5 Education and Outreach

At a minimum, the City of Atwater will need to perform two readings of the updated ordinances at City Council. Additionally, it is suggested the City of Atwater conduct an introductory education campaign to inform all citizens and businesses of legal and policy changes taking effect. These efforts would encourage compliance with the soon-to-be-enacted ordinances, while mitigating some of the negative response from the community. It is important that this educational material indicate that these are state-imposed regulations and changes.

3.5.6 Rate Impacts/Rate Structure

The City of Atwater did not respond to requests for their organizational chart and salary schedules. Therefore, the impacts on budget and staffing for the imposition of the required ordinances could not be projected.

3.5.7 Step-by-Step Action Plan

Table 21: City of Atwater Ordinance and Policy Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Draft revised Mandatory Recycling Ordinance and other required ordinances for monitoring enforcement, edible food recovery, etc.; Amend existing ordinances for compliance	City	Mar - Jul 2021
2	Establish protocols for approving and documenting de minimus and space constraint waivers (if applicable)	City	Mar - Jul 2021
3	Conduct stakeholder workshop(s) on Mandatory Ordinances (optional).	City	August 2021
4	Obtain approval of Mandatory Ordinance (Second Reading no later than 1/1/2022)	City	Sept – Dec 2021

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3.6 Edible Food Recovery

3.6.1 Program Summary

As a result of SB 1383, jurisdictions must implement a food recovery program to support the recovery of commercially generated edible food for human consumption. SB 1383 mandates that entities categorized as Tier One and Tier Two Commercial Edible Food Generators must implement a food recovery program by January 1, 2022 and January 1, 2024 respectively (see call-out box to right for definitions). *The City of Atwater was unable to produce a list of businesses that are likely to fall under this mandate.* The City of Atwater will need to identify Tier One and Tier Two Commercial Edible Food Generators in order to comply with SB 1383. Unfortunately, HF&H is unable to perform a preliminary assessment to produce a general estimate of staffing and budgetary needs without a complete or partial list of Tier One and Tier Two Commercial Edible Food Generators.

Additionally, the City of Atwater will need to develop a list of food recovery organizations and services operating within the City. It is recommended that the City of Atwater work with the County of Merced’s Environmental Health Department to develop this list as there may be service providers operating in the City of Atwater that are domiciled in neighboring jurisdictions.

Finally, there are a host of supporting activities that will need to be conducted such as establishing legal authority through ordinance updates, educating commercial edible food generators, food recovery organizations and services, and monitoring compliance. These functions are described in more detail on the following pages.

3.6.2 State SB 1383 Requirements for Jurisdictions

- Implement an edible food recovery program that includes education of Tier One and Tier Two Commercial Edible Food Generators at least annually with information about the available edible food recovery program, information on generator requirements, and information about food recovery organizations and services. (§18991.1)
- Implement an edible food recovery program that increases access to food recovery organizations and services. (§18991.1)
- Develop a list of food recovery organizations and services operating within the jurisdiction, including: name, physical address, contact information, collection service area, and hours of operation, which is updated annually. (§18985.2.a)

3.6.3 State SB 1383 Requirements for Generators

- Commercial edible food generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed. (§18991.3.b)
- If an enforcement action is commenced against a commercial edible food generator for noncompliance, the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances. (§18991.3.d)
- A commercial edible food generator subject to the requirements in Article 10 shall keep a record of each food recovery service/organization that collects/receives its edible food and a copy of all contracts or written agreements with the food recovery service/organization. (§18991.4)

3.6.4 Ordinance and Policy Needs

In order to recover the maximum amount of edible food that would otherwise be disposed, the City of Atwater will need to develop a Mandatory Edible Recovery Ordinance that requires Tier One and Tier Two Commercial Edible Food Generators to

EDIBLE FOOD GENERATORS DEFINED
<p><u>Tier 1: January 1, 2022</u></p> <ul style="list-style-type: none"> • Supermarkets • 10,000+ SF Grocery store • Food service provider • Wholesale food vendor
<p><u>Tier 2: January 1, 2024</u></p> <ul style="list-style-type: none"> • Restaurants with 250+ seats and 5,000+ SF • Hotel with onsite food and 200+ rooms • Health facility with onsite food and 100+ beds • Large Venues and Large Events • Local education facility with on-site food facility • State agency with cafeteria and 250+ seats



arrange and implement food recovery programs. The City of Atwater will need to make a policy decision surrounding how they will enable food recovery efforts as well as a funding mechanism.

The City of Atwater will be responsible for reporting pounds of food rescued for human consumption and related food waste diversion. It is recommended the City of Atwater establish an ordinance mandating that generators report volumes of edible food recovered. While an edible food recovery reporting ordinance is not specifically required by SB 1383, it will allow the City to maintain required records in the most efficient method possible (opposed to trying to obtain records during onsite inspections).

3.6.5 Contract Implications

If the City chooses to partner with local food donation organizations and programs, as described further in Section 3.6.10, it is advised that they memorialize the arrangement through a contract or memorandum of understanding (MOU).

3.6.6 Monitoring

The City of Atwater will be required to monitor compliance of commercial edible food generators, food recovery organizations, and food recovery services to ensure compliance with the requirements outlined in Section 3.6.3. The City of Atwater may choose to execute these functions itself or may choose to delegate these tasks to a third party to monitor food recovery data and compliance. As recommended in Section 3.6.1, the most efficient method for conducting the required inspections is to contract with the County of Merced's Environmental Health Department who is already performing Health inspections of these businesses.

3.6.7 Education and Outreach

The City of Atwater will have to annually educate commercial edible food generators of their requirements (see Section 3.6.3). This can be done by including relevant information through billing inserts in utility bills, annual service brochures, and/or newsletters provided by the City's Franchise hauler. The haulers' and the City's technical assistance staff and contractors may also provide education and assistance during commercial site visits as they implement the new organic waste services and right-size collection containers. The City of Atwater can also collaborate with the Merced County Environmental Health Department and require that inspectors provide education during their site inspections, thereby reducing City staffing needs (this is incumbent upon the County's willingness to take on an expanded role). Additional options for educational efforts include working with downtown business associations, the Chambers of Commerce, restaurant associations, and other local businesses.

3.6.8 Staffing and Budgetary Considerations

SB 1383 will require that the City of Atwater complete additional tasks and reporting, leading to increased staffing demand and possible budget increases on an on-going basis. Without a partial or complete list of Tier One and Tier Two Commercial Edible Food Generators, the precise staffing and budgetary needs are unknown. However, the City of Atwater should only see a nominal ongoing FTE increase, as the largest staffing demand will occur during program implementation, with a decrease over time as the program matures.

3.6.9 Program Metrics and Reporting

The City of Atwater will be responsible for overseeing reporting efforts. Specifically, the City of Atwater will rely on edible food generators and recovery organizations to report their data and diversion progress. This monitoring includes general SB 1383 progress as well as noting trends in meal donations to better understand capacity needs. Food recovery website integration and mobile apps have proven to efficiently coordinate all the moving pieces involved in food donation. The City of Atwater, however, will have to decide as to the efficacy and prudence of such an investment. Please refer to Attachment D for a complete list of reporting requirements.

3.6.10 Partnerships and Other Considerations

One way the City of Atwater can achieve compliance is by collaborating with the Bobcat Food Waste Prevention Program (UC Merced and Merced County Food Bank). The Bobcat Food Waste Prevention Program began in May 2018 and seeks to minimize food waste while alleviating food insecurity. The program works with donors to collect food donations and distribute



them across the City of Atwater⁸. Businesses, in addition to non-profits, can volunteer to act as distribution hubs in the area. The Merced County Food Bank also tackles food waste through a gleaning program⁹. Producers and farmers often have excess edible food that can be donated, but due to labor and transportation costs, are unable to donate this food to recovery organizations. The gleaning program brings volunteers to orchards and farms where crops are harvested on-site¹⁰, easing the financial burden on producers. Considering the City of Atwater’s close proximity to the Merced County Food Bank, involvement in this program could serve to both expand the program’s reach and satisfy SB 1383 directives. If the City of Atwater does decide to engage with the program, it can expect to support the program by locating distribution centers in the City or passing policies conducive to the program’s county-wide success.

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⁸ Mashinchi, Kenneth. “Food Waste Prevention Program Saves Thousands of Pounds of Food in Merced.” *Newsroom*, UC Merced, March 12, 2019. <https://news.ucmerced.edu/news/2019/food-waste-prevention-program-saves-thousands-pounds-food-merced-county>. Accessed 15 July 2020.

⁹ Meyer, Erin. “Fill Plates, Not Landfills: Implementing the Bobcat Eats Food Waste Awareness and Prevention Program.” *Campus Sustainability Hub*, May 17, 2019. <https://hub.aashe.org/browse/casestudy/21808/Fill-Plates-Not-Landfills-Implementing-the-Bobcat-Eats-Food-Waste-Awareness-and-Prevention-Program>. Accessed 15 July 2020.

¹⁰ “WHAT IS ‘Picking for Purpose?’” *Merced County Gleaning*, 2020. <http://mercedgleaning.org/about.php> Accessed 15 July 2020



3.6.11 Step-by-Step Action Plan

Table 22: City of Atwater Edible Food Recovery Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Develop list of Tier One and Tier Two Commercial Edible Food Generators	City	Mar – Jun 2021
2	Discuss opportunities for expanding capacity in Atwater’s service area	City	Mar – Jun 2021
3	Draft Food Recovery, Mandatory Recycling, and other Ordinances	City	Mar – Jul 2021
4	Conduct stakeholder workshop(s) on Food Recovery Ordinance (optional)	City	August 2021
5	Obtain approval of Food Recovery Ordinances (no later than 1/1/2022)	City	Sep – Dec 2021
6	Integrate food recovery information into Republic’s commercial education materials (optional)	Republic	Oct – Dec 2021
7	Initiate education program of Tier One Commercial Edible Food Generators on the Food Recovery Ordinance and program	TBD	Sep – Oct 2021
8	Educate Tier One Commercial Edible Food Generators that are self-haulers/back-haulers on edible food recovery requirements	TBD	Sep – Oct 2021, (annually)
9	Develop Atwater food recovery webpage	City	Oct – Dec 2022
10	Prepare food donation guide	City	Oct – Dec 2022
11	Update food recovery webpage content including list of food recovery organizations	City	Oct – Dec 2022, (annually)
12	Support development of County capacity planning analysis and report (no later than 2/1/2022)	City	Jan – Feb 2022
13	Review and analyze edible food generator compliance and food recovery organization compliance with the Food Recovery Ordinance and review program trends	City	Jun – Dec 2022 (annually)
14	Initiate education program of Tier Two Commercial Edible Food Generators on the Food Recovery Ordinance and program	Republic	Jan – Mar 2023, (annually)
15	Support development of County capacity planning report (no later than 8/1/2024)	City	Feb – Jul 2024

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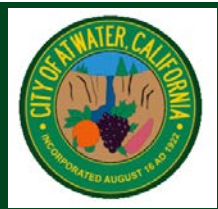
3.7 Education and Outreach

3.7.1 Program Summary

With respect to the City of Atwater’s present education and outreach program, the City of Atwater provides solid waste and recycling education and outreach via utility billing inserts on an on-going basis. Republic also provides occasional outreach to generators. Efforts thus far have been limited in scope compared to what will be required; SB 1383 requires that jurisdictions educate residents, businesses, franchise/permitted haulers, self-haulers, and food recovery organizations/services on their compliance obligations (See Section 3.7.2 for a more detailed description of education requirements). To meet these new requirements, the City of Atwater must expand their public education and outreach program. The City of Atwater can do this a number of ways, including amending their franchise agreement to include provisions that directly address the education requirements of SB 1383, updating the City website, and scheduling outreach on a regular basis. Per CalRecycle’s Final Statement of Purpose, “The purpose of this [education] section is to provide that a jurisdiction may comply with the requirements of this section through a variety of methods including print and electronic media. A jurisdiction may also comply by conducting outreach through direct contact. This provides flexibility for the jurisdictions to determine the most effective approach for educating their organic waste generators. This will help ensure that the maximum amount of organic waste is recovered and contamination is reduced.”

3.7.2 State SB 1383 Requirements for Jurisdictions

- Jurisdictions shall provide generators using an organic waste collection service with the following education and outreach (§18985.1.a):
 - Requirements to properly separate materials.
 - Methods for organic waste prevention, on-site organics recycling, and community composting.
 - Methane reduction benefits and method of organic waste recovery used.
 - Information on public health and environmental impacts of landfilling organic waste.
 - How to recover organic waste, and a list of approved haulers.
 - Information related to public health and safety benefits and environmental impacts associated with the disposal of organics.
 - Information regarding edible food donation programs.
 - Information on self-hauling requirements (if jurisdiction allows self-hauling).
- Provide outreach and education through print or electronic media, and by optionally conducting outreach through direct contact with generators through workshops, meetings, or on-site visits. (§18985.1.c)
- Consistent with Section 7295 of the Government Cost, translate educational materials into any non-English language spoken by a substantial number of the public provided organic waste collection services. (§18985.1.e)
- At least annually a jurisdiction shall provide commercial edible food generators with the following education and outreach (§18985.2.b):
 - Information about the edible food recovery program.
 - Information about edible food generator requirements for food recovery and record keeping (§18991.3).
 - Information about food recovery organizations and food recovery services operating within the jurisdiction, and where a list of those food recovery organizations and food recovery services can be found.
 - Information about actions that commercial edible food generators can take to prevent the creation of food waste.



3.7.3 Contract Implications

HF&H recommends that the City of Atwater amend their Refuse Services Agreement with Republic to delegate SB 1383 educational requirements to Republic where feasible, or if the City chooses to conduct a competitive procurement, it is recommended that they incorporate SB 1383-required education and outreach into the new Franchise Agreement. Not only is this delegation allowed under Section 18981.2 of SB 1383, but it will also leverage the experience and expertise of the Franchisee’s outreach staff while limiting further constraints on City resources. Working with the Franchisee’s staff may also enhance consistency of educational information with adjacent communities utilizing the same Franchisee.

The City of Atwater should be aware that SB 1383 requires different minimum standards for educational information sent to various parties (e.g., commercial generators and food recovery operations/non-profits). For this reason, it is recommended that Republic provide a double-sided educational newsletter to every unit within the City. The newsletter will contain all education requirements and will be sent utilizing the United States Postal Service Every Door Direct Mailer Service (USPS EDDM). Among other benefits, using the USPS EDDM allows all City generators to promptly receive the mandatory minimum education. With this option, the City of Atwater or Republic will not need to categorize their customers based on entity type, which would result in additional time spent developing more pieces of education. The EDDM will also ensure that every unit within the City of Atwater receives the information; using a customer list, on the other hand, will likely result in missed mailings due to inclusion of shared service accounts (e.g., multi-family complexes).

3.7.4 Rates and Staffing Impacts

HF&H has estimated that the cost to print and distribute an annual mailer via the USPS EDDM to all units will cost between \$6,800 and \$7,800 per annum, which equates to a cost of approximately \$0.07 per unit per month (single-family, multi-family, and commercial). It is anticipated that drafting and design of media will be conducted by the City’s Franchisee (whether that’s Republic or a new service provider). Therefore, it is projected that there will be minimal impacts to City staffing required on a continual basis to review educational material provided by the City’s Franchisee prior to distribution.

3.7.5 Optional Program

A thoughtful education and outreach campaign prior to implementation can strongly influence the success of new diversion programs. SB 1383 may not specifically require it, but early education provides residents and businesses with important information. This in turn allows residents and businesses to comply with the new programs without surprises and with limited community pushback. As such, HF&H suggests that the City of Atwater require that their Franchisee send two newsletters using the USPS EDDM prior to implementing the new collection program. It is estimated that this would cost between \$11,700 and \$13,500, or approximately \$0.01 per unit month when amortized over a ten year service agreement.

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3.7.6 Step-by-Step Action Plan

Table 23: City of Atwater Education and Outreach Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Identify an approach to and timing for integrating each requirement into current programs.	City, Hauler, Consultant	Mar - Jun 2021
2	Confirm approach for addressing SB 1383 education and finalize timeline for revisions to and review of various education pieces.	City, Hauler, Consultant	Jun - Aug 2021
3	Revise education materials and webpages to integrate SB 1383 information.	City, Hauler, Consultant	September 2021
4	Provide pre-implementation collection program information to all generators.	Hauler	Oct - Dec 2021
5	Educate customers (single- and multi-family, and commercial) about new organics program.	Hauler	Jul – Dec 2021
6	Expand multi-family/commercial education and technical assistance to those without recyclables and/or organics collection service.	Hauler	Jan – Jul 2022
7	Annually provide organic waste generators (including self-haulers) with information on properly separating materials, preventing organics waste, methane reductions, approved haulers, and health and environmental impacts of landfill disposal other requirements under 18985.1 and 18985.2[1].	Hauler	January 2022 (annually)
8	Annually provide edible food generators with information regarding the jurisdiction’s edible food recovery program, generator requirements, food recovery organizations, and other requirements under 18985.1 and 18985.2.	Hauler	Jan 1, 2022 (annually)

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3.8 Reporting and Recordkeeping

3.8.1 Program Summary

SB 1383 contains three primary reporting mechanisms: an Initial Jurisdiction Compliance Report; an Annual Report; and an Implementation Record. The Initial Jurisdiction Compliance Report is due April 1, 2022 and shall include copies of ordinances and other enforceable mechanisms adopted pursuant to SB 1383, the contact information for the primary City reporting contact, and information on the implementation of organic waste collection programs. For this reason, it is imperative that the City of Atwater implement an amended or restated Franchise Agreement, as well as the required ordinances.

The MCRWMA currently submits the City of Atwater's Electronic Annual Reports (EARs) to CalRecycle, in aggregate with other Member Agencies, through CalRecycle's Recycling and Disposal Reporting System (RDRS). The City of Atwater currently uses the cloud-based software program, Recyclist, to submit AB 341 and AB 1826 data to the Authority, who then compiles it with their disposal, composting, and transfer data for the EAR. To assist member agencies in their reporting, the MCRWMA also attends annual calls with CalRecycle¹¹.

SB 1383 greatly expands the annual reporting requirements which will require additional budget and potentially additional staffing. The current data sharing between the MCRWMA and the City of Atwater reduces some of the administrative burden from reporting, which will continue to benefit the City as the expanded SB 1383 reporting requirements go into effect. The staffing impacts will be determined by the continued relationship with the MCRWMA, and whether the City chooses to use internal staff for reporting or outsource this requirement to a third party. Please see Budgetary and Staffing Implications, Section 3.8.4, below for further information.

SB 1383 requires that jurisdictions maintain records demonstrating their compliance with SB 1383 in a central location, physical or electronic, that can readily be accessed by CalRecycle within ten (10) business days of request. It does not appear that the City of Atwater currently maintains all of the necessary records needed. Required records include, but are not limited to: ordinances, contracts, franchise agreements, a written description of the jurisdiction's inspection and enforcement program, organic waste collection service records, contamination minimization records, waiver and exemption records, education and outreach, edible food recovery program records, recovered organic waste procurement records, recycled content paper purchase records, inspection records, and enforcement records. All records and information required shall be included in the Implementation Record within 60 days of the event and shall be maintained for a minimum of five (5) years. In addition to maintaining their own records, the City of Atwater will need additional information from Republic to aid in SB 1383 compliance. This will mean increasing the current report frequency to monthly, and increasing the volume of data. Please refer to Attachment D for a list of reporting requirements that the City may wish to delegate via their Franchise Agreement.

3.8.2 State SB 1383 Requirements for Jurisdictions

- By April 1, 2022, jurisdictions shall submit the Initial compliance Report with a copy of adopted ordinances, reporting items identified in §18994.2, and contact information of the jurisdiction's designated employee for compliance-related issues. (§18994.1)
- Commencing August 1, 2022, jurisdictions shall submit an Annual Report to CalRecycle containing the information required in §18994.2.b through §18994.2.k. Note that the first report is due October 1, 2022 and will be for the period beginning January 1, 2022 through June 30, 2022, while subsequent reports will be for the entire previous calendar year (January 1 through December 31). Some of this information must also be maintained with the jurisdiction's Implementation Record.
- Maintain records including ordinances, contracts, franchise agreements, policies, procedures, or programs and a description of hauler programs.

¹¹ Information in preceding paragraph confirmed via phone with Eric Zetz on July 14, 2020.



- Maintain an Implementation Record that is stored in a central location (either physical or electronic) that must be made available to CalRecycle within 10 business days of their request. See Attachment D for a complete list of reporting requirements to be included in the Implementation Record.

3.8.3 Contract Implications

The City of Atwater will need to amend its current Franchise Agreement to include enhanced reporting requirements and/or conduct a competitive procurement inclusive of the reporting requirements. There will need to be monthly report submissions (at a minimum) to facilitate timely inclusion of records in the Implementation Record. The additional volume of records and data required by the hauler will be significantly increased and enhanced to meet SB 1383 requirements, and should be included in upcoming negotiations or as part of a competitive RFP.

Given the large volume of data and multiple stakeholders (Republic, Public Works Staff, Code Enforcement, City Attorney’s Office, Purchasing, etc.) it is recommended that the City of Atwater utilize a cloud-based software platform to enhance efficiency of the reporting process. Recyclist, and other companies, are in the process of developing a software solution that encompasses SB 1383 requirements. Once SB 1383 specific software becomes available by Recyclist (or other companies), the City of Atwater may choose to contract with one or more entities to assist in the facilitation of reporting. For example, a contract with a cloud-based software provider will greatly enhance the efficiency of reporting and minimize the risk associated with keeping voluminous records in a standard desktop file structure. The City of Atwater currently utilizes the MCRWMA to help manage the reporting process, data aggregation and analytics; a process that will also need to be updated and memorialized through an agreement or MOU. The MCRWMA can continue to serve as an intermediary between the City of Atwater and CalRecycle, provide additional administrative support as needed, and be responsible for the upkeep of the Implementation Record minimizing the additional burden on City staff. Cloud-based software will assist in efficiently submitting documents to The MCRWMA and providing data as required.

3.8.4 Budgetary and Staffing Implications

The City of Atwater has two staffing options for recordkeeping and reporting – it may either utilize City staff or outsource reporting to a third party. Both staffing approaches assume use of a cloud-based reporting software to help mitigate risk and facilitate an efficient process.

If the City of Atwater chooses to use internal staff, the implementation of a reporting system is estimated to cost between \$12,500 and \$16,900, with a one-time staffing equivalent of 0.04 to 0.06 FTEs. On-going costs are expected to range from \$14,300 per year to \$25,600 per year with an on-going staffing requirement of 0.08 to 0.15 FTEs. The rate impacts will vary depending upon the allocation between residential and commercial customers.

If the City of Atwater chooses to utilize a consultant to perform the required reporting, the one-time implementation cost is expected to range from \$22,700 to \$23,200 with a one-time City staffing equivalent of 0.03 FTEs. The On-going annual cost for a consultant to perform reporting is estimated to range from \$78,000 to \$97,000 with an on-going City staff requirement of 0.03 to 0.04 FTEs. In order to minimize impact on the City’s staffing and/or budget, consulting costs may be integrated into the service rates with payment remitted to the consultant by the Franchisee.

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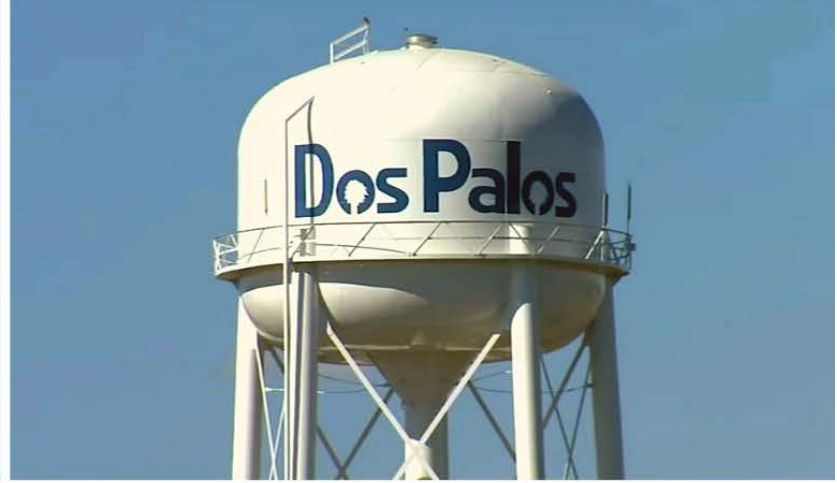
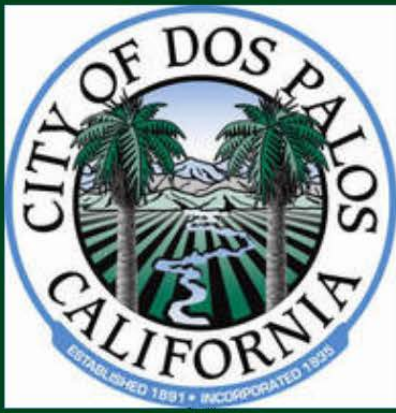


3.8.5 Step-by-Step Action Plan

Table 24: City of Atwater Reporting and Recordkeeping Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Review record keeping requirements of SB 1383 and develop protocol for obtaining and maintaining records.	City	Mar - Jun 2021
2	Clarify reporting obligations and align submittal dates with SB 1383 reporting deadlines.	City, Hauler	Mar - Jun 2021
3	Consider the development expansion of existing systems to handle some or all SB 1383 record keeping and reporting requirements and implement, if desired.	City	Mar - Jun 2021
4	Begin documentation and aggregation of reporting for Implementation Record.	City, Hauler	Aug - Dec 2021
5	Commence SB 1383 mandated record keeping.	City, Hauler	Dec 2021 - Jan 2022
6	Prepare initial compliance report (report due 4/1/2022).	City	Dec 2021 - Mar 2022
7	Prepare annual report (report due 8/1/2022 and annually thereafter).	City	Apr - Jul 2022

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Dos Palos SB 1383 Action Plan





4.1 Collection and Processing

4.1.1 Program Summary

The State requires jurisdictions to provide collection service to all residential and commercial generators to divert organic waste (including food waste, yard waste, food-soiled paper, and other organic materials, as defined) from landfill disposal beginning January 1, 2022. Residents of the City of Dos Palos currently receive automated collection of solid waste, and yard waste once a week. Commercial customers are offered weekly collection of solid waste¹². The City of Dos Palos will need to expand their collection program to provide food waste to all generators and expand mandatory recycling service to multi-family and commercial customers in order to achieve compliance with all SB 1383 source-separation requirements. Given that the City's current Franchise Agreement with Allied Waste Services of North America, LLC. (Allied) is set to expire June 30, 2029, the City will need to amend or restate its Franchise Agreement. The City of Dos Palos should begin negotiations with Allied immediately as it will take several months to negotiate and implement new services; this process often takes twelve (12) months.

The City of Dos Palos disposes of refuse at the Billy Wright Landfill which is operated by the MCRWMA, and additionally utilizes their composting facility to compost yard waste. All recyclable materials are sent to Recology's Newby Island Resource Recovery Park located in San Jose, CA. Finding a processing facility that will accept comingled green waste and food waste will be crucial to complying with SB 1383 at the lowest possible rates (opposed to implementing a 4-container collection program with source separated green waste and food waste). There are currently a limited number of facilities in Merced and surrounding counties that accept comingled yard and food waste, as described in Section 2.2.2.B.

It is recommended that the City of Dos Palos contract with the MCRWMA for processing of comingled organics if the MCRWMA expands their composting capabilities at the Highway 59 Landfill. If the authority chooses not to expand its processing capabilities than the City should work with Allied to identify another potential outlet for the comingled organic material. Given the lack of regionally available infrastructure, the City will likely be placed on a Corrective Action Plan by CalRecycle as mandatory programs will not be implemented prior to January 1, 2022 as required by SB 1383 (see Attachment C for further details on the Corrective Action Plan process). This has the added benefit of deferring rate increases associated with the new programs to a later date. However, it is imperative that the City begin negotiations immediately in order to meet the "Substantial Effort" requirements for Corrective Action Plan eligibility.

In addition to the required programs under SB 1383 there are non-mandatory supplemental programs that the City may wish to consider, including but not limited to:

- Provision of kitchen pails to residents and multi-family customers which will offer a vessel for transporting food waste from their kitchens to the appropriate curbside container. It is estimated that this program will cost between nine cents (\$0.09) and twenty-three cents (\$0.23) per unit per month when amortized over a 10-year franchise term.
- Door to door roll-out of organics program by City Staff. When the City rolled out its residential recycling program Staff spent approximately three (3) days performing site visits to each residential property to inform them of the new program. While not required, this may alleviate some of the residential discontent with additional services at an additional cost.
- Waivers from mandatory service. The City is not required to issue waivers from the mandatory service provisions, but if the City chooses to offer waivers, they are limited to self-haul waivers, commercial space constraint waivers, and commercial de minimis volume waivers. It is recommended that the City issue waivers to generators as self-hauling is a widespread practice throughout the City of Dos Palos. It should be noted that the choice to allow self-hauling will increase City Staffing resource requirements to comply with eligibility verifications/reverifications, maintenance of records, and ongoing reporting.

4.1.2 State SB 1383 Requirements for Jurisdictions

- Provide organic waste collection and recycling services to all generators, except self-haulers using a 3-, 2-, or 1-container collection system. (§18984.1-18984.3, §18998.1)

¹² As stated in the current Franchise Agreement



- Jurisdictions may allow limited waivers for generators with de minimis volumes and/or physical space constraints; and if allowed, must conduct reverification inspections, maintain records, and submit reports. (§18984.11, §18984.14, §18995.1.a)
- Provide education annually to collection customers and self-haulers (§18985.1)
- Provide collection containers to generators that comply with color and labeling requirements when replacing containers or by January 1, 2036, whichever comes first. (§18984.7)
- Implement a hauler oversight program and report required hauler information. (§18994.2.f)
- Ensure organic waste is sent to a facility or operation deemed to constitute a reduction in landfill disposal (§18983.1)

4.1.3 State SB 1383 Requirements for Generators

- Subscribe to organics collection services provided by jurisdiction (§18984.9) or self-haul organics to facility that processes source-separated organic waste (§18984.9)
- For commercial businesses, provide organics and recyclables containers for customers and employees; require employees to source separate organic materials; periodically inspect organics containers for contamination; and, educate employees on source separation if contamination observed (§18984.9)
- For commercial businesses self-hauling, record and report self-hauling activities (§18988.3)

4.1.4 Ordinance and Policy Needs

The City of Dos Palos will need to amend its current Municipal Code to include provisions requiring compliance with SB 1383 for collection and processing programs. SB 1383 requires all single-family, multi-family and commercial customers to have organic waste (including food waste), and recyclables collection services, subject to limited waivers. Additional applicable laws such as Mandatory Commercial Recycling (AB 341) and Mandatory Organics Recycling (AB 1826) will also need to be considered in the code amendment. For generators that choose to self-haul or back-haul their organics, the City of Dos Palos will be required to augment self-haul registration and reporting requirements and provide specific education materials to those generators. More details can be found in Section 4.5, Ordinances and Policy.

4.1.5 Contract Implications

Given that the City's Franchise Agreement with Allied ends June 30, 2029, HF&H recommends negotiating with Allied in order to meet regulatory compliance. Negotiations to amend the existing Franchise Agreement should begin as soon as possible to not delay the start of mandatory collection programs by January 2022, and to demonstrate "Substantial Effort." The City of Dos Palos will need to amend or restate its current Franchise Agreement to include all of the new and relevant provisions needed to support the City's programs and SB 1383 compliance needs, which will include expansion of organic materials and recyclables collection services, new and enhanced inspections and contamination monitoring, and identification of available or potential processing capacity and/or transfer options. Other requirements that should be considered include specifications of container systems, facility evaluations, record keeping and reporting, education and outreach, and other program support of some or all organic material. The details needed in the updated Franchise Agreement are found in Section 4.4.

4.1.6 Education and Outreach Needs

Education of all generators before and during implementation on the SB 1383 programs will be required. This step is key in order to comply with regulations and alleviate some of the negative feedback that may arise with establishment of mandatory requirements and increased collection costs. Please see Section 4.7, Education and Outreach, for further information and best practices.

4.1.7 Infrastructure Needs

The implementation of new collection programs and processing requirements will necessitate increased processing capacity and infrastructure. One way to contractually secure this additional infrastructure is by amending the City's current Franchise Agreement. Most organics tonnage collected by the City of Dos Palos is yard waste which is composted at the Billy Wright Landfill. It is recommended that the City contract with MCRWMA for the processing of comingled organic waste at the Highway 59 Landfill, assuming the MCRWMA expands its composting capabilities. If the MCRWMA does not expand its processing capabilities at the Highway 59 Landfill, it will be incumbent upon Allied to find an outlet for the processing of this material.



4.1.8 Staffing and Budgetary Considerations

The City of Dos Palos will have increased staffing needs and costs associated with implementing new programs, such as the City staff, City Attorney, and consultant time needed to draft the mandatory enforcement ordinances, a Franchise amendment, and facility agreements. Given the relatively small number of full-time staff, and the complexity of this work, it is anticipated that these action items will be absorbed by current City employees.

4.1.9 Step-by-Step Action Plan

Table 25: City of Dos Palos Collection and Processing Step-by-Step Action Plan

ID#	Action Item	Collaborators	Timeframe ⁽¹⁾
1	Enter into sole-source negotiations with Hauler to implement SB 1383 compliant programs.	City and Hauler	Mar - Sep 2021
2	Plan organics collection program including distribution of carts (and kitchen pails or compostable bags if applicable), new routes as necessary, staffing needs as necessary, education, monitoring and enforcement procedures, and reporting requirements.	City and Hauler	Mar – Sep 2021
3	Pre-implementation education of generators about new organics program and mandatory service requirements.	City and/or Hauler	Oct - Dec 2021
4	Implement expanded organics collection program (no later than January 1, 2022).	Hauler	Oct - Dec 2021
5	Implement a hauler oversight program and report required hauler information.	City	Oct - Dec 2021
6	Consider rate impact due to new program(s).	City and Hauler	Oct - Dec 2021

(1) Timeline may be delayed if City utilizes MCRWMA Highway 59 facility (which will not be active as of 1/1/2022).

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4.2 Monitoring and Enforcement

4.2.1 Program Summary

By January 1, 2022, jurisdictions must begin enforcing SB 1383 requirements through adoption of ordinances and/or other enforceable policies and procedures as well as through development of an inspection and enforcement program. To meet these requirements, the City of Dos Palos enforcement obligations will include verification of SB 1383 compliance by generators, self-haulers (including back-haulers), franchise haulers, construction and demolition debris haulers, food recovery organizations and services, and other entities. To establish a fully compliant and comprehensive enforcement program, the City of Dos Palos will need to amend its existing ordinances, policies, and procedures. The program will include provisions for notices of violations (NOVs) and fines/penalties for non-compliant regulated entities, which will be actively enforced beginning January 1, 2024.

The enforcement program's main goal is to ensure that each residential and commercial generator subscribe to recyclables and organics collection services or similarly complies with self-hauling requirements (not including commercial entities and multi-family dwellings that have been granted waivers such as de minimis or physical space waivers). Currently, most customers have access to yard waste collection services through the City of Dos Palos' Franchise hauler, Allied Waste Services. The majority of early enforcement efforts will be focused on ensuring single-family, multi-family, and commercial customers are either subscribed to organic waste and recyclables services, or meet the self-hauling requirements.

SB 1383 will require a desktop review of all commercial garbage accounts generating two (2) cubic yards of solid waste or more and all multi-family garbage accounts with five (5) or more dwelling units. The regulations also give directives for additional inspection of certain regulated entities and monitoring for container contaminants for all generators through route reviews or waste evaluations. Additionally, SB 1383 requires distribution of education and issuance of NOVs and/or fines to non-compliant entities (see Section 4.2.2 for further details on requirements). By imposing mandatory service of all three (3) waste streams and providing the appropriate containers to all generators, the City of Dos Palos will minimize the effort required to complete desktop compliance reviews. Similarly, a strong education program will raise public awareness of the requirements and help minimize the amount of future violations and container contamination incidents. It is recommended that the City of Dos Palos delegate the contamination monitoring to their franchise hauler through annual route reviews to minimize impacts on City budget and staffing. Despite delegation of the initial route monitoring for prohibited container contaminants, the City of Dos Palos will still be required to issue NOVs and fines beginning January 1, 2024.

4.2.2 State SB 1383 Requirements for Jurisdictions

- Conduct contamination monitoring either through route reviews for prohibited container contaminants such that all routes are inspected annually or through twice yearly waste evaluation studies of all container types; and, notify generators if contamination is found. (§18984.5)
- Implement an inspection and compliance program including: conducting compliance reviews of all commercial garbage accounts producing two (2) cubic yards of solid waste or more and multi-family garbage accounts with five (5) or more dwelling units; inspecting Tier One Commercial Edible Food Generators, and food recovery organizations, and food recovery services; and, conducting generator compliance reviews through route reviews or waste evaluations. (§18995.1)
- Conduct inspections at least once every five (5) years to verify de minimis and physical space waiver conditions, if applicable. (§18995.1)
- Starting January 1, 2022 through December 31, 2023, provide non-compliant generators with educational material. (§18995.1)
- Beginning January 1, 2024, take enforcement action, including issuing NOVs and imposing penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities (with the exception of violations of container contamination provisions, for which a penalty is optional). (§18995.4; §18997.2)
- Conduct a sufficient number of route reviews, inspections, and compliance reviews to determine compliance, and generate an electronic or written record for each inspection or review. (§18995.1)
- Provide a procedure for the receipt and investigation of complaints, including the method for notifying the complainant of the result of the complaint; investigate complaints received; and, maintain a record of all complaints and responses. (§18995.3)



- Pay penalties assessed by CalRecycle for the jurisdiction’s failure to comply, which includes many possible violations, ranging from minor, moderate, or major, and with associated penalties ranging from \$500 per violation to \$10,000 per violation per day. (§18997.3)

4.2.3 Ordinance and Policy Needs

The City of Dos Palos will need to amend certain sections of the Municipal Code to integrate the enforcement process and penalties specified in SB 1383 for non-compliant generators, food recovery organizations, haulers, and other entities. Policies and protocols will have to be developed for customer compliance reviews, route reviews, receipt and investigation of complaints, and documentation of monitoring and enforcement efforts, with the support of Allied where appropriate.

The City of Dos Palos may choose to institute an Environmentally Preferable Purchasing Policy, with Municipal Code amendments as needed, to meet the baseline requirements for recovered organic waste product procurement as outlined in Section 4.3. Per Michelle Dewey at CalRecycle, “The SB 1383 regulations do not require jurisdictions to adopt a procurement policy for either recovered organic waste products or for recycled-content paper. Jurisdictions may find adopting such a policy will help them comply with the procurement requirements, but adoption of a policy is not required.” While an Environmentally Preferable Purchasing Policy is not required, HF&H recommends the City adopt one to memorialize the City’s process for complying with regulations.

Building permits procedures will need to be updated to better enforce CALGreen requirements for construction and demolition projects. These code updates will ensure that organic waste is source-separated from construction and demolition debris, and that weight tickets for all applicable projects are submitted to the City of Dos Palos for reporting purposes. On January 6, 2020 the City Manager indicated that the City has retained a plan-check company to review Waste Management Plans (WMPs), but that the company is not actively receiving weight tickets or verifying completion of WMPs. In order to comply with SB 1383, the City will need to ensure that WMPs are being reviewed and the City is complying with CALGreen requirements.

4.2.4 Contract Implications

The City of Dos Palos may need to amend or restate its current Franchise Agreement to include provisions requiring Allied to perform the contamination monitoring route reviews. Adequate record keeping and reporting provisions associated with the contamination route reviews should be included to obtain the information needed for SB 1383 reporting requirements and track program progress. Delegating the monitoring and enforcement programs will minimize the impacts on the City of Dos Palos’ budget and staffing requirements (see Section 4.2.7 for further discussion on staffing). The City of Dos Palos can also delegate part of the NOV procedure in the Franchise Agreement as well as consider hiring a third party contractor to notify generators when they are out of compliance. However, it should be noted that the imposition of fines may only be delegated to another Public Agency.

The City of Dos Palos may consider the potential benefits of conducting these operations internally verses delegating them to its Franchisee or a third party. In some cases, contamination monitoring services conducted by a designee they may be interpreted as punitive by residents and businesses, particularly if there are contamination fees imposed. However, the additional budget and staffing required for this level of monitoring would be better suited for the resources and experience available to Allied. As stricter monitoring and enforcement measures go into effect, the City of Dos Palos should reaffirm the franchise hauler’s authority to residents and businesses in order to ease possible pushback.

4.2.5 Infrastructure Needs

To comply with SB 1383 Implementation Record requirements, the City of Dos Palos will need to develop a strategy for documenting monitoring and enforcement efforts that will not be delegated to the franchise hauler. This documentation may include:

- Edible food recovery program requirements as outlined in the Edible Food Recovery Action Plan (may be able to share responsibility with Merced County Environmental Health)
- Compliance with procurement policies as outlined in the Product Procurement Action Plan
- Copies of NOV and imposed penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities
- A procedure for the receipt and investigation of complaints, and copies of complaints



- A procedure for issuing waivers, and copies of waivers

Additionally, some reporting efforts may be conducted in conjunction with the MCRWMA (the Authority) as the Authority may have additional resources to leverage and will host the regions Implementation Record required by CalRecycle.

4.2.6 Education and Outreach

The City of Dos Palos should collaborate with Allied to integrate SB 1383-specific information into the education materials that Allied will be contractually obligated to provide under the amended or restated Franchise Agreement, as well as the new education and outreach materials recommended in Section 4.7. The City of Dos Palos and Allied will be required to educate non-compliant customers beginning no later than January 1, 2022 and at least through December 31, 2023. After this timeframe, the City of Dos Palos will initiate an NOV process and take enforcement actions.

4.2.7 Budgetary and Staffing Implications

City of Dos Palos staff and others will need to amend the Municipal Code through new ordinance development and an amended or restated Franchise Agreement. Additional staff may be needed to develop and oversee public education and outreach materials as well as maintain necessary records if full delegation to Allied is not realized. Enforcement requirements go into force on January 1, 2024.

The City of Dos Palos has two primary options for staffing the contamination monitoring program required by SB 1383; the City of Dos Palos may choose to staff the programs internal City Staff or delegate the responsibility to Allied. The City did not respond to a request for operational data, therefore the cost of contamination monitoring can not be reasonably projected at this time. However, based on discussions with City Staff it is recommended that the City delegate responsibility to Allied to negate impacts on the City Staff and budget.

In addition to contamination monitoring, the City of Dos Palos will be required to perform a desktop review of all commercial garbage accounts generating two (2) cubic yards of solid waste or more and all multi-family garbage accounts with (5) or more units, investigate complaints, and beginning January 1, 2024 issue NOVs and fines. Again it is recommended that the City delegate as much responsibility to Allied as possible (with the exception of imposing fines) in order to minimize impacts on City resources.

4.2.8 Program Metrics and Reporting

The City of Dos Palos will need to track the percentage of compliant generators with collection service, self-hauling registration, or generator waivers and track the monthly or quarterly number of the following: compliance reviews, route reviews, NOVs issued, penalties assessed, repeat NOVs and penalties, follow-up inspections completed, educational material provided to noncompliant customers, and other metrics as outlined in Attachment D. Much of this information may be obtained through reports submitted by Allied for relevant requirements; consequently strong reporting provisions in the amended or restated Franchise Agreement will be critical to ensure the effectiveness of such reports.

4.2.9 Other Considerations

The City of Dos Palos must develop its inspection and enforcement program by January 1, 2022. As such, the City will need to provide staffing to develop and implement the plan, as well as manage and perform on-going enforcement activities. The City of Dos Palos may also consider engaging a contractor to assist with monitoring efforts, as needed. Given current resources, the City of Dos Palos should consider opportunities for delegation to Allied and collaboration with the County. Collaboration with Merced County Environmental Health would offload some responsibilities, as the County could conduct compliance reviews for commercial edible food generators during their regularly scheduled health code inspections, thereby streamlining inspections.

The City of Dos Palos may be able to receive financial aid from the State or other entities as it seeks to comply with SB 1383. Though most grants typically require a particular sustainability or environmental project, the City of Dos Palos may be able to apply for CalRecycle's Environmental Enforcement and Training Grant Program. This grant offers financial assistance to train local regulators and other staff in the investigation and enforcement of environmental laws¹³ (in this case SB 1383). Applications for this grant are open annually from August 1st through August 31st.

¹³ CalRecycle. "Environmental Enforcement Grants." 2020. <https://calepa.ca.gov/enforcement/grants-scholarships-environmental-enforcement/>. Accessed 12 August 2020



4.2.10 Step-by-Step Action Plan

Table 26: City of Dos Palos Monitoring and Enforcement Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Design SB 1383-compliant monitoring and enforcement program.	City	Mar-Jun 2021
2	Draft amendment to Ordinance(s) to conform with SB 1383 enforcement requirements	City	Jul - Dec 2021
3	Appoint staff person to manage enforcement program	City	July 2021
4	Plan inspection and enforcement program through route reviews or biannual waste studies.	City & Hauler	Jul - Sep 2021
5	Develop protocols for customer compliance reviews; route review; receipt and investigation of complaints; documentation of enforcement efforts.	Hauler	Jul - Sep 2021
6	Hire part-time enforcement staff or contractor (if necessary)	City and/or Hauler	Sep – Dec 2021
7	Conduct <u>compliance reviews</u> of businesses that generate 2CY+ of solid waste/week and produce organic waste and educate non-compliant entities.	Hauler	Jan – Mar 2022 (annually)
8	Conduct <u>route reviews</u> of commercial businesses and resident areas including inspection of contamination, and educate non-compliant entities	Hauler	Jan – Dec 2022
9	Inspect Tier One Commercial Edible Food Generators and food recovery organizations, and educate non-compliant entities through the technical assistance program	City	Apr – Jun 2022
10	Investigate and maintain record of complaints, on an as needed basis, through inspections, route reviews, or compliance reviews	City & Hauler	(on-going)

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4.3 Product Procurement

4.3.1 Program Summary

Beginning January 1, 2022, the City of Dos Palos will be required to procure specific quantities of product(s) derived from organic waste recovered in California on a per capita basis. The product options include compost, mulch, renewable natural gas (RNG) used for transportation, electricity or heating applications, electricity produced from biomass conversion, or a combination of these products. The minimum procurement target is the amount the City of Dos Palos must purchase annually. It is calculated by multiplying the jurisdiction’s population (approximately 5,541 residents¹⁴ for the City of Dos Palos) by a per capita procurement target of 0.08 tons per resident, which results in a recovered organic waste procurement target of 443 tons for the City of Dos Palos. Production of each of the recovered organics waste products has varying impacts on reduction of greenhouse gas emissions, and are therefore assigned different conversion factors. See Table 27 below for a list of the relevant conversion factors. Apart from yearly purchases, the City of Dos Palos is also required to identify additional procurement opportunities within their departments or divisions in order to expand usage of recovered organic waste products over time.

Table 27: City of Dos Palos Recovered Organic Waste Product Procurement Target

Commodity	Conversion Factor	Procurement Requirement
RNG	21 Diesel Gallon Equivalent (DGE)	9,308 DGE
Compost	1.45 yards of compost/ton	643 cubic yards
Mulch	1 ton of mulch	443 tons
Electricity	650 kWh	288,132 kWh

Considering the City of Dos Palos’ staff allocation and resources, it is recommended that the City exercise their right to delegate this procurement requirement to their franchise hauler or another private entity, as allowed under Section 18981.2 of SB 1383. The MCRWMA or Allied may fulfill this role by distributing compost derived from organic waste collected in the City of Dos Palos to local farms or others in need. Additionally, the City could achieve compliance by requiring their franchise hauler to procure renewable natural gas (RNG) on behalf of the City of Dos Palos for use in their collection vehicles.

SB 1383 also describes requirements related to purchasing of recycled content paper. The City of Dos Palos is required to procure printing and writing paper (and other related paper products) derived from recycled content in accordance with Sections 22150-22154 of the Public Contracts Code. These requirements mandate businesses to certify minimum percentage of post-consumer material in their offered products and mandate local governments to give preference to suppliers of recycled products (should quality be equal to and cost be less than or equal to non-recycled items).¹⁵ Documentation and records of purchases will need to be maintained in the City of Dos Palos’ implementation record (see Section 4.8 for further information).

The regulatory and procedural impact of the changes above may require that the City of Dos Palos develop and codify an Environmentally Preferable Purchasing Policy or similar enforcement mechanism. For further information on the required changes, please reference Section 4.5.

4.3.2 State SB 1383 Requirements for Jurisdictions

- Commencing January 1, 2022, a jurisdiction shall annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by article 12. (§18993.1.a)

¹⁴ State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2020. Sacramento, California, May 2020.

