

March 1, 2022

NB-20

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt a Resolution to authorize the City Manager to submit a Notice of Intent to Comply with the regulations of Senate Bill 1383 (SB 1383) per the Senate Bill 619 (SB 619) Statute. (Citywide)

DISCUSSION

CalRecycle, in consultation with the California Air Resources Board (CARB), has adopted regulatory requirements (Regulations), consistent with the mandate of SB 1383 (Lara, 2016), that are designed to achieve the organic waste reduction goals established in Section 39730.6 of the Health and Safety Code through a 50 percent reduction in the level of statewide disposal of organic waste from the 2014 level by 2020, and a 75 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025.

Due to delays associated with the pandemic and resulting limited resources, the City of Long Beach (City) is facing possible violations of the Regulations during the 2022 calendar year. SB 619 (Laird, 2021), through amendments to Section 42652.5 of the Public Resources Code (Statute), created a mechanism called a Notification of Intent to Comply through which a local jurisdiction may secure administrative civil penalty relief from any continuing violations of the Regulations for the 2022 calendar year and may be eligible for a broader and longer-term regulatory compliance path, including suspended administrative civil penalties, through a corrective action plan. SB 619 was created and passed by State legislature as they are aware that many California cities are not able to comply with this sweeping new trash mandate to reduce organics from going to the landfill. Therefore, SB 619 was specifically designed to allow for additional time to comply, provided that a jurisdiction take inventory of where they are having specific challenges and report those to the State.

CalRecycle requires the City Council approval to adopt a Resolution that references the completed Notice of Intent to Comply document (Attachment A).

This matter was reviewed by Deputy City Attorney Erin Weesner-McKinley and by Budget Management Officer Nader Kaamoush on February 24, 2022.

HONORABLE MAYOR AND CITY COUNCIL

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TIMING CONSIDERATIONS

City Council action is requested on March 1, 2022, to ensure submission of the Notification of Intent to Comply document by CalRecycle's March 1, 2022 