¹⁵ California Public Contract Code, § 22150-22154, *California Legislative Information*. 2005. https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PCC&division=2.&title=&part=3.&chapter=3.5.&article=



- Beginning on or before January 1, 2022, and every 5 years thereafter, a jurisdiction must calculate the annual recovered organic waste product procurement target based upon multiplying the per capita procurement target by the jurisdiction population where (§18993.1.b):
 - Per capita procurement target = 0.08 tons of organic waste per California resident per year. (§18993.1.b.1)
 - Jurisdiction population equals the number of residents in a jurisdiction, using the most recent annual data reported by the California Department of Finance. (§18993.1.b.2)
- A jurisdiction shall comply with the product procurement target by directly procuring recovered organic waste products for use or giveaway and/or requiring, through a written contract or agreement, that a direct service provider to the jurisdiction procure recovered organic waste products and provide written documentation of such procurement to the jurisdiction. (§18993.1.e.1 and §18993.1.e.2)
- For the purposes article 12, the recovered organic waste products that a jurisdiction may procure to comply with article 12 are (§18993.1.f):
 - Compost from a compostable material handling operation, facility, or a large volume in-vessel digestion facility.
 - Renewable gas used for fuel, electricity, or heating applications.
 - Electricity from biomass conversion.
 - Mulch, provided that the jurisdiction is in compliance with land application requirements specified in 4 Section 17852(a)(24.5)(A) and the mulch is produced at a compostable material handling operation, a transfer/processing facility, or a solid waste landfill.
- The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products (§18993.1.g). One ton of organic waste in a recovered organic waste procurement target shall constitute:
 - 21 diesel gallon equivalents, or “DGE,” of renewable gas in the form of transportation fuel.
 - 242 kilowatt-hours of electricity derived from renewable gas.
 - 22 therms for heating derived from renewable gas.
 - 650 kilowatt-hours of electricity derived from biomass conversion.
 - 0.58 tons of compost or 1.45 cubic yards of compost.
 - One ton of mulch.
- Renewable gas procured from a POTW may only count toward a jurisdiction’s recovered organic waste product procurement target provided the conditions outlined in article 12 are met for the applicable procurement compliance year. (§18993.1.h)
- Electricity procured from a biomass conversion facility may only count toward a jurisdiction’s recovered organic waste product procurement target if the biomass conversion facility receives feedstock directly from a compostable material handling operation, a transfer/processing facility, or a solid waste landfill. (§18993.1.i)
- Procure paper products, and printing and writing paper consistent with the requirements of Section 22150-22154 of the Public Contracts Code. These paper products shall be eligible to be labeled with an unqualified recyclable label as defined in 16 C.F.R. 260.12. Jurisdiction shall require all businesses that it purchases paper products and printing/writing paper to certify minimum percentage of postconsumer material in the paper products. (§18993.3)

4.3.3 Ordinance and Policy Needs

To effectively address SB 1383’s procurement needs, it is recommended the City of Dos Palos construct and ratify an Environmentally Preferable Purchasing Policy (although not necessarily required). The City of Dos Palos should consider including a section for recovered organic waste products and recycled paper purchases. Within this section, language can be added to denote how recovered products will be procured (if City takes procurement responsibility) and reported. This new procurement policy will additionally need to include a set protocol for purchases and post-procurement tracking. One way to



do this would be to acquire recycled paper content from a vendor’s online purchasing portal, which can track purchases and aid in verification of compliance (e.g., Staples Exchange platform). The City of Dos should also consider the resources available on the CalRecycle website which include an updated database of recycled-content product manufacturers.¹⁶

4.3.4 Contract Implications

The requirements listed above as well as their political impact will require the City of Dos Palos to amend or restate their Franchise Agreement with Allied and/or processing agreement with the MCRWMA to include SB 1383’s recovered organic waste product procurement requirements. The City of Dos Palos may be able to choose which party to delegate responsibility to. If the City of Dos Palos decides to designate Allied to satisfy the recovered organic waste product procurement requirements, a Franchise Agreement provision should be added that requires Allied to procure a pre-identified amount of RNG for use in their collection vehicles. Instead of, or in addition to, RNG, Dos Palos could also include a provision in their agreement(s) with Allied and/or the MCRWMA requiring them to procure and distribute compost on the City of Dos Palos’ behalf.

4.3.5 Budgetary Planning

The largest cost and staffing demand for the City of Dos Palos will be incurred tracking the purchase of recovered content paper products, and printing and writing paper. The City did not provide data on current procurement and therefore cost increases could not be reasonably projected.

It is anticipated that the procurement of recovered organic waste products will have little to no impact on the City’s Staff or budget as it will likely be delegated to Allied or the MCRWMA.

4.3.6 Metrics and Reporting

In addition to purchasing, the City of Dos Palos will have several reporting and recordkeeping requirements as they procure recovered organic waste products. One of which will be calculating the per capita procurement target every 5 years. The City of Dos Palos will also have to maintain records on an on-going basis for later inclusion in the implementation record. The implementation record tracks procurement statistics of recovered organic waste products as well as post-consumer recycled paper. These records will support the City of Dos Palos’ compliance, and will include proof of purchase, certifications, procurement source information, and background information of relevant suppliers. It should be noted that these documents will be later required when the MCRWMA maintains its Implementation Record in early 2022, which is detailed further in Section 4.8.

4.3.7 Step-by-Step Action Plan

Table 28: City of Dos Palos Product Procurement Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Review SB 1383 procurement target and requirements for compost, natural gas, mulch, paper and others and identify needed modifications to policies	City	Mar – Jun 2021
2	Develop Environmentally Preferable Purchasing Policy	City	Mar – Jun 2021
3	Execute purchasing policy changes including provision of amended language for contracts and selection of new paper suppliers	City & Hauler	Jul - Dec 2021
4	Submit final procurement policy and related procedures and agreements to the MCRWMA for inclusion in the Authority's Implementation Record	City	Jan - Feb 2022
5	Submit procurement records to the MCRWMA for inclusion in the MCRWMA’s Implementation Record	City	On-going

¹⁶ CalRecycle, *Buy Recycled*. September 17, 2019. <https://www.calrecycle.ca.gov/Buyrecycled/Resources/>



4.4 Contracts

4.4.1 Current Contract Summary

SB 1383 requirements begin taking effect January 2022. The City of Dos Palos will need to amend their current Franchise Agreement with Allied Waste Services in order to be in compliance by the effective date. SB 1383 mandates will affect a broad range of provisions within the Franchise Agreement; the purpose of this Section 4.4 is to help the City of Dos Palos with expected changes to the agreement as well as the recommended timing for each procedural step necessary in achieving SB 1383 compliance.

4.4.2 General Timeline Overview

The City of Dos Palos' agreement with Allied will end on June 30, 2029. The City of Dos Palos will need to restructure many existing provisions in addition to adding new language for the Franchise Agreement to support overall compliance. The end date of the agreement means the City will have to negotiate with Allied to make necessary changes. This process should begin immediately if the City wishes to demonstrate "Substantial Effort" to CalRecycle as previously described in Section 4.1.1. The length of negotiations and program implementation may vary depending on the hauler and municipality dynamic, but the process often takes ten (10) to twelve (12) months to complete. **

4.4.3 Expected Contract Impact and Changes

The City of Dos Palos will have to restate or amend certain sections in their existing Franchise Agreement by modifying language to accommodate for the collection of all organics, which includes yard waste and food waste, and recyclable materials. HF&H's cost-benefit model for the City of Dos Palos identifies that adding food waste collection into the green waste cart is the most economical option (assuming the MCRWMA expands its organic waste processing capabilities at the Highway 59 Landfill, or another suitable processing site is located), and thus language will need to be reflected in the Franchise Agreement. Once collection related items have been addressed, the City should include language that describes the exact processing expectations for the hauler for each material stream. Though some of this will overlap with The MCRWMA and flow control obligations, it will still be helpful to clearly spell out these terms to ensure compliance with SB 1383.

It is recommended that the City of Dos Palos expand Allied's reporting to adequately meet SB 1383 reporting requirements. The hauler already submits monthly reports to assist in AB 939 reporting, but an increase in detail to accommodate the additional SB 1383 requirements will be needed. Should the City want to continue utilizing the cloud-based software currently licensed by The MCRWMA to streamline record retention and organization, such a provision should be included requiring the hauler to use this system. Additionally, the City of Dos Palos should expand on Allied's process for dealing with complaints to enhance procedures for tracking and reporting complaints, which is mandated by SB 1383.

In addition to amending or restating existing language, the City of Dos Palos can choose to delegate additional responsibilities to Allied. For instance, contamination monitoring and contamination minimization programs can be delegated to the hauler which will require significant changes and additions to the current Franchise Agreement such as a provision that details how to complete the route reviews (e.g., route reviews or waste evaluations) and associated record keeping, reporting, and education obligations. Requiring the hauler to report on these activities will aid the City of Dos Palos in adequately monitoring program progress and assist in adhering to State reporting requirements. Violations and related notices given to residents and businesses will also need to be specified in the contamination monitoring section, but this will only be necessary should the City of Dos Palos decide to delegate this to Allied instead of doing it internally.

The City of Dos Palos may choose to delegate education and outreach responsibilities to Allied. Doing so will allow the City to leverage the hauler's contact with customers and minimize additional strain on City staff and resources. Education and outreach responsibilities could also be divided between the City of Dos Palos and the hauler (e.g. the City creates the materials and the hauler prints and delivers the materials). A coordinated effort would create a unified message to generators and ultimately a more effective education and outreach campaign.

The City of Dos Palos can also choose to satisfy SB 1383 procurement requirements through its hauler relationship. This will depend on whether the City of Dos Palos tasks its hauler to procure RNG, in which case a provision would be inserted requiring the hauler to purchase annually a pre-identified amount of RNG for use in their collection vehicles. A similar provision could be included that requires Allied or the MCRWMA to distribute compost on the City of Dos Palos' behalf.



4.4.4 State SB 1383 Requirements for Jurisdictions

- A jurisdiction may designate a public or private entity to fulfill its responsibilities 31 under this chapter. A designation shall be made through any one or more of the following (§18981.2.b):
- Contracts with haulers or other private entities: or,
- Agreements such as MOUs with other jurisdictions, entities, regional agencies as defined in Public Resources Code Section 40181, or other government entities, including environmental health departments
- Notwithstanding Subdivision (b) of this section, a jurisdiction shall remain ultimately responsible for compliance with the requirements of this chapter (§18981.2.c)
- If a jurisdiction designates another entity as allowed in Subdivision (b) of this section, the jurisdiction shall include copies of all agreements and contracts in the Implementation Record required by Section 18995.2. (§18981.2.e)
- “Designee” means an entity that a jurisdiction contracts with or otherwise arranges to carry out any responsibilities of this chapter, as authorized in Section 18981. 2 of this chapter. A designee may be a government entity, a hauler, a private entity, or a combination of those entities. (§18982)

4.4.5 Corrective Action Plans

If CalRecycle determines a jurisdiction is violating one or more requirements and decides to take enforcement action, agencies will have 90 days to correct the violation. This can be expanded an additional 90 days (for a total of 180 days) if CalRecycle feels additional time is needed. For violations outside of the jurisdictions control and when “substantial effort” is made towards compliance, CalRecycle may place the agency on a Corrective Action Plan allowing up to 24 months (from the date the first NOV was issued) to come into compliance.

In the event that negotiations with Allied take longer than expected (or a suitable organic waste processing facility is not available) the City of Dos Palos will not meet the January 1, 2022 deadline, the City may be put on a Corrective Action Plan which would provide ample time to complete negotiations. However, it is still the City of Dos Palos’ responsibility to complete or make “substantial effort” towards the other SB 1383 jurisdiction requirements (e.g. ordinances, edible food recovery, education and outreach requirements etc.) in order to be potentially eligible for a Corrective Action Plan.

4.4.6 Step-by-Step Action Plan

Table 29: City of Dos Palos Contracts Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe ⁽¹⁾
1	Begin sole-source negotiations with Allied	City and Hauler	Mar - Jul 2021
2	Draft amendment or restate Franchise Agreement	City	Aug - Oct 2021
3	Present amendment or agreement to City Council	City	November 2021
4	Implement new rates and commence additional programs	City, Hauler	January 2022

(1) Timeframe may be delayed depending on organic waste processing location.

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4.5 Ordinances and Policies

4.5.1 Program Summary

Under SB 1383, jurisdictions will be required to pass several ordinances and policies to align with State mandated objectives. The City of Dos Palos has several ordinances and enforceable mechanisms that will need to be reviewed in detail and, in some cases, significantly modified for SB 1383 compliance including the **Solid Waste Ordinance, Water Conservation Ordinance, building code, enforcement procedures, and procurement policies**. Additionally, ordinance language for self-haulers, edible food generators, food recovery organizations, and haulers, as well as procedures for inspections and investigations will need to be included in the code amendments. These ordinances and policies will need to be implemented and enforceable by January 1, 2022, but revisions should begin as soon as possible to ensure they are completed on time.

The City of Dos Palos did not respond to multiple requests for a copy of the City's Municipal Code, therefore this Section includes a description of potential code updates that may be required. It is anticipated that significant additions will need to be made to the City of Dos Palos' municipal code. Chapters will need to be amended to include mandatory organics service, organics generator requirements for single- and multi-family customers, commercial customers, and self-haulers, as well as requirements for edible food generators, and food recovery organizations.

The City of Dos Palos will need to codify its monitoring, inspections, and enforcement procedures to establish legal authority and ensure that organic waste generators may be liable for complying with SB 1383 requirements. Updating these Chapters with more rigorous and explicit enforcement measures will also assist in maintaining requirements outlined in the Reporting and Recordkeeping Section of this Action Plan. Without proper enforcement mechanisms in place, the City of Dos Palos is more likely to fall out of compliance and be subject to fines from CalRecycle.

In addition to regulating residents and commercial entities that generate organic material, the City of Dos Palos will need to regulate their hauler either through code updates and/or updates to the Franchise Agreement. Hauler requirements include, but are not limited to, identifying organics facilities and providing all regulated generators with organics, recycling, and refuse collection services.

The significant changes anticipated for the City Code to meet SB 1383 requirements may be best met with an almost complete re-write of the ordinance. SB 1383 ordinances will need to pass through two City Council readings within a relatively short timeline to avoid prolonged delay and to be able to meet enforcement date of January 1, 2022. It is therefore recommended the City of Dos Palos prepare to pass and/or update applicable City Code sections simultaneously within a short time frame to meet the State's mandate, and for those changes to begin as soon as possible.

4.5.2 State SB 1383 Requirements for Jurisdictions

- By January 1, 2022, a jurisdiction shall adopt enforceable ordinances (or similarly enforceable mechanisms), requiring compliance by generators, haulers, and other entities regulated under the SB 1383 regulations. (§18981.2.a)
 - Adopt an ordinance that requires organic waste generators to subscribe to organics collection programs, annually provide information about organics requirements, provide new information to tenants within 14 days of occupation of the premises, and arrange for access to their properties for inspections. (§18984.10)
 - Adopt an ordinance that requires commercial organic waste generators to provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are provided for customers, except for restrooms. These containers must comply with SB 1383 regulations. (§18984.9.b, §18984.9.d, and §18984.9.e)
 - Adopt an ordinance that prohibits organic waste generator employees from placing organic waste in a container not designated to receive organic waste as set forth in sections 18984.1(a)(5) and 18984.2(a)(5). Jurisdiction shall inspect containers for contamination.
 - If jurisdiction allows self-hauling, jurisdiction shall adopt an ordinance that requires self-haulers to comply with SB 1383 requirements per sections 18988.1.b and 18988.3.
- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring Tier One Commercial Edible Food Generators to comply with the following by January 1, 2022, and Tier Two Commercial Edible Food Generators to comply with the following by January 1, 2024 (§18991.3):



- Arrange to recover the maximum amount of edible food for human consumption that would otherwise be disposed by contracting with a food recovery organization or service, or by self-hauling edible food to a food recovery organization.
- Prohibit a commercial edible food generator from recovering no edible food unless there is insufficient recovery capacity or an act of God.
- Prohibit a commercial edible food generator from intentionally spoiling edible food that could be recovered for human consumption.
- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring edible food recovery services and organizations that collect or receive edible food directly from commercial edible food generators to maintain records of the contact information for each commercial edible food generator that collects and receives food from, the quantity in pounds of edible food collected or received and transported per month, and lastly the contact information for each food recovery service. (§18991.5)
- Adopt an ordinance to regulate haulers collecting organic waste. A jurisdiction's ordinance/mechanism shall require hauler compliance with SB 1383 regulations, including: compliance with collection program requirements and identification of facilities where they will transport organic waste. (§18988.1.a, §18988.1.c, and §18988.2)
- Adopt enforceable ordinance(s), or similarly enforceable mechanisms requiring compliance with Sections 492.6(a)(3)(B)(C), (D), and (G) of the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. (§18989.2)

4.5.3 Ordinance and Policy Needs

The City of Dos Palos will likely need to make significant changes and additions to their Municipal Code in order to meet SB 1383 requirements. While the ordinance requirements are stringent, there are still a number of specific policy decisions that will need to be made, and additional, optional program decisions that could aid the City of Dos Palos in reporting, recordkeeping and enforcement.

Some of the broader amendments will be to include mandatory refuse, residential recycling, and organics waste collection, and commercial recycling and organics collection. Organics generators including single-family, multi-family, and commercial businesses will need to be mandated to subscribe to collection services that cover these three waste streams. The City of Dos Palos will need to identify acceptable waivers generators can apply for such as de minimis, physical space and/or collection frequency waivers. The City of Dos Palos can include procedures for applying and recertification of waivers. If allowed, the City Code can also outline specific source-separation requirements self-haulers will need to adhere by to waive the requirements for participating in the City mandated collection programs. Jurisdictions have the option to require self-haulers to register as such, and/or report tonnage and drop off locations to facilitate reporting.

A new section of code for regulating food recovery programs will need to be approved. Commercial edible food generators have reporting and recordkeeping requirements they must adhere to under SB 1383. The City of Dos Palos has the option to mandate reporting by edible food generators and food recovery organizations to the City as a means of tracking the movement and capacity of recovered food. It is highly recommended that such optional provisions under SB 1383 be included in this new section of City code to facilitate the City's reporting requirements to CalRecycle. Additional details on reporting requirements can be found in the Reporting and Recordkeeping section.

SB 1383 outlines requirements for haulers. It is recommended that these requirements be met through an amended or restated Franchise Agreement with Allied Waste Services, to allow for more timely changes and limit the often lengthy code amendment process for minor changes to manage the City and Allied Waste Services' contract.

The City of Dos Palos' municipal code will need to maintain the most recent standards for the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. Specifically, Sections 492.6(a)(3)(B), (C), (D), and (G), which mandates specific levels of compost and mulch, and sets a precedent for mulch made from recycled or post-consumer materials. Both CALGreen and MWELo chapters within the existing code may need minor modifications to ensure that applicable sections are more enforceable locally. The City of Dos Palos may want to consider language that would allow both MWELo and CALGreen standards to auto-update to the most recent version to prevent bringing minor code changes to City Council.



The City of Dos Palos’ SB 1383 enforcement policies and procedures will also need to be codified. To do so, the code will need to specify how enforcement responsibility will be delegated among the City of Dos Palos’ applicable departments, or, in the case of contamination monitoring, Allied Waste Services or another third-party. A clearer procedure for enforcement (including notices of violation and fees) will help provide City Staff with the tools needed to ensure generator compliance. Additional City staff time to implement investigations, inspections and enforcement will need to be considered.

The City will need to assess procurement policy gaps and implement policies that align with the paper and mulch requirements, among others. The policy will need to mandate and standardize purchasing of organic products throughout Dos Palos. More details can be found in the Product Procurement Action Plan.

It is important that the City of Dos Palos not unintentionally inhibit the goals of SB 1383 to reach organic waste disposal reduction targets while amending its City municipal code. Likewise, should any existing ordinances within the City of Dos Palos’ municipal code be found to impede organics disposal reduction, it is highly recommended they are amended per SB 1383 guidelines.

In order to reach compliance in a timely fashion, the City should amend all SB 1383 related ordinances at the same time, rather than staggering them over several months.

4.5.4 Budgetary and Staffing Implications

The City did not respond to multiple requests for data (including their municipal code and Purchasing Policy), therefore a projection of staff and budget impacts could not be reasonably projected.

4.5.5 Contract Implications

As stated above, SB 1383 outlines certain requirements for haulers. Upon ratification of an ordinance regulating the City hauler’s collection of organic waste, the City of Dos Palos may find it useful to implement additional provisions in the franchise agreement to further stipulate conditions of Allied Waste Services’ contract. Please refer to Sections 4.1 and 4.4 for additional detail.

4.5.6 Education and Outreach

In addition to the two City Council sessions where the updated ordinance will be read, it is recommended the City of Dos Palos conduct an introductory campaign to inform all citizens and businesses of legal and policy changes taking effect. These efforts would encourage compliance with the soon to be enacted ordinances.

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4.5.7 Step-by-Step Action Plan

Table 30: City of Dos Palos Ordinance and Policy Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Draft revised Mandatory Recycling Ordinance and other required ordinances for monitoring enforcement, edible food recovery, etc.; Amend existing ordinances for compliance	City	Mar - Jul 2021
2	Establish protocols for approving and documenting de minimus and space constraint waivers (if applicable)	City	Mar - Jul 2021
3	Conduct stakeholder workshop(s) on Mandatory Ordinances (optional).	City	August 2021
4	Obtain approval of Mandatory Ordinance (Second Reading no later than 1/1/2022)	City	Sept – Dec 2021

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4.6 Edible Food Recovery

4.6.1 Program Summary

The City of Dos Palos must implement a food recovery program by January 1, 2022 in order to support the recovery of commercially generated edible food for human consumption, as directed by SB 1383. Businesses and other organizations that produce edible food waste are categorized as Tier One and Tier Two Commercial Edible Food Generators. SB 1383 mandates that all entities under these tiers must implement a food recovery program by January 1, 2022 and January 1, 2024 respectively. The City of Dos Palos was unable to produce a list of businesses that are likely to generate food. The City will need to identify Tier One and Tier Two Commercial Edible Food Generators to meet SB 1383 mandates. HF&H has provided a preliminary estimate in Table 31 below, but the City of Dos Palos will need to finalize this list prior to January 1, 2022.

Table 31: City of Dos Palos Commercial Edible Food Generators

Tier 1 Generators in Dos Palos	Tier 2 Generators in Dos Palos
-	Bryant Middle School
-	Dos Palos High School

Additionally, the City of Dos Palos will need to develop a list of food recovery organizations and services operating within the City and maintain this list on the City’s website. It is recommended that the City of Dos Palos work with the County of Merced’s Environmental Health Department to develop this list as there may be service providers operating in the City of Dos Palos that are domiciled in neighboring jurisdictions.

Finally, there are a host of supporting activities that will need to be conducted such ordinance updates, educating commercial edible food generators, food recovery organizations and services, and monitoring compliance. These functions are described in more detail on the following pages.

4.6.2 State SB 1383 Requirements for Jurisdictions

- Implement an edible food recovery program that includes education of Tier One and Tier Two Commercial Edible Food Generators at least annually with information about the available edible food recovery program, information on generator requirements, and information about food recovery organizations and services. (§18991.1)
- Implement an edible food recovery program that increases access to food recovery organizations and services. (§18991.1)
- Develop a list of food recovery organizations and services operating within the jurisdiction, including: name, physical address, contact information, collection service area, and hours of operation, which is updated annually. (§18985.2.a)

4.6.3 State SB 1383 Requirements for Generators

- Commercial edible food generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed. (§18991.3.b)
- If an enforcement action is commenced against a commercial edible food generator for noncompliance, the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances. (§18991.3.d)
- A commercial edible food generator subject to the requirements in Article 10 shall keep a record of each food recovery service/organization that collects/receives its edible food and a copy of all contracts or written agreements with the food recovery service/organization. (§18991.4)

EDIBLE FOOD GENERATORS DEFINED

Tier 1: January 1, 2022

- Supermarkets
- 10,000+ SF Grocery store
- Food service provider
- Wholesale food vendor

Tier 2: January 1, 2024

- Restaurants with 250+ seats and 5,000+ SF
- Hotel with onsite food and 200+ rooms
- Health facility with onsite food and 100+ beds
- Large Venues and Large Events
- Local education facility with on-site food facility
- State agency with cafeteria and 250+ seats



4.6.4 Ordinance and Policy Needs

The principal policy need will be to develop a Mandatory Edible Food Recovery Ordinance that requires Tier One and Tier Two Commercial Edible Food Generators to arrange and implement food recovery programs to recover the maximum amount of edible food for human consumption. Additionally, the City of Dos Palos will be required to identify their role in supporting food recovery efforts and a identifying potential funding mechanisms if infrastructure expansion is required.

It is recommended the City of Dos Palos adopt an ordinance mandating that generators report to the City of Dos Palos how much edible food waste was recovered through collaboration with food recovery organizations or services. This will address the City of Dos Palos' responsibility of reporting pounds of food rescued for human consumption and related food waste diversion by making reporting mandatory for these generators. It's important to note that SB 1383 only requires Tier One and Tier Two Commercial Edible Food Generators to keep food quantity records but does not mandate they report quantities to the City; However, the City will be ultimately responsible for reporting progress to CalRecycle.

4.6.5 Contract Implications

The City of Dos Palos will need to identify Tier One and Tier Two Commercial Edible Food Generators and provide these generators with a food donation guide, along with minor additional support. The food donation guide should be prepared by January 2022 to allow adequate time for public education efforts and should include at a minimum the information described in Section 4.6.2. If the City of Dos Palos chooses to work with a food donation organization or matching program service provider, separate contracting with the entity may be involved.

4.6.6 Monitoring

The City of Dos Palos will be required to monitor compliance of Tier One and Tier Two Commercial Edible Food Generators, food recovery organizations, and food recovery service providers. The City of Dos Palos may choose to execute these functions itself or may choose to delegate these tasks to a third party to monitor food recovery data and compliance. It is recommended that the City contract with the Merced County Department of Environmental Health (assuming the County is open to an expansion of its current health inspection role). The County is the ideal designee to perform inspections for two primary reasons: they have the legal authority to require site access and they are already performing site visits to perform health inspections.

4.6.7 Education and Outreach

The City of Dos Palos should include the required education information in utility bills to ensure that no generators area missed. Additionally, the City may require that Allied incorporate edible food recovery information in annual service brochures, newsletters, or site visits in order to meet SB 1383 requirements. This will make it easier for the City of Dos Palos to annually educate commercial edible food generators. The City of Dos Palos may work with the County Environmental Health Department to engage inspectors in providing education during their site inspections of edible food generators. Through these efforts to educate generators, venue operators, and the community, Dos Palos can promote the program city-wide and highlight the benefit of alleviating hunger in their local community.

4.6.8 Staffing and Budgetary Considerations

It is anticipated that there will be minimal costs associated with implementing an edible food recovery program to comply with SB 1383. It is expected that the County may require reimbursement for inspection of Tier One and Tier Two Commercial Edible Food Generators, food recovery organizations, and food recovery services. However, given the low number of these entities within Dos Palos, it is anticipated the cost increase will be insignificant.

The City will also require approximately 0.01 FTEs for annually updating the list of food recovery organizations and services operating within the City.

4.6.9 Program Metrics and Reporting

Dos Palos will rely on Tier One and Tier Two Commercial Edible Food Generators and food recovery organizations and services to report data on diversion progress. Dos Palos will monitor general SB 1383 compliance of these entities and include trends in quantities and types of food recovered which may also be useful for the City as it begins capacity projections. The market of available food recovery website integration and mobile apps is growing, as they tend to effectively organize the moving



pieces involved in food donation. However, the City of Dos Palos would need to consider development and outreach costs before moving forward with such a method.

4.6.10 Other Considerations

One way the City of Dos Palos can achieve compliance is by collaborating with the Bobcat Food Waste Prevention Program (UC Merced and Merced County Food Bank). The Bobcat Food Waste Prevention Program began in May 2018 and seeks to minimize food waste while alleviating food insecurity. The program works with donors to collect food donations and distribute them across the City of Dos Palos¹⁷. Businesses, in addition to non-profits, can volunteer to act as distribution hubs in the area. The Merced County Food Bank also tackles food waste through a gleaning program¹⁸.

Considering the City of Dos Palos’ close proximity to the Merced County Food Bank, involvement in this program could serve to both expand the program’s reach and satisfy SB 1383 directives. If the City of Dos Palos does decide to engage with the program, it can expect to support the program by locating distribution centers in the City or passing policies conducive to the program’s county-wide success.

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¹⁷ Mashinchi, Kenneth. “Food Waste Prevention Program Saves Thousands of Pounds of Food in Merced.” *Newsroom*, UC Merced, March 12, 2019. <https://news.ucmerced.edu/news/2019/food-waste-prevention-program-saves-thousands-pounds-food-merced-county>. Accessed 15 July 2020.

¹⁸ Meyer, Erin. “Fill Plates, Not Landfills: Implementing the Bobcat Eats Food Waste Awareness and Prevention Program.” *Campus Sustainability Hub*, May 17, 2019. <https://hub.aashe.org/browse/casestudy/21808/Fill-Plates-Not-Landfills-Implementing-the-Bobcat-Eats-Food-Waste-Awareness-and-Prevention-Program>. Accessed 15 July 2020.



4.6.11 Step-by-Step Action Plan

Table 32: City of Dos Palos Edible Food Recovery Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Develop list of Tier One and Tier Two Commercial Edible Food Generators	City	Mar – Jun 2021
2	Discuss opportunities for expanding capacity in Dos Palos’ service area	City	Mar – Jun 2021
3	Draft Food Recovery, Mandatory Recycling, and other Ordinances	City	Mar – Jul 2021
4	Conduct stakeholder workshop(s) on Food Recovery Ordinance (optional)	City	August 2021
5	Obtain approval of Food Recovery Ordinances (no later than 1/1/2022). Requires two readings at City Council.	City	Sep – Dec 2021
6	Integrate food recovery information into Allied’s commercial education materials (optional)	Hauler	Oct – Dec 2021
7	Initiate education program of Tier One Commercial Edible Food Generators on the Food Recovery Ordinance and program	TBD	Sep – Oct 2021
8	Educate Tier One Commercial Edible Food Generators that are self-haulers/back-haulers on edible food recovery requirements	TBD	Sep – Oct 2021, (annually)
9	Develop Dos Palos’ food recovery webpage	City	Oct – Dec 2022
10	Prepare food donation guide	City	Oct – Dec 2022
11	Update food recovery webpage content including list of food recovery organizations	City	Oct – Dec 2022, (annually)
12	Support development of County capacity planning analysis and report (no later than 2/1/2022)	City	Jan – Feb 2022
13	Review and analyze edible food generator compliance and food recovery organization compliance with the Food Recovery Ordinance and review program trends	City	Jun – Dec 2022 (annually)
14	Initiate education program of Tier Two Commercial Edible Food Generators on the Food Recovery Ordinance and program	Hauler	Jan – Mar 2024, (annually)
15	Support development of County capacity planning report (no later than 8/1/2024)	City	Feb – Jul 2024



4.7 Education and Outreach

4.7.1 Program Summary

The City of Dos Palos’ hauler, Allied Waste Services offers some information on AB 341 and AB 1826 on their website and through commercial billing statements. Most outreach efforts up to this point will have to be expanded to meet SB 1383 requirements. SB 1383 requires that jurisdictions provide education to organic was generators, franchise haulers, businesses, self-haulers, and food recovery organizations/services on their compliance obligations (see section below labeled “State SB 1383 Requirements for Jurisdictions”). To meet these expanded responsibilities, the City of Dos Palos will need to augment their public education and outreach program to comply with these new education requirements. It is recommended that the City of Dos Palos amend their Franchise Agreement with Allied to include provisions addressing these mandates. The City can require that Allied provide education directly to customers or provide media collateral to the City for inclusion in utility billing (this will require working with the City’s utility billing contractor). The City of Dos Palos should also update any existing materials and website with information specified in SB 1383. While SB 1383 requires minimum content and topics, jurisdictions may comply through a variety of distribution methods, allowing the City flexibility to choose distribution methods such as online web postings or e-blasts to minimize the cost of print media.

4.7.2 State SB 1383 Requirements for Jurisdictions

- Jurisdictions shall provide generators using an organic waste collection service with the following education and outreach (§18985.1.a):
 - Requirements to properly separate materials.
 - Methods for organic waste prevention, on-site organics recycling, and community composting. Methane reduction benefits and method of organic waste recovery used.
 - Information on public health and environmental impacts of landfilling organic waste.
 - How to recover organic waste, and a list of approved haulers.
 - Information related to public health and safety benefits and environmental impacts associated with the disposal of organics.
 - Information regarding edible food donation programs.
 - Information on self-hauling requirements (if jurisdiction allows self-hauling).
- Provide outreach and education through print or electronic media, and by optionally conducting outreach through direct contact with generators through workshops, meetings, or on-site visits. (§18985.1.c)
- Consistent with Section 7295 of the Government Cost, translate educational materials into any non-English language spoken by a substantial number of the public provided organic waste collection services. (§18985.1.e)
- At least annually a jurisdiction shall provide commercial edible food generators with the following education and outreach (§18985.2.b):
 - Information about the edible food recovery program.
 - Information about edible food generator requirements for food recovery and record keeping (§18991.3).
 - Information about food recovery organizations and food recovery services operating within the jurisdiction, and where a list of those food recovery organizations and food recovery services can be found.
 - Information about actions that commercial edible food generators can take to prevent the creation of food waste.



4.7.3 Contract Implications

HF&H recommends the City of Dos Palos amend their Franchise Agreement with Allied to delegate the educational requirements of SB 1383 (as allowed under Section 18981.2 of SB 1383). This will allow the City to capitalize on the experience and expertise of Allied’s outreach staff and reduce additional constraints on City resources. Opting for use of Allied’s staff can also enhance consistency of educational information dispersed in neighboring communities who contract with Allied.

SB 1383 requires several minimum standards for educational information that must be distributed to various entities (e.g., residential generators and food recovery services). Considering this, HF&H recommends Allied provide a double-sided educational newsletter that contains all education requirements to every unit within the City utilizing the United States Postal Service Every Door Direct Mailer Service (USPS EDDM). USPS EDDM will make sure that all entities receive the mandatory minimum education in an efficient manner. If using the EDDM, neither the City of Dos Palos nor Allied will need to segregate their customers based on entity type or develop additional pieces of education. The EDDM will ensure that every dwelling unit within the City receives the information, whereas using a customer list will likely include shared service accounts (e.g., multi-family complexes) and complicate the process.

4.7.4 Staffing and Budgetary Considerations

HF&H estimates that the cost to print and distribute an annual mailer via the USPS EDDM to all units will cost between \$1,500 and \$2,000 per annum, which equates to a cost of approximately \$0.06 per unit per month (single-family, multi-family, and commercial). Additionally, it should be noted that there are minimal impacts to staffing required on an on-going basis, as this will mostly entail review of educational material provided by Allied prior to distribution.

4.7.5 Optional Program

A robust and targeted education and outreach campaign before implementation of a new program begins is vital to its success. While this is not required by SB 1383’s education statutes, early education provides businesses and residents with necessary information about the steps that must be taken to achieve compliance with the new state mandated programs. It is therefore recommended that the City of Dos Palos require Allied to send two newsletters using the USPS EDDM prior to implementing the new collection program. This would approximately cost between \$3,000 and \$4,000, or approximately \$0.01 per unit month when amortized over a ten (10) year franchise term.

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4.7.6 Step-by-Step Action Plan

Table 33: City of Dos Palos Education and Outreach Step-by-Step Action Plan

ID#	Action Items	Collaborators	Timeframe
1	Catalog all education and outreach requirements of SB 1383.	HF&H	Complete
2	Identify an approach to and timing for integrating each requirement into current programs.	City, Hauler, Consultant	Mar - Jun 2021
3	Confirm approach for addressing SB 1383 education and finalize timeline for revisions to and review of various education pieces.	City, Hauler, Consultant	Jun - Aug 2021
4	Revise education materials and webpages to integrate SB 1383 information.	City, Hauler, Consultant	September 2021
5	Provide pre-implementation collection program information to all generators.	Hauler	Oct - Dec 2021
6	Educate customers (single- and multi-family, and commercial) about new organics program.	Hauler	Jul – Dec 2021
7	Expand multi-family/commercial education and technical assistance to those without recyclables and/or organics collection service.	Hauler	Jan – Jul 2022
8	Annually provide organic waste generators (including self-haulers) with information on properly separating materials, preventing organics waste, methane reductions, approved haulers, and health and environmental impacts of landfill disposal other requirements under 18985.1 and 18985.2[1].	Hauler	January 2022 (annually)
9	Annually provide edible food generators with information regarding the jurisdiction’s edible food recovery program, generator requirements, food recovery organizations, and other requirements under 18985.1 and 18985.2.	Hauler	Jan 1, 2022 (annually)

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4.8 Reporting and Recordkeeping

4.8.1 Program Summary

SB 1383's three primary reporting mechanisms are the Initial Jurisdiction Compliance Report, due on April 1, 2022, an Annual Report, and an on-going Implementation Record. The Initial Jurisdiction Compliance Report will need to include copies of ordinances and other enforceable mechanisms adopted pursuant to SB 1383, the contact information for the primary City reporting contact, and information on the organic waste collection program implementation. It is therefore imperative the City of Dos Palos amend its Franchise Agreement, as well as the required ordinances immediately.

The MCRWMA currently submits the City of Dos Palos' Electronic Annual Reports (EARs) to CalRecycle on the City's, and other Member Agencies' behalf through CalRecycle's Recycling and Disposal Reporting System (RDRS). Each Member Agency uses the cloud-based software program, Recyclist, to submit AB 341 and AB 1826 data to the MCRWMA, who then aggregates it and compiles it with their disposal, composting, and transfer data for the EAR. Additionally, the MCRWMA attends annual calls with CalRecycle to assist member agencies in their data collection and reporting efforts¹⁹.

Additional budget and potentially additional staffing will be required to meet the greatly expanded SB 1383 annual reporting requirements. The City of Dos Palos will need to report data more frequently than they currently do to ensure that the Implementation Record is up to date. The staffing impacts will be determined by the continued relationship with The MCRWMA, and whether the City of Dos Palos chooses to use internal staff for reporting or outsource this requirement to a third party. The current data sharing between the MCRWMA and the City of Dos Palos reduces some of the administrative burden from reporting, which will continue to benefit the City as the augmented reporting requirements go into effect. The Budgetary and Staffing Implications, Section 4.8.4 provides additional details.

SB 1383 requires that jurisdictions maintain records demonstrating their compliance with SB 1383 in a central physical or electronic location that can readily be accessed by CalRecycle within ten (10) business days of request. Required records include, but are not limited to: ordinances, contracts, franchise agreements, a written description of the jurisdiction's inspection and enforcement program, organic waste collection service records, contamination minimization records, waiver and exemption records, education and outreach, edible food recovery program records, recovered organic waste procurement records, recycled content paper purchase records, inspection records, and enforcement records. All records and information required shall be included in the Implementation Record within sixty (60) days of the event and shall be maintained for a minimum of five (5) years. The City of Dos Palos will need to standardize Allied's reporting from "as requested by the City" to monthly to facilitate compliance with SB 1383 Implementation Record requirements. Please refer to Attachment D for a list of reporting requirements that the City of Dos Palos may wish to delegate via their franchise agreements.

4.8.2 State SB 1383 Requirements for Jurisdictions

- By April 1, 2022, jurisdiction will submit initial Compliance report with a copy of adopted ordinances, reporting items identified in §18994.2, and contact information of the jurisdiction's designated employee for compliance-related issues. (§18994.1)
- Commencing August 1, 2022, submit an Annual Report to CalRecycle containing the information required in §18994.2.b through §18994.2.k. Note that the first report is due October 1, 2022 and will be for the period of January 1, 2022 through June 30, 2022, while subsequent reports will be for the entire previous calendar year (January 1 through December 31). Some of this information must also be maintained with the jurisdiction's Implementation Record.
- Maintain records including ordinances, contracts, franchise agreements, policies, procedures, or programs and a description of hauler programs.
- Maintain an Implementation Record that is stored in a central location (either physical or electronic) that must be made available to CalRecycle within 10 business days of their request

¹⁹ Information in preceding paragraph confirmed via phone with Eric Zetz on July 14, 2020.



4.8.3 Contract Implications

The City of Dos Palos will need to amend its Franchise Agreement with Allied to include enhanced reporting requirements. There are no specific reporting requirements outlined in the current Franchise Agreement. At a minimum, there will need to be a monthly report submission frequency to facilitate timely inclusion of data in the Implementation Record. Outlining the specific requirements needed will alleviate any delays or misunderstandings in what is expected and when. Due to the large increase in the volume of records and data required by Allied to meet SB 1383 requirements, specifying reporting requirements should be included in upcoming negotiations. The City should utilize CalRecycle’s Model Franchise Agreement when incorporating reporting requirements in its Franchise Agreement with Allied.

Given the large volume of data and multiple stakeholders it is recommended that the City of Dos Palos continue to utilize a cloud-based software platform to enhance efficiency of the reporting process. Recyclist, the MCRWMA’s current service provider, is in the process of developing a software solution that encompasses SB 1383 requirements. Once SB 1383 specific software becomes available the City of Dos Palos may choose to contract with one or more entities to assist in the facilitation of reporting.

The City of Dos Palos currently utilizes the MCRWMA to help manage the reporting process, data aggregation and analytics, a process that will also need to be updated and memorialized through an agreement or MOU. The MCRWMA can continue to serve as an intermediary between the City of Dos Palos and CalRecycle, provide additional administrative support as needed, and be responsible for the upkeep of the Implementation Record minimizing the additional burden on City staff. Retention of cloud-based software will assist in efficiently submitting documents to The MCRWMA and providing data as required.

4.8.4 Budgetary and Staffing Implications

The City of Dos Palos has two fundamental staffing options for recordkeeping and reporting: (1) utilize City staff or (2) outsource reporting to a third party. If the City chooses to utilize internal City Staff, it is estimated that the City will incur a one-time staffing increase equivalent of 0.09 to 0.12 FTEs for implementation of the expanded reporting requirements. On an on-going basis, it is estimated that the City will incur an increase in staffing demand equivalent to 0.13 to 0.19 FTEs.

If the City of Dos Palos chooses to utilize a consultant to perform the required reporting, the one-time implementation cost is expected to range from \$22,700 to \$23,200 with a one-time City staffing equivalent of 0.03 FTEs. The on-going annual cost for a consultant to perform reporting is estimated to range from \$78,000 to \$97,000 with an on-going City staff requirement of 0.03 to 0.04 FTEs.

4.8.5 Step-by-Step Action Plan

Table 34: City of Dos Palos Reporting and Recordkeeping Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Review record keeping requirements of SB 1383 and develop protocol for obtaining and maintaining records.	City	Mar - Jun 2021
2	Clarify reporting obligations and align submittal dates with SB 1383 reporting deadlines.	City, Hauler	Mar - Jun 2021
3	Consider the development expansion of existing systems to handle some or all SB 1383 record keeping and reporting requirements and implement, if desired.	City	Mar - Jun 2021
4	Begin documentation and aggregation of reporting for Implementation Record.	City, Hauler	Aug - Dec 2021
5	Commence SB 1383 mandated record keeping.	City, Hauler	Dec 2021 - Jan 2022
6	Prepare initial compliance report (report due 4/1/2022).	City	Dec 2021 - Mar 2022
7	Prepare annual report (report due 8/1/2022 and annually thereafter).	City	Apr - Jul 2022



Gustine SB 1383 Action Plan





5.1 Collection and Processing

5.1.1 Program Summary

Commencing January 1, 2022, the State requires jurisdictions to provide collection service to all residential and commercial generators to divert organic waste (including food waste, green waste, food-soiled paper, and other organic materials, as defined) from landfill disposal. The City of Gustine currently offers weekly refuse and green waste collection programs for single- and multi-family residences, and businesses. Food waste can be comingled with green waste. A drop off program for mixed recyclables is available at one location.²⁰ Of the ten City facilities serviced, nine have organics collection. No City facilities currently have recycling service. To be in compliance with all SB 1383 source-separation requirements, the City of Gustine will need to expand their existing two-container collection program to include a third recyclable materials container to all generators and City facilities.

The City of Gustine disposes of all refuse at the Billy Wright Landfill operated by The MCRWMA, and utilizes Gilton Solid Waste Managements' (Gilton) processing facility to compost green and food waste. To comply with SB 1383, the City of Gustine will need to expand both their recyclables and organics recycling programs. The City of Gustine's Franchise Agreement with Gilton is set to expire on April 30, 2021, which provides the City with the option of negotiating an extension or issuing a competitive procurement. Please see the Section 5.1.5 and Section 5.4 for a further description of the City's contracting options.

The City of Gustine may also wish to provide kitchen pales for organic waste to residential and multi-family customers. This will assist customers with proper source-separation at the point of generation and provide a method for transporting food waste to the appropriate curbside container. It is estimated that the total cost for kitchen pales will range from \$18,200 to \$23,400, which equates to approximately eight cents (\$0.08) to ten cents (\$0.10) per month over a ten (10) year franchise term. The City could require the distribution of kitchen pales by the Franchise hauler which will impact service rates, but will not impact the City's budget.

5.1.2 State SB 1383 Requirements for Jurisdictions

- Provide organic waste collection and recycling services to all generators, except self-haulers using a 3-, 2-, or 1-container collection system. (§18984.1-18984.3, §18998.1)
- Jurisdictions may allow limited waivers for generators with de minimis volumes and/or physical space constraints, and if so, must conduct reverification inspections, maintain records, and submit reports. (§18984.11, §18984.14, §18995.1.a)
- Provide education annually to collection customers and self-haulers (§18985.1)
- Provide collection containers to generators that comply with color and labeling requirements when replacing containers or by January 1, 2036, whichever comes first. (§18984.7)
- Implement a hauler oversight program and report required hauler information. (§18994.2.f)
- Ensure organic waste is sent to a facility or operation deemed to constitute a reduction in landfill disposal (§18983.1)

5.1.3 State SB 1383 Requirements for Generators

- Subscribe to organics collection services provided by jurisdiction (§18984.9) or self-haul organics to facility that processes source-separated organic waste (§18984.9)
- For commercial businesses, provide organics and recyclables containers for customers and employees; require employees to source separate organic materials; periodically inspect organics containers for contamination; and, educate employees on source separation if contamination observed (§18984.9)
- For commercial businesses self-hauling, record and report self-hauling activities (§18988.3)

5.1.4 Ordinance and Policy Needs

The City of Gustine will need to amend its current Municipal Code to include provisions requiring compliance with SB 1383, including the new collection and processing programs, reporting and monitoring programs, edible food recovery, and expanded enforcement requirements, among others. Additional applicable laws such as Mandatory Commercial Recycling (AB 341) and Mandatory Organics Recycling (AB 1826) will also need to be included and considered in the code amendment.

²⁰ City website, Recycling Programs: <https://www.cityofgustine.com/pview.aspx?id=35354>



For generators that choose to self-haul or back-haul their organics, the City of Gustine will be required to expand its self-haul registration and reporting requirements, as well as provide specific education materials to those generators. The City of Gustine has contracted with HF&H consultants, LLC for development of SB 1383-compliant ordinances.

5.1.5 Contract Implications

The City of Gustine’s Franchise Agreement with Gilton was extended in 2020, and is set to expire on April 30, 2021. The City of Gustine will need to either extend its current Franchise Agreement again and include SB 1383 provisions, or conduct a competitive procurement process for an entirely new Franchise Agreement that aligns with the regulations. In both scenarios, the new Agreement would be written to include all of the new and relevant provisions needed to support the City’s programs and SB 1383 compliance needs. Examples of provisions that are critical to include in the new agreement include, expansion of organic materials and recyclables collection services, new and enhanced inspections and contamination monitoring, and identification of available or potential processing capacity and/or transfer options. Additional requirements to prioritize include specifications of container systems, facility evaluations, record keeping and reporting, education and outreach, and other program support of some or all organic material. The details needed in the updated franchise agreement can be found in Section 5.4.

Due to the fact that SB 1383 goes in effect on January 1, 2022, it is imperative that negotiations for an amended or restate Franchise Agreement move forward as scheduled. Delays in negotiations will only push out the actual implementation of these requirements programs and services. In the event the City of Gustine needs to move forward with a competitive request for proposals, SB 1383 allows for a Corrective Action Plan to be issued, which offers an extension to the compliance deadline of up to twenty-four (24) months if CalRecycle determines additional time is necessary to comply and that the City of Gustine has made substantial efforts to comply. Further information on the Corrective Action Plan can be found in the C.

5.1.6 Education and Outreach Needs

An additional component of this program will be education of all generators, including, but not limited to, information on the SB 1383 regulations and the benefits of organics recycling. This will alleviate some of the negative feedback that may arise with establishment of mandatory requirements and increased collection costs for generators that currently do not have recycling and/or organics collection. Please see Section 5.7 for further information on education and outreach requirements.

5.1.7 Infrastructure Needs

Infrastructure needs for the City of Gustine will be largely dependent on whether the City chooses to negotiate with Gilton or issue a competitive procurement. Gilton currently has the capability to process comingled yard waste and food waste which would position Gustine well for an SB 1383-compliant three-container collection system. However, if the City chooses to issue a competitive procurement, it is recommended that they require the successful proposer to guarantee capacity for all applicable waste streams.

5.1.8 Staffing and Budgetary Considerations

The City of Gustine will have increased staffing needs and costs associated with implementing new programs, such as the City staff, City Attorney, and consultant time to draft the mandatory enforcement ordinances and Franchise Amendment, or staff time for conducting a competitive procurement.

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5.1.9 Step-by-Step Action Plan

Table 35: City of Gustine Collection and Processing Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Enter into sole-source negotiation process or competitive procurement (further detail under Contracting Section of this Action Plan)	City & Hauler	See Contracts Section
2	Plan organics collection program including education and distribution of carts (and kitchen pails or compostable bags if applicable)	City & Hauler	See Contracts Section
3	Establish protocols for approving and documenting commercial de minimis and space constraint waivers, if providing, which may involve collaboration with Gilton	City and/or Hauler	Jul - Jan 2021
4	Pre-implementation education of generators about new organic waste program and mandatory service requirement	City and/or Hauler	3-6 months prior to program implementation
5	Implement expanded organics collection program (no later than January 1, 2022. Under CAP deadline may extend to January 1, 2024)	Hauler	Dependent on negotiation or RFP
6	Implement a hauler oversight program and report required hauler information	City	Dependent on negotiation or RFP
7	Adopt new rates	City	Dependent on negotiation or RFP

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5.2 Monitoring and Enforcement

5.2.1 Program Summary

Commencing no later than January 1, 2022, State regulations require that jurisdictions enforce SB 1383 requirements through adoption of ordinances and/or other enforceable policies and procedures; and through development of an inspection and enforcement program. To meet these requirements, The City of Gustine’s enforcement obligations will include verification of SB 1383 compliance by generators, self-haulers (including back-haulers), franchise and construction and demolition debris haulers, food recovery organizations and services, and other entities. The City will need to amend its existing ordinances, policies, and procedures to establish a comprehensive enforcement program (ordinance development is currently pending). The program will include provisions for notices of violations (NOVs) and fines or penalties for non-compliant regulated entities, which shall be actively enforced commencing no later than January 1, 2024.

A key focus of the enforcement program is ensuring that each residential and commercial generator subscribes to recyclables and organics collection services or complies with self-hauling requirements, with the exception of entities that have been granted waivers (e.g. de minimis or physical space waivers for commercial entities and multi-family dwellings). Currently, most customers have access to organics collection services through the City of Gustine’s franchise hauler, Gilton. Since there is only one recycling drop off center for the City, the majority of the City’s early enforcement efforts will be focused on ensuring single-family, multi-family, and commercial customers are either subscribed to recyclables services, or have met self-hauling requirements.

Generally, SB 1383 requires a desktop review of all commercial garbage accounts generating two (2) cubic yards of solid waste or more and all multi-family garbage accounts with five (5) or more dwelling units, additional inspection for certain regulated entities, compliance route reviews, and monitoring for container contaminants for all generators. Additionally, SB 1383 requires distribution of education and issuance of Notices of Violations (NOVs) and/or fines to non-compliant entities (see below for further details on requirements). By imposing mandatory service of all three (3) waste streams and providing the appropriate containers to all generators, the City will minimize the effort required to complete desktop compliance reviews. Similarly, a robust education program will raise awareness of the requirements and help minimize the amount of violations and instances of continued container contamination. It is also recommended that the City delegate the contamination monitoring to their franchise hauler, through annual route reviews to minimize impacts on the City’s budget and staffing. Despite delegation of the initial route monitoring for prohibited container contaminants, the City will be required to issue NOVs and fines beginning January 1, 2024.

5.2.2 State SB 1383 Requirements for Jurisdictions

- Conduct contamination monitoring either through route reviews for prohibited container contaminants such that all routes are inspected annually or through twice yearly waste evaluation studies of all container types; and, notify generators if contamination is found. (§18984.5)
- Implement an inspection and compliance program including: conducting compliance reviews of all commercial garbage accounts producing two (2) cubic yards of solid waste or more and multi-family garbage accounts with five (5) or more dwelling units; inspecting Tier one Commercial Edible Food Generators, and food recovery organizations, and food recovery services; and, conducting generator compliance reviews through route reviews or waste evaluations. (§18995.1)
- Conduct inspections at least once every five (5) years to verify de minimis and physical space waiver conditions, if applicable. (§18995.1)
- Starting January 1, 2022 through December 31, 2023, provide non-compliant generators with educational material. (§18995.1)
- Beginning January 1, 2024, take enforcement action, including issuing NOVs and imposing penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities (with the exception of violations of container contamination provisions, for which a penalty is optional). (§18995.4; §18997.2)
- Conduct a sufficient number of route reviews, inspections, and compliance reviews to determine compliance, and generate an electronic or written record for each inspection or review. (§18995.1)
- Provide a procedure for the receipt and investigation of complaints, including the method for notifying the complainant of the result of the complaint; investigate complaints received; and, maintain a record of all complaints and responses. (§18995.3)



- Pay penalties assessed by CalRecycle for the jurisdiction’s failure to comply, which includes many possible violations, ranging from minor, moderate, or major, and with associated penalties ranging from \$500 per violation to \$10,000 per violation per day. (§18997.3)

5.2.3 Ordinance and Policy Needs

The City will need to amend relevant sections of the Municipal Code to integrate the enforcement process and penalties specified in SB 1383 for non-compliant generators, food recovery organizations, haulers, and other entities. The City has contracted HF&H consultants to assist with the development of the required ordinances. The City will also need to develop protocols and policies for customer compliance reviews; route reviews; receipt and investigation of complaints; and documentation of its monitoring and enforcement efforts, with the support of the City’s Franchisee, where appropriate. The City should also amend its Environmentally Preferable Purchasing and Practices Policy, and Municipal Code as needed, to meet the baseline requirements for recovered organic waste product procurement, as further described in the Product Procurement Action Plan.

The City will need to update their building permits procedures to better enforce CALGreen requirements for construction and demolition projects. These procedural updates will need to ensure that organic waste is source-separated from construction and demolition debris, and that weight tickets for all applicable projects are submitted to the City for reporting purposes.

5.2.4 Contract Implications

The City of Gustine may decide to include provisions requiring its hauler to perform the contamination monitoring route reviews. If so, the City of Gustine should include adequate record keeping and reporting provisions associated with the contamination route reviews for the City to obtain the information needed to meet its State reporting requirements and monitor program progress. Delegating portions of the monitoring and enforcement programs will minimize the impacts on the City’s budget and staffing requirements. The City can also delegate notifications of violations in the agreement, or alternatively, consider hiring a third-party contractor to notify generators when they are out of compliance.

The City may consider the potential benefits of conducting these services or operations internally. Contamination monitoring services conducted by a designee may be interpreted as punitive by residents and businesses, particularly if there are contamination fees imposed. However, the additional budget and staffing required for this level of monitoring would be better suited for the resources available to Gilton, or another competitively procured hauler. If the hauler is chosen to conduct the stricter monitoring and enforcement measures, the City of Gustine should reaffirm the franchise hauler’s authority to residents and businesses in order to temper possible pushback.

5.2.5 Infrastructure Needs

To comply with SB 1383 Implementation Record requirements, the City will need to develop a strategy for documenting monitoring and enforcement efforts that will not be delegated to the franchise hauler. This documentation may include:

- Edible food recovery program requirements as outlined in the Edible Food Recovery Action Plan
- A procedure for the receipt and investigation of complaints, and copies of complaints
- A procedure for issuing waivers, and copies of waivers
- Compliance with procurement policies as outlined in the Product Procurement Action Plan
- Copies of NOV and imposed penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities

5.2.6 Education and Outreach

The City will work with its franchise hauler to integrate SB 1383-specific information into the educational materials it’s contractually obligated to provide under the revised franchise agreement, as well as the new education and outreach materials recommended in Section 5.7 Education and Outreach. The City, with Gilton as its potential designee, will be required to educate noncompliant customers no later than January 1, 2022 and at least until December 31, 2023. After this timeframe, the City will initiate an NOV process and take enforcement actions.



5.2.7 Budgetary and Staffing Implications

The City of Gustine has two primary options for staffing the contamination monitoring program required by SB 1383; the City may choose to staff the programs with Public Works Staff or may delegate the responsibility to Gilton. Costs and Staffing impacts are presented below in Table 36. If the City chooses to conduct route reviews internally, it is estimated that it will require a one-time staffing equivalent of 0.04 full time employees (FTEs) for Public Works to implement the program and a one-time cost of approximately \$10,400. On an on-going basis it is projected that the City will require approximately .07 FTEs to perform contamination monitoring at an annual cost of approximately \$13,800. If route monitoring is performed by Gilton, there will be no staffing or budget impacts to the City. It is recommended that the City leverage its Franchise hauler to perform contamination monitoring and alleviate the burden on the City’s Staff and budget.

Table 36: City of Gustine Contamination Monitoring Budgetary and Staffing Implications

Program Option	One-Time Costs	On-going Costs	One-Time FTE	On-Going FTE
Route Monitoring by Public Works Staff	\$10,400	\$13,800	.04	.07
Route Monitoring by Hauler	\$7,500	\$10,100	.03	.01

In addition to contamination monitoring, Gustine will be required to perform a desktop review of all commercial garbage accounts generating two (2) cubic yards of solid waste or more and all multi-family garbage accounts with (5) or more units, investigate complaints, and beginning January 1, 2024 issue NOVs and fines. It is estimated that the one-time costs associated with implementing these programs will range from \$1,600 to \$2,200 with a one-time staffing equivalent of 0.02 FTEs. On an on-going basis it is estimated that there will be minimal cost and staffing demand associated with compliance reviews. By implementing mandatory service of all waste streams, the City will minimize the number of non-compliant entities, and desktop compliance reviews will be limited to a few hours of labor per year.

5.2.8 Program Metrics and Reporting

The City will track the percentage of compliant generators with collection service, self-hauling registration, or generator waivers and track the monthly or quarterly number of compliance reviews, route reviews, NOVs issued, penalties assessed, repeat NOVs and penalties, follow-up inspections completed, educational material provided to noncompliant customers, and other metrics. Much of this information may be obtained through reports submitted by the franchise hauler for relevant requirements; and as such, strong reporting provisions in the franchise agreement will be critical.

5.2.9 Other Considerations

The City must develop its inspection and enforcement program by January 1, 2022. The City will need to provide sufficient code enforcement or other staffing to develop and implement the plan, as well as manage and perform on-going enforcement activities. The City may also consider engaging a contractor to assist with monitoring efforts, as needed. There are also many opportunities for collaboration that the City might consider, such as collaboration with the County (e.g., County Environmental Health Department conducting compliance reviews for commercial edible food generators during their regularly scheduled health code inspections to streamline inspections).

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5.2.10 Step-by-Step Action Plan

Table 37: City of Gustine Monitoring and Enforcement Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Design SB 1383-compliant monitoring and enforcement program.	City	Mar-Jun 2021
2	Draft amendment to Ordinance(s) to conform with SB 1383 enforcement requirements	City	Jul - Dec 2021
3	Appoint staff person to manage enforcement program	City	July 2021
4	Plan inspection and enforcement program through route reviews or biannual waste studies.	City & Hauler	Jul - Sep 2021
5	Develop protocols for customer compliance reviews; route review; receipt and investigation of complaints; documentation of enforcement efforts. ***	Hauler	Jul - Sep 2021
6	Hire part-time enforcement staff or contractor (if necessary)	City and/or Hauler	Sep – Dec 2021
7	Conduct <u>compliance reviews</u> of businesses that generate 2CY+ of solid waste/week and produce organic waste and educate non-compliant entities.	Hauler	Jan – Mar 2022 (annually)
8	Conduct <u>route reviews</u> of commercial businesses and resident areas including inspection of contamination, and educate non-compliant entities	Hauler	Jan – Dec 2022
9	Inspect Tier One Commercial Edible Food Generators and food recovery organizations, and educate non-compliant entities through the technical assistance program	City	Apr – Jun 2022
10	Investigate and maintain record of complaints, on an as needed basis, through inspections, route reviews, or compliance reviews	City & Hauler	(on-going)

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5.3 Product Procurement

5.3.1 Program Summary

SB 1383 requires that jurisdictions procure specific amounts of product(s) derived from organic waste recovered in California on a per capita basis. These products may include mulch, compost, renewable natural gas (RNG) used for transportation, electricity or heating applications, electricity produced from biomass conversion, or a combination of these products. The minimum procurement target is calculated by multiplying the jurisdiction’s population (approximately 5,884 residents²¹ for the City of Gustine) by a per capita procurement target of 0.08 tons per resident, which results in a recovered organic waste procurement target of 471 tons for the City of Gustine. Each of the recovered organics waste products have varying impacts on greenhouse gas emissions reductions, and are therefore assigned different conversion factors. See Table 38 below for a list of conversion factors. On a longer-term basis, the City of Gustine is required to identify additional procurement opportunities within their departments and divisions in order to expand usage of recovered organic waste products, which may be addressed in the City of Gustine’s Environmentally Preferable Purchasing and Practices Policy (EPPP).

Table 38: City of Gustine Product Procurement Target

Commodity	Conversion Factor	Procurement Requirement
RNG	21 Diesel Gallon Equivalents (DGE)	9,885 DGE
Compost	1.45 yards of compost/ton	683 cubic yards
Mulch	1 ton of mulch	471 tons
Electricity	650 kWh	305,968 kWh

It is recommended that the City of Gustine exercise their right to delegate this procurement requirement to their franchise hauler or another private entity, as allowed under Section 18981.2 of SB 1383. This delegation may include The MCRWMA or the franchise hauler distributing compost derived from organic waste collected in the City of Gustine to local farms. Currently organic waste is transported to Gilton Resource Recovery for composting, but flow control is currently obligated to The MCRWMA. This contractual and operational discrepancy will need to be resolved between all parties prior to delegating the procurement requirement. Alternatively, the City of Gustine could achieve compliance through their franchise hauler by procuring renewable natural gas (RNG) on behalf of the City of Gustine for use in their collection vehicles.

In addition to the above requirements, the City of Gustine is required to procure paper products and printing and writing paper derived from recycled content in accordance with Sections 22150-22154 of the Public Contracts Code. These PCC mandates require local governments to give preference to suppliers of recycled products (should quality be equal to and cost be less than or equal to non-recycled items) and require businesses to certify minimum percentage of post-consumer material in their offered products, among other requirements²². SB 1383 will also require businesses to certify that the paper products offered or sold can be labeled with an unqualified recyclable label. Records of purchases shall be maintained in the City of Gustine’s Implementation Record (see the Section 5.3.6 for further information).

These changes may necessitate an amendment of the City of Gustine’s current EPPP, including clarification on whom has the responsibility to give final approval to purchases. For further information on the required changes, please reference Section 5.3.3, Ordinance and Policy needs.

²¹ State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2020. Sacramento, California, May 2020.

²² California Public Contract Code, § 22150-22154, *California Legislative Information*. 2005.
https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PCC&division=2.&title=&part=3.&chapter=3.5.&article=



5.3.2 State SB 1383 Requirements for Jurisdictions

- Commencing January 1, 2022, a jurisdiction shall annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by article 12. (§18993.1.a)
- Beginning on or before January 1, 2022 and every 5 years thereafter a jurisdiction must calculate the annual recovered organic waste product procurement target based upon multiplying the per capita procurement target by the jurisdiction population where (§18993.1.b):
 - Per capita procurement target = 0.08 tons of organic waste per California resident per year. (§18993.1.b.1)
 - Jurisdiction population equals the number of residents in a jurisdiction, using the most recent annual data reported by the California Department of Finance. (§18993.1.b.2)
- A jurisdiction shall comply with the product procurement target by directly procuring recovered organic waste products for use or giveaway and/or requiring, through a written contract or agreement, that a direct service provider to the jurisdiction procure recovered organic waste products and provide written documentation of such procurement to the jurisdiction. (§18993.1.e.1 and §18993.1.e.2)
- For the purposes article 12, the recovered organic waste products that a jurisdiction may procure to comply with article 12 are (§18993.1.f):
 - Compost from a compostable material handling operation, facility, or a large volume in-vessel digestion facility.
 - Renewable gas used for fuel, electricity, or heating applications.
 - Electricity from biomass conversion.
 - Mulch, provided that the jurisdiction is in compliance with land application requirements specified in 4 Section 17852(a)(24.5)(A) and the mulch is produced at a compostable material handling operation, a transfer/processing facility, or a solid waste landfill.
- The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products (§18993.1.g). One ton of organic waste in a recovered organic waste procurement target shall constitute:
 - 21 diesel gallon equivalents, or “DGE,” of renewable gas in the form of transportation fuel.
 - 242 kilowatt-hours of electricity derived from renewable gas.
 - 22 therms for heating derived from renewable gas.
 - 650 kilowatt-hours of electricity derived from biomass conversion.
 - 0.58 tons of compost or 1.45 cubic yards of compost.
 - One ton of mulch.
- Renewable gas procured from a POTW may only count toward a jurisdiction’s recovered organic waste product procurement target provided the conditions outlined in article 12 are met for the applicable procurement compliance year. (§18993.1.h)
- Electricity procured from a biomass conversion facility may only count toward a jurisdiction’s recovered organic waste product procurement target if the biomass conversion facility receives feedstock directly from a compostable material handling operation, a transfer/processing facility, or a solid waste landfill. (§18993.1.i)
- Procure paper products, and printing and writing paper consistent with the requirements of Section 22150-22154 of the Public Contracts Code. These paper products shall be eligible to be labeled with an unqualified recyclable label as defined in 16 C.F.R. 260.12. Jurisdiction shall require all businesses that it purchases paper products and printing/writing paper to certify minimum percentage of postconsumer material in the paper products. (§18993.3)

5.3.3 Ordinance and Policy Needs

To address SB 1383 compliance gaps, it is recommended the City of Gustine amend their EPPP and update their Municipal Code to include the requirements of SB 1383. The current EPPP partially overlaps with SB 1383 requirements, but adjustments will still be necessary for full compliance. The City of Gustine can amend this current policy by including a section for recovered organic waste products and recycled paper purchases. Specifically, the City of Gustine will need to amend Section 3 “General Policies” and add in several provisions that clarify how recovered products will be procured, support interdepartmental purchasing of these products, and ratify its commitment to reaching the annual procurement target. The City of Gustine should also amend Section 4 and 5 to clarify the City Manager or his/her designee as well as City Department responsibilities with these newfound requirements. The updated EPPP will additionally need to include a protocol for purchases and post-



procurement tracking. The City of Gustine, for example, could purchase recycled paper content from a vendor’s purchasing portal, which would offer built-in tracking and thus make verification of compliance more convenient (e.g., Staples Exchange platform). Many resources are also available on CalRecycle including a database of recycled-content product manufacturers²³.

5.3.4 Contract Implications

The City of Gustine will need to update their Franchise Agreement with the franchise hauler and/or the City’s agreement with the MCRWMA to include SB 1383’s recovered organic waste product procurement requirements, dependent upon which party the City of Gustine chooses to delegate responsibility. If the City of Gustine decides to designate the franchise hauler to satisfy the recovered organic waste product procurement requirements, a provision in the Franchise Agreement should be added that requires them to procure a pre-identified amount of RNG for use in their collection vehicles. Alternatively, the City of Gustine could include a provision in their agreement(s) with the hauler and/or The MCRWMA requiring them to procure and distribute compost on the City of Gustine’s behalf.

5.3.5 Budgetary Planning

The primary cost and staffing demand for the City of Gustine will be incurred tracking the purchase of recovered content paper products, and printing and writing paper. The City did not provide data on current procurement and therefore cost increases could not be reasonably projected. However, it is estimated that the staffing and cost implications will be minimal.

It is anticipated that the procurement of recovered organic waste products will have little to no impact on the City’s Staff or budget as it will likely be delegated to the City’s franchise hauler or the MCRWMA.

5.3.6 Metrics and Reporting

The City of Gustine will have several reporting and recordkeeping requirements pertaining exclusively to recovered organic waste product procurement. The City of Gustine will need to calculate the per capita procurement target every five (5) years and maintain records on an on-going basis for inclusion in the implementation record that tracks procurement statistics of recovered organic waste products and post-consumer recycled paper. These records will support the City of Gustine’s compliance, and will include proof of purchase, certifications, procurement source information, and background information of relevant suppliers. Please refer to Section 5.8 for further information surrounding reporting and recordkeeping.

5.3.7 Step-by-Step Action Plan

Table 39: City of Gustine Product Procurement Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Review SB 1383 procurement target and requirements for compost, natural gas, mulch, paper and others and identify needed modifications to policies	City	Mar – Jun 2021
2	Develop Environmentally Preferable Purchasing Policy	City	Mar – Jun 2021
3	Execute purchasing policy changes including provision of amended language for contracts and selection of new paper suppliers	City & Hauler	Jul - Dec 2021
4	Submit final procurement policy and related procedures and agreements to the MCRWMA for inclusion in the Authority’s Implementation Record	City	Jan - Feb 2022
5	Submit procurement records to the MCRWMA for inclusion in the MCRWMA’s Implementation Record	City	On-going

²³ CalRecycle, *Buy Recycled*. September 17, 2019. <https://www.calrecycle.ca.gov/Buyrecycled/Resources/>



5.4 Contracts

5.4.1 Current Contract Summary:

SB 1383 requirements take effect January 1, 2022, with the potential to extend the compliance deadline up to two (2) years if the City shows substantial effort, and up to three (3) years for infrastructure limitations. The City's Franchise Agreement with Gilton is scheduled to conclude on April 30, 2021, providing the City with optionality. The City will need to make a decision whether to renegotiate its current Franchise Agreement with Gilton or issue a competitive procurement process for a new Franchise Agreement (regardless of decision, the City will need to extend Gilton's current Franchise Agreement to allow time to conduct the negotiation or procurement process). Should the City choose to conduct a procurement/RFP process, they will likely be subject to the Corrective Action Plan (CAP) Process described in Section 5.4.5 and Attachment C.

SB 1383 mandates will affect a broad range of provisions within an Amendment or new Franchise Agreement; this Section 5.4 is intended to assist the City of Gustine with expected changes to the Agreement(s) as well as the recommended timing for each procedural step towards SB 1383 compliance.

5.4.2 General Timeline Overview:

The City of Gustine recently extended their contract with Gilton until April 30, 2021. The City of Gustine will need to restructure a number of existing provisions and add new language to their current agreement to fulfill the regulations mandates. Therefore, it is recommended that the City develop a restated Franchise Agreement in partnership with Gilton or that the City conduct a competitive procurement. Assuming either process will take several months up to two (2) years, it is important the City begin immediately to limit extensive delays in establishing SB 1383 compliant programs. HF&H expects the City of Gustine will be able to ratify a new Franchise Agreement by mid-2022 if they take immediate action, placing them well within the compliance timeline allowed under the CAP.

5.4.3 Expected Contract Impact and Changes:

The City of Gustine will need to draft language to accommodate for the collection of both organic waste (inclusive of food waste) and recyclable materials. HF&H's cost-benefit model for the City of Gustine identifies that adding food waste collection into the green waste cart is the most economical option, and thus language will be needed in the amended or restated Franchise Agreement detailing the three-container collection program standards (solid waste, recyclable materials, organics). Once collection related items have been addressed, the City should include language that describes the processing expectations for each waste type. Though some of this will overlap with The MCRWMA and flow control obligations, it will still be helpful to clearly spell out these expectations.

There are a number of additional SB 1383 requirements that the hauler can be tasked with completing through the Franchise Agreement. Contamination monitoring, for instance, can be managed by the hauler as part of their existing operations. A provision should be included that details how they will complete contamination monitoring (e.g., route reviews or waste evaluation studies). Associated record keeping and reporting obligations should be included so that the City of Gustine can adequately monitor program progress and adhere to State reporting requirements. Tracking of generator complaints, violations, and related notices given to residents and businesses should be specified in the contamination monitoring section. However, this will not be necessary should the City of Gustine decide to perform these functions internally instead of delegating it to the hauler.

Delegating reporting obligations to the franchise hauler can further minimize staffing impacts. Increasing the reporting frequency to monthly and requiring a higher level of detail in each report will aid the City of Gustine's ability to maintain the data required by the implementation record and ensure that the hauler continuously provides a compliant program. Should the City of Gustine want to continue utilizing the cloud-based software currently licensed by The MCRWMA to streamline record retention and organization, such a provision should be included requiring the hauler to use this system for data submittal.

It is recommended to delegate education requirements to the City's franchise hauler. This will allow the City of Gustine to leverage the hauler's customer interactions while minimizing use of City resources. City staff can then devote time to overseeing the hauler's education program without having to design, print, or distribute materials internally. These responsibilities could also be divided between the City of Gustine and the hauler (e.g. the City creates the materials and the hauler prints and delivers the materials) if the City wants more control over the messaging sent out to its community.



Additionally, the City of Gustine can leverage the hauler to satisfy SB 1383 procurement requirements. This will depend on whether the City of Gustine tasks its hauler to procure RNG, in which case a provision would be inserted requiring the hauler to purchase annually a pre-identified amount of RNG for use in their collection vehicles. A similar provision could be included that requires the hauler or the MCRWMA to distribute compost on the City of Gustine’s behalf. Either option (or both) may be chosen as a means of lessening the burden on the City to find outlets for the necessary procurement obligations.

5.4.4 State SB 1383 Requirements for Jurisdictions

- A jurisdiction may designate a public or private entity to fulfill its responsibilities 31 under this chapter. A designation shall be made through any one or more of the following (§18981.2.b):
 - Contracts with haulers or other private entities: or,
 - Agreements such as MOUs with other jurisdictions, entities, regional agencies as defined in Public Resources Code Section 40181, or other government entities, including environmental health departments
- Notwithstanding Subdivision (b) of this section, a jurisdiction shall remain ultimately responsible for compliance with the requirements of this chapter (§18981.2.c)
- If a jurisdiction designates another entity as allowed in Subdivision (b) of this section, the jurisdiction shall include copies of all agreements and contracts in the Implementation Record required by Section 18995.2. (§18981.2.e)
- “Designee” means an entity that a jurisdiction contracts with or otherwise arranges to carry out any responsibilities of this chapter, as authorized in Section 18981. 2 of this chapter. A designee may be a government entity, a hauler, a private entity, or a combination of those entities. (§18982)

5.4.5 Corrective Action Plans

If CalRecycle determines a jurisdiction is violating one or more requirements and decides to take enforcement action, agencies will have 90 days to correct the violation. This can be expanded an additional 90 days (for a total of 180 days) if the department feels additional time is needed. For violations outside of the jurisdictions control, and when substantial effort is made towards compliance, CalRecycle may place the agency on a Corrective Action Plan allowing up to 24 months (from the date the first NOV was issued) to come into compliance.

In the likely event that the City of Gustine RFP process surpasses the January 1, 2022 SB 1383 implementation deadline, the City may be put on a Corrective Action Plan which would provide ample time to complete the RFP process. However, it is still the City of Gustine’s responsibility to complete or make substantial effort towards the other SB 1383 jurisdiction requirements (e.g. ordinances, edible food recovery, education and outreach requirements etc.) in order to be potentially eligible for a Corrective Action Plan. Please see Attachment C for further details on the CAP process.

5.4.6 Step-by-Step Action Plan

Table 40: City of Gustine Contracts Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe ⁽¹⁾
1	Negotiate Franchise Agreement Amendment or Restated Franchise Agreement	City & Hauler	Mar - Jul 2021
2	Draft Addendum or Franchise Agreement	City & Hauler	Aug – Sep 2021
3	Present recommendation to City Council	City	October 2021
4	Pre-implementation education	City & Hauler	Nov – Dec 2021
5	Implement new collection services under new Franchise Agreement	Hauler	Beginning January 1, 2022

(1) Schedule subject to change should the City choose a competitive procurement process.



5.5 Ordinances and Policies

5.5.1 Program Summary

Under SB 1383, jurisdictions will be required to pass several ordinances and policies to align with State mandated objectives. The City of Gustine has several ordinances and enforceable mechanisms that will need to be reviewed in detail and, in some cases, significantly modified for SB 1383 compliance including the Solid Waste Ordinance, Water Conservation Ordinance, building code, enforcement procedures, and procurement policies. Additionally, ordinance language for self-haulers, edible food generators, food recovery organizations, and haulers, as well as procedures for inspections and investigations will need to be included in the code amendments. These ordinances and policies will need to be implemented and enforceable by January 1, 2022. **The City of Gustine has contract HF&H Consultants, LLC. to draft a restated solid waste code.** This Section 5.5 contains a synopsis of the pending changes.

Significant revisions will need to be made to Title 11, Chapter 3, Solid Waste, of the City Code. The Solid Waste Chapter does not currently include mandatory organics service, organics generator requirements for single- and multi-family customers, commercial customers, and self-haulers, as well as requirements for edible food generators, food recovery organizations and programs. Mandatory refuse, recyclables, and organics collection services and participation will be pivotal in maintaining the City's compliance with SB 1383; however, there are no such provisions in the current code.

Currently, the health and police departments are designated as enforcement officers to ensure compliance with the Solid Waste Chapter and that premises are kept in sanitary conditions. The City of Gustine will need to reinforce its monitoring, inspections, and enforcement procedures to ensure compliance with SB 1383.

SB 1383 requires updates for CALGreen, Model Water Efficient Landscape Ordinance (MWELo) and procurement programs. The City of Gustine has implemented a Water Efficient Landscape ordinance (Title 6, Chapter 2) and has enacted an ordinance codifying the 2016 CALGreen Building Standards Code (Title 4, Article 2), the latter of which will require updates to conform to 2020 State adopted standards.

With respect to procurement policy, the City of Gustine has developed an Architecture and Engineering projects focused policy, as well as an Environmentally Preferable Purchasing and Practices (EPP) Policy. The EPP Policy recommends but does not mandate City departments to purchase recycled products, "whenever practicable".

The significant changes and additions needed for Title 11, Chapter 3 to meet SB 1383 requirements will be best met with an almost complete re-write of the ordinance. SB 1383 ordinances will need to pass through two City Council readings within a relatively short timeline to avoid prolonged delay and to be able to meet the enforcement date of January 1, 2022.

5.5.2 State SB 1383 Requirements for Jurisdictions

- By January 1, 2022, a jurisdiction shall adopt enforceable ordinances (or similarly enforceable mechanisms), requiring compliance by generators, haulers, and other entities regulated under the SB 1383 regulations. (§18981.2.a)
- Adopt an ordinance that requires organic waste generators to subscribe to organics collection programs, annually provide information about organics requirements, provide new information to tenants within 14 days of occupation of the premises, and arrange for access to their properties for inspections. (§18984.10)
- Adopt an ordinance that requires commercial organic waste generators to provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are provided for customers, except for restrooms. These containers must comply with SB 1383 regulations. (§18984.9.b, §18984.9.d, and §18984.9.e)
- Adopt an ordinance that prohibits organic waste generator employees from placing organic waste in a container not designated to receive organic waste as set forth in sections 18984.1(a)(5) and 18984.2(a)(5). Jurisdiction shall inspect containers for contamination.
- If jurisdiction allows self-hauling, jurisdiction shall adopt an ordinance that requires self-haulers to comply with SB 1383 requirements per sections 18988.1.b and 18988.3.
- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring Tier One Commercial Edible Food Generators to comply with the following by January 1, 2022, and Tier Two Commercial Edible Food Generators to comply with the following by January 1, 2024 (§18991.3):



- Arrange to recover the maximum amount of edible food for human consumption that would otherwise be disposed by contracting with a food recovery organization or service, or by self-hauling edible food to a food recovery organization.
- Prohibit a commercial edible food generator from recovering no edible food unless there is insufficient recovery capacity or an act of God.
- Prohibit a commercial edible food generator from intentionally spoiling edible food that could be recovered for human consumption.
- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring edible food recovery services and organizations that collect or receive edible food directly from commercial edible food generators to maintain records of the contact information for each commercial edible food generator that collects and receives food from, the quantity in pounds of edible food collected or received and transported per month, and lastly the contact information for each food recovery service. (§18991.5)
- Adopt an ordinance to regulate haulers collecting organic waste. A jurisdiction’s ordinance/mechanism shall require hauler compliance with SB 1383 regulations, including: compliance with collection program requirements and identification of facilities where they will transport organic waste. (§18988.1.a, §18988.1.c, and §18988.2)
- Adopt enforceable ordinance(s), or similarly enforceable mechanisms requiring compliance with Sections 492.6(a)(3)(B)(C), (D), and (G) of the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. (§18989.2)

5.5.3 Ordinance and Policy Needs

The City of Gustine will need to make significant changes and additions to the City Code in order to meet SB 1383 requirements. While the ordinance requirements are stringent, there are also a number of specific policy decisions that will need to be made by the City of Gustine, and optional program decisions that could aid the City of Gustine in reporting, recordkeeping and enforcement.

Collection

Some of the broader amendments will be to make refuse, residential recycling, and organics waste collection, and commercial recycling and organics collections mandatory. Organics generators including single-family, multi-family, and commercial businesses will need to be mandated to subscribe to, and participate in, collection services that cover these three waste streams.

The City of Gustine will need to identify acceptable waivers generators can apply for such as de minimis, physical space and/or collection frequency waivers. Procedures for applying and recertification of waivers will need to be outlined in the amended code. If allowed, the City Code will need to outline specific source-separation requirements self-haulers will need to adhere by to waive the requirements for participating in the City mandated collection programs. Jurisdictions have the option to require self-haulers to register as such, and/or report tonnage and drop off locations to facilitate reporting.

Edible Food Recovery

A new section of code for regulating food recovery programs will need to be approved. Commercial edible food generators and food recovery organizations have reporting and recordkeeping requirements they must adhere to under SB 1383. The City of Gustine has the option to mandate reporting by edible food generators to the City as a means of tracking the movement and capacity of recovered food. It is highly recommended that such optional provisions under SB 1383 be included in this new section of City code to facilitate the City’s reporting requirements to CalRecycle.

CALGreen and MWELO

The City of Gustine’s municipal code will need to include the most recent standards for CALGreen and MWELO²⁴. Specifically, CALGreen standards requiring separation of construction and demolition debris and organic material, and adequate construction of enclosures for all necessary collection containers. While these amendments can refer to the State Code and do not require local code enforcement, the City of Gustine will likely need to increase staff and monitoring of C&D projects

²⁴ See Attachment A, Glossary for more information on CALGreen and MWELO requirements



to ensure compliance. Both CALGreen and MWELo chapters within the existing code may need minor modifications to ensure that applicable sections are more enforceable locally. Additionally, amending these two State level codes to “auto-update” as new standards are released will ease updating City code in the future.

Enforcement

The municipal code will need to be updated to allow for the inspections and investigations to check for contamination and generator compliance. Some of these tasks may be delegated to the hauler and outlined in the Franchise Agreement. However, the municipal code will need to authorize regulatory entities to conduct inspections to confirm compliance, maintain records of inspections, and track complaints of potential non-compliance.

The City of Gustine’s current enforcement policies and procedures will need to be revised or enhanced as they apply to the Solid Waste Chapter. To do so, the code will need to specify how enforcement responsibility will be delegated among the City of Gustine’s applicable departments, or, in the case of contamination monitoring, the hauler or another third-party. These changes can be done by either (1) updating or writing a new section of code in the Garbage and Refuse Collection chapter, (2) linking the chapter to the current enforcement related chapters of the City Code, and/or (3) by amending the City’s general enforcement procedures to meet the baseline requirements of SB 1383 (if needed). A clearer procedure for enforcing the amended Solid Waste Chapter including notices of violation, fees, and a more structured system for weight ticket submittal for self-haulers, will help provide City Staff with the tools needed to ensure generator compliance.

EPP and Procurement

The current EPP Policy should be updated either through expansion of the existing procurement policy, or development of organics specific policies. The City of Gustine will need to assess procurement policy gaps for specified organic materials such as mulch, paper, and compost. The policy will need to mandate and standardize purchasing of organic products throughout the City. More details on product procurement can be found in Section 5.3.

It will be important that the City of Gustine’s Municipal Code does not inhibit the goals of SB 1383 to reach organic waste disposal reduction targets. Should any existing ordinances within the City of Gustine’s Municipal Code be found to impede organics disposal reduction, it is highly recommended they are revised per SB 1383 guidelines.

5.5.4 Budgetary and Staffing Implications

The City of Gustine executed a contract with HF&H Consultants, LLC in the amount of \$7,525 for the development of the City’s SB 1383-compliant ordinances. It is estimated that the City will incur a minimal increase in staffing demand for the development and imposition of the new and amended ordinances. Since the development has been outsourced, City staff time will be limited to scoping the ordinance, reviewing drafts, and two readings of the ordinances at City Council.

5.5.5 Contract Implications

SB 1383 outlines requirements for haulers of organic waste. It is worth considering adding in basic requirements for contracted refuse collectors in the Municipal Code, such as meeting State law requirements. Hauler requirements include, but are not limited to, identifying organics facilities and providing all regulated generators with organics, recycling, and refuse collection services. It is recommended that these requirements be met through a new Franchise Agreement, to allow for more timely changes and limit the often-lengthy code amendment process for changes to manage the contract between the City and the hauler.

5.5.6 Education and Outreach

In addition to the two City Council sessions where the updated ordinance will be read, it is recommended the City of Gustine conduct an introductory campaign to inform all citizens and businesses of legal and policy changes taking effect. These efforts would encourage compliance with the soon to be enacted ordinances.



5.5.7 Step-by-Step Action Plan

Table 41: City of Gustine Ordinance and Policy Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Draft revised Mandatory Recycling Ordinance and other required ordinances for monitoring enforcement, edible food recovery, etc.; Amend existing ordinances for compliance	City	Nov 2020 - Mar 2021
2	Establish protocols for approving and documenting de minimus and space constraint waivers (if applicable)	City	Mar - Jul 2021
3	Conduct stakeholder workshop(s) on Mandatory Ordinances (optional).	City	July 2021
4	Obtain approval of Mandatory Ordinance (Second Reading no later than 1/1/2022)	City	Aug – Dec 2021

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5.6 Edible Food Recovery

5.6.1 Program Summary

In order to achieve SB 1383 compliance, HF&H recommends that the City of Gustine implement a food recovery program to support recovery of commercially generated edible food for human consumption. To accomplish this, businesses identified as Tier One and Tier Two Commercial Edible Food Generators must recover edible food for human consumption by January 1, 2022 and January 1, 2024 respectively. Through an initial review of business licenses, it is estimated that there are approximately six (6) Tier One Commercial Edible Food Generators and approximately three (3) Tier Two Commercial Edible Food Generators located within the City of Gustine (see Table 42 below). The City of Gustine currently plans to add SIC Codes to their business license process in Fiscal Year 2021 which will assist the City in refining the preliminary list of Edible Food Generators.

Currently the City of Gustine’s food recovery is carried out informally where food-generating businesses donate edible food to employees and locals in the community²⁵. In order to achieve compliance with SB 1383, the City will need to educate and collaborate with their Tier One and Tier Two Commercial Edible Food Generators while also assisting the County with programs to expand food recovery services and food recovery organizations operating within the jurisdiction. The City will also need to modify its existing ordinances and add a food recovery ordinance.

Table 42: City of Gustine Commercial Edible Food Generators

Tier 1 Generators in Gustine	Tier 2 Generators in Gustine
Unified Grocers Inc.	Gustine Middle School
Robb Ross Foods, Inc.	Gustine High School
In Good Taste Catering	Pioneer High School
Dollar General Store #14723	-
Angela's Kitchen	-
Sysco Food Services of Modesto	-

EDIBLE FOOD GENERATORS DEFINED

Tier 1: January 1, 2022

- Supermarkets
- 10,000+ SF Grocery store
- Food service provider
- Wholesale food vendor

Tier 2: January 1, 2024

- Restaurants with 250+ seats and 5,000+ SF
- Hotel with onsite food and 200+ rooms
- Health facility with onsite food and 100+ beds
- Large Venues and Large Events
- Local education facility with on-site food facility
- State agency with cafeteria and 250+ seats

5.6.2 State SB 1383 Requirements for Jurisdictions

- Implement an edible food recovery program that includes education of Tier One and Tier Two Commercial Edible Food Generators at least annually with information about the available edible food recovery program, information on generator requirements, and information about food recovery organizations and services. (§18991.1)
- Implement an edible food recovery program that increases access to food recovery organizations and services. (§18991.1)
- Develop a list of food recovery organizations and services operating within the jurisdiction, including: name, physical address, contact information, collection service area, and hours of operation, which is updated annually. (§18985.2.a)

5.6.3 State SB 1383 Requirements for Generators

- Commercial edible food generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed. (§18991.3.b)
- If an enforcement action is commenced against a commercial edible food generator for noncompliance, the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances. (§18991.3.d)
- A commercial edible food generator subject to the requirements in Article 10 shall keep a record of each food recovery service/organization that collects/receives its edible food and a copy of all contracts or written agreements with the food recovery service/organization. (§18991.4)

²⁵ Halpin, Jennifer. "Re: Question from HF&H" Received by Jon Alami, 25 Jun. 2020.



5.6.4 Ordinance and Policy Needs

The City of Gustine should develop a Mandatory Edible Recovery Ordinance that requires Tier One and Tier Two Commercial Edible Food Generators to arrange and implement food recovery programs to recover the maximum amount of edible food that would otherwise be disposed. The City may also wish to require commercial edible food generators to track quantities of food recovered to help with reporting.

As part of SB 1383 recordkeeping and reporting requirements, the City Gustine will be responsible for reporting pounds of food rescued for human consumption and related food waste diversion to CalRecycle. SB 1383 only requires edible generators to keep records of quantities of food recovered and does not mandate generators provide the City of Gustine with these records. To better facilitate access and reporting of data, it is recommended the City of Gustine include in the ordinance a provision for generators to report to the City of Gustine how much edible food was recovered through collaboration with recovery organizations and similar means.

5.6.5 Contract Implications

The City of Gustine will need to identify commercial edible food generators and provide these generators with the City of Gustine’s food donation guide. The food donation guide should be prepared by January 2022 to allow adequate time for public education efforts and should include at a minimum the information described in Section 4.6.2. If the City of Gustine chooses to work with a food donation organization or matching program service provider, separate contracting with the entity may be involved.

5.6.6 Monitoring

SB 1383 requires jurisdictions to monitor compliance of generators, food recovery organizations, and service providers. The City Gustine may either perform this task itself should sufficient resources be available, or it can procure an outside party to monitor the food recovery data and compliance. It is recommended that the City contract with the Merced County Department of Environmental Health (assuming the County is open to an expansion of its current health inspection role). The County is the ideal designee to perform inspections for two primary reasons: they have the legal authority to require site access and they are already performing site visits to perform health inspections.

5.6.7 Education and Outreach

One of the education and outreach requirements included in SB 1383 is to annually educate commercial edible food generators. This can be done in a number of ways. First, the City of Gustine can include relevant information in bill inserts, annual service brochures, and newsletters. Second, the hauler technical assistance staff, City Staff and third-party contractors can collaborate to provide education and assistance during commercial/multi-family site visits. Third, the City of Gustine should consider working with the Merced County Department of Environmental to encourage inspectors to provide education during edible food generator site inspections. The City of Gustine can use the education and outreach program to promote the benefits of addressing food scarcity and hunger through these efforts to gain community support and participation.

5.6.8 Staffing and Budgetary Considerations

It is anticipated that there will be minimal costs associated with implementing an edible food recovery program to comply with SB 1383. It is expected that the County may require reimbursement for inspection of Tier One and Tier Two Commercial Edible Food Generators, food recovery organizations, and food recovery services. However, given the low number of these entities within Gustine, it is anticipated the cost increase will be insignificant.

The City will also require approximately 0.01 FTEs for annually updating the list of food recovery organizations and services operating within the City.

5.6.9 Program Metrics and Reporting

The City of Gustine will need to work with edible food generators and recovery organizations to report their data and diversion progress. In addition to monitoring general SB 1383 compliance of these entities, it may be helpful to note trends in quantities and types of meals delivered. Some jurisdictions have had success with food recovery website integration and mobile apps to efficiently coordinate all the moving pieces involved in food donation. The City of Gustine would need to consider development and outreach costs with such an investment before moving forward.



5.6.10 Step-by-Step Action Plan

Table 43: City of Gustine Edible Food Recovery Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Develop list of Tier One and Tier Two Commercial Edible Food Generators	City	Mar – Jun 2021
2	Discuss opportunities for expanding capacity in Gustine’s service area	City	Mar – Jun 2021
3	Draft Food Recovery, Mandatory Recycling, and other Ordinances	City	Mar – Jul 2021
4	Conduct stakeholder workshop(s) on Food Recovery Ordinance (optional)	City	August 2021
5	Obtain approval of Food Recovery Ordinances (no later than 1/1/2022). Requires two readings at City Council.	City	Sep – Dec 2021
6	Integrate food recovery information into Franchisee’s commercial education materials (optional)	Hauler	Oct – Dec 2021
7	Initiate education program of Tier One Commercial Edible Food Generators on the Food Recovery Ordinance and program	TBD	Sep – Oct 2021
8	Educate Tier One Commercial Edible Food Generators that are self-haulers/back-haulers on edible food recovery requirements	TBD	Sep – Oct 2021, (annually)
9	Develop food recovery webpage	City	Oct – Dec 2022
10	Prepare food donation guide	City	Oct – Dec 2022
11	Update food recovery webpage content including list of food recovery organizations	City	Oct – Dec 2022, (annually)
12	Support development of County capacity planning analysis and report (no later than 2/1/2022)	City	Jan – Feb 2022
13	Review and analyze edible food generator compliance and food recovery organization compliance with the Food Recovery Ordinance and review program trends	City	Jun – Dec 2022 (annually)
14	Initiate education program of Tier Two Commercial Edible Food Generators on the Food Recovery Ordinance and program	Hauler	Jan – Mar 2024, (annually)
15	Support development of County capacity planning report (no later than 8/1/2024)	City	Feb – Jul 2024

Note: Enforcement activities are presented separately in the Enforcement Program Action Plan.

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5.7 Education and Outreach

5.7.1 Program Summary

The City of Gustine currently distributes solid waste and recycling education and outreach via the City website, a quarterly newsletter, direct mailers, and through inserts with business license renewal forms. The City offers additional flyers and information upon request. The City's current hauler, Gilton, provides information on AB 341 and AB 1826 on their website and on all of their commercial billing statements. Most of the outreach efforts thus far have been focused on commercial customers who are regulated by AB 341 and AB 1826.

SB 1383 requires that jurisdictions provide education to residents, businesses, self-haulers, and food recovery organizations/services on their compliance obligations. The City will need to expand their public education and outreach program to comply with the additional requirements. It is recommended that the City of Gustine include in their amended or restated Franchise Agreement provisions consistent with the education requirements of SB 1383 in order to send a unified and consistent message to generators. The City should also update their existing materials and website with the information specified in SB 1383. Please see Section 5.7.2 below for further details on education and outreach requirements.

5.7.2 State SB 1383 Requirements for Jurisdictions

- Jurisdictions shall provide generators using an organic waste collection service with the following education and outreach (§18985.1.a):
 - Requirements to properly separate materials.
 - Methods for organic waste prevention, on-site organics recycling, and community composting.
 - Methane reduction benefits and method of organic waste recovery used.
 - Information on public health and environmental impacts of landfilling organic waste.
 - How to recover organic waste, and a list of approved haulers.
 - Information related to public health and safety benefits and environmental impacts associated with the disposal of organics.
 - Information regarding edible food donation programs.
 - Information on self-hauling requirements (if jurisdiction allows self-hauling).
- Provide outreach and education through print or electronic media, and by optionally conducting outreach through direct contact with generators through workshops, meetings, or on-site visits. (§18985.1.c)
- Consistent with Section 7295 of the Government Cost, translate educational materials into any non-English language spoken by a substantial number of the public provided organic waste collection services. (§18985.1.e)
- At least annually a jurisdiction shall provide commercial edible food generators with the following education and outreach (§18985.2.b):
 - Information about the edible food recovery program.
 - Information about edible food generator requirements for food recovery and record keeping (§18991.3).
 - Information about food recovery organizations and food recovery services operating within the jurisdiction, and where a list of those food recovery organizations and food recovery services can be found.
 - Information about actions that commercial edible food generators can take to prevent the creation of food waste.

5.7.3 Contract Implications

It is recommended that the City of Gustine delegate most of the educational requirements of SB 1383 to the City's hauler as allowed under Section 18981.2 of SB 1383. Delegating will maximize the experience and expertise of the hauler's outreach



staff and minimize additional constraints on City resources. Utilization of hauler staff will also enhance consistency of educational information with neighboring communities who contract with the same hauler.

SB 1383 requires different minimum standards for educational information based on the type of generator (e.g., residential generators versus food recovery services). HF&H recommends that the hauler provide a double-sided educational newsletter that contains all education requirements to every unit within the City utilizing the United States Postal Service Every Door Direct Mailer Service (USPS EDDM). Utilizing the USPS EDDM will ensure that all entities receive the mandatory minimum education efficiently. This approach negates the need for the City or hauler to segregate their customers based on entity type and develop various pieces of education. The EDDM will also ensure that every unit within the City receives the information, as opposed to using a customer list which likely will include shared service accounts (e.g., multi-family complexes).

5.7.4 Rates and Staffing Impacts

It is estimated that the cost to print and distribute an annual mailer via the USPS EDDM to all units will cost between \$1,300 and \$1,500 per annum, which equates to a cost of approximately \$0.06 per unit per month (single-family, multi-family, and commercial). There are minimal impacts to staffing required on an on-going basis to review educational material provided by Gilton prior to distribution, however it is unlikely the City will retain additional staffing for this function.

5.7.5 Optional Program

While not required by SB 1383, a robust education and outreach campaign prior to implementation of a new programs is vital to its success. Early education provides residents and businesses with important information about the necessary changes needed in order to comply with the new programs, while informing them that the new programs are mandated by the State of California. As such, it is recommended that the City of Gustine require Gilton to send two newsletters using the USPS EDDM prior to implementing the new collection program. It is estimated that this would cost between \$2,600 and \$2,900, or approximately \$0.01 per unit month when amortized over a ten year service agreement.

5.7.6 Step-by-Step Action Plan

Table 44: City of Gustine Education and Outreach Step-by-Step Action Plan

ID#	Action Items	Collaborators	Timeframe
1	Catalog all education and outreach requirements of SB 1383.	HF&H	Complete
2	Identify an approach to and timing for integrating each requirement into current programs.	City, Hauler, Consultant	Mar - Jun 2021
3	Confirm approach for addressing SB 1383 education and finalize timeline for revisions to and review of various education pieces.	City, Hauler, Consultant	Jun - Aug 2021
4	Revise education materials and webpages to integrate SB 1383 information.	City, Hauler, Consultant	September 2021
5	Provide pre-implementation collection program information to all generators.	Hauler	Oct - Dec 2021
6	Educate customers (single- and multi-family, and commercial) about new organics program.	Hauler	Jul – Dec 2021
7	Expand multi-family/commercial education and technical assistance to those without recyclables and/or organics collection service.	Hauler	Jan – Jul 2022
8	Annually provide organic waste generators (including self-haulers) with information on properly separating materials, preventing organics waste, methane reductions, approved haulers, and health and environmental impacts of landfill disposal other requirements under 18985.1 and 18985.2[1].	Hauler	January 2022 (annually)
9	Annually provide edible food generators with information regarding the jurisdiction’s edible food recovery program, generator requirements, food recovery organizations, and other requirements under 18985.1 and 18985.2.	Hauler	Jan 1, 2022 (annually)



5.8 Reporting and Recordkeeping

5.8.1 Program Summary

The City of Gustine will need to designate roles and create procedures for reporting and recordkeeping. SB 1383 contains three primary reporting mechanisms: an Initial Jurisdiction Compliance Report; an Annual Report; and an Implementation Record. The Initial Jurisdiction Compliance Report is due April 1, 2022 and includes copies of ordinances and other enforceable mechanisms adopted pursuant to SB 1383, the contact information for the primary City reporting contact, and information on the implementation of organic waste collection programs.

The MCRWMA currently submits the City of Gustine's Electronic Annual Reports (EARs) to CalRecycle on the City's behalf through CalRecycle's Recycling and Disposal Reporting System (RDRS). The City of Gustine uses the cloud-based software program Recyclist to submit AB 341 and AB 1826 data to the MCRWMA, who then aggregates it and compiles it with their disposal, composting, and transfer data for the EAR. Additionally, The MCRWMA attends annual calls with CalRecycle to assist member agencies in their data collection and reporting²⁶. SB 1383 greatly expands the annual reporting requirements which will require additional budget and potentially additional staffing. The current data sharing between The MCRWMA and the City of Gustine reduces some of the administrative burden from reporting, which will continue to benefit the City as the expanded SB 1383 reporting requirements go into effect. The staffing impacts will be determined by the continued relationship with the MCRWMA, and whether the City of Gustine chooses to use internal staff for reporting or outsource this requirement to a third party.

SB 1383 requires that jurisdictions maintain records demonstrating their compliance with SB 1383 in a central location, physical or electronic, that can readily be accessed by CalRecycle within ten business days of request. Required records include, but are not limited to: ordinances, contracts, franchise agreements, a written description of the jurisdiction's inspection and enforcement program, organic waste collection service records, contamination minimization records, waiver and exemption records, education and outreach, edible food recovery program records, recovered organic waste procurement records, recycled content paper purchase records, inspection records, and enforcement records. All records and information required shall be included in the Implementation Record within 60 days of the event and shall be maintained for a minimum of five (5) years. The City of Gustine currently receives quarterly reports from Gilton that will need to increase to monthly reports to facilitate compliance with SB 1383 Implementation Record requirements. Additionally, the City of Gustine will need to report data on a monthly basis to ensure that the Implementation Record maintained by The MCRWMA is up to date. Please refer to Attachment D for a list of reporting requirements that the City may wish to delegate via their Franchise Agreement.

5.8.2 State SB 1383 Requirements for Jurisdictions

- By April 1, 2022, jurisdiction will submit initial Compliance report with a copy of adopted ordinances, reporting items identified in §18994.2, and contact information of the jurisdiction's designated employee for compliance-related issues. (§18994.1)
- Commencing August 1, 2022, submit an Annual Report to CalRecycle containing the information required in §18994.2.b through §18994.2.k. Note that the first report is due October 1, 2022 and will be for the period of January 1, 2022 through June 30, 2022, while subsequent reports will be for the entire previous calendar year (January 1 through December 31). Some of this information must also be maintained with the jurisdiction's Implementation Record.
- Maintain records including ordinances, contracts, franchise agreements, policies, procedures, or programs and a description of hauler programs.
- Maintain an Implementation Record that is stored in a central location (either physical or electronic) that must be made available to CalRecycle within 10 business days of their request

5.8.3 Contract Implications

The City of Gustine will need to include enhanced reporting requirements in their amended or restated Franchise Agreement. At a minimum, the report submission frequency will need to be updated to monthly to facilitate timely inclusion of records

²⁶ Information in preceding paragraph confirmed via phone with Eric Zetz on July 14, 2020.



in the Implementation Record. Additionally, the volume of records and data required by the hauler will be significantly increased and enhanced.

Given the large volume of data and multiple stakeholders it is recommended that the City of Gustine continue to utilize a cloud-based software platform to enhance efficiency of the reporting process. The City of Gustine currently uses Recyclist for AB 341 and AB 1826 requirements. Recyclist, and other companies, are in the process of developing a software solution that encompasses SB 1383 requirements. Once SB 1383 specific software becomes available through Recyclist or other companies, the City of Gustine may also choose to amend their current contract with Recyclist or contract with one or more entities to assist in the facilitation of reporting. For example, a contract with a cloud-based software provider will greatly enhance the efficiency of reporting and diminish the risk associated with keeping many records in a standard desktop file structure. The City of Gustine currently utilizes the MCRWMA to help manage the reporting process, data aggregation and analytics, a process that will also need to be updated and memorialized through an agreement or MOU.

5.8.4 Budgetary and Staffing Implications

The City of Gustine has two fundamental staffing options for recordkeeping and reporting: utilize City staff or outsource reporting to a third party. Both staffing approaches assume use of a cloud-based reporting software and a partnership with The MCRWMA to help mitigate risk and facilitate an efficient process.

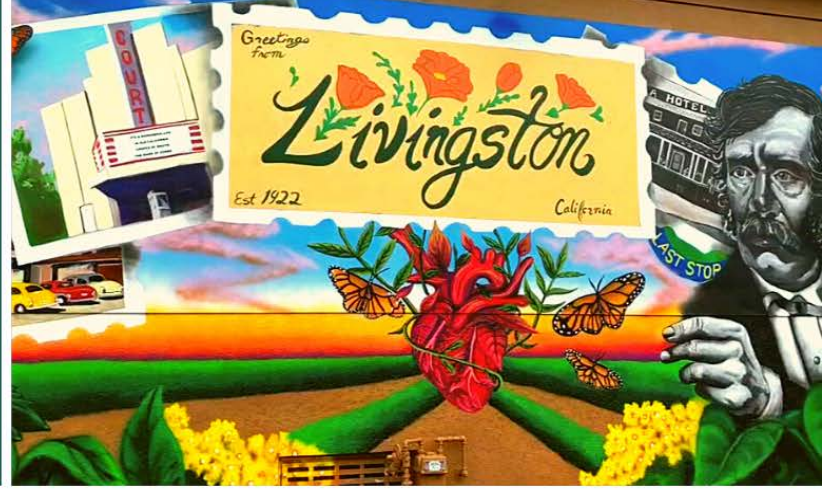
If the City of Gustine chooses to use internal staff, the implementation of a reporting system is estimated to cost approximately \$35,500, with a one-time staffing equivalent of approximately 0.05 FTEs. On-going costs are expected to cost approximately \$24,400 per year with an on-going staffing requirement of 0.11 FTEs. The customer rate impacts will vary depending upon the allocation between residential and commercial customers

If the City of Gustine chooses to utilize a consultant to perform the required reporting, the one-time implementation cost is expected to range from \$22,700 to \$23,200 with a one-time City staffing equivalent of 0.03 FTEs. The On-going annual cost for a consultant to perform reporting is estimated to range from \$41,400 to \$76,500 with an on-going City staff requirement of 0.02 to 0.03 FTEs. The range in costs is primarily driven by the amount of follow-up on outstanding information, the level of analysis conducted, and the hourly consulting rate.

5.8.5 Step-by-Step Action Plan

Table 45: The City of Gustine Reporting and Recordkeeping Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Review record keeping requirements of SB 1383 and develop protocol for obtaining and maintaining records.	City	Mar - Jun 2021
2	Clarify reporting obligations and align submittal dates with SB 1383 reporting deadlines.	City, Hauler	Mar - Jun 2021
3	Consider the development expansion of existing systems to handle some or all SB 1383 record keeping and reporting requirements and implement, if desired.	City	Mar - Jun 2021
4	Begin documentation and aggregation of reporting for Implementation Record.	City, Hauler	Aug - Dec 2021
5	Commence SB 1383 mandated record keeping.	City, Hauler	Dec 2021 - Jan 2022
6	Prepare initial compliance report (report due 4/1/2022).	City	Dec 2021 - Mar 2022
7	Prepare annual report (report due 8/1/2022 and annually thereafter).	City	Apr - Jul 2022



Livingston SB 1383 Action Plan





6.1 Collection and Processing

6.1.1 Program Summary

Commencing January 1, 2022, the State requires jurisdictions to provide collection service to all residential and commercial generators to divert organic waste (including food waste, green waste, food-soiled paper, and other organic materials, as defined) from landfill disposal. The City of Livingston currently offers weekly refuse and green waste collection programs for single- and multi-family residences. Food waste can currently be comingled with green waste, and it is processed by Gilton. A drop off program for mixed recyclables is available to residents at 2238 Walnut Ave. Currently commercial businesses are offered refuse and recycling service. To comply with SB 1383 source-separation requirements, the City of Livingston will need to expand its existing collection programs to ensure all generators receive refuse, organic waste and recycling services. Table 46 projects the number of customers that will require servicing of additional waste streams.

Table 46: City of Livingston Service Level Changes Summary

Sector Description	New Organics Customers	New Recycling Customers
Residential	593	3,427
Commercial	183	199
Total	776	3,626

The City of Livingston’s current Franchise Agreement is scheduled to terminate on December 31, 2022. As such, the City has the option to negotiate an amended or restated Franchise Agreement or to conduct a competitive procurement. If the City chooses to negotiate with Gilton they should begin immediately with the goal of commencing services January 1, 2022. If the City chooses to issue a competitive procurement, they may delay program implementation until expiration of the Gilton Agreement under CalRecycle’s Corrective Action Plan (CAP) process (assuming the City can demonstrate “substantial effort to CalRecycle). Please refer to Attachment D for a detailed description of the CAP process.

Additionally, the City of Livingston will need to determine if they would like to provide organic waste kitchen pales to residential and multi-family customers. Kitchen pales for organic waste assists generators with proper source separation at the point of generation at a nominal cost. It is estimated that provision of kitchen pales to all residential and multi-family customers will cost between \$37,300 and \$47,900, which equates to eight cents (\$0.08) to ten cents (\$0.10) per dwelling unit per month when amortized over a ten (10) year Franchise term.

6.1.2 State SB 1383 Requirements for Jurisdictions

- Provide organic waste collection and recycling services to all generators, except self-haulers using a 3-, 2-, or 1-container collection system. (§18984.1-18984.3, §18998.1)
- Jurisdictions may allow limited waivers for generators with de minimis volumes and/or physical space constraints, and if so, must conduct reverification inspections, maintain records, and submit reports. (§18984.11, §18984.14, §18995.1.a)
- Provide education annually to collection customers and self-haulers (§18985.1)
- Provide collection containers to generators that comply with color and labeling requirements when replacing containers or by January 1, 2036, whichever comes first. (§18984.7)
- Implement a hauler oversight program and report required hauler information. (§18994.2.f)
- Ensure organic waste is sent to a facility or operation deemed to constitute a reduction in landfill disposal (§18983.1)

6.1.3 State SB 1383 Requirements for Generators

- Subscribe to organics collection services provided by jurisdiction (§18984.9) or self-haul organics to facility that processes source-separated organic waste (§18984.9)
- For commercial businesses, provide organics and recyclables containers for customers and employees; require employees to source separate organic materials; periodically inspect organics containers for contamination; and, educate employees on source separation if contamination observed (§18984.9)



- For commercial businesses self-hauling, record and report self-hauling activities (§18988.3)

6.1.4 Ordinance and Policy Needs

The City of Livingston will need to amend its current Municipal Code to include provisions requiring compliance with SB 1383, including the new collection and processing programs, reporting and monitoring programs, edible food recovery, and expanded enforcement requirements. SB 1383 requires all single-family, multi-family, and commercial customers are provided recycling and organic waste collection services (subject to limited waivers). It is recommended that this be accomplished through a three-container collection system. For generators that choose to self-haul or back-haul their organics and/or recycling, the City of Livingston will be required to expand its self-haul registration and reporting requirements, as well as provide specific education materials to those generators in order to comply. Additional applicable laws such as Mandatory Commercial Recycling (AB 341) and Mandatory Organics Recycling (AB 1826) will also need to be considered in the code amendment. More details can be found in the Section 6.5 Ordinances and Policies.

6.1.5 Contract Implications

The City of Livingston entered into a waste collection agreement with Gilton on April 2, 2013, with the term of the Franchise Agreement expiring after ten (10) years on December 31, 2022. The City will need to either amend or restate its current Franchise Agreement to include SB 1383 provisions or conduct a competitive procurement inclusive of SB 1383 provisions. In both scenarios, the Franchise Agreement would be written to include all of the new and relevant provisions needed to support the City's programs and SB 1383 compliance needs. Examples of provisions that are critical to the amended or restated Franchise Agreement include, expansion of organic materials and recyclables collection services, new and enhanced inspections and contamination monitoring, and identification of available or potential processing capacity and/or transfer options. Additional requirements to prioritize include specifications of container systems, facility evaluations, record keeping and reporting, education and outreach, and other program support of some or all organic material. HF&H recommends that the City of Livingston conduct a competitive procurement for the provision of solid waste, organic waste, and recyclables collection and processing services.

6.1.6 Education and Outreach Needs

An additional component of the collection program will be education of organic waste generators, particularly information on the SB 1383 regulations and the benefits of organics recycling in order to alleviate some of the negative feedback that may arise with the establishment of mandatory requirements and increased collection costs for generators that currently do not have recycling and/or organics collection. Section 6.7 further details the education and outreach requirements of SB 1383.

6.1.7 Infrastructure Needs

The implementation of new collection programs and processing requirements may necessitate increased processing capacity and infrastructure. The City of Livingston can contractually secure this additional infrastructure by amending its current Franchise Agreement or issuing a competitive procurement, both of which should include a capacity guarantee. If the MCRWMA decides to expand composting operations at the Highway 59 Landfill, it is recommended that the City include a provision in its competitive procurement requiring use of the Highway 59 composting operation. Utilizing the MCRWMA for processing will introduce rate stability that may be challenging to obtain through a third-party contractor, while increasing the economies of scale through a regional approach on the East Side of the County.

6.1.8 Staffing and Budgetary Considerations

The City of Livingston will have increased staffing needs and costs associated with implementing new programs, such as the City staff, City Attorney, and consultant time to needed to draft the mandatory enforcement ordinances, a Franchise Agreement (or amendment), and potential processing agreement(s). It is recommended that the City of Livingston's franchise hauler remit a check for the City's procurement costs and that the franchise hauler recoup their cost through future service rates. This approach will minimize the impact to the City's budget by providing funding, while amortizing the procurement cost over the franchise term. It is unlikely that the City will hire any additional staff to facilitate the negotiation or competitive procurement process as it will require historical knowledge of the City's programs, politics, and many other factors. However, the City may wish to employ a recycling coordinator to assist with implementation of the new programs. A recycling coordinator could provide several benefits to the community, such as right-sizing service levels in order to minimize ratepayer impacts. Again, the cost of a recycling coordinator could be funded through hauler remittance, franchise fees, AB 939 fees, SB 1383 fees, vehicle impact fees, or other funding mechanisms to alleviate the impacts on the City's general fund.



6.1.9 Step-by-Step Action Plan

Table 47: City of Livingston Collection and Processing Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Enter into sole-source negotiation process or competitive procurement (further detail under Contracting Section of this Action Plan)	City & Hauler	See Contracts Section
2	Plan organics collection program including education and distribution of carts (and kitchen pails or compostable bags if applicable)	City & Hauler	See Contracts Section
3	Establish protocols for approving and documenting commercial de minimis and space constraint waivers, if providing, which may involve collaboration with Republic	City	Jul - Jan 2021
4	Pre-implementation education of generators about new organic waste program and mandatory service requirement	City and/or Hauler	3-6 months prior to program implementation
5	Implement expanded organics collection program (no later than January 1, 2022. Under CAP deadline may extend to January 1, 2024)	Hauler	Dependent on negotiation or RFP
6	Implement a hauler oversight program and report required hauler information	City	Dependent on negotiation or RFP
7	Adopt new rates	City	Dependent on negotiation or RFP



6.2 Monitoring and Enforcement

6.2.1 Program Summary

By January 1, 2022, jurisdictions must begin enforcing SB 1383 requirements through adoption of ordinances and/or other enforceable policies and procedures as well as through development of an inspection and enforcement program. To meet these requirements, the City of Livingston will need to modestly expand its existing code to ensure the current enforcement program aligns with SB 1383. It appears that the code materially covers compliance by generators, although the requirement to source-separate green waste will need to be expanded to include food waste as well. Additionally, self-haulers (including back-haulers), franchise haulers, construction and demolition debris haulers, food recovery organizations and services, and other entities that are regulated under SB 1383 will need to be included in the code revisions. In order to establish a fully compliant and comprehensive enforcement program, the City of Livingston will need to amend its existing ordinances, policies, and procedures for these additional groups. Likewise, the City of Livingston will need to make collection of all organic waste included in SB 1383 mandatory and include the additional collection in their enforcement program. Provisions for notices of violations (NOVs), and fines or penalties for non-compliant regulated entities will need to align with SB 1383 requirements. All of these updates will need to be actively enforced no later than January 1, 2024.

The enforcement program's main goal will be to ensure that each residential and commercial generator subscribe to organics collection services or similarly complies through self-hauling requirements (with the exception of commercial entities and multi-family dwellings that have been granted waivers such as de minimis or physical space waivers). Currently, most residential customers have access to organics collection services through Gilton. Since it is not currently mandatory for generators to have organics collection service, the majority of early enforcement efforts will be focused on ensuring single-family, multi-family, and commercial customers are either subscribed to organics services, or have met enforceable self-hauling requirements.

Generally, SB 1383 requires a desktop review of all commercial garbage accounts generating two (2) cubic yards of solid waste or more and all multi-family garbage accounts with five (5) or more dwelling units. The regulations also mandate additional inspection for certain regulated entities, route reviews, and monitoring for container contaminants for all generators. SB 1383 requires distribution of education and issuance of NOVs and/or fines to non-compliant entities (see Section 2.2 for further details on requirements). By imposing mandatory service of all three (3) waste streams and providing the appropriate containers to all generators, the City of Livingston will minimize the effort required to complete desktop compliance reviews. Similarly, a targeted and thoughtful education program will raise awareness of the requirements and help minimize the amount of future violations and container contamination incidents. It is recommended that the City of Livingston delegate the contamination monitoring to their franchise hauler through annual route reviews to minimize impacts on City budget and staffing. Even if the initial route monitoring for prohibited container contaminants is delegated to the franchise hauler, the City will be responsible for managing NOVs and fines beginning January 1, 2024.

6.2.2 State SB 1383 Requirements for Jurisdictions

- Conduct contamination monitoring either through route reviews for prohibited container contaminants such that all routes are inspected annually or through twice yearly waste evaluation studies of all container types; and, notify generators if contamination is found. (§18984.5)
- Implement an inspection and compliance program including: conducting compliance reviews of all commercial garbage accounts producing two (2) cubic yards of solid waste or more and multi-family garbage accounts with five (5) or more dwelling units; inspecting Tier One Commercial Edible Food Generators, and food recovery organizations, and food recovery services; and, conducting generator compliance reviews through route reviews or waste evaluations. (§18995.1)
- Conduct inspections at least once every five (5) years to verify de minimis and physical space waiver conditions, if applicable. (§18995.1)
- Starting January 1, 2022 through December 31, 2023, provide non-compliant generators with educational material. (§18995.1)



- Beginning January 1, 2024, take enforcement action, including issuing NOVs and imposing penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities (with the exception of violations of container contamination provisions, for which a penalty is optional). (§18995.4; §18997.2)
- Conduct a sufficient number of route reviews, inspections, and compliance reviews to determine compliance, and generate an electronic or written record for each inspection or review. (§18995.1)
- Provide a procedure for the receipt and investigation of complaints, including the method for notifying the complainant of the result of the complaint; investigate complaints received; and, maintain a record of all complaints and responses. (§18995.3)
- Pay penalties assessed by CalRecycle for the jurisdiction's failure to comply, which includes many possible violations, ranging from minor, moderate, or major, and with associated penalties ranging from \$500 per violation to \$10,000 per violation per day. (§18997.3)

6.2.3 Ordinance and Policy Needs

The City of Livingston will need to amend certain sections of the Municipal Code to integrate the enforcement process and penalties specified in SB 1383 for non-compliant generators, food recovery organizations, haulers, and other entities. The City of Livingston will also need to develop protocols and policies for customer compliance reviews, route reviews or waste evaluations, receipt and investigation of complaints, and documentation of its monitoring and enforcement efforts.

Building permits procedures will need to be updated to better enforce CALGreen requirements for construction and demolition projects. These code updates will ensure that organic waste is source-separated from construction and demolition debris, and that weight tickets for all applicable projects are submitted to the City of Livingston for reporting purposes. Specifically, the City will want to ensure that it is verifying that C&D projects comply with their Waste Management Plans by providing weight tickets (or through use of the City's franchise hauler who may provide a certified diversion report).

6.2.4 Contract Implications

Delegating portions of the monitoring and enforcement programs will minimize the impacts on the City of Livingston's budget and staffing requirements (refer to Section 6.2.7 for further discussion). If the City of Livingston delegates contamination monitoring to its franchise hauler, it will need to amend its current Franchise Agreement to include such provisions (or include these provisions in a new Franchise Agreement if the City goes out to bid). In addition to the contamination monitoring programs, adequate record keeping and reporting provisions in the Franchise Agreement associated with the contamination reviews will aid the City in meeting SB 1383 reporting requirements and track program progress. The City of Livingston can also delegate part of the NOVs procedure in a Franchise Agreement.

The City of Livingston may consider the potential benefits of conducting these operations internally. In some cases, contamination monitoring services conducted by a designee may be interpreted as punitive by residents and businesses, particularly if there are contamination fees imposed. This is another role that could be fulfilled by a recycling coordinator if the City chooses to hire internal staff. However, if the City's primary focus is mitigating budget and staffing impacts, the City should delegate as much of this responsibility as allowed under SB 1383. If the hauler is chosen to conduct the stricter monitoring and enforcement measures required by SB 1383, the City of Livingston should reaffirm the franchise hauler's authority to residents and businesses in order to temper possible pushback.

6.2.5 Infrastructure Needs

To comply with SB 1383 Implementation Record requirements, the City of Livingston will need to develop a strategy for documenting monitoring and enforcement efforts that will not be delegated to the franchise hauler. This documentation may include:

- Edible food recovery program requirements, as outlined in Section 6.6.
- A procedure for the receipt and investigation of complaints, and copies of complaints
- A procedure for issuing waivers, and copies of waivers.
- Compliance with procurement policies, as outlined in Section 6.3.



- Copies of NOVs and imposed penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities.

The City of Livingston may be able to track some of this information through the MCRWMA’s current software application, Recyclist. Recyclist has indicated that their suite of software will comply with SB 1383 reporting requirements, as such it is anticipated that this data may be reasonably managed through Recyclist.

6.2.6 Education and Outreach

The City of Livingston can collaborate with their hauler to integrate SB 1383-specific information into the education materials by contractually obligating education program standards under the amended or restated Franchise Agreement. The City of Livingston, with its franchise hauler as its potential designee, will be required to educate non-compliant customers no later than January 1, 2022 and at least until December 31, 2023. After this timeframe, the City of Livingston can continue its education program as it sees fit and initiate an NOV process among other determined enforcement actions.

6.2.7 Budgetary and Staffing Implications

The City of Livingston has two primary options for staffing the contamination monitoring program required by SB 1383; the City of Livingston may choose to staff the programs with City Staff or may delegate the responsibility to its Franchise Hauler. Table 48 shows the staffing and rate impacts for each of the two options.

Table 48: City of Livingston Contamination Monitoring Costs

Program Option	One-Time Costs	On-going Costs	One-Time FTE	On-Going FTE
Route Monitoring by City Staff	\$9,144	\$22,805	.06	.20
Route Monitoring by Franchise Hauler	\$7,055	\$17,945	.03	.01

In addition to contamination monitoring, the City of Livingston will be required to perform a desktop compliance review of all commercial garbage accounts generating two (2) cubic yards of solid waste or more and all multi-family garbage accounts with five (5) or more dwelling units, investigate complaints, and beginning January 1, 2024 issue NOVs and fines. It is estimated that the annual desktop compliance review will incur a one-time fee of \$2,100 and an on-going cost of \$1,705 if the City chooses to utilize City Staff (opposed to hauler delegation).

6.2.8 Program Metrics and Reporting

The City of Livingston will need to track a number of metrics. First, the City will need to track the percentage of compliant generators with collection service, self-hauling registration, or generator waivers. As well as the monthly or quarterly number of the following: compliance reviews, route reviews, NOVs issued, penalties assessed, repeat NOVs and penalties, follow-up inspections completed, educational material provided to noncompliant customers, and other metrics as defined in Attachment D. Much of this information may be obtained through reports submitted by the City’s franchise hauler for relevant requirements; consequently, strong reporting provisions in the Franchise Agreement will be critical to ensure the efficacy of such reports.

6.2.9 Other Considerations

Regardless whether the City of Livingston chooses to delegate some enforcement actions to the franchise hauler or conduct them internally, the City must develop its inspection and enforcement program by January 1, 2022. As such, the City of Livingston will need to provide sufficient Code Enforcement or other staffing to develop and implement the plan, as well as manage and perform on-going enforcement activities. The City of Livingston may also consider engaging a contractor to assist with monitoring efforts, as needed.



6.2.10 Step-by-Step Action Plan

Table 49: City of Livingston Monitoring and Enforcement Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Plan SB 1383 compliant monitoring and enforcement program.	City	Mar-Jun 2021
2	Draft amendment to Ordinance(s) to conform with SB 1383 enforcement requirements	City	Jul - Dec 2021
3	Hire or appoint staff person to manage enforcement program	City	Jul - Dec 2021
4	Plan inspection and enforcement program through route reviews or biannual waste studies.	City & Hauler	Jul - Sep 2021
5	Develop protocols for customer compliance reviews; route review; receipt and investigation of complaints; documentation of enforcement efforts.	Hauler	Jul - Sep 2021
6	Hire part-time enforcement staff or contractor (if necessary)	City and/or Hauler	Sep – Dec 2021
7	Conduct <u>compliance reviews</u> of businesses that generate 2CY+ of solid waste/week and produce organic waste and educate non-compliant entities.	Hauler	Jan – Mar 2022 (annually)
8	Conduct <u>route reviews</u> of commercial businesses and resident areas including inspection of contamination, and educate non-compliant entities	Hauler	Jan – Dec 2022 (annually)
9	Inspect Tier One Commercial Edible Food Generators and food recovery organizations, and educate non-compliant entities through the technical assistance program	City	Apr – Jun 2022
10	Investigate and maintain record of complaints, on an as needed basis, through inspections, route reviews, or compliance reviews	City & Hauler	(on-going)



6.3 Product Procurement

6.3.1 Program Summary

SB 1383 mandates that each jurisdiction (on a per capita basis) purchase a target amount of product(s) recovered from California organic waste. SB 1383 designates such products as mulch, compost, renewable natural gas (RNG) used for transportation, electricity or heating applications, electricity produced from biomass conversion, or a combination of these products. The minimum procurement target, unique to each jurisdiction, is calculated by multiplying the jurisdiction’s population (approximately 14,811 residents²⁷ for the City of Livingston) by a per capita procurement target of 0.08 tons per resident, which results in a recovered organic waste procurement target of 1,185 tons for the City of Livingston. The organic waste products will have different conversion factors, as each of the products has varying impacts on greenhouse gas emissions reductions. See Table 50 below for the conversion factors. SB 1383 also asks jurisdictions to find additional procurement opportunities (within their departments and divisions) in order to increase usage of recovered organic waste products.

Table 50: City of Livingston Procurement Target

Commodity	Conversion Factor	Procurement Requirement
RNG	21 Diesel Gallon Equivalents (DGE)	24,882 DGE
Compost	1.45 yards of compost/ton	1,718 cubic yards
Mulch	1 ton of mulch	1,185 tons
Electricity	650 kWh	770,172 kWh

The City of Livingston is recommended to exercise their right to delegate this procurement requirement to their franchise hauler or another entity (as allowed under Section 18981.2 of SB 1383). Either The MCRWMA or Gilton, under such a delegation, could distribute compost derived from organic waste collected in the City of Livingston to local entities such as farms. Organic waste is currently transported to Gilton Resource Recovery for composting; however, flow control is contractually obligated to The MCRWMA via the City of Livingston’s JPA agreement. Before this procurement requirement can be delegated, this contractual and operational discrepancy will need to be resolved between all three parties. Alternatively, the City of Livingston could comply with this requirement by having their franchise hauler, procure renewable natural gas (RNG) on behalf of the City of Livingston for use in their collection vehicles.

SB 1383 also requires jurisdictions to procure paper products (including printing and writing paper) derived from recycled content in accordance with the Public Contracts Code Sections 22150-22154. These sections note that local governments must give preference to suppliers of recycled products as long as quality is equal to, and cost is less than or equal to, non-recycled items. They also require businesses to certify minimum percentage of post-consumer material in their offered products, among other requirements²⁸. Records of purchases will need to be maintained in the City of Livingston’s implementation record (see the Section 8, Reporting and Recordkeeping for further information).

As a result of the changes noted above, the City of Livingston may need to draft and ratify a compliant Environmentally Preferable Purchasing Policy (EPPP) or similar enforcement mechanism. More information about the required changes can be found in the Section 6.3.3 below.

²⁷ State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2020. Sacramento, California, May 2020.

²⁸ California Public Contract Code, § 22150-22154, *California Legislative Information*. 2005.
https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PCC&division=2.&title=&part=3.&chapter=3.5.&article=



6.3.2 State SB 1383 Requirements for Jurisdictions

- Commencing January 1, 2022, a jurisdiction shall annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by article 12. (§18993.1.a)
- Beginning on or before January 1, 2022 and every 5 years thereafter a jurisdiction must calculate the annual recovered organic waste product procurement target based upon multiplying the per capita procurement target by the jurisdiction population where (§18993.1.b):
 - Per capita procurement target = 0.08 tons of organic waste per California resident per year. (§18993.1.b.1)
 - Jurisdiction population equals the number of residents in a jurisdiction, using the most recent annual data reported by the California Department of Finance. (§18993.1.b.2)
- A jurisdiction shall comply with the product procurement target by directly procuring recovered organic waste products for use or giveaway and/or requiring, through a written contract or agreement, that a direct service provider to the jurisdiction procure recovered organic waste products and provide written documentation of such procurement to the jurisdiction. (§18993.1.e.1 and §18993.1.e.2)
- For the purposes article 12, the recovered organic waste products that a jurisdiction may procure to comply with article 12 are (§18993.1.f):
 - Compost from a compostable material handling operation, facility, or a large volume in-vessel digestion facility.
 - Renewable gas used for fuel, electricity, or heating applications.
 - Electricity from biomass conversion.
 - Mulch, provided that the jurisdiction is in compliance with land application requirements specified in 4 Section 17852(a)(24.5)(A) and the mulch is produced at a compostable material handling operation, a transfer/processing facility, or a solid waste landfill.
- The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products (§18993.1.g). One ton of organic waste in a recovered organic waste procurement target shall constitute:
 - 21 diesel gallon equivalents, or “DGE,” of renewable gas in the form of transportation fuel.
 - 242 kilowatt-hours of electricity derived from renewable gas.
 - 22 therms for heating derived from renewable gas.
 - 650 kilowatt-hours of electricity derived from biomass conversion.
 - 0.58 tons of compost or 1.45 cubic yards of compost.
 - One ton of mulch.
- Renewable gas procured from a POTW may only count toward a jurisdiction’s recovered organic waste product procurement target provided the conditions outlined in article 12 are met for the applicable procurement compliance year. (§18993.1.h)
- Electricity procured from a biomass conversion facility may only count toward a jurisdiction’s recovered organic waste product procurement target if the biomass conversion facility receives feedstock directly from a compostable material handling operation, a transfer/processing facility, or a solid waste landfill. (§18993.1.i)
- Procure paper products, and printing and writing paper consistent with the requirements of Section 22150-22154 of the Public Contracts Code. These paper products shall be eligible to be labeled with an unqualified recyclable label as defined



in 16 C.F.R. 260.12. Jurisdiction shall require all businesses that it purchases paper products and printing/writing paper to certify minimum percentage of postconsumer material in the paper products. (§18993.3)

6.3.3 Ordinance and Policy Needs

It's important to note that imposition of an EPPP is not mandatory but it will assist the City with compliance and consistent procurement across departments. Given the City's disaggregated approach to procurement, it is recommended that the City implement an EPPP. Specifically, the City of Livingston should add in language that will describe (1) how recovered products will be procured, (2) how interdepartmental purchasing of these products will be supported, and (3) how it will commit to reaching the annual procurement target.

The constructed EPPP policy should include post-procurement tracking and purchasing protocol as described in Section 6.3.6. As an example, the City of Livingston could purchase recycled paper content from a vendor's purchasing portal. These types of portals offer built-in tracking and thus make verification of compliance more convenient (e.g., Staples Exchange platform). CalRecycle also has resources available for local governments including a database of recycled-content product manufacturers²⁹.

6.3.4 Contract Implications

The City of Livingston will need to amend or restate their Franchise Agreement with Gilton (or the service provider selected under a competitive procurement) and/or the MCRWMA to account for SB 1383's recovered organic waste product procurement requirements. A provision in the Franchise Agreement should be added that requires the City's hauler to procure a pre-identified amount of RNG for use in their collection vehicles if the City of Livingston decides to satisfy the recovered organic waste product procurement requirements via their franchise hauler. Another option could be the City of Livingston including a provision in their agreement(s) with the City's franchise hauler and/or The MCRWMA requiring compost procurement and distribution on the City of Livingston's behalf.

6.3.5 Budgetary and Staffing Implications

Because it is recommended that the City fulfill its recovered organic waste product procurement through a designee, there will be minimal costs and resources associated with the program; primarily these costs are related to reporting and oversight and are therefore included in Section 6.8.

Additionally, the procurement of recycled content paper and printing and writing supplies will have a minimal impact on the City's budget. Specifically, the Public Contracts Code requires that local governments must give preference to suppliers of recycled products as long as quality is equal to, and cost is less than or equal to, non-recycled items. By definition, the City is not required to spend more on these purchases. Although there may be additional staff time involved for reporting.

6.3.6 Metrics and Reporting

There are several reporting and recordkeeping requirements related to recovered organic waste product procurement. The City of Livingston will need to calculate the per capita procurement target every five (5) years. Records will need to be maintained on a continual basis for inclusion in the implementation record that tracks procurement of recovered organic waste products and post-consumer recycled paper. These records are crucial as they will support the City of Livingston's compliance, and will include proof of purchase, certifications, procurement source information, and background information of relevant suppliers. Please refer to Section 6.8 for further detail on reporting requirements.

²⁹ CalRecycle, *Buy Recycled*. September 17, 2019. <https://www.calrecycle.ca.gov/Buyrecycled/Resources/>



6.3.7 Step-by-Step Action Plan

Table 51: City of Livingston Product Procurement Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Review SB 1383 procurement target and requirements for compost, natural gas, mulch, paper and others and identify needed modifications to policies	City	Mar – Jun 2021
2	Develop Environmentally Preferable Purchasing Policy	City	Mar – Jun 2021
3	Execute purchasing policy changes, including provision of amended language for contracts and selection of new paper suppliers	City & Hauler	Jul - Dec 2021
4	Submit final procurement policy and related procedures and agreements to the MCRWMA for inclusion in the Authority's Implementation Record	City	Jan - Feb 2022
5	Submit procurement records to the MCRWMA for inclusion in the MCRWMA's Implementation Record	City	On-going

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6.4 Contracts

6.4.1 Current Contract Summary

To comply with SB 1383 requirements by January 1, 2022, it is recommended that the City of Livingston issue a competitive procurement with services to commence upon expiration of the City's current Franchise Agreement. SB 1383 mandates will affect a broad range of programs and it is recommended that the City draft a restated Franchise Agreement based off of CalRecycle's Model Franchise Agreement. Alternatively, the City could negotiate new services and a term extension with Gilton. The purpose of this Section 6.4 is to provide the City of Livingston with an overview to expected updates as well as the recommended timing for each procedural step towards SB 1383 compliance.

6.4.2 General Timeline Overview

The City of Livingston's agreement with Gilton will end on December 31, 2022, a year after the SB 1383 compliance deadline of January 1, 2022. However, CalRecycle does allow for delayed implementation under a Corrective Action Plan (CAP) if the jurisdiction demonstrates "substantial effort." Please see Attachment C for a more detailed description of the CAP process.

The City of Livingston will need to restructure many existing provisions in addition to adding new language, therefore it is recommended that the City of Livingston not renew this Franchise Agreement and instead issue a competitive procurement beginning approximately eighteen (18) months before expiration of the current Franchise Agreement (beginning July 1, 2021). If the City wishes to utilize a consultant to conduct or assist with the procurement process they should immediately begin working on an RFP for consulting services to ensure there is enough time to complete the process and transition services by January 1, 2023.

6.4.3 Expected Contract Impact and Changes

The City of Livingston will have to add a number of new services through the competitive procurement to ensure they receive SB 1383 compliant proposals. The main language that needs to be added to the RFP will be to expand organics and recyclables collection to all generators. HF&H's cost-benefit model for the City of Livingston identifies that comingled processing of yard waste and food waste will be less costly than implementing a 4-container source-separated program. The City of Livingston may want to include processing expectations for each type of source-separate material. Though processing may overlap with The MCRWMA and flow control obligations, it will still be helpful to clearly spell out these terms in a new Franchise Agreement to ensure that compliant facilities are being used and accurate reporting is done.

Delegating contamination monitoring to the hauler and specifying how they will complete the route reviews (e.g., route reviews or waste evaluations) will alleviate some of the burden on City staff to conduct these activities. Delegating the associated record keeping and reporting obligations means the City of Livingston can adequately monitor program progress and adhere to State reporting requirements. Additionally, violations and related notices given to residents and businesses can be delegated in the contamination monitoring section, but this will not be necessary should the City of Livingston decide to perform these functions internally instead of through hauler delegation. It should be noted that the imposition of fines may only be delegated to another public agency.

It is recommended that the City of Livingston expand hauler reporting obligations so the City can more easily meet the requirements of SB 1383. Specifying monthly report submission along with an increase in detail than what is normally provided by the hauler will allow the City to keep an up-to-date and accurate record of the collection program and compliance. Should the City of Livingston wish to continue utilizing the cloud-based software currently licensed by The MCRWMA to streamline record retention and organization, such a provision should be included requiring the hauler to input data directly into the system.

The City of Livingston may choose to delegate all or part of the education and outreach plan to its franchise hauler. Doing so will allow the City of Livingston to leverage the hauler's customer interactions while minimizing use of City resources. City staff can then devote time to overseeing the haulers education program without having to design, print, or distribute materials itself. These responsibilities could also be divided between the City of Livingston and the hauler (e.g. the City creates the materials and the hauler prints and delivers the materials) if the City feels that is a more effective way to implement the education and outreach requirements.



Additionally, the RFP can request a plan that describes how the hauler will help the City of Livingston satisfy SB 1383 procurement requirements. This will depend on whether the City of Livingston tasks its hauler to procure RNG, in which case a provision would be inserted requiring the hauler to purchase annually a pre-identified amount of RNG for use in their collection vehicles. A similar provision could be included that requires the hauler to distribute compost on the City of Livingston's behalf. Either option (or both) may be chosen as a means of minimizing the burden on the City to find outlets for the necessary procurement obligations.

6.4.4 State SB 1383 Requirements for Jurisdictions

- A jurisdiction may designate a public or private entity to fulfill its responsibilities 31 under this chapter. A designation shall be made through any one or more of the following (§18981.2.b):
- Contracts with haulers or other private entities: or,
- Agreements such as MOUs with other jurisdictions, entities, regional agencies as defined in Public Resources Code Section 40181, or other government entities, including environmental health departments
- Notwithstanding Subdivision (b) of this section, a jurisdiction shall remain ultimately responsible for compliance with the requirements of this chapter (§18981.2.c)
- If a jurisdiction designates another entity as allowed in Subdivision (b) of this section, the jurisdiction shall include copies of all agreements and contracts in the Implementation Record required by Section 18995.2. (§18981.2.e)
- "Designee" means an entity that a jurisdiction contracts with or otherwise arranges to carry out any responsibilities of this chapter, as authorized in Section 18981. 2 of this chapter. A designee may be a government entity, a hauler, a private entity, or a combination of those entities. (§18982)

6.4.5 Corrective Action Plans

If CalRecycle determines a jurisdiction is violating one or more requirements and decides to take enforcement action, agencies will have 90 days to correct the violation. This can be expanded an additional 90 days (for a total of 180 days) if the department feels additional time is needed. For violations outside of the jurisdictions control, and when "substantial effort" is made towards compliance, CalRecycle may place the agency on a Corrective Action Plan allowing up to 24 months (from the date the first NOV was issued) to come into compliance.

The City of Livingston will likely be in the midst of negotiations or a competitive procurement process in January 2022 when regulations take effect. Therefore, the City may be put on a Corrective Action Plan which would provide ample time to complete this process. However, it is still the City of Livingston's responsibility to complete or make substantial effort towards the other SB 1383 jurisdiction requirements (e.g. ordinances, edible food recovery, education and outreach requirements etc.) in order to be potentially eligible for a Corrective Action Plan.



6.4.6 Step-by-Step Action Plan

Table 52: City of Livingston Contracts Step-by-Step Action Plan

ID #	Action Item	Collaborator	Timeframe
1	Issue Competitive Procurement for consulting services to issue Solid Waste RFP.	City	April 2021
2	Award consulting services agreement for consultant to issue Solid Waste RFP.	City	June 2021
3	Draft RFP for solid waste, organic waste, and recycling collection and processing services.	City and/or Consultant	Jul -Sep 2021
4	Council to Issue RFP for solid waste, organic waste, and recycling collection and processing services.	City	October 2021
5	Evaluate finalists and select desired franchisee	City	Jan – Mar 2022
6	Begin negotiations with hauler to best fit the long term needs of the City and its SB 1383 compliance	City, Hauler	Apr – May 2022
7	Present new solid waste franchise agreement to council for approval and ratification	City	June 2022
8	Commence services solid waste, organic waste, and recycling collection and processing services	Hauler	January 1, 2023

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6.5 Ordinances and Policies

6.5.1 Program Summary

Under SB 1383, jurisdictions will be required to pass several ordinances and policies to align with State mandated objectives. The City of Livingston has several ordinances and enforceable mechanisms that will need to be reviewed in detail and modified for SB 1383 compliance **including the Waste and Recyclable Materials Ordinance, Water Efficient Landscape and Irrigation Ordinance, building code, enforcement procedures, and procurement policies. Additionally, ordinance language for self-haulers, edible food generators and food recovery organizations will need to be included in the code amendments.** These ordinances and policies will need to be implemented and enforceable by January 1, 2022, but revisions should begin as soon as possible to ensure they are completed on time.

The City of Livingston's Waste and Recyclable Materials Chapter of the City Code (Chapter 2, Section 8-2) is already quite extensive. The code currently requires all single- and multi-family, and commercial generators to have collection and source separate solid waste and recycling. There are also some education requirements outlined for commercial and multi-family properties.

The City of Livingston allows for the enforcement of the Chapter through inspection and documentation and permits access to on-site records as requested. Most of these aspects are also required by SB 1383, so minor modifications may be needed to ensure full compliance, as discussed in Section 6.5.3.

SB 1383 requires updates for CALGreen, Model Water Efficient Landscape Ordinance (MWELo)³⁰ and procurement programs. The City of Livingston has implemented a Water Efficient Landscape and Irrigation Ordinance (Title 9, Chapter 11, Section 9-11), which may need minor modification to meet recycled organic material requirements. The City has enacted an ordinance codifying the 2016 CALGreen Building Standards Code in their entirety (Title 4, Chapter 4, Section 4-1-10), which will require an update to conform to 2020 CALGreen standards. With respect to procurement, it does not appear that the City of Livingston includes language around environmentally preferable purchasing in the Purchase and Policies and Procedures code (Title 1, Chapter 11, Section 1-11).

There are moderate amendments needed for the Waste and Recyclable Materials Chapter to meet SB 1383 requirements. Ordinances amended for SB 1383 will need to pass through two (2) City Council readings within a relatively short timeline to avoid prolonged delay and to be able to meet the enforcement date of January 1, 2022. It is therefore recommended the City of Livingston prepare to pass and/or update applicable City Code sections simultaneously within a short time frame to meet the State's mandate, and for those changes to begin as soon as possible.

6.5.2 State SB 1383 Requirements for Jurisdictions

- By January 1, 2022, a jurisdiction shall adopt enforceable ordinances (or similarly enforceable mechanisms), requiring compliance by generators, haulers, and other entities regulated under the SB 1383 regulations. (§18981.2.a)
- Adopt an ordinance that requires organic waste generators to subscribe to organics collection programs, annually provide information about organics requirements, provide new information to tenants within 14 days of occupation of the premises, and arrange for access to their properties for inspections. (§18984.10)
- Adopt an ordinance that requires commercial organic waste generators to provide containers for the collection of organic waste and non-organic recyclables in all areas where
- Adopt an ordinance that prohibits organic waste generator employees from placing organic waste in a container not designated to receive organic waste as set forth in sections 18984.1(a)(5) and 18984.2(a)(5). Jurisdiction shall inspect containers for contamination.
- If jurisdiction allows self-hauling, jurisdiction shall adopt an ordinance that requires self-haulers to comply with SB 1383 requirements per sections 18988.1.b and 18988.3.

³⁰ See Attachment A, Glossary for more information on CALGreen and MWELo requirements



- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring Tier One Commercial Edible Food Generators to comply with the following by January 1, 2022, and Tier Two Commercial Edible Food Generators to comply with the following by January 1, 2024 (§18991.3):
 - Arrange to recover the maximum amount of edible food for human consumption that would otherwise be disposed by contracting with a food recovery organization or service, or by self-hauling edible food to a food recovery organization.
 - Prohibit a commercial edible food generator from recovering no edible food unless there is insufficient recovery capacity or an act of God.
 - Prohibit a commercial edible food generator from intentionally spoiling edible food that could be recovered for human consumption.
- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring edible food recovery services and organizations that collect or receive edible food directly from commercial edible food generators to maintain records of the contact information for each commercial edible food generator that collects and receives food from, the quantity in pounds of edible food collected or received and transported per month, and lastly the contact information for each food recovery service. (§18991.5)
- Adopt an ordinance to regulate haulers collecting organic waste. A jurisdiction’s ordinance/mechanism shall require hauler compliance with SB 1383 regulations, including: compliance with collection program requirements and identification of facilities where they will transport organic waste. (§18988.1.a, §18988.1.c, and §18988.2)
- Adopt enforceable ordinance(s), or similarly enforceable mechanisms requiring compliance with Sections 492.6(a)(3)(B)(C), (D), and (G) of the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. (§18989.2)

6.5.3 Ordinance and Policy Needs

A moderate level of revisions to the current municipal code will be needed to ensure that all of the necessary requirements regarding organics are present. While the ordinance requirements are stringent, there are still a number of specific policy decisions that will need to be made, and additional or optional program decisions that could aid the City of Livingston in reporting, recordkeeping and enforcement.

6.5.3.A Collection

One of the broader amendments will be to expand the code to include all organic materials, not just green waste, and make subscription mandatory for all generators. This will require some updates to the definitions in the current code. Language that collection service and source-separation is mandatory of generators should be explicitly stated.

One of the specific decision points the City of Livingston will need to make is to identify acceptable waivers generators can apply for such as de minimis, physical space and/or collection frequency waivers. Procedures for applying and recertification of waivers should be outlined in the amended code. If allowed, the municipal code will need to outline specific source-separation requirements that self-haulers will need to adhere by to waive the requirements for participating in the City mandated collection programs. Jurisdictions have the option to require self-haulers to register as such, and/or report tonnage and drop off locations to facilitate reporting, although that is not specifically required.

6.5.3.B Edible Food Recovery

A new section of code for regulating food recovery programs will need to be approved. Commercial edible food generators have reporting and recordkeeping requirements they must adhere to under SB 1383. The City of Livingston has the option to mandate reporting by edible food generators and food recovery organizations to the City as a means of tracking the movement and capacity of recovered food. It is highly recommended that such optional provisions under SB 1383 be included in this new section of municipal code to facilitate the City’s reporting requirements to CalRecycle. Additional details on reporting requirements can be found in the Reporting and Recordkeeping, Section 8.



6.5.3.C Contract Haulers

SB 1383 outlines requirements for haulers. It is worth considering adding in basic requirements for contracted refuse collectors in the City’s Municipal Code, such as meeting State law requirements. It is recommended that SB 1383 specific requirements be fully described and met through an amended or restated Franchise Agreement, to allow for more timely changes and limit the sometimes lengthy code amendment process for minor changes to manage the hauling contract.

6.5.3.D CALGreen and MWELo

The City of Livingston’s municipal code will need to maintain the most recent standards for the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. Specifically, Sections 492.6(a)(3)(B), (C), (D), and (G), which mandates specific levels of compost and mulch, and sets a precedent for mulch made from recycled or post-consumer materials. Both CALGreen and MWELo chapters within the existing code may need minor modifications to ensure that applicable sections are more enforceable locally. Likewise, confirmation that the details of the current Trash Enclosure Code (Title 5, Chapter 5, Section 5-5-4) meets the current CALGreen standards is needed. The City of Livingston may want to consider language that would allow both MWELo and CALGreen standards to auto-update to the most recent version to prevent bringing minor code changes to City Council.

6.5.3.E Inspection and Enforcement

There do not appear to be major or extensive changes that need to be made to the current inspection, investigation and enforcement procedures. However, this action plan is based on draft regulations, and therefore the City should confirm the final regulations against the City’s inspection and enforcement language.

6.5.3.F EPPP and Procurement

There is not currently an environmental preferable purchasing policy for the City of Livingston within existing the procurement policy. The City will need to assess procurement policy gaps and implement policies that align with the paper and mulch requirements, among others. The policy will need to mandate and standardize purchasing of organic products throughout the City. More details can be found in the Product Procurement Action Plan in Section 6.3.

It will be important that the City of Livingston not unintentionally inhibit the goals of SB 1383 to reach organic waste disposal reduction targets while amending its municipal code. Likewise, should any existing ordinances within the City of Livingston’s municipal code be found to impede organics disposal reduction, it is highly recommended they are amended per SB 1383 guidelines.

In order to reach compliance in a timely fashion, the City should amend all SB 1383 related ordinances to be able to bring all changes to Council meetings at once, rather than staggering them over several months. The City can then approve the majority or all SB 1383 related ordinances at their second reading.

6.5.4 Contract Implications

In addition to regulating residents and commercial entities that generate organic material, the City of Livingston will need to regulate their hauler either through code updates and/or updates to its Franchise Agreement. Hauler requirements include, but are not limited to, identifying organics facilities and providing all regulated generators with organics, recycling, and refuse collection services. Upon ratification of an ordinance regulating the City hauler’s collection of organic waste, the City of Livingston may find it useful to implement additional provisions in the Franchise Agreement to further delegate programmatic requirements.

6.5.5 Education and Outreach

In addition to the two City Council sessions where the updated ordinance will be read, the City of Livingston may wish to conduct stakeholder engagement outreach and/or an introductory campaign to inform all citizens and businesses of legal and policy changes taking effect. These efforts would encourage compliance with the soon to be enacted ordinances, and potentially mitigate pushback from residents opposed to increased services and collection costs.



6.5.6 Step-by-Step Action Plan

Table 53: City of Livingston Ordinance and Policy Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Draft revised Mandatory Recycling Ordinance and other required ordinances for monitoring enforcement, edible food recovery, etc.; Amend existing ordinances for compliance	City	Mar - Jun 2021
2	Establish protocols for approving and documenting de minimus and space constraint waivers (if applicable)	City	Mar - Jul 2021
3	Conduct stakeholder workshop(s) on Mandatory Ordinances (optional).	City	August 2021
4	Obtain approval of Mandatory Ordinance (Second Reading no later than 1/1/2022)	City	Sept – Dec 2021

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6.6 Edible Food Recovery

6.6.1 Program Summary

Edible food recovery can represent a major obstacle for many jurisdictions. Municipalities and counties must implement a food recovery program by January 1, 2022 in order to support the recovery of commercially generated edible food, particularly for human consumption. Some businesses and entities in the City of Livingston will fall under Tier One and Tier Two Commercial Edible Food Generators. SB 1383 mandates that Tier 1 Commercial Edible Food Generators implement a food recovery program by January 1, 2022, and that Tier 2 Commercial Edible Food Generators implement a program by January 1, 2024. *The City of Livingston was unable to produce a list of businesses that are likely to fall under this mandate.* However, Tier One and Tier Two Commercial Edible Food Generators will need to be identified to meet SB 1383 mandates.

6.6.2 State SB 1383 Requirements for Jurisdictions

- Implement an edible food recovery program that includes education of Tier One and Tier Two Commercial Edible Food Generators at least annually with information about the available edible food recovery program, information on generator requirements, and information about food recovery organizations and services. (§18991.1)
- Implement an edible food recovery program that increases access to food recovery organizations and services. (§18991.1)
- Develop a list of food recovery organizations and services operating within the jurisdiction, including: name, physical address, contact information, collection service area, and hours of operation, which is updated annually. (§18985.2.a)

6.6.3 State SB 1383 Requirements for Generators

- Commercial edible food generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed. (§18991.3.b)
- If an enforcement action is commenced against a commercial edible food generator for noncompliance, the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances. (§18991.3.d)
- A commercial edible food generator subject to the requirements in Article 10 shall keep a record of each food recovery service/organization that collects/receives its edible food and a copy of all contracts or written agreements with the food recovery service/organization. (§18991.4)

6.6.4 Ordinance and Policy Needs

In order to recover the maximum amount of edible food that would otherwise be disposed, the City of Livingston will need to develop a Mandatory Edible Recovery Ordinance that requires Tier One and Tier Two Commercial Edible Food Generators to arrange and implement food recovery programs. The ordinance will also need to require food recovery organizations to track quantities of food recovered. The City of Livingston will need to make a policy decision surrounding how they will enable food recovery efforts as well as a funding mechanism. It is recommended that the City of Livingston Staff coordinate with the Merced County Environmental Health Department as an additional avenue for identifying potential edible food generators and informing them of the requirements.

Additionally, the City of Livingston will be responsible for reporting pounds of food rescued for human consumption and related food waste diversion. It is recommended the City of Livingston adopt as part of the ordinance a mandate for generators to report how much edible food was recovered through collaboration with recovery organizations and similar means. This will make it easier to keep records of recovered food quantities thereby fulfilling SB 1383 reporting requirements.

EDIBLE FOOD GENERATORS DEFINED

Tier 1: January 1, 2022

- Supermarkets
- 10,000+ SF Grocery store
- Food service provider
- Wholesale food vendor

Tier 2: January 1, 2024

- Restaurants with 250+ seats and 5,000+ SF
- Hotel with onsite food and 200+ rooms
- Health facility with onsite food and 100+ beds
- Large Venue and Large Events
- Local education facility with on-site food facility
- State agency with cafeteria and 250+ seats



6.6.5 Contract Implications

The City of Livingston will identify commercial edible food generators and provide these generators with a food donation guide, along with additional support. The food donation guide should be prepared by January 2022 to allow adequate time for public education efforts and should include at a minimum the information described in Section 6.6.2. If the City chooses to delegate distribution of the food donation guide to the franchise hauler, it should be included in the City’s Franchise Agreement. If the City partners with a food donation organization or matching program service provider, such as the Bobcat Food Waste Prevention Program discussed in Section 6.6.10, a separate agreement may be necessary.

6.6.6 Monitoring

The City of Livingston will be required to monitor the compliance of generators, food recovery organizations, and service providers. The City of Livingston may choose to perform this task on its own, or contract with another party to ease the monitoring workload on City Staff. It is recommended that the City enter discussions with the County of Merced Department of Environmental Health to inquire if the County would be willing to monitor compliance. Since the County health inspectors are already in the field inspecting food generating businesses, food recovery organizations, and food recovery services, monitoring for SB 1383 compliance will amount to a few additional inspection items. If the City were to internalize the monitoring of these entities it would require duplicative routing and site visits. On top of the inefficiency an cost impacts of duplicative visits, it may be cumbersome and burdensome for the business community.

6.6.7 Education and Outreach

Similar to collection and processing programs, SB 1383 requires specific education and outreach be provided to support edible food recovery. To meet such requirements, the City of Livingston must annually educate commercial edible food generators; this may be achieved by including relevant information in the franchise hauler’s bills as billing inserts, annual service brochures, and/or newsletters. Additionally, the franchise hauler’s technical assistance staff (and potentially subcontractors) can provide education and assistance during commercial site visits. The City of Livingston may also find it useful to partner with the Merced County Environmental Health Department to engage inspectors in providing education during their site inspections. Other education efforts may involve working with the Chambers of Commerce and other local organizations. Through education, the City of Livingston can become a leader in fighting hunger while satisfying regulatory actions.

6.6.8 Staffing and Budgetary Considerations

It is anticipated that there will be minimal costs associated with implementing an edible food recovery program to comply with SB 1383. It is expected that the County may require reimbursement for inspection of Tier One and Tier Two Commercial Edible Food Generators, food recovery organizations, and food recovery services (assuming they’re willing to take on this role).

The City will also require approximately 0.01 FTEs for annually updating the online list of food recovery organizations and services operating within the City.

6.6.9 Program Metrics and Reporting

To completely and accurately satisfy SB 1383 reporting requirements, the City of Livingston will need to collaborate with edible food generators and recovery organizations to report their data and diversion progress. The City of Livingston will monitor general SB 1383 compliance of these entities, and it may be helpful to note trends in quantities and types of meals delivered to better understand local community demand. Food recovery websites and mobile apps have proven to ease the organizational and logistical challenge associated with food donation. The City of Livingston, however, would need to consider development and outreach costs associated with such an investment.

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6.6.10 Step-by-Step Action Plan

Table 54: City of Livingston Edible Food Recovery Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Develop list of Tier One and Tier Two Commercial Edible Food Generators	City	Mar – Jun 2021
2	Discuss opportunities for expanding capacity in the City of Livingston	City	Mar – Jun 2021
3	Draft Food Recovery, Mandatory Recycling, and other Ordinances	City	Mar – Jul 2021
4	Conduct stakeholder workshop(s) on Food Recovery Ordinance (optional)	City	August 2021
5	Obtain approval of Food Recovery Ordinances (no later than 1/1/2022). Requires two readings at City Council.	City	Sep – Dec 2021
6	Integrate food recovery information into Franchisee’s commercial education materials (optional)	Hauler	Oct – Dec 2021
7	Initiate education program of Tier One Commercial Edible Food Generators on the Food Recovery Ordinance and program	TBD	Sep – Oct 2021
8	Educate Tier One Commercial Edible Food Generators that are self-haulers/back-haulers on edible food recovery requirements	TBD	Sep – Oct 2021, (annually)
9	Develop food recovery webpage	City	Oct – Dec 2022
10	Prepare food donation guide	City	Oct – Dec 2022
11	Update food recovery webpage content including list of food recovery organizations	City	Oct – Dec 2022, (annually)
12	Support development of County capacity planning analysis and report (no later than 2/1/2022)	City	Jan – Feb 2022
13	Review and analyze edible food generator compliance and food recovery organization compliance with the Food Recovery Ordinance and review program trends	City	Jun – Dec 2022 (annually)
14	Initiate education program of Tier Two Commercial Edible Food Generators on the Food Recovery Ordinance and program	Hauler	Jan – Mar 2024, (annually)
15	Support development of County capacity planning report (no later than 8/1/2024)	City	Feb – Jul 2024

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6.7 Education and Outreach

6.7.1 Program Summary

The City of Livingston currently provides mailings to commercial and residential customers in English, Spanish, and Punjabi on a continual basis. Generally, SB 1383 requires that jurisdictions provide education to all residential and commercial units, franchise haulers, permitted haulers, self-haulers, and food recovery organizations/services on their compliance obligations, as outlined in Section 6.7.2 below. Therefore, The City of Livingston will need to expand their public education and outreach program to comply with the education requirements of SB 1383.

It is recommended that the City of Livingston include provisions consistent with the education requirements of SB 1383 in the City's amended or restated Franchise Agreement. While SB 1383 requires minimum content and topics, jurisdictions may comply through a variety of distribution methods, allowing the City flexibility to choose distribution methods such as online web postings or e-blasts to minimize the cost of print media. In order to ensure that media is distributed widely to all generators, including those who may self-haul, it is recommended that the City provide outreach annually through the United States Postal Service Every Door Direct Mailer Service (USPS EDDM). Content development and printing of media may be reasonably delegated to the City's franchise hauler to minimize City staffing impacts.

It is also recommended that the City post any franchisee-developed media on the City's website. This is a low-cost method for broadcasting information to a potentially wider audience and/or providing additional educational touchpoints.

6.7.2 State SB 1383 Requirements for Jurisdictions

- Jurisdictions shall provide generators using an organic waste collection service with the following education and outreach (§18985.1.a):
 - Requirements to properly separate materials.
 - Methods for organic waste prevention, on-site recycling, and community composting.
 - Methane reduction benefits and method of organic waste recovery used.
 - Information on public health and environmental impacts.
 - How to recycle organic waste, and a list of approved haulers.
 - Information related to public health and safety benefits and environmental impacts associated with the disposal of organics.
 - Information regarding edible food donation programs.
 - Information on self-hauling requirements (if jurisdiction allows self-hauling).
- Provide outreach and education through print or electronic media and by conducting outreach through direct contact with generators through workshops, meetings, or on-site visits. (§18985.1.b)
- Translate educational materials into any non-English language spoken by a substantial number of the public provided organic waste collection services. (§18985.1.e)
- At least annually a jurisdiction shall provide commercial edible food generators with the following education and outreach (§18985.2.b):
 - Information about food recovery organizations and food recovery services operating within the jurisdiction, and where a list of those food recovery organizations and food recovery services can be found.
 - Information about actions that commercial edible food generators can take to prevent the creation of food waste.
 - Department of Resources Proposed SLCP Regulations
 - The jurisdiction may provide this information by including it with regularly 1 scheduled notices to those commercial businesses.



6.7.3 Contract Implications

It is recommended that the City of Livingston delegate the educational requirements of SB 1383 to the franchise hauler as allowed under Section 18981.2 of SB 1383. Delegating this will minimize the impacts on City staffing and budgeting. Working with the hauler’s staff also enhances the quality of educational programming by leveraging the experience and expertise of the hauler’s outreach staff.

While SB 1383 requires different minimum standards for educational information distributed to various entities (e.g., residential generators and food recovery services), it is recommended that the hauler provide a double-sided educational newsletter that contains all education requirements to every unit within the City utilizing the USPS EDDM. Utilizing the USPS EDDM will ensure that all entities receive the mandatory minimum education efficiently. This approach negates the need for the City or hauler to segregate their customers based on entity type and develop various pieces of education. The EDDM will also ensure that every unit within the City receives the information, as opposed to using a customer list which likely will include shared service accounts (e.g., multi-family complexes) thereby missing generators.

6.7.4 Staffing and Budgetary Considerations

It is estimated that the cost to print and distribute an annual mailer via the USPS EDDM to all units will cost between \$3,200 and \$3,700 per annum, which equates to a cost of approximately six cents (\$0.06) per unit per month (SFD, MFD, commercial). Additionally, it should be noted that there are minimal impacts to staffing required on an on-going basis, as this will mostly entail review of educational material provided by Allied prior to distribution.

6.7.5 Optional Program

While not required by SB 1383, a robust pre-implementation campaign is critical to community engagement and program success. Early education provides residents and businesses with important information about necessary behavior change to comply with the new programs and also informs them that the new programs are mandated by the State of California. As such, it is recommended that the City require its franchise hauler to distribute two (2) newsletters via the USPS EDDM prior to program commencement. It is estimated that printing and distribution of these two mailers will cost between \$5,500 and \$6,300, which equates to approximately one cent \$0.01 per dwelling unit per month when amortized over a ten year franchise term.

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6.7.6 Step-by-Step Action Plan

Table 55: City of Livingston Education and Outreach Step-by-Step Action Plan

ID#	Action Items	Collaborators	Timeframe (1)
1	Catalog all education and outreach requirements of SB 1383.	HF&H	Complete
2	Identify an approach to and timing for integrating each requirement into current programs.	City and Hauler	Mar - Jun 2021
3	Confirm approach for addressing SB 1383 education and finalize timeline for revisions to and review of various education pieces.	City and Hauler	Jun - Aug 2021
4	Revise education materials and webpages to integrate SB 1383 information.	City and Hauler	September 2021
5	Provide pre-implementation collection program information to all generators.	Hauler	Oct - Dec 2021
6	Educate customers (single- and multi-family, and commercial) about new organics program.	Hauler	Jul – Dec 2021
7	Expand multi-family/commercial education and technical assistance to those without recyclables and/or organics collection service.	Hauler	Jan – Jul 2022
8	Annually provide organic waste generators (including self-haulers) with information on properly separating materials, preventing organics waste, methane reductions, approved haulers, and health and environmental impacts of landfill disposal other requirements under 18985.1 and 18985.2[1].	Hauler	January 2022 (annually)
9	Annually provide edible food generators with information regarding the jurisdiction’s edible food recovery program, generator requirements, food recovery organizations, and other requirements under 18985.1 and 18985.2.	Hauler	Jan 1, 2022 (annually)

(1) Timing of some items may be subject to change based on the commencement of services.

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6.8 Reporting and Recordkeeping

6.8.1 Program Summary

SB 1383 drastically expands jurisdiction reporting requirements. It contains three primary reporting mechanisms: an Initial Jurisdiction Compliance Report due April 1, 2022; an Annual Report; and an Implementation Record. The Initial Jurisdiction Compliance Report includes copies of ordinances and other enforceable mechanisms adopted pursuant to SB 1383, the contact information for the primary City reporting contact, and information on the implementation of organic waste collection programs. For this reason, it is imperative that the City of Livingston implement an amended or restated franchise agreement, as well as the required ordinances in a timely manner.

The MCRWMA is well positioned to coordinate the documents needed for the Implementation Record, and to submit the compliance and annual reports. The MCRWMA currently submits the City's Electronic Annual Reports (EARs) to CalRecycle through CalRecycle's Recycling and Disposal Reporting System (RDRS). The City of Livingston uses Recyclist, a cloud-based software program, to submit AB 341 and AB 1826 data to the Authority, who then combines it with their disposal, composting, and transfer data for the EAR. Additionally, The MCRWMA attends annual calls with CalRecycle to assist member agencies in their data collection and reporting efforts³¹.

To meet the expanded SB 1383 requirements, the City of Livingston will need to report data more frequently than they currently do to ensure that the Implementation Record is up to date. The expanded annual reporting requirements will require additional budget and potentially additional staffing. The current data sharing between The MCRWMA and the City of Livingston will reduce some of the administrative burden from reporting, by reducing duplicative staffing efforts. The staffing impacts will be determined by the continued relationship with the MCRWMA, and whether the City of Livingston chooses to use internal staff for reporting or outsource this requirement to a third party. Please see the Budgetary and Staffing Implications Section 6.8.4 below for further information.

SB 1383 requires that jurisdictions maintain records demonstrating their compliance with SB 1383 in a central location, physical or electronic, that can readily be accessed by CalRecycle within ten business days of request. Required records include, but are not limited to: ordinances, contracts, franchise agreements, a written description of the jurisdiction's inspection and enforcement program, organic waste collection service records, contamination minimization records, waiver and exemption records, education and outreach, edible food recovery program records, recovered organic waste procurement records, recycled content paper purchase records, inspection records, and enforcement records. All records and information required shall be included in the Implementation Record within 60 days of the event and shall be maintained for a minimum of five (5) years. The City of Livingston currently receives monthly reports from Gilton which will be sufficient from a timing standpoint to facilitate the compliance with SB 1383 Implementation Record requirements (although the volume of records will increase substantially). The monthly submittal provision should remain in future Franchise Agreement or amendments. Please refer to Attachment D for a list of reporting requirements.

6.8.2 State SB 1383 Requirements for Jurisdictions

- By April 1, 2022, jurisdiction will submit initial Compliance report with a copy of adopted ordinances, reporting items identified in §18994.2, and contact information of the jurisdiction's designated employee for compliance-related issues. (§18994.1)
- Commencing August 1, 2022, submit an Annual Report to CalRecycle containing the information required in §18994.2.b through §18994.2.k. Note that the first report is due October 1, 2022 and will be for the period of January 1, 2022 through June 30, 2022, while subsequent reports will be for the entire previous calendar year (January 1 through December 31). Some of this information must also be maintained with the jurisdiction's Implementation Record.
- Maintain records including ordinances, contracts, franchise agreements, policies, procedures, or programs and a description of hauler programs.
- Maintain an Implementation Record that is stored in a central location (either physical or electronic) that must be made available to CalRecycle within 10 business days of their request

³¹ Information in preceding paragraph confirmed via phone with Eric Zetz on July 14, 2020.



6.8.3 Contract Implications

To comply with SB 1383 reporting and recordkeeping requirements, the City of Livingston will need to expand the data submittal requirements contained in its current Franchise Agreement. The City should work with Gilton to amend reporting requirements to ensure the City is complying with recordkeeping requirements during the last year of the current Franchise Agreement while the City undergoes the RFP process. The City should utilize CalRecycle’s Model Franchise Agreement when incorporating reporting requirements in its Franchise Agreement.

Acknowledging the large volume of data and multiple stakeholders, it is recommended that the City of Livingston continue to utilize a cloud-based software platform to enhance efficiency of the reporting process. Recyclist, the MCRWMA’s current service provider, is in the process of developing a software solution that encompasses SB 1383 requirements.

The City of Livingston currently utilizes the MCRWMA to help manage the reporting process, data aggregation, and analytics, a process that will also need to be updated and memorialized through an agreement or MOU. The MCRWMA can continue to serve as an intermediary between the City of Livingston and CalRecycle and provide additional administrative support as needed.

6.8.4 Budgetary and Staffing Implications

In order to comply with the increased reporting requirements, the City of Livingston will require additional funding and staffing demand. It is estimated that on a one-time basis, it will cost the City approximately \$34,700 to quantify reporting requirements, identify data sources, and update reporting procedures. On an on-going basis, it is estimated that the City will incur an annual cost of approximately \$37,700, with an on-going staffing demand equivalent to 0.11 FTEs.

6.8.5 Step-by-Step Action Plan

Table 56: City of Livingston Reporting and Recordkeeping Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Review record keeping requirements of SB 1383 and develop protocol for obtaining and maintaining records.	City	Mar - Jun 2021
2	Clarify reporting obligations and align submittal dates with SB 1383 reporting deadlines.	City, Hauler	Mar - Jun 2021
3	Consider the development expansion of existing systems to handle some or all SB 1383 record keeping and reporting requirements and implement, if desired.	City	Mar - Jun 2021
4	Negotiate with Gilton for provision of required records for final year of current franchise term	City, Hauler	Jul - Dec 2021
5	Begin documentation and aggregation of reporting for Implementation Record.	City, Hauler	Aug - Dec 2021
6	Commence SB 1383 mandated record keeping.	City, Hauler	Dec 2021 - Jan 2022
7	Prepare initial compliance report (report due 4/1/2022).	City	Dec 2021 - Mar 2022
8	Prepare annual report (report due 8/1/2022 and annually thereafter).	City	Apr - Jul 2022

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Los Banos SB 1383 Action Plan





7.1 Collection and Processing

7.1.1 Current Program Summary

Commencing January 1, 2022, the State requires jurisdictions to provide collection service to all residential and commercial generators to divert organic waste (including food waste, green waste, food-soiled paper, and other organic materials, as defined) from landfill disposal. The City of Los Banos currently offers residents automated collection of solid waste, recycling, and green waste once per week. Multi-family residences and commercial businesses are offered weekly collection of solid waste, recyclables, and green waste at their discretion, but at least once per week³². The City of Los Banos' current collection agreement with Republic is scheduled to end on June 30, 2021. The City has already approved a new Franchise Agreement with Mid-Valley Disposal (Mid-Valley) for collection and processing services, which is scheduled to commence July 1, 2021.

The City of Los Banos' recently completed an RFP process has positioned the City well for SB 1383 compliance on several fronts. Through the new Franchise Agreement, the City has secured processing capacity for comingled organic waste (both yard waste and food waste) which is one of the largest challenges being faced by California jurisdictions (see Section 2.2.2.B for a further discussion of regional infrastructure challenges). Additionally, the City's Franchise Agreement with Mid-Valley contemplates several other requirements of SB 1383, including but not limited to: provision of all required waste streams (refuse, recyclables, and organics) to all generators, deployment of new collection containers that comply with color and labeling requirements, and compliant-processing standards for all waste streams. Additionally, the Franchise Agreement contains robust education requirements to assist ratepayers with appropriate participation.

7.1.2 State SB 1383 Requirements for Jurisdictions

- Provide organic waste collection and recycling services to all generators, except self-haulers using a 3-, 2-, or 1-container collection system. (§18984.1-18984.3, §18998.1)
- Jurisdictions may allow limited waivers for generators with de minimis volumes and/or physical space constraints, and if so, must conduct reverification inspections, maintain records, and submit reports. (§18984.11, §18984.14, §18995.1.a)
- Provide education annually to collection customers and self-haulers (§18985.1)
- Provide collection containers to generators that comply with color and labeling requirements when replacing containers or by January 1, 2036, whichever comes first. (§18984.7)
- Implement a hauler oversight program and report required hauler information. (§18994.2.f)
- Ensure organic waste is sent to a facility or operation deemed to constitute a reduction in landfill disposal (§18983.1)

7.1.3 State SB 1383 Requirements for Generators

- Subscribe to organics collection services provided by jurisdiction (§18984.9) or self-haul organics to facility that processes source-separated organic waste (§18984.9)
- For commercial businesses, provide organics and recyclables containers for customers and employees; require employees to source separate organic materials; periodically inspect organics containers for contamination; and, educate employees on source separation if contamination observed (§18984.9)
- For commercial businesses self-hauling, record and report self-hauling activities (§18988.3)

7.1.4 Ordinance and Policy Needs

The City of Los Banos will need to amend its current Municipal Code to include provisions requiring compliance with SB 1383 for collection and processing programs. SB 1383 requires all single-family, multi-family and commercial customers to have organics, including food waste, and recyclables collection services in a three-container system. Additional applicable laws such as Mandatory Commercial Recycling (AB 341) and Mandatory Organics Recycling (AB 1826) will also need to be considered in the code amendment. The City of Los Banos will need to expand its self-haul registration and reporting requirements, as well as provide specific education materials to those generators that choose to self-haul or back-haul their organics. This can be done through the use of City staff, or should be considered as part of the agreement with Mid Valley Disposal. More details can be found in Section 7.4 Ordinances and Policies.

³² As prescribed in the Franchise Agreement



7.1.5 Contract Implications

The majority of this SB 1383 Action Plan engagement occurred in parallel with the City’s RFP process, and therefore analysis was not based on the pending Franchise Agreement. However, a cursory review of the new Franchise Agreement indicates that the City of Los Banos is substantially compliant with the collection and processing standards of SB 1383.

7.1.6 Education and Outreach Needs

An fundamental component of collection and processing programs is robust education of all generators on the SB 1383 regulations and, most importantly, on the benefits of organics recycling. This could alleviate some of the negative feedback that may arise with the establishment of mandatory requirements and increased collection costs for generators that currently do not have recycling and/or organics collection. A large portion of this effort will be completed by Mid-Valley Disposal as outlined in the City’s transition plan. Key education activities include, but are not limited to:

- A series of five (5) “Town Hall” meetings to educate and inform customers of new programs;
- SB 1383 workshops;
- Commercial and multi-family waste assessments;
- Ongoing contamination monitoring; and
- Collaboration with City Staff to finalize outreach materials.

7.1.7 Infrastructure Needs

The City of Los Banos is well positioned to avoid widely prevalent organics infrastructure limitations. Through the City’s Franchise Agreement the City has access to organic waste processing capacity at Mid-Valley’s Kerman Composting Facility. Additionally, the City is provided access to recyclable materials processing capacity at the Elm Material Recovery Facility in Fresno, CA.

7.1.8 Hauler Rate Impacts

The City of Los Banos has approved rates to be effective July 1, 2021 that contemplate SB 1383 services. The standard bundled rate for residential customers using 96-gallon containers, inclusive of refuse, recycling, and organic waste, is \$28.76 per month. Commercial and multi-family customers are also offered bundled rates, inclusive of refuse recycling, and organic waste services. There are numerous volume and frequency options for commercial and multi-family customers based on the customers specific generation characteristics.

7.1.9 Staffing and Budgetary Considerations

To cover the cost of the procurement process, Mid-Valley remitted \$150,000 to the City of Los Banos (payable within thirty days of contract execution). On an on-going basis, Mid-Valley will remit the fees listed in Table 2 to the City which may assists with supporting SB 1383 programming.

Table 57: City of Los Banos Franchisee Fee Remittance

Fee Description	Fee Amount
Administrative Fee	7.0% of contractor billings
AB 939 Fee	3.0% of contractor billings
Vehicle Impact Fee	\$400,000 per year (adjusted annually)
Performance Review Fee	\$75,000 (up to three times during term)

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7.2 Monitoring and Enforcement

7.2.1 Program Summary

By January 1, 2022, jurisdictions must begin enforcing SB 1383 requirements through adoption of ordinances and/or other enforceable policies and procedures as well as through development of an inspection and enforcement program. In order to establish a fully compliant and comprehensive enforcement program, the City of Los Banos will need to amend its existing ordinances, policies, and procedures including significantly expanding verification of SB 1383 compliance by generators, self-haulers (including back-haulers), franchise haulers, construction and demolition debris haulers, food recovery organizations and services, and other entities. The program will include provisions for notices of violations (NOVs), and fines or penalties for non-compliant regulated entities, which shall be actively enforced no later than January 1, 2024.

The enforcement program's main goal will be to ensure that each residential and commercial generator subscribe to recyclables and organics collection services or similarly complies through self-hauling requirements (with the exception of commercial entities and multi-family dwellings that have been granted waivers such as de minimis or physical space waivers). The City's imposition of bundled rates and services will assist in ensuring generators have compliant containers. Due to the change in services, the majority of early enforcement efforts will be focused on ensuring single-family, multi-family, and commercial customers are properly separating materials. The City's Franchise Agreement requires two (2) dedicated Sustainability Representatives to assist with maximizing the diversion of the recycling and organics collection programs.

Generally, SB 1383 requires a desktop review of all commercial garbage accounts generating over two cubic yards of solid waste and all multi-family garbage accounts with five (5) or more dwelling units. The regulations also mandate additional inspection for certain regulated entities, route reviews, and monitoring for container contaminants for all generators. SB 1383 requires distribution of education and issuance of NOVs and/or fines to non-compliant entities (see below for further details on requirements). By imposing mandatory service of all three (3) waste streams and providing the appropriate containers to all generators, the City of Los Banos will minimize the effort required to complete desktop compliance reviews. Similarly, a targeted and thoughtful education program, as contemplated in the Franchise Agreement, will raise awareness of the requirements and help minimize the amount of future violations and container contamination incidents. In order to minimize budget and resource impacts on City staff, the Franchise Agreement delegates contamination monitoring and route reviews to Mid-Valley. Even though the initial route monitoring for prohibited container contaminants is delegated to Mid-Valley, the City will be responsible for managing NOVs and fines beginning January 1, 2024.

7.2.2 State SB 1383 Requirements for Jurisdictions

- Jurisdiction may comply with contamination monitoring requirements through conducting route reviews of containers for contaminants such that all routes are inspected annually or through twice yearly waste composition studies of all container types. (§18984.5)
- Implement an inspection and compliance program by conducting compliance reviews of all commercial garbage accounts producing over 2 cubic yards of solid waste, tier one commercial edible food generators, and food recovery organizations. (§18995.1)
- Impose penalties for non-compliant generators, haulers, self-haulers, commercial edible food generator or other entities. (§18997.2)
- Jurisdiction shall investigate the complaint, provide a method for the complainant to learn the result of the complaint, and maintain a record of all complaints and responses. (§18995.3)
- Pay penalties assessed by CalRecycle for its failure to comply, which includes many possible violations ranging from minor, moderate and major and fines from \$500 per violation to \$10,000 per day. (§18997.3)

7.2.3 Ordinance and Policy Needs

The City of Los Banos will need to amend certain sections of the municipal code to integrate the enforcement process and penalties specified in SB 1383 for non-compliant generators, food recovery organizations, haulers, and other entities. The City of Los Banos will also need to develop protocols and policies for customer compliance reviews, route reviews, receipt and investigation of complaints, and documentation of its monitoring and enforcement efforts.



Building permits procedures will need to be updated to better enforce CALGreen requirements for construction and demolition projects. These code updates will ensure that organic waste is source-separated from construction and demolition debris, and that weight tickets for all applicable projects are submitted to the City of Los Banos for reporting purposes.

7.2.4 Contract Implications

The City executed a new Franchise Agreement with Mid-Valley in November of 2020 that contemplates the tasks and programs that may be reasonably delegated to a solid waste collection company. As such, there are no further contracting needs at this time.

7.2.5 Infrastructure Needs

To comply with SB 1383 Implementation Record requirements, the City of Los Banos will need to develop a strategy for documenting monitoring and enforcement efforts. This documentation may include:

- Edible food recovery program requirements;
- A procedure for the receipt and investigation of complaints, and copies of complaints;
- A procedure for issuing waivers, and copies of waivers;
- Compliance with procurement policies; and
- Copies of NOVs and imposed penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities.

The City of Los Banos may be able to collect some of this information from the MCRWMA's current software application, Recyclist. However, the City may wish to implement a more robust CRM system or integrate with current reporting systems.

7.2.6 Education and Outreach

The City of Los Banos will collaborate with Mid-Valley to integrate SB 1383-specific information into the education materials as required by the Franchise Agreement. Specifically, if Mid-Valley identifies contamination they shall affix a Contamination Violation Notice to the contaminated container which contains instructions on the proper procedures for sorting Recyclable Materials or Organic Waste, and must notify the Service Recipient by phone, U.S. mail, e-mail, or in person (which may be a container tag), that for the second and subsequent incidents of excess contamination, the Service Recipient may be charged a contamination fee.

Additionally, the City will rely on Mid-Valley to assist with Edible Food Recovery. Specifically, the Franchise Agreement requires that "at no cost to the City, Contractor must provide support to the City's edible food recovery program as required under SB 1383. Contractor support may include educating commercial edible food generators, and providing records of site visits, conducting education efforts, and listing food recovery organizations."

7.2.7 Program Metrics and Reporting

The City of Los Banos will need to track a number of metrics, several of which are contemplated in the Franchise Agreement. First, the City will need to track the percentage of compliant generators with collection service, self-hauling registration, or generator waivers. It is anticipated that Mid-Valley will provide the number of compliant customers provided with a three-container collection service. Additionally, the City will require that Mid Valley provide the monthly or quarterly number of the following: compliance reviews, route reviews, and educational material provided to noncompliant customers. On an on-going basis, the City will be responsible for reporting the number of NOVs issued, penalties assessed, repeat NOVs and penalties, follow-up inspections completed, and other metrics as defined in Attachment D, Reporting Requirements.

7.2.8 Other Considerations

While the City of Los Banos chose to delegate some monitoring and enforcement actions to the Franchise Hauler, the City must develop its own internal inspection and enforcement program by January 1, 2022. As such, the City of Los Banos will need to provide sufficient Code Enforcement or other staffing to develop and implement the plan, as well as manage and perform on-going enforcement activities. The City of Los Banos may also consider engaging a contractor to assist with monitoring efforts, as needed. There are also many opportunities for collaboration that the City of Los Banos might consider, such as crossover involvement between City departments and/or collaboration with the County (e.g., County Environmental



Health Department conducting compliance reviews for commercial edible food generators during their regularly scheduled health code inspections to streamline inspections).

7.2.9 Step-by-Step Action Plan

Table 58: City of Los Banos Monitoring & Enforcement Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Design SB 1383 compliant monitoring and enforcement program.	City	Mar-Jun 2021
2	Draft amendment to Ordinance(s) to conform with SB 1383 enforcement requirements	City	Jul - Dec 2021
3	Hire or appoint staff person to manage enforcement program	City	Jul - Dec 2021
4	Develop protocols for customer compliance reviews; route review; receipt and investigation of complaints; documentation of enforcement efforts.	Hauler	Jul - Sep 2021
5	Hire part-time enforcement staff or contractor if necessary	City	Sep – Dec 2021
6	Conduct <u>compliance reviews</u> of businesses that generate 2CY+ of solid waste/week and produce organic waste and educate non-compliant entities.	Hauler	Jan – Mar 2022 (annually)
7	Conduct <u>route reviews</u> of commercial businesses and resident areas including inspection of contamination, and educate non-compliant entities	Hauler	Jan – Dec 2022 (annually)
8	Inspect Tier One Commercial Edible Food Generators and food recovery organizations, and educate non-compliant entities through the technical assistance program	City	Apr – Jun 2022
9	Investigate and maintain record of complaints, on an as needed basis, through inspections, route reviews, or compliance reviews	City & Hauler	(on-going)

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7.3 Product Procurement

7.3.1 Program Summary

Article 12 of SB 1383 requires jurisdictions to procure specific amounts of product(s) derived from organic waste recovered in California on a per capita basis. The list of acceptable products includes mulch, compost, renewable natural gas (RNG) used for transportation, electricity or heating applications, electricity produced from biomass conversion, or a combination of these products. Jurisdictions will have a target amount that must be purchased annually; this is known as the minimum procurement target and is calculated by multiplying the jurisdiction’s population (approximately 41,898 residents³³ for the City of Los Banos) by a per capita procurement target of 0.08 tons per resident, which results in a recovered organic waste procurement target of 3.352 tons for the City of Los Banos. Because each of the recovered organics waste products have varying impacts on greenhouse gas emissions reductions, each one is assigned different conversion factors. See Table 59 below for a breakdown of conversion factors. As the City of Los Banos begins this program, it will also need to identify additional procurement opportunities within City departments and divisions in order to expand usage of recovered organic waste products over time.

Table 59: City of Los Banos Recovered Organic Waste Product Procurement Target

Commodity	Conversion Factor	Procurement Requirement
RNG	21 Diesel Gallon Equivalents (DGE)	73,740 DGE
Compost	1.45 yards of compost/ton	4,860 cubic yards
Mulch	1 ton of mulch	3,352 tons
Electricity	650 kWh	2,178,696 kWh

To alleviate time and resource usage, it is recommended that the City of Los Banos delegate this procurement requirement to their franchise hauler or another private entity, as allowed under Section 18981.2 of SB 1383. Currently the City’s Franchise Agreement requires that Mid-Valley provide 1,000 cubic yards of compost or 2,000 cubic yards of mulch. The City will need to identify further opportunities to procure recovered organic waste products to meet its procurement target.

The City of Los Banos is also required to procure recycled-content paper products such as printing and writing paper derived from recycled content in accordance with Sections 22150-22154 of the Public Contracts Code. These statutes direct local governments to give preference to suppliers of recycled products when quality is equal to, or greater than, non-recycled items and when cost is less than or equal to non-recycled items. Vendors will need to certify a minimum percentage of post-consumer material in their offered products, among other requirements³⁴. Documentation and records of purchases will need to be maintained in the City of Los Banos’ Implementation Record (see Section 7.7 for further information).

While not explicitly required by SB 1383, the City of Los Banos may wish to adopt an Environmentally Preferred Purchasing policy, or a similar enforcement mechanism, to assist with adherence to State mandates. For further information on the required changes, please reference Section 7.3.3 below.

7.3.2 State SB 1383 Requirements for Jurisdictions

- Commencing January 1, 2022, a jurisdiction shall annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by article 12. (§18993.1.a)
- Beginning on or before January 1, 2022 and every five (5) years thereafter a jurisdiction must calculate the annual recovered organic waste product procurement target based upon multiplying the per capita procurement target by the jurisdiction population where (§18993.1.b):

³³ State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State – January 1, 2011-2020. Sacramento, California, May 2020.

³⁴ California Public Contract Code, § 22150-22154, California Legislative Information. 2005.
https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PCC&division=2.&title=&part=3.&chapter=3.5.&article=



- Per capita procurement target = 0.08 tons of organic waste per California resident per year. (§18993.1.b.1)
- Jurisdiction population equals the number of residents in a jurisdiction, using the most recent annual data reported by the California Department of Finance. (§18993.1.b.2)
- A jurisdiction shall comply with the product procurement target by directly procuring recovered organic waste products for use or giveaway and/or requiring, through a written contract or agreement, that a direct service provider to the jurisdiction procure recovered organic waste products and provide written documentation of such procurement to the jurisdiction. (§18993.1.e.1 and §18993.1.e.2)
- For the purposes article 12, the recovered organic waste products that a jurisdiction may procure to comply with article 12 are (§18993.1.f):
 - Compost from a compostable material handling operation, facility, or a large volume in-vessel digestion facility.
 - Renewable gas used for fuel, electricity, or heating applications.
 - Electricity from biomass conversion.
 - Mulch, provided that the jurisdiction is in compliance with land application requirements specified in 4 Section 17852(a)(24.5)(A) and the mulch is produced at a compostable material handling operation, a transfer/processing facility, or a solid waste landfill.
- The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products (§18993.1.g). One ton of organic waste in a recovered organic waste procurement target shall constitute:
 - 21 diesel gallon equivalents, or “DGE,” of renewable gas in the form of transportation fuel.
 - 242 kilowatt-hours of electricity derived from renewable gas.
 - 22 therms for heating derived from renewable gas.
 - 650 kilowatt-hours of electricity derived from biomass conversion.
 - 0.58 tons of compost or 1.45 cubic yards of compost.
 - One ton of mulch.
- Renewable gas procured from a POTW may only count toward a jurisdiction’s recovered organic waste product procurement target provided the conditions outlined in article 12 are met for the applicable procurement compliance year. (§18993.1.h)
- Electricity procured from a biomass conversion facility may only count toward a jurisdiction’s recovered organic waste product procurement target if the biomass conversion facility receives feedstock directly from a compostable material handling operation, a transfer/processing facility, or a solid waste landfill. (§18993.1.i)
- Procure paper products, and printing and writing paper consistent with the requirements of Section 22150-22154 of the Public Contracts Code. These paper products shall be eligible to be labeled with an unqualified recyclable label as defined in 16 C.F.R. 260.12. Jurisdiction shall require all businesses that it purchases paper products and printing/writing paper to certify minimum percentage of postconsumer material in the paper products. (§18993.3)

7.3.3 Ordinance and Policy Needs

To achieve SB 1383 compliance, it is recommended the City of Los Banos, at a minimum, develop and ratify an Environmentally Preferable Purchasing policy (or similar enforcement mechanism) and update their municipal code to address SB 1383 requirements. The City of Los Banos can begin this policy initiative by including a section for recovered organic waste products and recycled paper purchases. This policy should include details like (1) how recovered products will be procured (if City takes procurement responsibility) and (2) how the City of Los Banos will support interdepartmental purchasing of these products, while (3) ratifying its commitment to reaching the annual procurement target. The City Manager and other personnel responsibilities should be clarified as well.



The policy will need to include a protocol for purchases and post-procurement tracking as described in Section 7.3.6. The City of Los Banos could purchase recycled paper content from a vendor’s purchasing portal. This would offer built-in tracking and make verification of compliance for CalRecycle more convenient (e.g., Staples Exchange platform). CalRecycle also offers resources on this topic, including a database of recycled-content product manufacturers³⁵.

7.3.4 Contract Implications

Currently the City’s Franchise Agreement requires that Mid-Valley provide 1,000 cubic yards of compost or 2,000 cubic yards of mulch, which accounts for approximately 21% of the City’s recovered organic waste product procurement target. It is recommended that the City explore further opportunities to delegate the procurement of recovered organic waste products with Mid-Valley through the procurement of RNG, or by distributing additional mulch or compost to local farms.

7.3.5 Budgetary Planning

The largest cost and staffing demand for the City of Los Banos will be incurred tracking the purchase of recovered content paper products, and printing and writing paper. The City did not provide data on current procurement and therefore staffing increases could not be reasonably projected. However, it should be noted that the procurement of recycled content paper and printing and writing supplies will have a minimal impact on the City’s budget. Specifically, the Public Contracts Code requires that local governments must give preference to suppliers of recycled products as long as quality is equal to, and cost is less than or equal to, non-recycled items. By definition, the City is not required to spend more on these purchases.

7.3.6 Metrics and Reporting

The City of Los Banos, in addition to executing recovered organic waste procurement, will have several related reporting requirements. The per capita procurement target will need to be recalculated every 5 years and records should be maintained on an on-going basis for inclusion in the Implementation Record, which will track procurement statistics of recovered organic waste products and post-consumer recycled paper. These records will form the body of evidence for achieving compliance, and will include proof of purchase, certifications, procurement source information, and background information of relevant suppliers. This reporting will also be indispensable for the Authority, as these documents will be needed when the Authority submits their Implementation Record in early 2022. Please refer to Section 7.8, Reporting and Recordkeeping Action Plan for additional information.

7.3.7 Step-by-Step Action Plan

Table 60: City of Los Banos Product Procurement Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Review SB 1383 procurement target and requirements for compost, natural gas, mulch, paper and others and identify needed modifications to policies.	City	Mar – Jun 2021
2	Develop Environmentally Preferable Purchasing Policy.	City	Mar – Jun 2021
3	Execute purchasing policy changes, including provision of amended language for contracts and selection of new paper suppliers.	City & Hauler	Jul - Dec 2021
4	Submit final procurement policy and related procedures and agreements to the MCRWMA for inclusion in the Authority's Implementation Record.	City	Jan - Feb 2022
5	Submit procurement records to the MCRWMA for inclusion in the MCRWMA’s Implementation Record.	City	On-going

³⁵ CalRecycle, *Buy Recycled*. September 17, 2019. <https://www.calrecycle.ca.gov/Buyrecycled/Resources/>



7.4 Ordinances and Policies

7.4.1 Current Program Summary:

Under SB 1383, jurisdictions will be required to pass several ordinances and policies to align with State mandated objectives. The City of Los Banos has several ordinances and enforceable mechanisms that will need to be reviewed in detail and, in some cases, significantly modified for SB 1383 compliance **including the Solid Waste Ordinance, Water Conservation Ordinance, building code, enforcement procedures, and procurement policies. Additionally, ordinance language for self-haulers, edible food generators, food recovery organizations, and haulers, as well as procedures for inspections and investigations will need to be included in the code amendments.** These ordinances and policies will need to be implemented and enforceable by January 1, 2022, but revisions should begin as soon as possible to ensure they are completed on time.

Significant revisions will need to be made to Title 6, Chapter 3, Solid Waste Collection and Disposal, of the municipal code. This chapter does not currently include mandatory recyclables and organics service for residential and commercial customers, organics generator requirements for single-family, multi-family, commercial customers or self-haulers, or requirements for edible food generators or food recovery organizations. Mandatory recyclables and organics collection services will be pivotal in maintaining the City's compliance with SB 1383, however there are no such provisions for recycling and organics in the current code.

Currently, the code outlines the Health Officer can inspect the premises for sanitary conditions. However, more robust and consistent inspections are required by SB 1383 which need to be taken into consideration. This is further expanded on in Section 5.3, Ordinance and Policy Needs.

SB 1383 requires updates for CALGreen, Model Water Efficient Landscape Ordinance (MWELo)³⁶ and procurement programs. The City of Los Banos has implemented a Water Efficient Landscape and Irrigation Ordinance (Title 9, Chapter 6), this ordinance appears to meet the most recent MWELo standards and will likely need little, if any, modification. The ordinance codifying the 2019 CALGreen Building Standards Code in their entirety (Title 8, Chapter 1) will require an update to conform to 2020 CALGreen standards.

With respect to procurement, the City of Los Banos covers recycled product procurement in Title 3, Chapter 10, Article 3 of the municipal code. The current language in the procurement code mainly details paper requirements and is not as stringent in its applicability as SB 1383 requires.

The significant changes in the Solid Waste Collection and Disposal chapter may be best met with an almost complete re-write of the ordinance. SB 1383 ordinances will need to pass through two City Council readings within a relatively short timeline to avoid prolonged delay and to be able to meet enforcement date of January 1, 2022. It is therefore recommended the City of Los Banos prepare to pass and/or update applicable municipal code sections simultaneously within a short time frame to meet the State's mandate, and for those changes to begin as soon as possible.

7.4.2 State SB 1383 Requirements for Jurisdictions

- By January 1, 2022, a jurisdiction shall adopt enforceable ordinances (or similarly enforceable mechanisms), requiring compliance by generators, haulers, and other entities regulated under the SB 1383 regulations. (§18981.2.a)
- Adopt an ordinance that requires organic waste generators to subscribe to organics collection programs, annually provide information about organics requirements, provide new information to tenants within 14 days of occupation of the premises, and arrange for access to their properties for inspections. (§18984.10)
- Adopt an ordinance that prohibits organic waste generator employees from placing organic waste in a container not designated to receive organic waste as set forth in sections 18984.1(a)(5) and 18984.2(a)(5). Jurisdiction shall inspect containers for contamination.
- If jurisdiction allows self-hauling, jurisdiction shall adopt an ordinance that requires self-haulers to comply with SB 1383 requirements per sections 18988.1.b and 18988.3.

³⁶ See Attachment A, Glossary for more information on CALGreen and MWELo requirements



- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring Tier One Commercial Edible Food Generators to comply with the following by January 1, 2022, and Tier Two Commercial Edible Food Generators to comply with the following by January 1, 2024 (§18991.3):
- Arrange to recover the maximum amount of edible food for human consumption that would otherwise be disposed by contracting with a food recovery organization or service, or by self-hauling edible food to a food recovery organization.
- Prohibit a commercial edible food generator from recovering no edible food unless there is insufficient recovery capacity or an act of God.
- Prohibit a commercial edible food generator from intentionally spoiling edible food that could be recovered for human consumption.
- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring edible food recovery services and organizations that collect or receive edible food directly from commercial edible food generators to maintain records of the contact information for each commercial edible food generator that collects and receives food from, the quantity in pounds of edible food collected or received and transported per month, and lastly the contact information for each food recovery service. (§18991.5)
- Adopt an ordinance to regulate haulers collecting organic waste. A jurisdiction's ordinance/mechanism shall require hauler compliance with SB 1383 regulations, including: compliance with collection program requirements and identification of facilities where they will transport organic waste. (§18988.1.a, §18988.1.c, and §18988.2)
- Adopt enforceable ordinance(s), or similarly enforceable mechanisms requiring compliance with Sections 492.6(a)(3)(B)(C), (D), and (G) of the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. (§18989.2)

7.4.3 Ordinance and Policy Needs

The City of Los Banos will need to make significant changes and additions to the municipal code in order to meet SB 1383 requirements. While the ordinance requirements are stringent, there are still a number of specific policy decisions that will need to be made, and additional, optional program decisions that could aid the City of Los Banos in reporting, recordkeeping and enforcement.

7.4.3.A Collection

Some of the broader amendments will be to include mandatory refuse, residential recycling, and organics waste collection, and commercial recycling and organics collections. Organics generators including single- family, multi-family, and commercial businesses will need to be mandated to subscribe to collection services that cover these three waste streams.

The City of Los Banos will need to identify acceptable waivers generators can apply for such as de minimis, physical space and/or collection frequency waivers. Procedures for applying and recertification of waivers will need to be outlined in the amended code. If allowed, the municipal code will need to outline specific source-separation requirements for self-haulers to adhere to in order to waive the requirements for participating in the City mandated collection programs. Jurisdictions have the option to require self-haulers to register as such, and/or report tonnage and drop off locations to facilitate reporting. This registration system is recommended.

7.4.3.B Edible Food Recovery

A new section of code for regulating food recovery programs and commercial edible food generators will need to be approved. Commercial edible food generators have reporting and recordkeeping requirements they must adhere to under SB 1383. The City of Los Banos has the option to mandate reporting by edible food generators and food recovery organizations to the City as a means of tracking the movement and capacity of recovered food. It is highly recommended that such optional provisions under SB 1383 be included in this new section of code to facilitate the City's reporting requirements to CalRecycle. Additional details on reporting requirements can be found in Reporting and Recordkeeping, Section 7.7.



7.4.3.C Contract Haulers

SB 1383 outlines requirements for haulers. It is worth considering adding in basic requirements for contracted refuse collectors in the code, such as meeting State law requirements. It is recommended that SB 1383 specific requirements be fully described and met through the new Franchise Agreement.

7.4.3.D CALGreen and MWELO

The City of Los Banos' municipal code will need to maintain the most recent standards for the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. Specifically, Sections 492.6(a)(3)(B), (C), (D), and (G), which mandates specific levels of compost and mulch, and sets a precedent for mulch made from recycled or post-consumer materials. The City of Los Banos may want to consider language that would allow both MWELO and CALGreen standards to auto-update to the most recent version to prevent bringing minor code changes to City Council.

7.4.3.E Inspection and Enforcement

The City of Los Banos will need to reinforce its monitoring, inspections, and enforcement procedures to ensure compliance so that organic waste generators will be liable for complying with SB 1383 requirements. The municipal code will need to be updated to allow for the inspections and investigations to check for contamination and generator compliance. Some of these tasks may be delegated to the hauler and outlined in the agreement. The code will need to authorize regulatory entities to conduct inspections to confirm compliance, maintain records of inspections, and track complaints of potential non-compliance on a somewhat regular basis. These types of inspections may need to be designated separately from the inspection procedure outlined in Section 6-3.19 of the current code, as they will happen on a regular basis and may not meet the qualifications explained in the current code.

The City of Los Banos' current enforcement policies and procedures will need to become more explicit for the Solid Waste Collection and Disposal Chapter regarding generator compliance. These changes can be done by either (1) updating or writing a new section of code in the Garbage and Refuse Collection chapter, (2) linking the chapter to the current enforcement related chapters of the City Code, and/or (3) by amending the City's general enforcement procedures to meet the baseline requirements of SB 1383 (if needed).

A clearer procedure for enforcing the amended Solid Waste Ordinance specifically around notices of violation and fees will help provide City Staff with the tools needed to ensure generator compliance. To do this, additional City staff time to implement investigations, inspections and enforcement will need to be considered, as discussed in Section 5.4 below.

7.4.3.F EPP and Procurement

The current environmental preferable purchasing policy for the City of Los Banos will need moderate modification. The City will need to assess procurement policy gaps and implement policies that align with the paper and mulch requirements, among others. The policy will need to mandate and standardize purchasing of organic products throughout the City as discussed in Section 7.3.

It will be important that the City of Los Banos not unintentionally inhibit the goals of SB 1383 to reach organic waste disposal reduction targets while amending its City municipal code. Likewise, should any existing ordinances within the City of Los Banos' municipal code be found to impede organics disposal reduction, it is highly recommended they are amended per SB 1383 guidelines.

In order to reach compliance in a timely fashion, the City should amend all SB 1383 related ordinances to be able to bring all changes to Council meetings at once, rather than staggering them over several months. The City can then approve the majority or all SB 1383 related ordinances at their second reading.

7.4.4 Education and Outreach

In addition to the two City Council sessions where the updated ordinance will be read, it is recommended the City of Los Banos conduct an introductory campaign to inform all citizens and businesses of legal and policy changes taking effect. These efforts would encourage compliance with the soon to be enacted ordinances. It may be prudent to leverage the Town Hall meetings and SB 1383 workshops to be conducted by Mid-Valley as an appropriate venue for broadcasting ordinance



changes. However, if the City has not began planning or drafting new ordinances it may not be feasible to co-present with Mid-Valley.

7.4.5 Step-by-Step Action Plan

Table 61: City of Los Banos Ordinances and Policies Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Draft revised Mandatory Recycling Ordinance and other required ordinances for monitoring enforcement, edible food recovery, etc.; Amend existing ordinances for compliance	City	Mar - Jun 2021
2	Establish protocols for approving and documenting de minimus and space constraint waivers (if applicable)	City	Mar - Jul 2021
3	Conduct stakeholder workshop(s) on Mandatory Ordinances (optional).	City	August 2021
4	Obtain approval of Mandatory Ordinance (Second Reading no later than 1/1/2022)	City	Sept – Dec 2021

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7.5 Edible Food Recovery

7.5.1 Program Summary

SB 1383 aims to increase recovery of commercially generated edible food for human consumption. As a result, jurisdictions must implement a food recovery program by January 1, 2022. Part of this entails classifying businesses and edible food generators in the City as Tier One and Tier Two Commercial Edible Food Generators. SB 1383 mandates that Tier 1 Commercial Edible Food Generators implement a food recovery program by January 1, 2022, and that Tier 2 Commercial Edible Food Generators implement a program by January 1, 2024. The City of Los Banos was unable to produce a list of businesses that are likely to generate food. In Table 62 below, HF&H has provided a potential listing of Tier One and Tier Two Commercial Edible Food Generators subject to the requirements above. *However, the City will still need to identify Tier 1 and Tier 2 Commercial Edible Food Generators to meet SB 1383 mandates.* It is the City of Los Banos’ responsibility to make sure this preliminary listing is up to date and complete by January 1, 2022.

Table 62: City of Los Banos Commercial Edible Food Generators

Tier 1 Generators in Los Banos	Tier 2 Generators in Los Banos
Walmart Supercenter	Memorial Hospital (possible)
Target	Los Banos Junior High School
Dollar Tree	Creekside Junior High School
99 Cents Only Stores	Pacheco High School
Save Mart	Los Banos High School
Food 4 Less	-

EDIBLE FOOD GENERATORS DEFINED

Tier 1: January 1, 2022

- Supermarkets
- 10,000+ SF Grocery store
- Food service provider
- Wholesale food vendor

Tier 2: January 1, 2024

- Restaurants with 250+ seats and 5,000+ SF
- Hotel with onsite food and 200+ rooms
- Health facility with onsite food and 100+ beds
- Large Venues and Large Events
- Local education facility with on-site food facility
- State agency with cafeteria and 250+ seats

7.5.2 State SB 1383 Requirements for Jurisdictions

- Implement an edible food recovery program that includes education of Tier One and Tier Two Commercial Edible Food Generators at least annually with information about the available edible food recovery program, information on generator requirements, and information about food recovery organizations and services. (§18991.1)
- Implement an edible Food Recovery program that increases access to Food Recovery Organizations and services. (§18991.1)
- Develop a list of Food Recovery Organizations and services operating within the jurisdiction, including: name, physical address, contact information, collection service area, and hours of operation, which is updated annually. (§18985.2.a)
- State SB 1383 Requirements for Generators
- Commercial Edible Food Generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed. (§18991.3.b)
- If an enforcement action is commenced against a Commercial Edible Food Generator for noncompliance, the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances. (§18991.3.d)
- A Commercial Edible Food Generator subject to the requirements in Article 10 shall keep a record of each Food Recovery Service/organization that collects or receives its edible food and a copy of all contracts or written agreements with the food recovery service/organization. (§18991.4)

7.5.3 State SB 1383 Requirements for Generators

- Commercial edible food generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed. (§18991.3.b)
- If an enforcement action is commenced against a commercial edible food generator for noncompliance, the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances. (§18991.3.d)



- A commercial edible food generator subject to the requirements in Article 10 shall keep a record of each food recovery service/organization that collects/receives its edible food and a copy of all contracts or written agreements with the food recovery service/organization. (§18991.4)

7.5.4 Ordinance and Policy Needs

The City of Los Banos will need to develop a Mandatory Edible Recovery Ordinance that requires Tier One and Tier Two Commercial Edible Food Generators to arrange and implement food recovery programs to recover the maximum amount of edible food for human consumption. This will be accompanied by a requirement that food recovery organizations must track quantities of food recovered. Beyond these requirements, it will be up to the City of Los Banos to decide how much it will support food recovery efforts, as well as identify a funding mechanism. The City of Los Banos could also expand internal staff responsibilities to accommodate collaboration with Merced County Environmental Health Department.

Ultimately, the City of Los Banos will be responsible for reporting the amount of food rescued for human consumption and the amount of related food waste diversion. SB 1383 requires edible generators to keep records of quantities of food recovered, but not to report them. To make it easier to fulfill SB 1383's reporting requirement, it is recommended the City of Los Banos adopt an ordinance mandating generators to report to the City how much edible food waste was recovered through collaboration with recovery organizations and similar means.

7.5.5 Contract Implications

The City's Franchise Agreement requires that Mid-Valley assist with Edible Food Recovery. Specifically, the Franchise Agreement requires that "at no cost to the City, Contractor must provide support to the City's edible food recovery program as required under SB 1383. Contractor support may include educating commercial edible food generators, and providing records of site visits, conducting education efforts, and listing food recovery organizations."

7.5.6 Monitoring

Monitoring of food recovery data can be done solely by the City of Los Banos or through contracting a third party. In either case, the City will be required to monitor compliance of generators, food recovery organizations, and service providers.

7.5.7 Education and Outreach

To meet SB 1383 requirements, the City of Los Banos must annually educate Tier One and Tier Two Commercial Edible Food Generators. Though this task can be done by the City alone, it will be much more effective if the City of Los Banos works with their hauler and includes relevant information in Mid-Valley Disposal's bill inserts, annual service brochures, and newsletters. Mid-Valley Disposal and the City's technical assistance staff and contractors can also collaborate and provide education and assistance during commercial site visits. Working with the Merced County Environmental Health Department is another viable option by engaging with inspectors who can provide education during their site inspections. This type of collaboration with other parties will minimize the impact on the City's Staff and budget.

A successful education program can help the City of Los Banos achieve compliance as well as help the community fight against hunger by educating generators, venue operators, and the community through newsletter and other electronic means.

7.5.8 Program Metrics and Reporting

In order to successfully achieve compliance, the City of Los Banos will have to rely on edible food generators and recovery organizations to report their data and diversion progress. This monitoring includes general SB 1383 progress as well as noting trends in meal donations to better understand capacity needs. Food recovery website integration and mobile apps have proven to efficiently coordinate all the moving pieces involved in food donation. Outside tools such as food recovery websites and mobile apps, are available to ease the logistical work load often associated with food donation management. The City of Los Banos, however, would need to consider labor and other costs that accompany such an investment.

7.5.9 Other Considerations

With respect to meeting with SB 1383 mandates, the City of Los Banos can achieve compliance by collaborating with the Bobcat Food Waste Prevention Program. This partnership between UC Merced and Merced County Food Bank addresses the systemic discrepancies in food production while alleviating city-wide hunger. The program first identifies which businesses



are willing to donate unsellable yet wholesome food, and subsequently distributes it across the City of Los Banos³⁷. Critical to this operation is a network of distribution sites to deliver the food quickly where it is needed. This program also focuses on supply chain inefficiencies through the gleaning program³⁸. Producers often have excess edible food that can be donated, but due to labor and logistical constraints, are unable to donate this food to entities located more centrally in the City of Los Banos. The gleaning program brings volunteers to orchards and farms where harvesting and food rescue occurs directly on-site³⁹. Considering the City’s close proximity to the Merced County Food Bank as well as the program’s demonstrated success⁴⁰, the City of Los Banos should consider involvement in the program as a way to both expand the program’s reach and potentially satisfy SB 1383 directives. If the City of Los Banos does decide to engage with the program, it can expect to support the program by locating distribution centers in the City or passing policies conducive to the program’s county-wide success. Additionally, the City of Los Banos may want to consider SB 1383 related provisions in its soon to be completed agreement with Mid-Valley Disposal.

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³⁷ Mashinchi, Kenneth. “Food Waste Prevention Program Saves Thousands of Pounds of Food in Merced.” *Newsroom*, UC Merced, March 12, 2019. <https://news.ucmerced.edu/news/2019/food-waste-prevention-program-saves-thousands-pounds-food-merced-county>. Accessed 15 July 2020.

³⁸ Meyer, Erin. “Fill Plates, Not Landfills: Implementing the Bobcat Eats Food Waste Awareness and Prevention Program.” *Campus Sustainability Hub*, May 17, 2019. <https://hub.aashe.org/browse/casestudy/21808/Fill-Plates-Not-Landfills-Implementing-the-Bobcat-Eats-Food-Waste-Awareness-and-Prevention-Program>. Accessed 15 July 2020.

³⁹ “WHAT IS ‘Picking for Purpose?’” *Merced County Gleaning*, 2020. <http://mercedgleaning.org/about.php> Accessed 15 July 2020.

⁴⁰ “Bobcat Eats Food Waste Awareness and Prevention Program.” *University of California Merced Sustainability*, 2020. <https://sustainability.ucmerced.edu/initiatives/bobcat-eats-food-waste-awareness-and-prevention-program>. Accessed 15 July 2020.



7.5.10 Step-by-Step Action Plan

Table 63: City of Los Banos Edible Food Recovery Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Develop list of Tier One and Tier Two Commercial Edible Food Generators	City	Mar – Jun 2021
2	Discuss opportunities for expanding capacity in the City of Los Banos.	City	Mar – Jun 2021
3	Draft Food Recovery, Mandatory Recycling, and other Ordinances	City	Mar – Jul 2021
4	Conduct stakeholder workshop(s) on Food Recovery Ordinance (optional)	City	August 2021
5	Obtain approval of Food Recovery Ordinances (no later than 1/1/2022). Requires two readings at City Council.	City	Sep – Dec 2021
6	Integrate food recovery information into Franchisee’s commercial education materials (optional)	Hauler	Jul – Dec 2021
7	Initiate education program of Tier One Commercial Edible Food Generators on the Food Recovery Ordinance and program	TBD	Sep – Oct 2021
8	Educate Tier One Commercial Edible Food Generators that are self-haulers/back-haulers on edible food recovery requirements	TBD	Sep – Oct 2021, (annually)
9	Develop food recovery webpage	City	Oct – Dec 2022
10	Prepare food donation guide	City	Oct – Dec 2022
11	Update food recovery webpage content including list of food recovery organizations	City	Oct – Dec 2022, (annually)
12	Support development of County capacity planning analysis and report (no later than 2/1/2022)	City	Jan – Feb 2022
13	Review and analyze edible food generator compliance and food recovery organization compliance with the Food Recovery Ordinance and review program trends	City	Jun – Dec 2022 (annually)
14	Initiate education program of Tier Two Commercial Edible Food Generators on the Food Recovery Ordinance and program	Hauler	Jan – Mar 2024, (annually)
15	Support development of County capacity planning report (no later than 8/1/2024)	City	Feb – Jul 2024

Note: Enforcement activities are presented separately in the Enforcement Program Action Plan.

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7.6 Education and Outreach

7.6.1 Program Summary

SB 1383 education requirements are broad in scope, and will require jurisdictions to provide education to all residents, businesses, franchise haulers, permitted haulers, self-haulers, and food recovery organizations/services on their compliance obligations (see section 7.6.2 below). While SB 1383 requires minimum content and topics, jurisdictions may comply through a variety of distribution methods, allowing the City flexibility to choose distribution methods such as online web postings or e-blasts to minimize the cost of print media. Again, the City is well positioned to comply by delegating several requirements and programs to Mid-Valley. Specifically, the Franchise Agreement requires that Mid-Valley:

- Prepare, submit and implement an annual public education and outreach program;
- Make available the use of two (2) sustainability representatives;
- Collaboratively develop a diversion and sustainability work plan;
- Maintain a website describing and promoting services;
- Annual recycling awards;
- Attend public events, host booths and promote diversion activities;
- Broadcast via local newspapers, websites, HOAs and civic groups;
- Assist with food waste and green waste diversion surveys; and
- Provision of annual service notices.

The measures included in the Franchise Agreement will allow the City of Los Banos to satisfy its SB 1383 obligations while proactively engaging with the community. The City of Los Banos will also be able to actively monitor its progress through its monthly meetings with the Contractor as specified in the Franchise Agreement. These meetings will cover, among many items, diversion progress, outreach efforts, and contamination monitoring methods beginning July 2021.

7.6.2 State SB 1383 Requirements for Jurisdictions

- Jurisdictions shall provide generators using an organic waste collection service with the following education and outreach (§18985.1.a):
 - Requirements to properly separate materials.
 - Methods for organic waste prevention, on-site organics recycling, and community composting.
 - Methane reduction benefits and method of organic waste recovery used.
 - Information on public health and environmental impacts of landfilling organic waste.
 - How to recover organic waste, and a list of approved haulers.
 - Information related to public health and safety benefits and environmental impacts associated with the disposal of organics.
 - Information regarding edible food donation programs.
 - Information on self-hauling requirements (if jurisdiction allows self-hauling).
- Provide outreach and education through print or electronic media, and by optionally conducting outreach through direct contact with generators through workshops, meetings, or on-site visits. (§18985.1.c)
- Consistent with Section 7295 of the Government Cost, translate educational materials into any non-English language spoken by a substantial number of the public provided organic waste collection services. (§18985.1.e)



- At least annually a jurisdiction shall provide commercial edible food generators with the following education and outreach (§18985.2.b):
 - Information about the edible food recovery program.
 - Information about edible food generator requirements for food recovery and record keeping (§18991.3).
 - Information about food recovery organizations and food recovery services operating within the jurisdiction, and where a list of those food recovery organizations and food recovery services can be found.
 - Information about actions that commercial edible food generators can take to prevent the creation of food waste.

7.6.3 Contract Implications

The City’s current Franchise Agreement includes sufficient language to meet SB 1383 education and outreach requirements.

7.6.4 Staffing and Budgetary Considerations

The City’s current Franchise Agreement delegates primary public education and outreach functions to Mid-Valley. Therefore, it is anticipated that the City will incur minimal costs to comply with SB 1383 requirements (although the City could certainly provide education in excess of minimum compliance). It is anticipated that the City will incur increased labor for collaborating with Mid-Valley and reviewing education collateral. Since the Franchise Agreement was finalized in Q4 of 2020 vastly shifting the complexion of programs, and staffing analysis for this engagement was completed several months prior, accurate staffing projections are not currently available.

7.6.5 Step-by-Step Action Plan

Table 64: City of Los Banos Education and Outreach Step-by-Step Action Plan

ID#	Action Items	Collaborators	Timeframe (1)
1	Catalog all education and outreach requirements of SB 1383.	HF&H	Complete
2	Identify an approach to and timing for integrating each requirement into current programs (integrate with annual education plan)	City and Hauler	Mar - Jun 2021
3	Confirm approach for addressing SB 1383 education and finalize timeline for revisions to and review of various education pieces.	City and Hauler	Mar - Jun 2021
4	Revise education materials and webpages to integrate SB 1383 information.	City and Hauler	Mar-Jun 2021
5	Provide pre-implementation collection program information to all generators.	Hauler	Mar - Jun 2021
6	Educate customers (single- and multi-family, and commercial) about new organics program.	Hauler	Mar - Jun 2021
7	Expand multi-family/commercial education and technical assistance to those without recyclables and/or organics collection service.	Hauler	Jul – Dec 2021
8	Annually provide organic waste generators (including self-haulers) with information on properly separating materials, preventing organics waste, methane reductions, approved haulers, and health and environmental impacts of landfill disposal other requirements under 18985.1 and 18985.2[1].	Hauler	January 2022 (annually)
9	Annually provide edible food generators with information regarding the jurisdiction’s edible food recovery program, generator requirements, food recovery organizations, and other requirements under 18985.1 and 18985.2.	Hauler	January 2022 (annually)



7.7 Reporting and Recordkeeping

7.7.1 Program Summary

SB 1383 contains three primary reporting mechanisms: an Initial Jurisdiction Compliance Report; an Annual Report; and an Implementation Record. The Initial Jurisdiction Compliance Report is due April 1, 2022 and shall include copies of ordinances and other enforceable mechanisms adopted pursuant to SB 1383, the contact information for the primary City reporting contact, and information on the implementation of organic waste collection programs. For this reason, it is imperative that the City of Los Banos implement a SB 1383 compliant franchise agreement, as well as the required ordinances.

The MCRWMA currently submits the City of Los Banos' Electronic Annual Reports (EARs) to CalRecycle on the City, and other member agencies behalf, through CalRecycle's Recycling and Disposal Reporting System (RDRS). Each member agency uses the cloud-based software program, Recyclist, to submit AB 341 and AB 1826 data to the Authority, who then aggregates it and compiles it with their disposal, composting, and transfer data for the EAR. Additionally, the MCRWMA attends annual calls with CalRecycle to assist Member Agencies in their data collection and reporting efforts⁴¹.

SB 1383 greatly expands the annual reporting requirements which will require additional budget and potentially additional staffing. The current data sharing between The MCRWMA and the City of Los Banos reduces some of the administrative burden from reporting, which will continue to benefit the City as the expanded SB 1383 reporting requirements go into effect. However, the City of Los Banos will need to report data more frequently than they currently do to ensure that the Implementation Record is up to date.

SB 1383 requires that jurisdictions maintain records demonstrating their compliance with SB 1383 in a central location, physical or electronic, that can readily be accessed by CalRecycle within ten business days of request. Required records include, but are not limited to: ordinances, contracts, franchise agreements, a written description of the jurisdiction's inspection and enforcement program, organic waste collection service records, contamination minimization records, waiver and exemption records, education and outreach, edible food recovery program records, recovered organic waste procurement records, recycled content paper purchase records, inspection records, and enforcement records. All records and information required shall be included in the Implementation Record within 60 days of the event and shall be maintained for a minimum of five (5) years. The City's Franchise Agreement require that Mid-Valley Disposal provide reports monthly, quarterly, and annually. It is recommended that the City reconcile the newly adopted reporting requirements in the Franchise Agreement against Attachment D to ensure compliance with SB 1383 Implementation Record requirements.

7.7.2 State SB 1383 Requirements for Jurisdictions

- By April 1, 2022, jurisdiction will submit initial Compliance report with a copy of adopted ordinances, reporting items identified in §18994.2, and contact information of the jurisdiction's designated employee for compliance-related issues. (§18994.1)
- Commencing August 1, 2022, submit an Annual Report to CalRecycle containing the information required in §18994.2.b through §18994.2.k. Note that the first report is due October 1, 2022 and will be for the period of January 1, 2022 through June 30, 2022, while subsequent reports will be for the entire previous calendar year (January 1 through December 31). Some of this information must also be maintained with the jurisdiction's Implementation Record.
- Maintain records including ordinances, contracts, franchise agreements, policies, procedures, or programs and a description of hauler programs.
- Maintain an Implementation Record that is stored in a central location (either physical or electronic) that must be made available to CalRecycle within 10 business days of their request.

7.7.3 Contract Implications

The City of Los Banos' Franchise Agreement with Mid-Valley includes monthly, quarterly, and annual reporting provisions. Because the analysis of the City's reporting compliance occurred prior to finalization of the City's Franchise Agreement with Mid-Valley, a current analysis of the reporting compliance gaps is unavailable. It is recommended that the City reconcile the reporting requirements in its Franchise Agreement against Attachment D of this report.

⁴¹ Information in preceding paragraph confirmed via phone with Eric Zetz on July 14, 2020.



The City of Merced SB 1383 Action Plan





8.1 Collection and Processing

8.1.1 Program Summary

Commencing January 1, 2022, the State requires jurisdictions to provide collection service to all residential and commercial generators to divert organic waste (including food waste, green waste, food-soiled paper, and other organic materials, as defined) from landfill disposal. The City of Merced performs solid waste collection through their municipal operations. Residents are offered refuse, recycling, and green waste services. Multi-family and commercial are offered refuse, recycling, and green waste collection. Source-separated food waste is being collected from the commercial sector but is not currently being processed as such. The City disposes all refuse at the Highway 59 Landfill operated by MCRWMA, and additionally utilizes their composting facility to compost green waste (food waste cannot currently be composted yet at Highway 59). All recyclable materials are sent to Recology's Newby Island Resource Recovery Park located in San Jose.

Finding a processing facility that will accept food waste will be crucial in running a SB 1383 compliant program. There are a limited number of facilities in Merced and surrounding counties that accept comingled green and food waste, and those that do can't support the anticipated volumes from the City of Merced. The City of Merced can fulfill requirements for SB 1383 through either a 3-container or 4-container system, where the fourth container for food waste could be pre-processed for co-digestion at the City's wastewater treatment plant (assuming the appropriate capital investments are made in pre-processing technology and the City's wastewater treatment facility). Given the anticipated capital investment to expand the City's wastewater treatment plant to accept food waste, the lack of local food waste pre-processing options, and the increased operations costs of a four-container collection system, it is recommended that the City of Merced implement a three-container collection system and guarantee flow to the MCRWMA (assuming MCRWMA moves forward with the expansion of the Highway 59 Composting site to accept comingled organic waste). Please see Section 2.2 for a further discussion of similar co-digestion projects and information related to the expansion of the Highway 59 Composting Facility.

As the largest organic waste generator within the County, the City of Merced is a vital stakeholder in the development of a regional organic waste processing solution. A regional approach, in collaboration with the MCRWMA and other Member Agencies on the East Side of the County, will increase economies of scale and provide processing rate stability.

Additionally, the City of Merced will need to determine if they would like to provide organic waste kitchen pales to residential and multi-family customers. Kitchen pales for organic waste assists generators with proper source separation at the point of generation at a nominal cost. It is estimated that provision of kitchen pales to all residential and multi-family customers will cost approximately \$204,700 and require one-time staffing equivalent to 0.62 FTEs.

8.1.2 State SB 1383 Requirements for Jurisdictions

- Provide organic waste collection and recycling services to all generators, except self-haulers using a 3-, 2-, or 1-container collection system. (§18984.1-18984.3, §18998.1)
- Jurisdictions may allow limited waivers for generators with de minimis volumes and/or physical space constraints, and if so, must conduct reverification inspections, maintain records, and submit reports. (§18984.11, §18984.14, §18995.1.a)
- Provide education annually to collection customers and self-haulers (§18985.1)
- Provide collection containers to generators that comply with color and labeling requirements when replacing containers or by January 1, 2036, whichever comes first. (§18984.7)
- Implement a hauler oversight program and report required hauler information. (§18994.2.f)
- Ensure organic waste is sent to a facility or operation deemed to constitute a reduction in landfill disposal (§18983.1)

8.1.3 State SB 1383 Requirements for Generators

- Subscribe to organics collection services provided by jurisdiction (§18984.9) or self-haul organics to facility that processes source-separated organic waste (§18984.9)
- For commercial businesses, provide organics and recyclables containers for customers and employees; require employees to source separate organic materials; periodically inspect organics containers for contamination; and, educate employees on source separation if contamination observed (§18984.9)



- For commercial businesses self-hauling, record and report self-hauling activities (§18988.3)

8.1.4 Ordinance and Policy Needs

The City of Merced will need to amend its current Municipal Code to include provisions requiring compliance with SB 1383, including the new collection and processing programs, reporting and monitoring programs, edible food recovery, and expanded enforcement requirements. SB 1383 requires all single-family, multi-family, and commercial business customer have access to recycling and organics collection services. For generators that choose to self-haul or back-haul their organics and/or recycling, the City of Merced will be required to expand its self-haul registration and reporting requirements, as well as provide specific education materials to those generators in order to comply. Additional applicable laws such as Mandatory Commercial Recycling (AB 341) and Mandatory Organics Recycling (AB 1826) will also need to be considered in the code amendment. More details can be found in the Ordinance and Policy Section, Section 8.4.

8.1.5 Contract Implications

If the City of Merced elects to implement a three-container collection system, as advised, they will need to contract with the MCRWMA (or another third-party processor) to compost the City's comingled organic waste. If the City elects to implement a four-container collection system, the City will need to contract for the pre-processing of food waste and contract for expansion of the City's wastewater treatment facility.

8.1.6 Collection Operations Impacts

The City of Merced will need to consider operational changes to their current collection procedures dependent upon which container system they choose. If the City utilizes a 3-container system, the currently low AB 1826 compliance will mean a sizeable roll-out program of organics containers to ensure city-wide compliance, a high likelihood of expanded collection routes, and additional management oversight to implement. It is anticipated that implementation of a compliant three-container collection system will require approximately 3,600 new containers and the purchase of one new collection vehicle.

If the City of Merced chooses a 4-container system for all residential and commercial customers, it is projected that the City will need to procure an additional 27,200 containers and multiple collection vehicles. Additionally, there will be a large amount of administrative oversight needed for the planning and implementation of city-wide roll out of a fourth cart to all customers.

8.1.7 Education and Outreach Needs

A robust education and outreach program will be critical to inform all generators on the particulars of the SB 1383 regulations and the benefits of organics recycling. Doing so can alleviate some of the negative feedback that may arise with the establishment of mandatory requirements and increased collection costs for generators. Equally, a strong education campaign can minimize contamination which will be crucial if the City of Merced chooses to process food waste in a digester at the wastewater treatment center. Cleaner feedstock at a high volume will be needed to increase gas generation, therefore customers will need to source-separate accurately. One optional way to educate customers on how to properly source separate food waste is to provide each resident with a counter-top kitchen pail. When paired with appropriate educational materials, these pails have proven to be an effective education tool to encourage participation in food scraps collection.

8.1.8 Infrastructure Needs

The implementation of new collection programs and processing requirements will necessitate increased processing capacity and infrastructure. The City of Merced can contractually secure this additional infrastructure through contracts as outlined in Section 8.1.5. In line with the City's decision to move towards a 3- or 4- container system, facility agreements should stress the need for food waste or comingled green and food waste handling capacity.

8.1.9 Staffing and Budgetary Considerations

The City of Merced will have increased staffing needs and costs associated with implementing new programs, particularly the collection operations. Table 65 depicts the projected cost and staffing demands for container roll-out under a three- or four-container collection program. The on-going costs represent the replacement of broken carts and on-going maintenance of bins.



Table 65: City of Merced Collection and Processing Staffing and Budgetary Concerns

Option	One-Time Costs	On-going Costs	One-Time City FTE	On-going City FTE
3-Container Collection System Containers	\$ 2,010,769	\$342,908	0.5	0.87
4-Container Collection System Containers	\$ 6,072,531	\$ 826,059	2.52	2.12

In addition to the cost of containers, The City will also be required to invest in additional collection vehicles. It is anticipated that a three-container collection system will require one collection vehicle, which may range in cost from \$350,000 to \$400,000. A four-container collection system will require up to seven additional collection vehicles to service the projected additional 19,000 containers at a total cost ranging from \$2,450,000 to \$2,800,000 (actual numbers may vary based on the allocation between carts and bins, and several other factors). In addition to the up-front capital expenses, the four-container collection system would obviously incur significantly more operating expenses on an on-going basis.

8.1.10 Next Steps

ID#	Action Item	Responsible Party	Timeframe
1	Determine if City will utilize a 3- or 4- container system for collection. ⁴²	City	March 2021
2	Determine if City will move forward with processing plan at the wastewater treatment plant, the Authority, or another third-party processor.	City	March 2021
3	Determine if City will need to order new collection trucks (pending decision to move forward with 4-container collection system) and additional containers. Include collection truck and container order in budget for FY 21-22. ⁴³	City	April 2021
4	Order new collection trucks and containers, as needed.	City	Jul 2021
5	Begin hiring process for new collection truck drivers, as needed.	City	Jul - Dec 2021
6	Plan organics collection program including education and distribution of carts (and kitchen pails if applicable).	City	Sept - Dec 2021
7	Pre-implementation education of generators about new organics program and mandatory service requirements.	City	Apr – Jun 2022
8	Consider rate impact due to new program(s).	City	Mar – Jun 2022
9	Receive collection truck order.	City	July 2022
10	Implement expanded organics collection program.	City	July 2022

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⁴² It is important to note that the City of Merced’s decision to move forward with a 3- or 4- container decision will impact many aspects of this action plan, including but not limited to: ordinance updates, monitoring and enforcement programs, education and outreach, and rates.

⁴³ Note – it typically takes up to twelve (12) months to receive a new collection truck from time of order. Due to this constraint, the City will likely need to go on a Corrective Action Plan as discussed in Attachment C. It is recommended that the City of Merced begin speaking with their CalRecycle rep as soon as a plan is adopted to implement all other components and show “substantial effort” towards SB 1383 compliance.



8.2 Monitoring and Enforcement

8.2.1 Program Summary

By January 1, 2022, jurisdictions must begin enforcing SB 1383 requirements through adoption of ordinances and/or other enforceable policies and procedures as well as through development of an inspection and enforcement program. To meet these requirements, the City of Merced enforcement obligations will expand to include verification of SB 1383 compliance by generators, construction and demolition debris haulers, food recovery organizations and services, and other entities. Specific enforcement obligations for self-haulers (including back-haulers) will also need to be expanded.

The City of Merced currently monitors contamination through cameras installed on all collection vehicles. Depending on the contamination spotted, drivers may either leave informational brochures or write up the customer. The City runs a daily report, and based on the reported information, sends warning letters to 1st and 2nd time offenders. Those contaminating on the 3rd instance will be charged a \$25 contamination fee and as well as for each time thereafter for recycling and green waste containers for both residential and commercial generators. A customer with no infringements over six months, restarts with a warning letter upon another instance of contamination, and will follow the corrective scheme noted above. Adjustments will need to be made to ensure these fees meet the minimum requirements under SB 1383, which as of November 2020, they do not.

In order to establish a fully compliant and comprehensive enforcement program, the City of Merced will need to amend its existing ordinances, policies, and procedures to ensure generator compliance. The monitoring program will include provisions for notices of violations (NOVs), and fines or penalties for non-compliant regulated entities, which shall be actively enforced no later than January 1, 2024.

The enforcement program's main goal will be to ensure that each residential and commercial generator subscribe to recyclables and organics collection services or similarly complies through self-hauling requirements (with the exception of commercial entities and multi-family dwellings that have been granted waivers such as de minimis or physical space waivers).

Generally, SB 1383 requires a desktop review of all commercial garbage accounts generating two (2) cubic yards of solid waste or more and all multi-family garbage accounts with five (5) or more dwelling units. The regulations also mandate additional inspection for certain regulated entities, route reviews, and monitoring for container contaminants for all generators. SB 1383 requires distribution of education and issuance of NOVs and/or fines to non-compliant entities (see below for further details on requirements). By imposing mandatory service of all waste streams and providing the appropriate containers to all generators, the City of Merced will minimize the effort required to complete desktop compliance reviews. Similarly, a targeted and thoughtful education program will raise awareness of the requirements and help minimize the amount of future violations and container contamination incidents. The City of Merced will need to monitor contamination through annual route reviews as well as be responsible for managing NOVs and fines beginning January 1, 2024.

8.2.2 State SB 1383 Requirements for Jurisdictions

- Conduct contamination monitoring either through route reviews for prohibited container contaminants such that all routes are inspected annually or through twice yearly waste evaluation studies of all container types; and, notify generators if contamination is found. (§18984.5)
- Implement an inspection and compliance program including: conducting compliance reviews of all commercial garbage accounts producing two (2) cubic yards of solid waste or more and multi-family garbage accounts with five (5) or more dwelling units; inspecting Tier One Commercial Edible Food Generators, and food recovery organizations, and food recovery services; and, conducting generator compliance reviews through route reviews or waste evaluations. (§18995.1)
- Conduct inspections at least once every five (5) years to verify de minimis and physical space waiver conditions, if applicable. (§18995.1)
- Starting January 1, 2022 through December 31, 2023, provide non-compliant generators with educational material. (§18995.1)



- Beginning January 1, 2024, take enforcement action, including issuing NOVs and imposing penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities (with the exception of violations of container contamination provisions, for which a penalty is optional). (§18995.4; §18997.2)
- Conduct a sufficient number of route reviews, inspections, and compliance reviews to determine compliance, and generate an electronic or written record for each inspection or review. (§18995.1)
- Provide a procedure for the receipt and investigation of complaints, including the method for notifying the complainant of the result of the complaint; investigate complaints received; and, maintain a record of all complaints and responses. (§18995.3)
- Pay penalties assessed by CalRecycle for the jurisdiction’s failure to comply, which includes many possible violations, ranging from minor, moderate, or major, and with associated penalties ranging from \$500 per violation to \$10,000 per violation per day. (§18997.3)

8.2.3 Ordinance and Policy Needs

The City of Merced will need to amend certain sections of the municipal code to integrate the enforcement process and penalties specified in SB 1383 for non-compliant generators, food recovery organizations, haulers, and other entities. The City of Merced will also need to develop protocols and policies for documentation of its monitoring and enforcement efforts.

Building permits procedures will need to be updated to ensure enforcement of CALGreen requirements for construction and demolition projects. The City will need to show how they are enforcing the current code. Potential procedure updates may include collecting and filing weight tickets for all applicable projects.

8.2.4 Infrastructure Needs

To comply with SB 1383 Implementation Record requirements, the City of Merced will need to develop a strategy for documenting monitoring and enforcement efforts. This documentation may include:

- Edible food recovery program requirements, as outlined in Section 8.5.
- A procedure for the receipt and investigation of complaints, and copies of complaints.
- A procedure for issuing waivers, and copies of waivers (including for self-haulers).
- Compliance with procurement policies, as outlined in Section 8.3.
- Copies of NOVs and imposed penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities

The City of Merced may be able to collect some of this information from their current software application, Recyclist. Additionally, some reporting efforts may be conducted in conjunction with The MCRWMA (The Authority) as it may have additional resources to leverage and will likely host the regions Implementation Record required by CalRecycle.

8.2.5 Education and Outreach

The City of Merced will need to integrate SB 1383-specific information into their current and future education materials. The City of Merced may wish to conduct stakeholder meetings and engagement prior to and during implementation to ease the transition to the new program before instituting fines. The City, or a potential designee, will be required to educate non-compliant customers no later than January 1, 2022 and at least until December 31, 2023. After this timeframe, the City of Merced can continue its education program as it sees fit and initiate an NOV process among other determined enforcement actions. See Section 8.6 further details ongoing education, as well as education prior to program implementation.

8.2.6 Program Metrics and Reporting

The City of Merced will need to track a number of metrics. First, the City will need to track the percentage of compliant generators with collection service, self-hauling registration, or generator waivers. As well as the monthly or quarterly number of the following: compliance reviews, route reviews, NOVs issued, penalties assessed, repeat NOVs and penalties, follow-up inspections completed, educational material provided to noncompliant customers, and other metrics as defined in Attachment D, Reporting Requirements.



8.2.7 Other Considerations

The City of Merced must develop its inspection and enforcement program by January 1, 2022. As such, the City of Merced will need to provide sufficient Code Enforcement or other staffing to develop and implement the plan, as well as manage and perform on-going enforcement activities. The City of Merced may also consider engaging a contractor to assist with monitoring efforts, as needed. There are also many opportunities for collaboration that the City of Merced might consider, such as crossover involvement between City departments and/or collaboration with the County (e.g., County Environmental Health Department conducting compliance reviews for commercial edible food generators during their regularly scheduled health code inspections to streamline inspections).

8.2.8 Budgetary and Staffing Implications

It is estimated that the monitoring and enforcement program will require an up-front cost of \$32,400 and a one-time staffing equivalent of 0.16 FTEs. On an on-going basis it is estimated that monitoring and enforcement will require \$30,200 annually and 0.19 FTEs. Table 66 below includes further information on programs and costs for compliance.

Table 66: City of Merced Monitoring and Enforcement Costs

Program Description	One-Time Costs	On-going Costs	One-Time FTE	On-going FTE
Annual Desktop Compliance Review	\$3,254	\$496	0.02	0.01
Inspection of Edible Food Generators, FROs, and FRSs	\$4,298	\$3,029	0.02	0.02
Verification of Self-Hauler Compliance	\$11,747	\$756	0.06	0.02
Investigation of Complaints	\$3,429	\$15,281	0.02	0.10
Verification of De Minimus and Space Constraint Waivers	\$9,718	\$10,675	0.05	0.05
Total	\$32,446	\$30,236	0.16	0.19

8.2.7 Step-by-Step Action Plan

Table 67: City of Merced Monitoring and Enforcement Step-by-Step Action Plan

ID #	Action Item	Responsible Party	Timeframe
1	Design SB 1383 compliant monitoring and enforcement program.	City	Mar – Jun 2021
2	Draft amendment to ordinance(s) to conform with SB 1383 requirements (see Section 4.8 for details).	City	Jun – Sept 2021
3	Hire, or assign, staff person to manage enforcement program.	City	Jul - Dec 2021
4	Conduct compliance reviews of businesses that generate 2CY+ of solid waste/week and produce organic waste, and educate non-compliant entities.	City	Jan – Mar 2022 (annually)
5	Conduct route reviews of commercial businesses and resident areas including inspection of contamination and educate non-compliant entities.	City	Jan – Dec 2022 (on-going)

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8.3 Product Procurement

8.3.1 Program Summary

SB 1383 will require jurisdictions to procure certain amounts of product(s) derived from organic waste recovered in California on a per capita basis. These products may include any or a combination of the following: compost, renewable natural gas (RNG) used for transportation, electricity or heating applications, electricity produced from biomass conversion, or mulch. The minimum procurement target must be satisfied annually and is calculated by multiplying the jurisdiction’s population (approximately 87,110 residents⁴⁴ for the City of Merced) by a per capita procurement target of 0.08 tons per resident, which results in a recovered organic waste procurement target of 6,969 tons for the City of Merced. As each of these recovered organics waste products has a variable impact on greenhouse gas emissions reductions, each product is assigned different conversion factors. See Table 68 below for a list of such conversion factors. SB 1383 will also expect jurisdictions to identify additional procurement opportunities within relevant departments and divisions in order to expand usage of recovered organic waste products.

Table 68: City of Merced Product Procurement Target

Commodity	Conversion Factor	Procurement Requirement
RNG	21 Diesel Gallon Equivalents (DGE)	146,344 DGE
Compost	1.45 yards of compost/ton	10,105 cubic yards
Mulch	1 ton of mulch	6,969 tons
Electricity	650 kWh	4,529,720 kWh

Given the City of Merced’s position, there are a couple of procurement options to consider. First, if the City co-digests their food waste at the wastewater treatment plant then the generated electricity can go towards the procurement needs. Gas generation estimates aren’t currently available, so it is unclear if the gas generated will be sufficient to meet all procurement requirements.

A second option if the City of Merced direct some or all of their organic materials to the MCRWMA is for the City to exercise their right to delegate procurement requirement(s) to the MCRWMA, as allowed under Section 18981.2 of SB 1383. If this responsibility were assigned to the Authority, they could distribute compost derived from organic waste collected in the City of Merced to local farms or to others in need of such products.

SB 1383 will also require the City of Merced to procure certain paper products, particularly printing and writing paper derived from recycled content in accordance with Sections 22150-22154 of the Public Contracts Code. These sections note that local governments must give preference to suppliers of recycled products if quality is equal to, and cost is less than or equal to, non-recycled items. These sections also require businesses to certify minimum percentage of post-consumer material in their offered products, among other mandates.⁴⁵ Documentation of purchases and similar evidence shall be maintained in the City of Merced’s Implementation Record (see Section 8.7, Reporting and Recordkeeping for further information).

The City of Merced, as a result of the aforementioned mandates, should implement an Environmentally Preferable Purchasing Policy (EPPP), as further described below.

⁴⁴ State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State – January 1, 2011-2020. Sacramento, California, May 2020.

⁴⁵ California Public Contract Code, § 22150-22154, *California Legislative Information*. 2005. https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PCC&division=2.&title=&part=3.&chapter=3.5.&article=



8.3.2 State SB 1383 Requirements for Jurisdictions

- Commencing January 1, 2022, a jurisdiction shall annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by article 12. (§18993.1.a)
- Beginning on or before January 1, 2022 and every five (5) years thereafter a jurisdiction must calculate the annual recovered organic waste product procurement target based upon multiplying the per capita procurement target by the jurisdiction population where (§18993.1.b):
 - Per capita procurement target = 0.08 tons of organic waste per California resident per year. (§18993.1.b.1)
 - Jurisdiction population equals the number of residents in a jurisdiction, using the most recent annual data reported by the California Department of Finance. (§18993.1.b.2)
- A jurisdiction shall comply with the product procurement target by directly procuring recovered organic waste products for use or giveaway and/or requiring, through a written contract or agreement, that a direct service provider to the jurisdiction procure recovered organic waste products and provide written documentation of such procurement to the jurisdiction. (§18993.1.e.1 and §18993.1.e.2)
- For the purposes article 12, the recovered organic waste products that a jurisdiction may procure to comply with article 12 are (§18993.1.f):
 - Compost from a compostable material handling operation, facility, or a large volume in-vessel digestion facility.
 - Renewable gas used for fuel, electricity, or heating applications.
 - Electricity from biomass conversion.
 - Mulch, provided that the jurisdiction is in compliance with land application requirements specified in 4 Section 17852(a)(24.5)(A) and the mulch is produced at a compostable material handling operation, a transfer/processing facility, or a solid waste landfill.
- The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products (§18993.1.g). One ton of organic waste in a recovered organic waste procurement target shall constitute:
 - 21 diesel gallon equivalents, or “DGE,” of renewable gas in the form of transportation fuel.
 - 242 kilowatt-hours of electricity derived from renewable gas.
 - 22 therms for heating derived from renewable gas.
 - 650 kilowatt-hours of electricity derived from biomass conversion.
 - 0.58 tons of compost or 1.45 cubic yards of compost.
 - One ton of mulch.
- Renewable gas procured from a POTW may only count toward a jurisdiction’s recovered organic waste product procurement target provided the conditions outlined in article 12 are met for the applicable procurement compliance year. (§18993.1.h)
- Electricity procured from a biomass conversion facility may only count toward a jurisdiction’s recovered organic waste product procurement target if the biomass conversion facility receives feedstock directly from a compostable material handling operation, a transfer/processing facility, or a solid waste landfill. (§18993.1.i)
- Procure paper products, and printing and writing paper consistent with the requirements of Section 22150-22154 of the Public Contracts Code. These paper products shall be eligible to be labeled with an unqualified recyclable label as defined in 16 C.F.R. 260.12. Jurisdiction shall require all businesses that it purchases paper products and printing/writing paper to certify minimum percentage of postconsumer material in the paper products. (§18993.3)



8.3.3 Ordinance and Policy Needs

After surveying the City of Merced’s SB 1383 compliance gaps, HF&H recommends the City develop an Environmentally Preferable Purchasing Policy (EPP) in addition to updating their municipal code to include SB 1383 related requirements (at a minimum). The City of Merced can include in this policy sections on recovered organic waste products and recycled paper purchases. Specifically, the City of Merced should (1) consider several provisions that will outline how recovered products will be procured, (2) how to support interdepartmental purchasing of these products, and (3) should commit to fulfilling the annual procurement target. The newly-constructed EPPP will additionally need to include purchasing and post-procurement tracking protocol.

8.3.4 Contract Implications

While the City of Merced will not see much change to its operations, if the City decides to designate the MCRWMA to satisfy the recovered organic waste product procurement requirements, a written agreement should be established that notes the MCRWMA will procure and distribute compost on the City of Merced’s behalf.

8.3.5 Staffing and Budgetary Considerations

Because it is recommended that the City fulfill its recovered organic waste product procurement through gas generation at its WWTP or through MCRWMA as its designee, there will be minimal costs and resources associated with the program; primarily these costs are related to reporting and oversight.

Additionally, the procurement of recycled content paper and printing and writing supplies will have a minimal impact on the City’s budget. Specifically, the Public Contracts Code requires that local governments must give preference to suppliers of recycled products as long as quality is equal to, and cost is less than or equal to, non-recycled items. By definition, the City is not required to spend more on these purchases. Although there may be additional staff time involved for reporting.

8.3.6 Metrics and Reporting

Aside from purchasing responsibilities, the City of Merced will have several reporting and recordkeeping requirements pertaining exclusively to recovered organic waste and recycled paper product procurement. Every five (5) years, the City of Merced will need to calculate the per capita procurement target while regularly maintaining records for inclusion in the Implementation Record, which will ultimately track procurement statistics of recovered organic waste products and post-consumer recycled paper. These records and other forms of evidence will support the City of Merced’s compliance. They include proof of purchase, certifications, procurement source information, and background information of relevant suppliers.

8.3.7 Step-by-Step Action Plan

Table 69: City of Merced Product Procurement Action Plan

ID #	Action Item	Responsible Party	Timeframe
1	Review SB 1383 procurement target and requirements for compost, natural gas, mulch, paper and others and identify needed modifications to policies.	City	Jan – Jun 2021
2	Develop paper purchasing policies.	City	Mar – Jul 2021
3	Execute purchasing policy changes including provision of example language for contracts and selection of new paper suppliers.	City	Jul - Dec 2021
4	Submit final procurement policy and related procedures and agreements to the MCRWMA for inclusion in the Authority's Implementation Record.	City	Jan - Feb 2022
5	Submit procurement records to the MCRWMA for inclusion in the Authority's Implementation Record.	City	Jan - Feb 2022

8.4 Ordinances and Policies

8.4.1 Program Summary

Under SB 1383, jurisdictions will be required to pass several ordinances and policies to align with State mandated objectives. The City of Merced has several ordinances and enforceable mechanisms that will need to be reviewed in detail and, in some cases, significantly modified for SB 1383 compliance **including the Solid Waste Ordinance, Recycling Ordinance Water Efficient Landscape Ordinance, building code, enforcement procedures, and procurement policies. Additionally, ordinance language for edible food generators, food recovery organizations, as well as procedures for inspections and investigations will need to be included in the code amendments.** These ordinances and policies will need to be implemented and enforceable by January 1, 2022, but revisions should begin as soon as possible to ensure they are completed on time.

Moderate revisions will need to be made to Title 8, Chapter 8.04, Solid Waste, of the City’s Municipal Code. This Chapter will need to be amended to include mandatory organics service, organics generator requirements for single- and multi-family customers, and commercial customers, as well as requirements for edible food generators, and food recovery organizations. Current self-hauling mandates will need to include provisions for organics. Mandatory organics collection services will be pivotal in maintaining the City’s compliance with SB 1383, this is not explicitly stated in the current code.

Currently, the enforcement section of the Solid Waste chapter clearly identifies the City of Merced’s right to enforce but will need minor modification to comply with SB 1383. The City of Merced will need to reinforce its monitoring and inspections procedures to ensure compliance as required by SB 1383.

The City of Merced has implemented a Water Efficient Landscape and Irrigation Ordinance (Title 17, Chapter 17.60 and Title 20, Part 3, Chapter 20.36), which appears to meet MWEL⁴⁶ standards in their entirety. The City has enacted an ordinance codifying the 2019 CALGreen Building Standards Code in its entirety (Title 17, Chapter 17.07), which will require an update to conform to 2020 CALGreen standards. However, the City does not currently have a standard procedure for ensuring construction and demolition are complying with the CALGreen standards. In order to ensure that CALGreen requirements under SB 1383 are being met, the City of Merced should implement a more established tracking system to ensure projects are meeting requirements through the use of standardized waste management plan forms, collecting weight tickets upon project completion to verify diversion, or some other means. CalRecycle will likely require a formalized procedure in order to determine the City is in compliance with this requirement. With respect to procurement, the City of Merced does not have an environmentally preferable purchasing policy (EPPP) at this time.⁴⁷

It is recommended that the City of Merced begin the minor modifications to its Municipal Code immediately to ensure ratification prior to January 1, 2022. SB 1383 ordinances will require two (2) City Council readings within a relatively short timeline to avoid prolonged delay and to be able to meet enforcement date of January 1, 2022.

8.4.2 State SB 1383 Requirements for Jurisdictions

- By January 1, 2022, a jurisdiction shall adopt enforceable ordinances (or similarly enforceable mechanisms), requiring compliance by generators, haulers, and other entities regulated under the SB 1383 regulations. (§18981.2.a)
 - Adopt an ordinance that requires organic waste generators to subscribe to organics collection programs, annually provide information about organics requirements, provide new information to tenants within 14 days of occupation of the premises, and arrange for access to their properties for inspections. (§18984.10)
 - Adopt an ordinance that requires commercial organic waste generators to provide containers for the collection of organic waste and non-organic recyclables in all areas where
 - Adopt an ordinance that prohibits organic waste generator employees from placing organic waste in a container not designated to receive organic waste as set forth in sections 18984.1(a)(5) and 18984.2(a)(5). Jurisdiction shall inspect containers for contamination.

⁴⁶ See Attachment A, Glossary for more information on CALGreen and MWEL requirements

⁴⁷ As determined by evaluating the City’s “How to do Business with Us as a Vendor” document.

<https://www.cityofmerced.org/home/showdocument?id=5694>



- If jurisdiction allows self-hauling, jurisdiction shall adopt an ordinance that requires self-haulers to comply with SB 1383 requirements per sections 18988.1.b and 18988.3.
- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring Tier One Commercial Edible Food Generators to comply with the following by January 1, 2022, and Tier Two Commercial Edible Food Generators to comply with the following by January 1, 2024 (§18991.3):
 - Arrange to recover the maximum amount of edible food for human consumption that would otherwise be disposed by contracting with a food recovery organization or service, or by self-hauling edible food to a food recovery organization.
 - Prohibit a commercial edible food generator from recovering no edible food unless there is insufficient recovery capacity or an act of God.
 - Prohibit a commercial edible food generator from intentionally spoiling edible food that could be recovered for human consumption.
- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring edible food recovery services and organizations that collect or receive edible food directly from commercial edible food generators to maintain records of the contact information for each commercial edible food generator that collects and receives food from, the quantity in pounds of edible food collected or received and transported per month, and lastly the contact information for each food recovery service. (§18991.5)
- Adopt an ordinance to regulate haulers collecting organic waste. A jurisdiction’s ordinance/mechanism shall require hauler compliance with SB 1383 regulations, including: compliance with collection program requirements and identification of facilities where they will transport organic waste. (§18988.1.a, §18988.1.c, and §18988.2)
- Adopt enforceable ordinance(s), or similarly enforceable mechanisms requiring compliance with Sections 492.6(a)(3)(B)(C), (D), and (G) of the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. (§18989.2)

8.4.3 Ordinance and Policy Needs

The City of Merced will need to make moderate changes and additions to the Municipal Code in order to meet SB 1383 requirements. While the ordinance requirements are stringent, there are still a number of specific policy decisions that will need to be made, and additional optional program decisions that could aid the City of Merced in reporting, recordkeeping and enforcement.

8.4.3.A Collection

The City of Merced will need to implement mandatory service for refuse, recycling and organics waste streams for all generators, including single-family, multi-family and commercial generators. Additionally, the City of Merced will need to identify acceptable waivers that generators can apply for such as de minimis, physical space and/or collection frequency waivers. Procedures for applying and recertification of waivers will need to be outlined in the amended code. The Municipal Code will also need to include specific source-separation requirements for self-haulers to adhere to in order to waive the requirements for participating in the City-mandated collection program. Jurisdictions have the option to require self-haulers to register as such, and/or report tonnage and drop off locations to facilitate reporting, so the City should consider this to ease reporting.

8.4.3.B Edible Food Recovery

The City will also need to adopt an ordinance governing the edible food recovery program. Commercial edible food generators have reporting and recordkeeping requirements they must adhere to under SB 1383. The City of Merced has the option to mandate reporting by edible food generators and food recovery organizations to the City as a means of tracking the movement and capacity of recovered food. While not required by SB 1383, it is highly recommended that such optional provisions under SB 1383 be included in this new section of Municipal Code to facilitate the City’s reporting requirements to CalRecycle.



8.4.3.C Inspections and Enforcement

The Municipal Code will need to be updated to allow for the inspections and investigations to check for contamination and overall generator compliance. The Municipal Code currently identifies several entities charged with enforcement. The City of Merced will need to consider if these same enforcement officers will be designated to conduct inspections for contamination, maintain records of inspections, and track complaints of potential non-compliance.

The City of Merced’s current enforcement policies and procedures will need to be moderately amended within the Solid Waste Chapter to allow for inspections on generator containers to check for container contaminants. As written, the enforcement of the Chapter is linked to the City’s general enforcement procedures. It is therefore important to confirm that the minimum penalties and fees for SB 1383 are met by the current Municipal Code.

8.4.3.D EPPP and Procurement

The City of Merced does not currently have an EPPP. The City will need to assess procurement policy gaps and consider implementing policies that align with the aforementioned procurement requirements. It’s recommended that the City standardize purchasing of recycled content paper and writing supplies to ensure compliance.

It will be important that the City of Merced not unintentionally inhibit the goals of SB 1383 to reach organic waste disposal reduction targets while amending its City Municipal Code. Likewise, should any existing ordinances within the City of Merced’s Municipal Code be found to impede organics disposal reduction, it is highly recommended they are amended per SB 1383 guidelines.

In order to reach compliance in a timely fashion, the City should amend all SB 1383 related ordinances to be able to bring all changes to Council meetings at once, rather than staggering them over several months. The City can then approve the majority or all SB 1383 related ordinances at their second reading.

8.4.4 Education and Outreach

In addition to the two City Council sessions where the updated ordinance will be read, it is recommended the City of Merced conduct an introductory campaign to inform all citizens and businesses of legal and policy changes taking effect. These efforts would encourage compliance with the soon to be enacted ordinances.

8.4.5 Staffing and Budgetary Considerations

Complying with the vast array of new mandates will require expenditures by the City and MCRWMA. If the City were to utilize solely their staff to achieve compliance with the requirements noted previously, the City would incur a one-time cost of approximately \$110,700 with an expected staff demand equivalent to .28 FTEs.

Table 70: City of Merced Ordinance and Policy Staffing and Budgetary Considerations

Program Option	One-Time Costs	On-going Costs	One-Time FTE	On-Going FTE
Utilize Consultant to Develop and Implement Ordinances and Policies	\$110,702	\$51,519	0.28	0.59
Jurisdiction Staff to Develop and Implement Ordinances and Policies	\$128,855	\$51,519	0.50	0.59

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8.4.6 Step-by-Step Action Plan

Table 71: City of Merced Ordinance and Policy Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Draft revised Mandatory Recycling Ordinance and other required ordinances for monitoring enforcement, edible food recovery, etc.; Amend existing ordinances for compliance	City	Mar - Jun 2021
2	Establish protocols for approving and documenting de minimus and space constraint waivers (if applicable)	City	Mar - Jul 2021
3	Conduct stakeholder workshop(s) on Mandatory Ordinances (optional).	City	August 2021
4	Obtain approval of Mandatory Ordinance (Second Reading no later than 1/1/2022)	City	Sept – Dec 2021

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8.5 Edible Food Recovery

8.5.1 Program Summary

Through SB 1383, the State requires jurisdictions to implement a food recovery program by January 1, 2022 to support recovery of commercially generated edible food for human consumption. More specifically, SB 1383 requires Tier One and Tier Two Commercial Edible Food Generators to recover edible food for human consumption by January 1, 2022. A preliminary assessment of businesses in the City of Merced reveals that there are approximately ten (10) Tier One Commercial Edible Food Generators and twelve (12) Tier Two Commercial Edible Food Generators (see Table 72 below). *However, the City will need to create their own list and verify it is accurate and complete by January 1, 2022.*

Table 72: City of Merced Edible Food Generators

Tier One Generators in Merced	Tier Two Generators in Merced
Raley's	Mercy Medical Center
Walmart Supercenter	Cruickshank Middle School
Save Mart	Hoover Middle School
FoodMaxx	Tenaya Middle School
Food 4 Less	Rivera Middle School
Cardenas Markets	El Capitan High School
Grocery Outlet Bargain Market	Merced High School
Save More Market	Golden Valley High School
Smart & Final Extra	Sequoia High School
99 Cents Only Stores	Holiday Inn Express
-	Courtyard Merced
-	Hampton Inn & Suites Merced

EDIBLE FOOD GENERATORS DEFINED

Tier 1: January 1, 2022

- Supermarkets
- 10,000+ SF Grocery store
- Food service provider
- Wholesale food vendor

Tier 2: January 1, 2024

- Restaurants with 250+ seats and 5,000+ SF
- Hotel with onsite food and 200+ rooms
- Health facility with onsite food and 100+ beds
- Large Venue and Large Events
- Local education facility with on-site food facility
- State agency with cafeteria and 250+ seats

The City of Merced has a relationship with the Bobcat Eats Food Waste Awareness and Prevention Program (Bobcat), as outlined in Section 8.5.5. As the largest municipality in the County, a more formalized partnership with Bobcat could help combat food insecurity in the region by significantly expanding the network of involved agencies and edible food providers. The Bobcat program has established a network of regional agencies aiming to address food insecurity, but through an agreement with the City of Merced, Bobcat could better predict and plan for the amount of food recovered. An estimated 27% of children in Merced County are food insecure⁴⁸. The Bobcat program diverted enough food from landfill to make nearly 800,000 meals in its first year of operation. The City of Merced could have a major impact and lead the way on reducing food insecurity while meeting SB 1383 requirements for edible food recovery. At the very least, formalizing an arrangement with the Bobcat program could aid the City in meeting the food recovery reporting and recordkeeping requirements under SB 1383.

One way to effectively address food insecurity is for the City to head a study to understand the underlying causes of food insecurity. While not mandated by SB 1383, it could help direct the edible food recovery programming to be effective not only in collection but also in distribution.

The City of Merced could also go above and beyond the minimum requirements of SB 1383 to become a true regional leader. This can be done in a number of ways including linking food recovery efforts with a work program or career training program; bolstering Bobcat's gleaning program through additional promotion and education; or, providing additional funding support

⁴⁸ Velez, Monica. 2017. Merced County one of the highest percentages of hungry kids in the state, report shows. Merced Sun-star. Accessed November 12, 2020.



for necessary physical infrastructure such as distribution sites and refrigerated trucks, or digital infrastructure such as a web- or mobile-based app to help connect the food insecure with recovered food resources.

8.5.2 State SB 1383 Requirements for Jurisdictions

- Implement an edible food recovery program that includes education of Tier One and Tier Two Commercial Edible Food Generators at least annually with information about the available edible food recovery program, information on generator requirements, and information about food recovery organizations and services. (§18991.1)
- Implement an edible food recovery program that increases access to food recovery organizations and services. (§18991.1)
- Develop a list of food recovery organizations and services operating within the jurisdiction, including: name, physical address, contact information, collection service area, and hours of operation, which is updated annually. (§18985.2.a)

8.5.3 State SB 1383 Requirements for Generators

- Commercial edible food generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed. (§18991.3.b)
- If an enforcement action is commenced against a commercial edible food generator for noncompliance, the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances. (§18991.3.d)
- A commercial edible food generator subject to the requirements in Article 10 shall keep a record of each food recovery service/organization that collects/receives its edible food and a copy of all contracts or written agreements with the food recovery service/organization. (§18991.4)

8.5.4 Ordinance and Policy Needs

The City of Merced will need to develop a Mandatory Edible Recovery Ordinance that requires Tier One and Tier Two Commercial Edible Food Generators to arrange and implement food recovery programs to recover the maximum amount of edible food for human consumption that would otherwise be disposed. It will also require food recovery organizations to track quantities of food recovered. Beyond these requirements, the City of Merced will be obligated to make a policy decision surrounding their role to support food recovery efforts and a funding mechanism. This may involve delegating reporting and organizational tasks to The MCRWMA or a consultant. The City could also expand internal staff responsibilities to accommodate collaboration with the Merced County Environmental Health Department.

The City of Merced will be responsible for reporting pounds of food rescued for human consumption and related food waste diversion. SB 1383 only requires that edible generators to keep records of quantities of food recovered. However, to make it easier to fulfill the City's reporting requirements under SB 1383, it is recommended the City of Merced adopt an ordinance mandating generators to report to the City how much edible food waste was recovered through collaboration with recovery organizations and similar means

8.5.5 Contract and Partnership Implications

With respect to complying with SB 1383, the City of Merced has set an exemplary standard for food waste recovery. The Bobcat program, a partnership established between UC Merced and Merced County Food Bank in May 2018, minimizes food waste while alleviating local food insecurity. The program receives food donations from businesses and distributes them across the City of Merced⁴⁹. Non-profits and several businesses also act as distribution centers in the City. In addition to growing their donor base and distribution network, the Merced County Food Bank also tackles food waste through the gleaning program⁵⁰. Producers often have excess edible food that can be donated, but due to labor and logistical constraints, are unable to donate this food to local food banks. The gleaning program brings volunteers to orchards and farms where

⁴⁹ Mashinchi, Kenneth. "Food Waste Prevention Program Saves Thousands of Pounds of Food in Merced." *Newsroom*, UC Merced, March 12, 2019. <https://news.ucmerced.edu/news/2019/food-waste-prevention-program-saves-thousands-pounds-food-merced-county>. Accessed 15 July 2020.

⁵⁰ Meyer, Erin. "Fill Plates, Not Landfills: Implementing the Bobcat Eats Food Waste Awareness and Prevention Program." *Campus Sustainability Hub*, May 17, 2019. <https://hub.aashe.org/browse/casestudy/21808/Fill-Plates-Not-Landfills-Implementing-the-Bobcat-Eats-Food-Waste-Awareness-and-Prevention-Program>. Accessed 15 July 2020.



crops are harvested on-site⁵¹. Within the first two (2) years, the Bobcat program has already rescued more than two million pounds of food waste and given it to those in need⁵². The success and establishment of this program will help the City of Merced implement their food recovery program and requisite public education, which is required by January 1, 2022. The groundwork of this food recovery program will allow the City of Merced to collaborate with UC Merced and the Merced County Food Bank to both support the program and satisfy remaining SB 1383 requirements, particularly by utilizing their donor network to facilitate reporting and connect edible good generators with food recovery organizations. The City of Merced may also wish to identify other partnership opportunities to further expand edible food recovery capacity and availability. Additional partnership opportunities should be formalized through a contract.

8.5.6 Monitoring

The City of Merced will be required to monitor compliance of generators, food recovery organizations, and service providers. As previously mentioned, the City of Merced may either perform this task itself, should staff resources be available, or it can utilize a third party to monitor the food recovery data and compliance. HF&H recommends the City of Merced work closely with UC Merced and Merced County Food Bank to access this data.

8.5.7 Education and Outreach

To meet SB 1383 requirements, the City of Merced must annually educate commercial edible food generators. It will do so by including relevant information in bill inserts, annual service brochures, and newsletters. The City of Merced’s technical assistance staff and contractors can provide education and assistance surrounding food recovery during commercial site visits. The City may collaborate with the Merced County Environmental Health Department to engage inspectors in providing education during their site inspections. Other efforts may include working with downtown business associations, the Chambers of Commerce, restaurant associations, and other local businesses to spread information. The food recovery program should promote the benefits of alleviating hunger through these efforts to educate and gain support from generators, venue operators, and the community.

8.5.8 Program Metrics and Reporting

The City of Merced will rely on edible food generators and recovery organizations to report their data and diversion progress. The City of Merced will monitor general SB 1383 compliance of these entities, and it may be helpful to note trends in quantities and types of meals delivered. Food recovery website integration and mobile apps have proven to efficiently coordinate all the moving pieces involved in food donation. The City of Merced, however, would need to consider development and outreach costs associated with such an investment.

Currently, the Merced County Food Bank supports the Bobcat Food Waste Program to maximize food rescue by collaborating with groups to efficiently distribute food to those in need, and optimizing the distribution and storage of perishable foods. As these operations inherently require proper data management, HF&H recommends the City of Merced work closely with UC Merced and Merced County Food Bank to ensure this recovery data is being tracked and reported.

8.5.9 Other Considerations

The City of Merced may want to consider establishing food-recovery routes to aid in the collection and distribution of edible food from commercial generators. This could be done either through City resources, or a platform to connect commercial food generators with recovery organizations.

⁵¹ “WHAT IS ‘Picking for Purpose?’” Merced County Gleaning, 2020. <http://mercedgleaning.org/about.php> Accessed 15 July 2020.

⁵² “Bobcat Eats Food Waste Awareness and Prevention Program.” University of California Merced Sustainability, 2020. <https://sustainability.ucmerced.edu/initiatives/bobcat-eats-food-waste-awareness-and-prevention-program>. Accessed 15 July 2020.



8.5.10 Step-by-Step Action Plan

Table 73: City of Merced Edible Food Recovery Step-by-Step Action Plan

ID #	Action Item	Responsible Party	Timeframe
1	Develop list of Tier One and Tier Two Commercial Edible Food Generators.	City	In progress
2	Discuss opportunities for expanding capacity in Merced’s service area.	City, Bobcat	In progress
3	Conduct stakeholder workshop(s) on Food Recovery Ordinance (optional).	City	Jul - Sept 2021
4	Integrate food recovery information into commercial education materials (optional).	City	Oct – Dec 2021
5	Initiate education program of Tier One Commercial Edible Food Generators on the Food Recovery Ordinance and program.	City, Bobcat	Sep – Oct 2021
6	Educate Tier One and Tier Two Commercial Edible Food Generators that are self-haulers/back-haulers on edible food recovery requirements.	City	Sep – Oct 2021
7	Develop Merced food recovery webpage.	City	Oct – Dec 2021
8	Prepare food donation guide.	City, Bobcat	Oct – Dec 2021
9	Update food recovery webpage content including list of food recovery organizations.	City	Oct – Dec 2021 (annually)
10	Support development of County capacity planning analysis and report (no later than 2/1/2022).	City, County, MCRWMA	Jan – Feb 2022
11	Review and analyze edible food generator compliance and food recovery organization compliance with the Food Recovery Ordinance and review program trends.	City	Jun – Dec 2022 (annually)
12	Initiate education program of Tier Two Commercial Edible Food Generators on the Food Recovery Ordinance and program.	City	Jan – Mar 2023
13	Support development of County capacity planning report (no later than 8/1/2024).	City, County, MCRWMA	Feb – Jul 2024

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8.6 Education and Outreach

8.6.1 Program Summary

The City of Merced currently distributes solid waste and recycling education and outreach via utility billing inserts on an on-going basis. The City of Merced also provides mailing inserts in business licenses and has some multi-family complexes that distribute brochures in tenant packets as well as newsletters. While much of the outreach efforts have focused on commercial customers subject to AB 341 and 1826, these efforts will need to be substantially expanded. SB 1383 requires that jurisdictions provide education to generators regarding their compliance obligations. These generators include residents, businesses, permitted haulers, self-haulers, and food recovery organizations/services. Section 8.6.2 outlines these requirements more specifically.

To achieve compliance with SB 1383 education requirements, the City of Merced will need to expand their public education and outreach program. At the very least, the City of Merced should adjust their internal municipal operations to align with the education requirements and update their existing materials and website with SB 1383 specific references and information. However, it is recommended that the City provide a much more robust education program than the minimum requirements in order to establish and maintain a compliant program. As noted throughout this action plan, it is important that the organics collected be minimally contaminated, especially if the food waste stream is going to be used as feedstock for the wastewater treatment plant or the MCRWMA's composting facility. Including edible food recovery and food reduction techniques in the education to all generators, not just those who need it, can further reduce the amount of food wasted, and for some generators potentially lower their solid waste bill.

Additionally, by pursuing a consistent collection and processing approach across jurisdictions, the City of Merced could collaborate with other entities to share educational resources and minimize design and translation costs.

8.6.2 State SB 1383 Requirements for Jurisdictions

- Jurisdictions shall provide generators using an organic waste collection service with the following education and outreach (§18985.1.a):
 - Requirements to properly separate materials.
 - Methods for organic waste prevention, on-site recycling, and community composting.
 - Methane reduction benefits and method of organic waste recovery used.
 - Information on public health and environmental impacts.
 - How to recycle organic waste, and a list of approved haulers.
 - Information related to public health and safety benefits and environmental impacts associated with the disposal of organics.
 - Information regarding edible food donation programs.
 - Information on self-hauling requirements (if jurisdiction allows self-hauling).
- Provide outreach and education through print or electronic media and by conducting outreach through direct contact with generators through workshops, meetings, or on-site visits. (§18985.1.b)
- Translate educational materials into any non-English language spoken by a substantial number of the public provided organic waste collection services. (§18985.1.e)
- At least annually a jurisdiction shall provide commercial edible food generators with the following education and outreach (§18985.2.b):
 - Information about food recovery organizations and food recovery services operating within the jurisdiction, and where a list of those food recovery organizations and food recovery services can be found.
 - Information about actions that commercial edible food generators can take to prevent the creation of food waste.



- Department of Resources Proposed SLCP Regulations
- The jurisdiction may provide this information by including it with regularly 1 scheduled notices to those commercial businesses.

8.6.3 Municipal Operations Implications

The City of Merced will have to satisfy the SB 1383 educational requirements by reexamining and augmenting current educational activities. While SB 1383 identifies different minimum standards for educational information distributed to various entities (e.g., residential generators and food recovery services), it is recommended that the City of Merced provide a double-sided educational newsletter that contains all education requirements to every unit within the City utilizing the United States Postal Service Every Door Direct Mailer Service (USPS EDDM). By using this service, the City of Merced can ensure all entities receive mandatory education promptly without having to segregate customer lists based on entity type (which would invariably result in more time spent developing educational resources). The EDDM will also make sure that every unit within the City receives the information, whereas using a customer list likely will include shared service accounts (e.g., multi-family complexes) and result in a higher likelihood of missed mailers.

8.6.4 Rates and Staffing Impacts

The cost to print and distribute an annual USPS EDDM to all units is estimated to be between \$18,000 and \$21,000 per annum, which equates to a cost of approximately \$0.70 per unit per month (single-family, multi-family, and commercial). There are minimal impacts to staffing required on a continual basis; these activities will mainly include administrative management and review of educational material prior to distribution.

8.6.5 Optional Program

A strong education and outreach campaign prior to implementation can make the difference for a program’s success. Though SB 1383 does not explicitly mandate it, early education offers the opportunity for generators to learn important information about the changes needed to comply with the new state-mandated programs. Prior to implementing the new collection program, HF&H thus recommends the City of Merced to send two newsletters using the USPS EDDM. It is estimated that this would cost between \$33,000 and \$37,000, or approximately \$0.01 per unit month when amortized over a ten year education cycle.

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8.6.6 Step-by-Step Action Plan

ID #	Action Item	Responsible Party	Timeframe
1	Identify an approach to and timing for integrating each requirement into current municipal operations.	City, Consultants	Mar - Jun 2021
2	Confirm approach for addressing SB 1383 education and finalize timeline for revisions to and review of various education pieces.	City	Jun - Aug 2021
3	Revise education materials and webpages to integrate SB 1383 information.	City	Sept 2021
4	Provide pre-implementation collection program information to all generators.	City	Jan – Jul 2022
5	Educate customers (single- and multi-family, and commercial) about new organics program.	City	Jul – Dec 2022
6	Expand multi-family/commercial education and technical assistance to those without recyclables and/or organics collection service.	City	Jul – Dec 2022
7	Annually provide organic waste generators (including self-haulers) with information on properly separating materials, preventing organics waste, methane reductions, approved haulers, and health and environmental impacts of landfill disposal other requirements under 18985.1 and 18985.2 ⁵³ .	City	Jan, 1 2021 (ongoing)
8	Annually provide edible food generators with information regarding the jurisdiction’s edible food recovery program, generator requirements, food recovery organizations, and other requirements under 18985.1 and 18985.2.	City	Jan 1, 2021 (ongoing)

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⁵³ It is recommended that all information for both organic waste generators and edible food generators be combined into one newsletter to make material distribution more effective and easier to implement.



8.7 Reporting and Recordkeeping

8.7.1 Program Summary

SB 1383 contains three primary reporting mechanisms: an Initial Jurisdiction Compliance Report; an Annual Report; and an Implementation Record. The Initial Jurisdiction Compliance Report is due April 1, 2022 and should include copies of ordinances and other enforceable mechanisms adopted pursuant to SB 1383, the contact information for the primary City reporting contact, and information on the implementation of organic waste collection programs. For this reason, it is imperative that the City of Merced update their collection programs, as well as the required ordinances in a timely manner.

The MCRWMA currently submits the City of Merced’s Electronic Annual Reports (EARs) to CalRecycle on the City’s behalf, through CalRecycle’s Recycling and Disposal Reporting System (RDRS). Each member agency uses the cloud-based software program, Recyclist, to submit AB 341 and AB 1826 data to the Authority, who then aggregates it and compiles it with their disposal, composting, and transfer data for the EAR. Additionally, The MCRWMA attends annual calls with CalRecycle to assist member agencies in their data collection and reporting efforts⁵⁴.

SB 1383 greatly expands the annual reporting requirements which will require additional budget and potentially additional staffing. The current data sharing between The MCRWMA and the City of Merced reduces some of the administrative burden from reporting, which will continue to benefit the City as the expanded SB 1383 reporting requirements go into effect. However, the City of Merced will need to report data more frequently than they currently do to ensure that the Implementation Record is up to date. The staffing impacts will be determined by the continued relationship with The MCRWMA, and whether the City of Merced chooses to use internal staff for reporting or outsource this requirement to a third party. Please see Section 8.7.4 below for further information on staffing needs.

SB 1383 requires that jurisdictions maintain records demonstrating their compliance with SB 1383 in a central location, physical or electronic, that can be readily accessed by CalRecycle within ten business days of request. Required records include, but are not limited to: ordinances, contracts, a written description of the jurisdiction’s inspection and enforcement program, organic waste collection service records, contamination minimization records, waiver and exemption records, education and outreach, edible food recovery program records, recovered organic waste procurement records, recycled content paper purchase records, inspection records, and enforcement records. All records and information required shall be included in the Implementation Record within 60 days of the event and shall be maintained for a minimum of five (5) years. The City of Merced will need to draft monthly reports to facilitate compliance with SB 1383 Implementation Record requirements. Please refer to Attachment D for a list of reporting requirements that the City of Merced may wish to delegate via their relationship with the Authority, or designate to a third party.

8.7.2 State SB 1383 Requirements for Jurisdictions

- By April 1, 2022, jurisdiction will submit initial Compliance report with a copy of adopted ordinances, reporting items identified in §18994.2, and contact information of the jurisdiction’s designated employee for compliance-related issues. (§18994.1)
- Commencing August 1, 2022, submit an Annual Report to CalRecycle containing the information required in §18994.2.b through §18994.2.k. Note that the first report is due October 1, 2022 and will be for the period of January 1, 2022 through June 30, 2022, while subsequent reports will be for the entire previous calendar year (January 1 through December 31). Some of this information must also be maintained with the jurisdiction’s Implementation Record.
- Maintain records including ordinances, contracts, franchise agreements, policies, procedures, or programs and a description of hauler programs.
- Maintain an Implementation Record that is stored in a central location (either physical or electronic) that must be made available to CalRecycle within 10 business days of their request

⁵⁴ Information in preceding paragraph confirmed via phone with Eric Zetz on July 14, 2020.



8.7.3 Contract Implications

The City of Merced will need to develop procedures for monthly report submission to facilitate timely inclusion of records in the Implementation Record. The additional volume of records and data required will be significantly increased and enhanced to meet SB 1383 requirements.

Given the large volume of data and multiple stakeholders (Public Works Staff, Code Enforcement, City Attorney’s Office, Purchasing, etc.) it is recommended that the City of Merced utilize a cloud-based software platform to enhance efficiency of the reporting process. Recyclist, and other companies, are in the process of developing a software solution that encompasses SB 1383 requirements. Once SB 1383 specific software becomes available it will likely be prudent for the City to sign a contract, either directly or through the MCRWMA.

8.7.4 Budgetary and Staffing Implications

In order to comply with the reporting and recordkeeping requirements of SB 1383, it is estimated that the City will incur a one-time expense of \$36,500 and a one-time staffing demand equivalent to 0.05 FTEs. On an on-going basis it is estimated that reporting and recordkeeping will cost the City approximately \$42,000 with a staffing demand equivalent to 0.15 employees.

8.7.5 Step-by-Step Action Plan

Table 74: City of Merced Reporting and Recordkeeping SB 1383 Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Review record keeping requirements of SB 1383 and develop protocol for obtaining and maintaining records.	City	Mar - Jun 2021
2	Clarify reporting obligations and align submittal dates with SB 1383 reporting deadlines.	City, Hauler	Mar - Jun 2021
3	Consider the development expansion of existing systems to handle some or all SB 1383 record keeping and reporting requirements and implement, if desired.	City	Mar - Jun 2021
4	Begin documentation and aggregation of reporting for Implementation Record.	City, Hauler	Aug - Dec 2021
5	Commence SB 1383 mandated record keeping.	City, Hauler	Dec 2021 - Jan 2022
6	Prepare initial compliance report (report due 4/1/2022).	City	Dec 2021 - Mar 2022
7	Prepare annual report (report due 8/1/2022 and annually thereafter).	City	Apr - Jul 2022

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The County of Merced SB 1383 Action Plan





9.1 Collection and Processing

9.1.1 Current Program Summary

Commencing January 1, 2022, the State requires jurisdictions to provide collection service to all residential and commercial generators to divert organic waste (including food waste, green waste, food-soiled paper, and other organic materials, as defined) from landfill disposal. While SB 1383 requires mandatory service for all generators, it does allow for specific waivers for jurisdictions. The County of Merced will be eligible for low-population waivers in census tracts with a population density below seventy-five (75) people per square mile. A waiver from some or all SB 1383 requirements will be helpful for the residents and businesses in qualifying census tracts. However, it will lead to inconsistent programs throughout the County which may lead to generator confusion on appropriate participation, while also reducing route density and potentially increasing rates for generators in census tracts that are not eligible for waivers. The County will need to make a policy decision as to whether it will apply for waivers in qualifying census tracts as this will impact programs and rates.

Merced County is serviced by three haulers who offer different collection and processing services which may require slightly different compliance approaches. Waste Management provides service for Unincorporated County on the east side in zones one (1) through five (5), and offers residents solid waste and green waste collection service. Gilton Solid Waste Management provides service to Unincorporated County on the west side in zone six (6) and seven (7); they currently offer one container service with an optional green waste container for pickup. In zone eight (8), on the south-eastern part of the County, Mid Valley Disposal offers solid waste and recyclables collection service once a week. To comply with all SB 1383 source-separation requirements, Merced County will need to negotiate with all three haulers to expand their collection program so that all generators have three-container collection service for solid waste, recyclables, and organics, including food waste, in all eight (8) zones. Because the County has five (5) year automatic-renewal contracts with its Franchisees, the County does not have the option to issue an RFP for collection and processing services prior to the compliance deadline. It is important to note here the emphasis on a three-container system (subject to processing availability) as it will minimize the capital investment in new containers and trucks, reduce on-going operating costs and vehicle traffic, and reduce the footprint of containers curbside.

The County of Merced disposes all refuse at the Highway 59 Landfill and Billy Wright Landfill operated by the MCRWMA. The County additionally utilizes the composting facilities at Highway 59 and Billy Wright to compost green waste, as well as Gilton's Resource Recovery Facility. Finding a processing facility that will accept food waste is essential to compliance, and all three Franchisees may wish to utilize different solutions. The west side communities in zones six (6) and seven (7) are well positioned for comingled food waste and green waste processing through their Franchisee, Gilton, who has the ability to process comingled organics. However, a solution for food waste processing will be required for zones one (1) through five (5), and zone eight (8). It is recommended that the County of Merced utilize the Highway 59 composting facility, assuming the MCRWMA expands its capabilities to accept food waste, as this will ultimately result in long-term processing rate stability. In the event that the MCRWMA does not expand its composting facility, the County will need to rely on its haulers to find alternative outlets for processing this material. It should be noted that Mid-Valley has the capability to process comingled organics, however it is unclear whether their facility has adequate capacity at this time.

9.1.2 State SB 1383 Requirements for Jurisdictions

- Provide organic waste collection and recycling services to all generators, except self-haulers using a 3-, 2-, or 1-container collection system. (§18984.1-18984.3, §18998.1)
- Jurisdictions may allow limited waivers for generators with de minimis volumes and/or physical space constraints, and if so, must conduct reverification inspections, maintain records, and submit reports. (§18984.11, §18984.14, §18995.1.a)
- Provide education annually to collection customers and self-haulers (§18985.1)
- Provide collection containers to generators that comply with color and labeling requirements when replacing containers or by January 1, 2036, whichever comes first. (§18984.7)
- Implement a hauler oversight program and report required hauler information. (§18994.2.f)
- Ensure organic waste is sent to a facility or operation deemed to constitute a reduction in landfill disposal (§18983.1)



9.1.3 State SB 1383 Requirements for Generators

- Subscribe to organics collection services provided by jurisdiction (§18984.9) or self-haul organics to facility that processes source-separated organic waste (§18984.9)
- For commercial businesses, provide organics and recyclables containers for customers and employees; require employees to source separate organic materials; periodically inspect organics containers for contamination; and, educate employees on source separation if contamination observed (§18984.9)
- For commercial businesses self-hauling, record and report self-hauling activities (§18988.3)

9.1.4 Ordinance and Policy Needs

The County of Merced will need to amend its current County Code to include provisions requiring compliance with SB 1383 for collection and processing programs. SB 1383 requires all single-family, multi-family and commercial customers to have organics, including food waste, and recyclables collection services. Additional applicable laws such as Mandatory Commercial Recycling (AB 341) and Mandatory Organics Recycling (AB 1826) will also need to be considered in the code amendment for areas subject to population waivers. For generators that choose to self-haul or back-haul their organics, Merced County will need to expand its self-haul registration and reporting requirements, as well as provide specific education materials to those generators. More details can be found in Section 9.5.

9.1.5 Contract Implications

The County of Merced will need to amend its current Franchise Agreements with all three haulers to include SB 1383 provisions. Negotiations should begin as soon as possible so that there is no delay in mandatory collection programs which are to start by January 2022 (implementation may be delayed under a Corrective Action Plan, as described in Attachment C). The amendments will need to include several new provisions to comply with SB 1383. Examples of provisions that are critical to include in the new agreement include, expansion of organic materials and recyclables collection services, new and enhanced inspections and contamination monitoring, and identification of available or potential processing capacity and/or transfer options. Additional requirements to prioritize include specifications of container systems, facility evaluations, record keeping and reporting, education and outreach, and other program support of some or all organic material. Further details on contract implications are included in Section 9.4.

9.1.6 Education and Outreach Needs

An additional component of this program will be education of all generators, including, but not limited to, information on the SB 1383 regulations and the benefits of organics recycling. Additionally, robust education communicating that these changes are regulatory requirements may alleviate some of the negative feedback that is likely to arise with establishment of mandatory requirements and increased collection costs for generators that currently do not have recycling and/or organics collection. Please see Section 9.7 for further information on education and outreach requirements.

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9.1.7 Step-by-Step Action Plan

Table 75: County of Merced Collection and Processing Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Enter into sole-source negotiation process or competitive procurement (further detail under Contracting Section of this Action Plan)	County & Haulers	See Contracts Section
2	Plan organics collection program including education and distribution of carts	County & Haulers	See Contracts Section
3	Establish protocols for approving and documenting commercial de minimis and space constraint waivers, if providing, which may involve collaboration with Republic	County	Jul - Jan 2021
4	Pre-implementation education of generators about new organic waste program and mandatory service requirement	County and/or Haulers	3-6 months prior to program implementation
5	Implement expanded organics collection program (no later than January 1, 2022. Under CAP deadline may extend to January 1, 2024)	Haulers	Dependent on negotiation timeline
6	Implement a hauler oversight program and report required hauler information	County	Dependent on negotiation timeline
7	Adopt new rates	County	Dependent on negotiation timeline

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9.2 Monitoring and Enforcement

9.2.1 Program Summary

By January 1, 2022, jurisdictions must begin enforcing SB 1383 requirements through adoption of ordinances and/or other enforceable policies and procedures as well as through development of an inspection and enforcement program. To meet these requirements, the County enforcement obligations will need to be significantly expanded to include verification of SB 1383 compliance by generators, self-haulers (including back-haulers), franchise haulers, construction and demolition debris haulers, food recovery organizations and services, and other entities. In order to establish a fully compliant and comprehensive enforcement program, the County will need to amend its existing ordinances, policies, and procedures. Beginning January 1, 2024, the County will be required to issue notices of violations (NOVs), and fines or penalties for non-compliant regulated entities.

The enforcement program's main goal will be to ensure that each residential and commercial generator subscribe to recyclables and organics collection services or similarly complies through self-hauling requirements. As described in Section 9.1, the County may apply for low-population waivers for some census tracts. Additionally, the County may issue de minimis and space constraint waivers to commercial customers (subject to on-going documentation). Currently, there are various degrees of access to organics and recycling collection services through the different haulers, which will require expansion. The majority of early enforcement efforts will be focused on ensuring single-family, multi-family, and commercial customers are subscribed to all three waste streams.

Generally, SB 1383 requires a desktop review of all commercial garbage accounts generating two (2) cubic yards of solid waste or more and all multi-family garbage accounts with five (5) or more dwelling units. The regulations also mandate additional inspection for certain regulated entities, route reviews, and monitoring for container contaminants for all generators. SB 1383 requires distribution of education and issuance of NOVs and/or fines to non-compliant entities (see below for further details on requirements). By imposing mandatory service of all three (3) waste streams and providing the appropriate containers to all generators, Merced County will minimize the effort required to complete desktop compliance reviews. It is also recommended that the County delegate desktop compliance reviews to its Franchisees to minimize County staffing implications. Similarly, a targeted and thoughtful education program will raise awareness of the requirements and help minimize the amount of future violations and container contamination incidents. It is recommended that the County delegate the contamination monitoring to the franchise haulers through annual route reviews to minimize impacts on County budget and staffing. Even if the initial route monitoring for prohibited container contaminants is delegated to the franchise hauler(s), the County will be responsible for managing NOVs and fines beginning January 1, 2024.

SB 1383 requires that jurisdictions inspect Tier One Two Commercial Edible Food Generators, food recovery organizations, and food recovery services for compliance with Article 10 of SB 1383, beginning January 1, 2022. Commencing January 1, 2024, jurisdictions must also inspect Tier Two Commercial Edible Food Generators. The primary requirement for Tier One and Tier Two Commercial Edible Food Generators is that they contract with a food recovery organization or food recovery service, or that they self-haul edible food to a food recovery organization. Additionally, Commercial Edible Food Generators are required to maintain records of quantities of edible food recovered as well as copies of contracts or written agreements with edible food recovery organizations and services. Since the Merced County Environmental Health Department is already out inspecting these commercial entities, implementing an inspection program amounts to adding a few line items to the current inspection forms and including that information in the implementation record.

The County will need to decide if it wishes to support incorporated cities within the County in meeting SB 1383 inspection requirements. As noted in the prior paragraph, this will require a minor change to current procedures during inspections, but it will prove to be extremely valuable for the members of the MCRWMA. If the County does not wish to support SB 1383 edible food inspections on behalf of the incorporated cities, each city will be required to develop its own inspection monitoring program and routing, while performing additional site visits and inspections. This creates inefficiency, additional touch points with businesses, and increases costs for the incorporated cities within the County. Instead, it is recommended that the County consider performing the required inspections on behalf of incorporated cities in exchange for a fee to be negotiated.



9.2.2 State SB 1383 Requirements for Jurisdictions

- Conduct contamination monitoring either through route reviews for prohibited container contaminants such that all routes are inspected annually or through twice yearly waste evaluation studies of all container types; and, notify generators if contamination is found. (§18984.5)
- Implement an inspection and compliance program including: conducting compliance reviews of all commercial garbage accounts producing over two cubic yards of solid waste and multi-family garbage accounts with five (5) or more units; inspecting Tier One Commercial Edible Food Generators, food recovery organizations, and food recovery services; and, conducting generator compliance reviews through route reviews or waste evaluations. (§18995.1)
- Conduct inspections at least once every five (5) years to verify de minimis and physical space waiver conditions, if applicable. (§18995.1)
- Starting January 1, 2022 through December 31, 2023, provide non-compliant generators with educational material. (§18995.1)
- Beginning January 1, 2024, take enforcement action, including issuing NOVs and imposing penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities (with the exception of violations of container contamination provisions, for which a penalty is optional). (§18995.4; §18997.2)
- Conduct a sufficient number of route reviews, inspections, and compliance reviews to determine compliance, and generate an electronic or written record for each inspection or review. (§18995.1)
- Provide a procedure for the receipt and investigation of complaints, including the method for notifying the complainant of the result of the complaint; investigate complaints received; and, maintain a record of all complaints and responses. (§18995.3)
- Pay penalties assessed by CalRecycle for the jurisdiction's failure to comply, which includes many possible violations, ranging from minor, moderate, or major, and with associated penalties ranging from \$500 per violation to \$10,000 per violation per day. (§18997.3)

9.2.3 Ordinance and Policy Needs

Merced County will need to amend certain sections of the County Code to integrate the enforcement process and penalties specified in SB 1383 for non-compliant generators, food recovery organizations, haulers, and other entities. The County will also need to develop protocols and policies for customer desktop compliance reviews, route reviews, receipt and investigation of complaints, and documentation of its monitoring and enforcement efforts.

Building permits procedures will need to be updated to enforce CALGreen waste management plan requirements for construction and demolition projects. These code updates will ensure that organic waste is source-separated from construction and demolition debris, and that weight tickets for all applicable projects are submitted to the County for reporting purposes.

9.2.4 Contract Implications

Delegating portions of the monitoring and enforcement programs will minimize the impacts on the County's budget and staffing requirements. If the County delegates contamination monitoring to its franchise hauler(s), it will need to amend its current Franchise Agreement(s) to include such provisions. In addition to the contamination monitoring programs, adequate record keeping and reporting provisions in the Franchise Agreements associated with the contamination reviews will aid the County in meeting SB 1383 reporting requirements and track program progress. The County can also delegate part of the NOVs procedure via its Franchise Agreements or through hiring a third party contractor to notify generators when they are out of compliance.

The County may consider the potential benefits of conducting these operations internally. In some cases, contamination monitoring services conducted by a designee may be interpreted as punitive by residents and businesses, particularly if there are contamination fees imposed. However, the additional budget and staffing required for this level of monitoring may be better suited for the resources and experience available to the franchise hauler(s). If the haulers are chosen to conduct the stricter monitoring and enforcement measures, Merced County should reaffirm the franchise haulers' authority to residents and businesses in order to temper possible pushback.



9.2.5 Infrastructure Needs

To comply with SB 1383 Implementation Record requirements, Merced County will need to develop a strategy for documenting monitoring and enforcement efforts that will not be delegated to the franchise haulers. This documentation may include:

- Edible food recovery program requirements, as outlined in Section 9.6.
- A procedure for the receipt and investigation of complaints, and copies of complaints
- A procedure for issuing waivers, and copies of waivers
- Compliance with procurement policies, as outlined in Section 9.3.
- Copies of NOV's and imposed penalties for non-compliant generators, haulers, self-haulers, commercial edible food generators, or other regulated entities

The County may be able to collect some of this information from their current software application, Recyclist. Additionally, some reporting efforts may be conducted in conjunction with The MCRWMA as it may have additional resources to leverage and will likely host the regions Implementation Record required by CalRecycle (see Section 9.8).

9.2.6 Education and Outreach

Merced County can collaborate with their haulers to integrate SB 1383-specific information into the education materials by contractually obligating education program standards under the amended or restated Franchise Agreements. The County, with its franchise haulers as its potential designees, will be required to educate non-compliant customers no later than January 1, 2022 and at least until December 31, 2023. After this timeframe, the County can continue its education program as it sees fit, however the County will be required to initiate an NOV process among other determined enforcement actions as detailed in Section 9.2.2. Section 9.7 contains further information on pre-implementation and on-going education requirements.

9.2.7 Program Metrics and Reporting

SB 1383 significantly expands reporting requirements for jurisdictions and their stakeholder. To start, the County will need to track the percentage of compliant generators with collection service, self-hauling registration, or generator waivers; this may require collaboration with Franchise Haulers to determine which customers have appropriate service levels. Additionally, on a monthly basis the County will be required to include documentation of the following activities in its implementation record: compliance reviews, route reviews, NOV's issued, penalties assessed, repeat NOV's and penalties, follow-up inspections completed, educational material provided to noncompliant customers, and other metrics as defined in Section 9.8. Much of this information may be obtained through reports submitted by the haulers for relevant requirements; consequently strong reporting provisions in the Franchise Agreements will be critical to ensure the efficacy of such reports.

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9.2.8 Step-by-Step Action Plan

Table 76: County of Merced Monitoring and Enforcement Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Discuss and map out SB 1383 compliant monitoring and enforcement program.	County	Mar-Jun 2021
2	Draft amendment to Ordinance(s) to conform with SB 1383 enforcement requirements	County	Jul - Dec 2021
3	Hire or appoint staff person to manage enforcement program	County	Jul - Dec 2021
4	Plan inspection and enforcement program through route reviews or biannual waste studies.	County & Haulers	Jul - Sep 2021
5	Develop protocols for customer compliance reviews; route review; receipt and investigation of complaints; documentation of enforcement efforts.	Haulers	Jul - Sep 2021
6	Hire part-time enforcement staff or contractor if necessary	County and/or Haulers	Sep – Dec 2021
7	Conduct <u>compliance reviews</u> of businesses that generate 2CY+ of solid waste/week and produce organic waste and educate non-compliant entities.	Haulers	Jan – Mar 2022 (annually)
8	Conduct <u>route reviews</u> of commercial businesses and resident areas including inspection of contamination, and educate non-compliant entities	Haulers	Jan – Dec 2022 (annually)
9	Inspect Tier One Commercial Edible Food Generators and food recovery organizations, and educate non-compliant entities through the technical assistance program	County	Apr – Jun 2022
10	Investigate and maintain record of complaints, on an as needed basis, through inspections, route reviews, or compliance reviews	County & Haulers	(on-going)

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9.3 Product Procurement

9.3.1 Program Summary

SB 1383 requires that jurisdictions procure specific amounts of product(s) that are derived from organic waste recovered in California on a per capita basis. The scope of these products include renewable natural gas (RNG) used for transportation electricity or heating applications, electricity produced from biomass conversion, mulch, compost, or a combination of the aforementioned. The minimum procurement target, which must be achieved annually, is calculated by multiplying the jurisdiction’s population (approximately 96,214 residents⁵⁵ for the County of Merced) by a per capita procurement target of 0.08 tons per resident. This calculation results in a recovered organic waste procurement target of 7,697 tons for the County of Merced. Not all recovered organics waste products are considered equal, however, as each has varying impacts on greenhouse gas emissions reductions, and thus each is assigned different conversion factors. See Table 77 below for a list of these conversion factors. The State will also require the County of Merced to identify additional procurement opportunities within their departments or divisions to augment usage of recovered organic waste products.

Table 77: County of Merced Procurement Target

Commodity	Conversion Factor	Procurement Requirement
RNG	22 Diesel Gallon Equivalents (DGE)	169,337 DGE
Compost	1.45 yards of compost/ton	11,161 Tons
Mulch	1 ton of mulch	7,697 Tons
Electricity	650 kWh	5,003,128 kWh

Jurisdictions are allowed to delegate this procurement requirement under Section 18981.2 of SB 1383. HF&H recommends the County exercise their right to assign this responsibility to their franchise haulers or processors. In the County’s case, this delegation may include haulers or the MCRWMA distributing compost derived from organic waste collected in the County of Merced to local farms or citizens. Alternatively, the County of Merced could comply through their franchise haulers procuring renewable natural gas (RNG) on behalf of the County of Merced, particularly for use in their collection vehicles.

The County of Merced, in addition to recovered organic waste products, is required to procure paper products, which includes printing and writing paper derived from recycled content in accordance with Public Contracts Code Sections 22150-22154. These referenced sections require municipalities to give preference to suppliers of recycled products, as long as quality is equal to and cost is less than or equal to non-recycled items. It is also required that businesses certify minimum percentage of post-consumer material in their offered products, among other requirements⁵⁶. Documentation and records of purchases will need to be maintained in the County’s implementation record (see Section 9.8 for further information).

The County of Merced will need to develop an Environmentally Preferable Purchasing Policy (EPPP) as a result of the requirements above, as further described in Section 9.3.3.

9.3.2 State SB 1383 Requirements for Jurisdictions

- Commencing January 1, 2022, a jurisdiction shall annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by article 12. (§18993.1.a)

⁵⁵ State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2020. Sacramento, California, May 2020.

⁵⁶ California Public Contract Code, § 22150-22154, California Legislative Information. 2005.

https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PCC&division=2.&title=&part=3.&chapter=3.5.&article=



- Beginning on or before January 1, 2022 and every 5 years thereafter a jurisdiction must calculate the annual recovered organic waste product procurement target based upon multiplying the per capita procurement target by the jurisdiction population where (§18993.1.b):
 - Per capita procurement target = 0.08 tons of organic waste per California resident per year. (§18993.1.b.1)
 - Jurisdiction population equals the number of residents in a jurisdiction, using the most recent annual data reported by the California Department of Finance. (§18993.1.b.2)
- A jurisdiction shall comply with the product procurement target by directly procuring recovered organic waste products for use or giveaway and/or requiring, through a written contract or agreement, that a direct service provider to the jurisdiction procure recovered organic waste products and provide written documentation of such procurement to the jurisdiction. (§18993.1.e.1 and §18993.1.e.2)
- For the purposes article 12, the recovered organic waste products that a jurisdiction may procure to comply with article 12 are (§18993.1.f):
 - Compost from a compostable material handling operation, facility, or a large volume in-vessel digestion facility.
 - Renewable gas used for fuel, electricity, or heating applications.
 - Electricity from biomass conversion.
 - Mulch, provided that the jurisdiction is in compliance with land application requirements specified in Section 17852(a)(24.5)(A) and the mulch is produced at a compostable material handling operation, a transfer/processing facility, or a solid waste landfill.
- The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products (§18993.1.g). One ton of organic waste in a recovered organic waste procurement target shall constitute:
 - 21 diesel gallon equivalents, or “DGE,” of renewable gas in the form of transportation fuel.
 - 242 kilowatt-hours of electricity derived from renewable gas.
 - 22 therms for heating derived from renewable gas.
 - 650 kilowatt-hours of electricity derived from biomass conversion.
 - 0.58 tons of compost or 1.45 cubic yards of compost.
 - One ton of mulch.
- Renewable gas procured from a POTW may only count toward a jurisdiction’s recovered organic waste product procurement target provided the conditions outlined in article 12 are met for the applicable procurement compliance year. (§18993.1.h)
- Electricity procured from a biomass conversion facility may only count toward a jurisdiction’s recovered organic waste product procurement target if the biomass conversion facility receives feedstock directly from a compostable material handling operation, a transfer/processing facility, or a solid waste landfill. (§18993.1.i)
- Procure paper products, and printing and writing paper consistent with the requirements of Section 22150-22154 of the Public Contracts Code. These paper products shall be eligible to be labeled with an unqualified recyclable label as defined in 16 C.F.R. 260.12. Jurisdiction shall require all businesses that it purchases paper products and printing/writing paper to certify minimum percentage of postconsumer material in the paper products. (§18993.3)

9.3.3 Ordinance and Policy Needs

HF&H strongly recommends that in order to address SB 1383 compliance gaps, the County of Merced at a minimum should create and execute an EPPP, as well as update their County Code to include the requirements of SB 1383. This policy can be constructed with a section for recovered organic waste products and recycled paper purchases. Specifically, the County of Merced will need to implement several provisions that describe (1) how Merced County will procure the recovered products,



if the County takes on procurement responsibility, (2) support interdepartmental purchasing of these products, and (3) codify its commitment to satisfying the annual procurement target.

The updated EPPP will need to include procedures for purchases and post-procurement tracking/monitoring, as described in Section 9.3.6. One way to do this would be to acquire recycled paper content from a vendor’s online purchasing portal, which can track purchases and aid in verification of compliance (e.g., Staples Exchange platform). Merced County should also consider the resources available on the CalRecycle website which include an updated database of recycled-content product manufacturers.⁵⁷

9.3.4 Contract Implications

Depending on which party Merced County chooses for delegation, the County of Merced will need to update their Franchise Agreement with each hauler and/or the MCRWMA to include SB 1383’s recovered organic waste product procurement requirements. If Merced County decides to assign haulers the role to satisfy the recovered organic waste product procurement requirements, a provision in the Franchise Agreement should be added that requires haulers to procure a pre-identified amount of RNG for use in their collection vehicles. It is also possible that Merced County can add a provision in the agreements with haulers and/or the MCRWMA that requires them to procure and distribute compost on Merced County’s behalf.

9.3.5 Budgetary Planning

As can be expected with compliance efforts, costs will be incurred, the majority of which stemming from the purchasing of recovered organic waste products and transportation/logistics (depending on the recovered waste product chosen). The County did not respond to multiple requests for an organization chart and salary schedules, therefore, a cost estimate could not be reasonably projected.

9.3.6 Metrics and Reporting

The County of Merced will have several reporting and recordkeeping requirements related exclusively to recovered organic waste product procurement. Merced County will need to recalculate the per capita procurement target (described in Section 9.3.1) every five (5) years. Additionally, the County of Merced should expect to continually maintain records for inclusion in the implementation record that tracks procurement of recovered organic waste products and post-consumer recycled paper. These records will support Merced County’s compliance with SB 1383, and will include proof of purchase, certifications, procurement source information, and background information of relevant suppliers (further details are included in Section 9.8).

9.3.7 Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Review SB 1383 procurement target and requirements for compost, natural gas, mulch, paper and others and identify needed modifications to policies.	County	Mar – Jun 2021
2	Develop Environmentally Preferable Purchasing Policy.	County	Mar – Jun 2021
3	Execute purchasing policy changes, including provision of amended language for contracts and selection of new paper suppliers.	County & Haulers	Jul - Dec 2021
4	Submit final procurement policy and related procedures and agreements to the MCRWMA for inclusion in the Authority's Implementation Record.	County	Jan - Feb 2022
5	Submit procurement records to the MCRWMA for inclusion in the MCRWMA’s Implementation Record.	County	On-going

⁵⁷ CalRecycle, *Buy Recycled*. September 17, 2019. <https://www.calrecycle.ca.gov/Buyrecycled/Resources/>



9.4 Contracts

9.4.1 Current Contract Summary

As SB 1383 requirements begin taking effect January 2022, the County of Merced will need to begin amending their current Franchise Agreements with Waste Management, Gilton Solid Waste Services, and Mid Valley Disposal in order to comply. SB 1383 mandates will affect a broad range of provisions within each agreement; the purpose of this plan is to help the County of Merced with expected changes to the agreements as well as the recommended timing for each procedural step towards SB 1383 compliance.

9.4.2 General Timeline Overview

Merced County has five-year evergreen agreements with all three haulers. The County will need to restructure many existing provisions in addition to adding new language to each Franchise Agreement. Therefore, it is recommended that the County begin negotiations with each hauler as soon as possible to limit extensive delays in establishing SB 1383 compliant programs throughout the unincorporated County. The County may choose to negotiate with each hauler individually, or to negotiate some programs cumulatively with all haulers at the same time. HF&H recommends that the County strive to achieve as much consistency as possible between programs and Franchise Agreements. Therefore, it may be prudent to conduct initial Franchise Agreement scoping with all three haulers cumulatively to determine what responsibilities may be delegated (acknowledging that there may need to be minor differences in collection programs). Once the general framework and scope is agreed upon by all stakeholders the County could then move into individual negotiations with the Franchisees to finalize program details and rate implications.

9.4.3 Expected Contract Impact and Changes

Merced County will have to adjust certain sections in each of its existing Franchise Agreements. The County will need to modify existing language to accommodate for the collection of all organics, which includes green waste and food waste, and recyclable materials. HF&H's cost-benefit model for Merced County identifies that adding food waste collection into the green waste cart is the most economical option, and thus language will need to be included in the contract. Once collection related items have been addressed, the County should include language that describes the exact processing expectations for each waste type. Though some of this will overlap with The MCRWMA and flow control obligations, it will still be helpful to clearly spell out these terms, similarly to how solid waste handling is outlined in the Franchise Agreements. The County should also expand the section on complaints to align with SB 1383 requirements which mainly includes enhanced reporting procedures and tracking of complaints, from receipt through resolution.

In addition to contract revisions and/or amendments, the County will need to add additional parameters surrounding contamination monitoring, education and outreach, and procurement. Contamination monitoring will require significant changes and additions to the County's Franchise Agreements. A provision should be included that details how haulers will complete the route reviews (e.g., route monitoring or waste evaluation studies). Additionally, recordkeeping and reporting obligations should also be included so that the County can adequately monitor program progress and adhere to State reporting requirements. Violations and related notices given to generators will need to be specified in the contamination monitoring section, but this will not be necessary should the County decide to perform these functions internally instead of through hauler delegation.

It is highly recommended that the County expand the reporting section of each Franchise Agreement to adequately meet the reporting requirements of SB 1383. Items to be considered include monthly report submission along with an increase in data requirements for the haulers (See Attachment D for a complete list of reporting requirements). This would facilitate the necessary upkeep of an Implementation Record and allow the County to oversee the collection program more easily. It is recommended that the County utilize the cloud-based software currently licensed by the MCRWMA to streamline record retention and organization, therefore, a provision should be included requiring the haulers to use this system.

Additional responsibilities that can be delegated to the haulers include education requirements. This will allow Merced County to leverage the hauler's interactions with their customers while minimizing strain of County resources. These responsibilities could also be divided between the County and the haulers. A coordinated effort would create a unified message to generators and ultimately a more effective education and outreach campaign, as further defined in Section 9.7.



A new section could be included that describes how the County will satisfy SB 1383 the procurement requirements outlined in Section 9.3. This will depend on whether the County tasks its haulers to procure RNG, in which case a provision would be inserted requiring the hauler to purchase annually a pre-identified amount of RNG for use in their collection vehicles. A similar provision could be included that requires the hauler to distribute compost on the County’s behalf. Either option (or both) may be chosen as a means of decreasing the burden on the County to find outlets for the necessary procurement obligations.

9.4.4 State SB 1383 Requirements for Jurisdictions

- A jurisdiction may designate a public or private entity to fulfill its responsibilities 31 under this chapter. A designation shall be made through any one or more of the following (§18981.2.b):
- Contracts with haulers or other private entities: or,
- Agreements such as MOUs with other jurisdictions, entities, regional agencies as defined in Public Resources Code Section 40181, or other government entities, including environmental health departments
- Notwithstanding Subdivision (b) of this section, a jurisdiction shall remain ultimately responsible for compliance with the requirements of this chapter (§18981.2.c)
- If a jurisdiction designates another entity as allowed in Subdivision (b) of this section, the jurisdiction shall include copies of all agreements and contracts in the Implementation Record required by Section 18995.2. (§18981.2.e)
- “Designee” means an entity that a jurisdiction contracts with or otherwise arranges to carry out any responsibilities of this chapter, as authorized in Section 18981. 2 of this chapter. A designee may be a government entity, a hauler, a private entity, or a combination of those entities. (§18982)

9.4.5 Corrective Action Plans

Beginning January 1, 2022, if CalRecycle determines that a jurisdiction is violating one or more requirements and decides to take enforcement action, agencies will have 90 days to correct the violation. This can be expanded an additional 90 days (for a total of 180 days) if the department feels additional time is needed. For violations outside of the jurisdictions control, and when substantial effort is made towards compliance, CalRecycle may place the agency on a Corrective Action Plan allowing up to 24 months (from the date the first NOV was issued) to come into compliance.

In the event that the County negotiation process surpasses the January 1, 2022 SB 1383 implementation deadline, the County may be put on a Corrective Action Plan which would provide ample time to complete the process. However, it is still the County’s responsibility to complete or make substantial effort towards the other SB 1383 jurisdiction requirements (e.g. ordinances, edible food recovery, education and outreach requirements etc.) in order to be potentially eligible for a Corrective Action Plan. Please see Attachment C for a further description of CalRecycle’s enforcement process.

9.4.6 Step by Step Action Plan

Table 78: County of Merced Contracting Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe ⁽¹⁾
1	Begin sole-source negotiations with Franchise Haulers	County and Haulers	Mar - Jul 2021
2	Draft amendment or restate Franchise Agreements	County	Aug - Oct 2021
3	Present amendments or restated Franchise Agreements to Board of Supervisors	County	November 2021
4	Implement new rates and commence additional programs	County, Haulers	January 2022



9.5 Ordinances and Policies

9.5.1 Current Program Summary:

Under SB 1383, jurisdictions will be required to pass several ordinances and policies to align with State mandated objectives. **The County of Merced has several ordinances and enforceable mechanisms that will need to be reviewed in detail and, in some cases, significantly modified for SB 1383 compliance including the Refuse Ordinance(s), Water Efficient Landscape Ordinance, building code, enforcement procedures, and procurement policies. Additionally, ordinance language for edible food generators, food recovery organizations, as well as procedures for more expansive inspections will need to be included in the code amendments.** These ordinances and policies will need to be implemented and enforceable by January 1, 2022, but revisions should begin soon to ensure they are completed on time.

Significant amendments will need to be made to Title 9, Chapter(s) 9.04-9.12, Refuse – Definitions and Administration, Refuse – Disposal, and Refuse – Collectors, of the County Code (hereby collectively referred to as “Refuse Chapters”). The Refuse Chapters only outline mandatory solid waste and garden rubbish collection service but do not mandate recyclables and organics service that includes food waste. Mandatory recyclables and organics collection services will be pivotal in maintaining the County’s compliance with SB 1383, this is not explicitly stated in the current code.

Currently, the enforcement section of the Refuse Chapters clearly identifies the County of Merced’s right to enforce mandates and designates that responsibility to the Health Officer. However, the inspection and monitoring only covers the condition of containers, which will not be satisfactory to comply with SB 1383 and additional language to expand inspections as a means for enforcement will be needed (as further described in Section 9.2).

SB 1383 requires updates for CALGreen, Model Water Efficient Landscape Ordinance (MWELo) and procurement programs. The County of Merced has implemented a Water Efficient Landscape and Irrigation Ordinance (Title 18, Article 3, Chapter 18.36), which appears to meet State MWELo standards in their entirety. The County has also enacted an ordinance codifying the 2019 CALGreen Building Standards Code in its entirety (Title 16, Chapter 16.34.010), which will require an update to conform to 2020 CALGreen standards. With respect to procurement, the County of Merced does not appear to have an environmentally preferable purchasing policy at this time.

The significant amendments needed for the Refuse Chapters to meet SB 1383 requirements are feasible to complete before the SB 1383 commencement date if started presently. SB 1383 ordinances will need to pass through two County Council readings within a relatively short timeline to avoid prolonged delay and to be able to meet enforcement date of January 1, 2022. It is therefore recommended the County of Merced prepare to pass and/or update applicable County Code sections simultaneously to meet the State’s mandate, and for those changes to begin as soon as possible.

9.5.2 State SB 1383 Requirements for Jurisdictions

- By January 1, 2022, a jurisdiction shall adopt enforceable ordinances (or similarly enforceable mechanisms), requiring compliance by generators, haulers, and other entities regulated under the SB 1383 regulations. (§18981.2.a)
- Adopt an ordinance that requires organic waste generators to subscribe to organics collection programs, annually provide information about organics requirements, provide new information to tenants within 14 days of occupation of the premises, and arrange for access to their properties for inspections. (§18984.10)
- Adopt an ordinance that prohibits organic waste generator employees from placing organic waste in a container not designated to receive organic waste as set forth in sections 18984.1(a)(5) and 18984.2(a)(5). Jurisdiction shall inspect containers for contamination.
- If jurisdiction allows self-hauling, jurisdiction shall adopt an ordinance that requires self-haulers to comply with SB 1383 requirements per sections 18988.1.b and 18988.3.
- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring Tier One Commercial Edible Food Generators to comply with the following by January 1, 2022, and Tier Two Commercial Edible Food Generators to comply with the following by January 1, 2024 (§18991.3):
- Arrange to recover the maximum amount of edible food for human consumption that would otherwise be disposed by contracting with a food recovery organization or service, or by self-hauling edible food to a food recovery organization.



- Prohibit a commercial edible food generator from recovering no edible food unless there is insufficient recovery capacity or an act of God.
- Prohibit a commercial edible food generator from intentionally spoiling edible food that could be recovered for human consumption.
- Adopt an edible food recovery ordinance or similarly enforceable mechanism requiring edible food recovery services and organizations that collect or receive edible food directly from commercial edible food generators to maintain records of the contact information for each commercial edible food generator that collects and receives food from, the quantity in pounds of edible food collected or received and transported per month, and lastly the contact information for each food recovery service. (§18991.5)
- Adopt an ordinance to regulate haulers collecting organic waste. A jurisdiction's ordinance/mechanism shall require hauler compliance with SB 1383 regulations, including: compliance with collection program requirements and identification of facilities where they will transport organic waste. (§18988.1.a, §18988.1.c, and §18988.2)
- Adopt enforceable ordinance(s), or similarly enforceable mechanisms requiring compliance with Sections 492.6(a)(3)(B)(C), (D), and (G) of the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. (§18989.2)

9.5.3 Ordinance and Policy Needs

9.5.3.A Collection

The County of Merced will need to make substantial changes and additions to the County Code (Code) in order to meet SB 1383 requirements. While the ordinance requirements are stringent, there are also a number of specific policy decisions that will need to be made, and optional program decisions that could aid the County of Merced in reporting, recordkeeping and enforcement obligations.

Some of the broader amendments are to include mandatory recyclables and collection and expand organic waste collection to include food waste for residential and commercial customers. Organics generators including single-family, multi-family, and commercial businesses will need to be required to subscribe to collection services that cover these three waste streams.

The County of Merced will need to identify acceptable waivers generators can apply for such as de minimis, physical space and/or collection frequency waivers. Procedures for applying and recertification of waivers should be outlined in the Code. If allowed, the County Code will need to outline specific source-separation requirements self-haulers will need to adhere to in order to waive the requirements for participating in the mandated collection program. Jurisdictions have the option to require self-haulers to register as such, and/or report tonnage and drop off locations to facilitate reporting, so the County should consider this administrative oversight.

9.5.3.B Edible Food Recovery

A new section of Code regulating food recovery programs will need to be approved. Commercial edible food generators have reporting and recordkeeping requirements they must adhere to under SB 1383. The County of Merced has the option to mandate reporting by edible food generators and food recovery organizations to the County as a means of tracking the movement and capacity of recovered food. It is highly recommended that such optional provisions under SB 1383 be included in this new section of County Code to facilitate the County's reporting requirements to CalRecycle. Additional details on reporting requirements can be found in Section 9.8, Reporting and Recordkeeping.

9.5.3.C Contract Haulers

SB 1383 outlines requirements for contracted haulers. It is worth considering adding in basic requirements for contracted collectors in the County Code, such as meeting State law requirements. It is recommended that SB 1383 specific requirements be fully described and met through Amended Franchise Agreements. This would allow for more timely changes and limit the often-lengthy Code amendment process for changes to program requirements.



9.5.3.D Enforcement

The County of Merced will need to reinforce its monitoring and inspections procedures to ensure compliance as required by SB 1383. The County Code will need to be updated to allow for the inspections and investigations to check for contamination and generator compliance and conduct applicable enforcement action as needed. The Code should more definitively authorize regulatory entities to conduct inspections for contamination, maintain records of inspections, and track complaints of potential non-compliance. Some of these tasks may be delegated to the hauler and outlined in the agreement. Updating this chapter with more rigorous and explicit monitoring measures will also assist in maintaining requirements outlined in Section 8, Reporting and Recordkeeping.

The County of Merced’s current enforcement policies and procedures will need to be updated to specify how enforcement responsibility will be delegated among the County of Merced’s applicable departments and applicable fines. Additionally, enforcement will need to extend to all instances of non-compliance within the amended Code. These changes can be done by either (1) updating or writing a new section of code in the Garbage and Refuse Collection chapter, (2) linking the chapter to the current enforcement related chapters of the County Code, and/or (3) by amending the County’s general enforcement procedures to meet the baseline requirements of SB 1383 (if needed). Additional County staff time to implement investigations, inspections and enforcement will need to be considered.

9.5.3.E EPP and Procurement

It does not appear that the County of Merced has a current Environmentally Preferable Purchasing Policy (HF&H sent multiple requests to the County with no response, as well as conducting online research). The County will need to assess procurement policy gaps and implement policies that align with the paper and mulch requirements, among others. The policy will need to mandate and standardize purchasing of recovered organic products as described in Section 9.3. It will be important that the County of Merced not unintentionally inhibit the goals of SB 1383 to reach organic waste disposal reduction targets while amending its County Code. Likewise, should any existing ordinances within the County’s County Code be found to impede organics disposal reduction, it is highly recommended they are amended per SB 1383 guidelines.

In order to reach compliance in a timely fashion, the County should amend all SB 1383 related ordinances to be able to bring all changes to the Board at the same time, rather than staggering them over several months. The County can then approve the majority or all SB 1383 related ordinances at their second reading.

9.5.5 Contract Implications

In addition to regulating residents and commercial entities that generate organic material, the County of Merced will need to regulate each hauler, either through Code updates and/or updates to the Franchise Agreement. Hauler requirements include, but are not limited to, identifying organics facilities and providing all regulated generators with organics, recycling, and refuse collection services. Upon ratification of an ordinance regulating the County’s hauler’s collection of organic waste and recyclable materials, the County of Merced may find it useful to implement additional provisions in the franchise agreement to further stipulate conditions of each franchise hauler’s contract. Some of these implications are overlapped from Collection and Processing requirements (Section 9.1), and Reporting and Recordkeeping requirements (Section 9.8).

9.5.6 Education and Outreach

In addition to the two County Council sessions where the updated ordinance will be read, it is recommended the County of Merced conduct an introductory campaign to inform all citizens and businesses of legal and policy changes taking effect. These efforts would encourage compliance with the soon to be enacted ordinances. Additionally, it is recommended that the County’s education campaign emphasize that these are state-mandated updates (opposed to voluntary), in order to minimize negative feedback from ratepayers.



9.5.7 Step-by-Step Action Plan

Table 79: County of Merced Ordinances and Policies Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Draft revised Mandatory Recycling Ordinance and other required ordinances for monitoring enforcement, edible food recovery, etc.; Amend existing ordinances for compliance	County	Mar - Jul 2021
2	Establish protocols for approving and documenting de minimus and space constraint waivers (if applicable)	County	Mar - Jul 2021
3	Conduct stakeholder workshop(s) on Mandatory Ordinances (optional).	County	August 2021
4	Obtain approval of Mandatory Ordinance (Second Reading no later than 1/1/2022)	County	Sept – Dec 2021

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9.6 Edible Food Recovery

9.6.1 Program Summary

By January 1, 2022, SB 1383 requires jurisdictions to implement a food recovery program to support recovery of commercially generated edible food for human consumption. SB 1383 requires jurisdictions to categorize Edible Food Generators as either Tier One and Tier Two Commercial Edible Food Generators, and businesses under either tier must have an edible food recovery program in place by January 1, 2022. A preliminary assessment of businesses in the unincorporated areas of the County of Merced reveals that there are no Tier One Commercial Edible Food Generators and approximately nine Tier One and Tier Two Commercial Edible Food Generators (see Table 80 below). This figure is not exhaustive and County will need to verify the exact number and complete the full list before January 1, 2022.

Table 80: County of Merced Edible Food Generators

Tier 2 Generators in Merced County
Cesar E Chavez Middle School
Le Grand High School
Hilmar High School
Hilmar Middle School
McSwain Union Elementary School District
Irwin High School
Winton Middle School
Delhi Middle School
Delhi High School

EDIBLE FOOD GENERATORS DEFINED
<p>Tier 1: January 1, 2022</p> <ul style="list-style-type: none"> • Supermarkets • 10,000+ SF Grocery store • Food service provider • Wholesale food vendor
<p>Tier 2: January 1, 2024</p> <ul style="list-style-type: none"> • Restaurants with 250+ seats and 5,000+ SF • Hotel with onsite food and 200+ rooms • Health facility with onsite food and 100+ beds • Large Venues and Large Events • Local education facility with on-site food facility • State agency with cafeteria and 250+ seats

The County of Merced has set a standard for food waste recovery beyond its peers. The Bobcat Food Waste Prevention Program, a partnership established in May 2018 between UC Merced and Merced County Food Bank, addressed food waste by alleviating food insecurity and hunger. The program operates by soliciting donations from businesses and organizing a distribution channel throughout the jurisdiction⁵⁸. To more easily reach those in need, non-profits and several businesses also act as distribution centers. In addition to managing the distribution, the Merced County Food Bank manages a gleaning program⁵⁹. Producers often have excess or “ugly” edible food that can be donated, but due to cost-prohibitive constraints, are unable to bring this food to donation centers. The gleaning program instead brings volunteers to orchards and farms where crops are harvested on-site⁶⁰. Two years after its founding, the Bobcat program has already rescued more than two million pounds of edible food and donated it to those in need⁶¹.

The success and establishment of this program can help the County implement their food recovery program and requisite public education that is required by January 1, 2022. The programs network and connections can be utilized by the County to support the programs growth and satisfy remaining SB 1383 requirements. These requirements mainly revolve around

⁵⁸ Mashinchi, Kenneth. “Food Waste Prevention Program Saves Thousands of Pounds of Food in Merced.” *Newsroom*, UC Merced, March 12, 2019. <https://news.ucmerced.edu/news/2019/food-waste-prevention-program-saves-thousands-pounds-food-merced-county>. Accessed 15 July 2020.

⁵⁹ Meyer, Erin. “Fill Plates, Not Landfills: Implementing the Bobcat Eats Food Waste Awareness and Prevention Program.” *Campus Sustainability Hub*, May 17, 2019. <https://hub.aashe.org/browse/casestudy/21808/Fill-Plates-Not-Landfills-Implementing-the-Bobcat-Eats-Food-Waste-Awareness-and-Prevention-Program>. Accessed 15 July 2020.

⁶⁰ “WHAT IS ‘Picking for Purpose’?” *Merced County Gleaning*, 2020. <http://mercedgleaning.org/about.php> Accessed 15 July 2020.

⁶¹ “Bobcat Eats Food Waste Awareness and Prevention Program.” *University of California Merced Sustainability*, 2020. <https://sustainability.ucmerced.edu/initiatives/bobcat-eats-food-waste-awareness-and-prevention-program>. Accessed 15 July 2020.



utilizing the established donor network to facilitate reporting and identify feasibility of recovery expansion. The County may also wish to identify other partnership opportunities to further expand edible food recovery capacity and availability.

9.6.2 State SB 1383 Requirements for Jurisdictions

- Implement an edible food recovery program that includes education of Tier One and Tier Two Commercial Edible Food Generators at least annually with information about the available edible food recovery program, information on generator requirements, and information about food recovery organizations and services. (§18991.1)
- Implement an edible Food Recovery program that increases access to Food Recovery Organizations and services. (§18991.1)
- Develop a list of Food Recovery Organizations and services operating within the jurisdiction, including: name, physical address, contact information, collection service area, and hours of operation, which is updated annually. (§18985.2.a)
- State SB 1383 Requirements for Generators
- Commercial Edible Food Generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed. (§18991.3.b)
- If an enforcement action is commenced against a Commercial Edible Food Generator for noncompliance, the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances. (§18991.3.d)
- A Commercial Edible Food Generator subject to the requirements in Article 10 shall keep a record of each Food Recovery Service/organization that collects or receives its edible food and a copy of all contracts or written agreements with the food recovery service/organization. (§18991.4)

9.6.3 Ordinance and Policy Needs

The County will need to pass a Mandatory Edible Food Recovery Ordinance. The purpose of this ordinance is to require Tier One and Tier Two Commercial Edible Food Generators to arrange and implement food recovery programs to recover the maximum amount of edible food that would otherwise be disposed. The ordinance will require food recovery organizations and services track the quantity of food recovered.

Some other considerations will have to be made by the County, such as deciding their role in supporting food recovery efforts and identifying a sufficient funding mechanism. This may involve delegating reporting and organizational tasks to The MCRWMA or a consultant. The County could also expand internal staff responsibilities and collaboration efforts to work more closely with the Merced County Environmental Health Department.

The County will be responsible for reporting pounds of food rescued for human consumption and related food waste diversion. As SB 1383 only requires commercial edible generators to keep records of quantities of food recovered, it will be easier to meet SB 1383 reporting requirements if the County includes in its ordinance a mandate for generators to report to the County how much edible food waste was recovered through collaboration with recovery organizations and similar methods.

9.6.4 Contract Implications

The County will identify commercial edible food generators and provide these generators with the County's food donation guide (to be completed by late 2022). The County will likely incur some expenses as a result of their food recovery efforts and therefore should consider implementation of an SB 1383 Fee to recover administrative costs. If the County would like to expand its partnership with the Bobcat Program or begin a relationship with another food donation organization, it is likely a separate contract will be needed.

9.6.5 Monitoring

HF&H recommends the County work closely with UC Merced and Merced County Food Bank to access requisite data and to successfully monitor compliance of generators, food recovery organizations, and service providers. As previously noted, the County may either perform this task itself, should staff resources be available, or it can utilize a third party to monitor the food recovery data and compliance.



9.6.6 Education and Outreach

The County will need to annually educate commercial edible food generators to fulfill SB 1383 requirements. Hauler and County technical assistance staff, and/or third-party contractors can provide education and assistance during commercial site visits. Other means of education such as placing information in haulers bill inserts, annual service brochures, and newsletters should also be leveraged. The County may also consider working with the County Environmental Health Department to encourage inspectors to provide education during their site inspections of edible food generators. Other education efforts include working with business associations, the Chambers of Commerce, and restaurant associations. Merced County can retain its leadership position in alleviating hunger by educating generators, venue operators, and the community through in-person assistance, and print and digital means.

9.6.7 Program Metrics and Reporting

The County will be responsible for organizing and reporting requisite data to CalRecycle in a timely fashion. To do so, the County will rely on edible food generators and recovery organizations to report their data and diversion progress as well as monitor general SB 1383 compliance of these entities. Identifying trends in types and quantities of meals delivered may be particularly helpful for capacity forecasting. Food recovery website integration and mobile apps, though early in development, have proven to efficiently coordinate all the moving pieces involved in food donation. The County, however, would need to consider development and outreach costs associated with such an investment. HF&H recommends the County work closely with UC Merced and Merced County Food Bank to ensure edible food recovery data is being reported.

9.6.10 Step-by-Step Action Plan

Table 81:County of Merced Edible Food Recovery Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Develop list of Tier One and Tier Two Commercial Edible Food Generators	County	Mar – Jun 2021
2	Discuss opportunities for expanding capacity in County’s service area	County	Mar – Jun 2021
3	Draft Food Recovery, Mandatory Recycling, and other Ordinances	County	Mar – Jul 2021
4	Conduct stakeholder workshop(s) on Food Recovery Ordinance (optional)	County	August 2021
5	Obtain approval of Food Recovery Ordinances (no later than 1/1/2022). Requires two readings at Board of Supervisors.	County	Sep – Dec 2021
6	Integrate food recovery information into haulers’ commercial education materials (optional)	Hauler	Oct – Dec 2021
7	Initiate education program of Tier One Commercial Edible Food Generators on the Food Recovery Ordinance and program	TBD	Sep – Oct 2021
8	Educate Tier One Commercial Edible Food Generators that are self-haulers/back-haulers on edible food recovery requirements	TBD	Sep – Oct 2021, (annually)
9	Develop County’s food recovery webpage	County	Oct – Dec 2022
10	Prepare food donation guide	County	Oct – Dec 2022
11	Update food recovery webpage content including list of food recovery organizations	County	Oct – Dec 2022, (annually)
12	Review and analyze edible food generator compliance and food recovery organization compliance with the Food Recovery Ordinance and review program trends	County	Jun – Dec 2022 (annually)
13	Initiate education program of Tier Two Commercial Edible Food Generators on the Food Recovery Ordinance and program	Haulers	Jan – Mar 2024, (annually)



9.7 Education and Outreach

9.7.1 Program Summary

The County of Merced currently offers minimal solid waste and recycling education and outreach with the help of their franchise hauler(s). The education activities that both the hauler(s) and the County participate in will need to be expanded in scope and frequency. SB 1383 requires that jurisdictions provide education to all generators regarding their compliance responsibilities, which include the following groups: residents, businesses, franchise haulers, permitted haulers, self-haulers, and food recovery organizations/services. Please refer to Section 9.7.2 below for more detailed information. To comply with the education requirements of SB 1383, Merced County will therefore need to expand public education and outreach programming. It is recommended that the County begin this process by amending their Franchise Agreements to include provisions consistent with the associated education requirements of SB 1383. It would be prudent for Merced County to also update their existing website and materials with the information specific to SB 1383.

9.7.2 State SB 1383 Requirements for Jurisdictions

- Jurisdictions shall provide generators using an organic waste collection service with the following education and outreach (§18985.1.a):
 - Requirements to properly separate materials.
 - Methods for organic waste prevention, on-site organics recycling, and community composting.
 - Methane reduction benefits and method of organic waste recovery used.
 - Information on public health and environmental impacts of landfilling organic waste.
 - How to recover organic waste, and a list of approved haulers.
 - Information related to public health and safety benefits and environmental impacts associated with the disposal of organics.
 - Information regarding edible food donation programs.
 - Information on self-hauling requirements (if jurisdiction allows self-hauling).
- Provide outreach and education through print or electronic media, and by optionally conducting outreach through direct contact with generators through workshops, meetings, or on-site visits. (§18985.1.c)
- Consistent with Section 7295 of the Government Cost, translate educational materials into any non-English language spoken by a substantial number of the public provided organic waste collection services. (§18985.1.e)
- At least annually a jurisdiction shall provide commercial edible food generators with the following education and outreach (§18985.2.b):
 - Information about the edible food recovery program.
 - Information about edible food generator requirements for food recovery and record keeping (§18991.3).
 - Information about food recovery organizations and food recovery services operating within the jurisdiction, and where a list of those food recovery organizations and food recovery services can be found.
 - Information about actions that commercial edible food generators can take to prevent the creation of food waste.

9.7.3 Contract Implications

It is recommended that the County of Merced amend their Franchise Agreements by including language that delegates the educational requirements of SB 1383 to the haulers. This functional delegation is allowed under Section 18981.2 of SB 1383 and will maximize the experience and expertise of each haulers' outreach staff, while minimizing additional constraints on County resources.



SB 1383 has varying minimum standards for distributed educational information depending on the entity (e.g., residential generators and food recovery services). With this in mind, HF&H recommends requiring the haulers to provide a double-sided educational newsletter that contains all education requirements to every unit within the County utilizing the United States Postal Service Every Door Direct Mailer Service (USPS EDDM). The benefits of using this service are all entities will receive the mandatory minimum education in an efficient manner and the risk that a customer may not receive the mailing (as is often the case with multi-family complexes on customer lists) will be minimized. This approach also negates the need for the County or haulers to segregate their customers based on entity type and develop various pieces of education.

9.7.4 Rates and Staffing Impacts

Preliminary estimates to print and distribute an annual mailer via the USPS EDDM to all units approximate the cost to be between \$17,000 and \$19,000 per annum, which equates to a cost of approximately \$0.70 per unit per year if delegated (single-family, multi-family, and commercial). It should also be noted that there are minimal impacts to County staff required on a continual basis, as the main task will be to review educational material provided by the hauler(s) prior to distribution.

9.7.5 Optional Program

A targeted education and outreach campaign before implementation of a new program begins is critical to its success. SB 1383 may not explicitly require it, but early education provides residents and businesses with important information on appropriate program participation and regulatory compliance. As a result, it is recommended that the County of Merced require their haulers to send two newsletters using the USPS EDDM prior to implementing the new collection program. It is estimated that this would cost between \$29,000 and \$33,000, or approximately \$0.01 per unit month when amortized over a ten (10) year service agreement.

9.7.6 Step-by-Step Action Plan

Table 82: County of Merced Education and Outreach Step-by-Step Action Plan

ID#	Action Items	Collaborators	Timeframe
1	Catalog all education and outreach requirements of SB 1383.	HF&H	Complete
2	Identify an approach to and timing for integrating each requirement into current programs.	County, Haulers, Consultant	Mar - Jun 2021
3	Confirm approach for addressing SB 1383 education and finalize timeline for revisions to and review of various education pieces.	County, Haulers, Consultant	Jun - Aug 2021
4	Revise education materials and webpages to integrate SB 1383 information.	County, Haulers, Consultant	September 2021
5	Provide pre-implementation collection program information to all generators.	Haulers	Oct - Dec 2021
6	Educate customers (single- and multi-family, and commercial) about new organics program.	Haulers	Jul – Dec 2021
7	Expand multi-family/commercial education and technical assistance to those without recyclables and/or organics collection service.	Haulers	Jan – Jul 2022
8	Annually provide organic waste generators (including self-haulers) with information on properly separating materials, preventing organics waste, methane reductions, approved haulers, and health and environmental impacts of landfill disposal other requirements under 18985.1 and 18985.2[1].	Haulers	January 2022 (annually)
9	Annually provide edible food generators with information regarding the jurisdiction’s edible food recovery program, generator requirements, food recovery organizations, and other requirements under 18985.1 and 18985.2.	Haulers	Jan 1, 2022 (annually)



9.8 Reporting and Recordkeeping

9.8.1 Program Summary

There are many additional reporting and recordkeeping requirements as part of SB 1383 that the County will need to consider. SB 1383 contains three primary reporting mechanisms: an Initial Jurisdiction Compliance Report; an Annual Report; and an Implementation Record. The Initial Jurisdiction Compliance Report is due April 1, 2022 and shall include copies of ordinances and other enforceable mechanisms adopted pursuant to SB 1383, the contact information for the primary County reporting contact, and information on the implementation of organic waste collection programs. For this reason, it is imperative that the County implement amended or restated Franchise Agreements, as well as the required ordinances in a timely manner.

The MCRWMA currently submits the County's Electronic Annual Reports (EARs) to CalRecycle on behalf of all member agencies through CalRecycle's Recycling and Disposal Reporting System (RDRS). Recyclist currently helps the County to submit AB 341 and AB 1826 data to the MCRWMA, who then aggregates and compiles it with their disposal, composting, and transfer data for the EAR. The MCRWMA joins annual calls with CalRecycle to assist member agencies in their data collection and reporting⁶². SB 1383 greatly expands the annual reporting requirements which will require additional budget and potentially additional staffing. The current data sharing between the MCRWMA and the County reduces some of the administrative burden from reporting, which will continue to benefit the County as the expanded SB 1383 reporting requirements go into effect. However, the County will need to report data more frequently than they currently do to ensure that the Implementation Record maintained by the MCRWMA is up to date. The staffing impacts will be determined by the continued relationship with the MCRWMA, and by whether the County chooses to use internal staff for reporting or outsource this requirement to a third party.

SB 1383 requires that jurisdictions maintain records demonstrating their compliance with SB 1383 in a central location, physical or electronic, that can readily be accessed by CalRecycle within ten business days of request. Required records include, but are not limited to: ordinances, contracts, franchise agreements, a written description of the jurisdiction's inspection and enforcement program, organic waste collection service records, contamination minimization records, waiver and exemption records, education and outreach, edible food recovery program records, recovered organic waste procurement records, recycled content paper purchase records, inspection records, and enforcement records. All records and information required shall be included in the Implementation Record within 60 days of the event and shall be maintained for a minimum of five (5) years. The County of Merced currently receives limited annual reports from Gilton, Waste Management, and Mid Valley Disposal that will need to be amended to much more extensive monthly reports to facilitate compliance with SB 1383 Implementation Record requirements. Please refer to Attachment D for a list of reporting requirements that the County may wish to delegate via the Franchise Agreements.

Given the large volume of data and multiple stakeholders (Gilton/Waste Management/Mid Valley Disposal, Public Works Staff, Code Enforcement, County County Counsel, Purchasing, etc.) it is recommended that the County of Merced utilize a cloud-based software platform to enhance efficiency of the reporting process. Recyclist, and other companies, are in the process of developing a software solution that encompasses SB 1383 requirements. Along with utilizing forthcoming software, it will benefit County staff to continue to use the MCRWMA as a centralized reporting and recordkeeping entity. The MCRWMA can continue to serve as an intermediary between the County and CalRecycle, provide additional administrative support as needed, and be responsible for the upkeep of the Implementation Record minimizing additional burden on County staff.

9.8.2 State SB 1383 Requirements for Jurisdictions

- By April 1, 2022, jurisdiction will submit initial Compliance report with a copy of adopted ordinances, reporting items identified in §18994.2, and contact information of the jurisdiction's designated employee for compliance-related issues. (§18994.1)
- Commencing August 1, 2022, submit an Annual Report to CalRecycle containing the information required in §18994.2.b through §18994.2.k. Note that the first report is due October 1, 2022 and will be for the period of January 1, 2022 through

⁶² Information in preceding paragraph confirmed via phone with Eric Zetz on July 14, 2020.



June 30, 2022, while subsequent reports will be for the entire previous calendar year (January 1 through December 31). Some of this information must also be maintained with the jurisdiction’s Implementation Record.

- Maintain records including ordinances, contracts, franchise agreements, policies, procedures, or programs and a description of hauler programs.
- Maintain an Implementation Record that is stored in a central location (either physical or electronic) that must be made available to CalRecycle within 10 business days of their request.

9.8.3 Contract Implications

The County will need to amend their Franchise Agreement(s) with Gilton, Waste Management DBA Winton Disposal, and Mid Valley Disposal to include enhanced reporting requirements. The report submission frequency will need to be at least monthly to facilitate timely inclusion of records in the Implementation Record. Additionally, the volume of records and data required by all the franchise haulers will be significantly greater and enhanced so that the County and the Authority can correctly report compliance with all SB 1383 requirements to CalRecycle.

The County currently uses Recyclist for AB 341 and AB 1826 requirements. Once SB 1383 specific software becomes available by Recyclist or other companies, the County may also choose to contract with these other entities to assist in reporting. A contract with a cloud-based software provider will greatly enhance the efficiency of reporting and mitigate the risk associated with keeping voluminous records in a typical desktop file structure. The County currently utilizes the MCRWMA to help manage the reporting process, data aggregation, and analytics. Cloud-based software will assist in efficiently submitting documents to the MCRWMA and providing updated data when needed.

9.8.4 Step-by-Step Action Plan

Table 83: County of Merced Reporting and Recordkeeping Step-by-Step Action Plan

ID #	Action Item	Collaborators	Timeframe
1	Review record keeping requirements of SB 1383 and develop protocol for obtaining and maintaining records.	County	Mar - Jun 2021
2	Clarify reporting obligations and align submittal dates with SB 1383 reporting deadlines.	County, Haulers	Mar - Jun 2021
3	Consider the development expansion of existing systems to handle some or all SB 1383 record keeping and reporting requirements and implement, if desired.	County	Mar - Jun 2021
4	Begin documentation and aggregation of reporting for Implementation Record.	County, Haulers	Aug - Dec 2021
5	Commence SB 1383 mandated record keeping.	County, Haulers	Dec 2021 - Jan 2022
6	Prepare initial compliance report (report due 4/1/2022).	County	Dec 2021 - Mar 2022
7	Prepare annual report (report due 8/1/2022 and annually thereafter).	County	Apr - Jul 2022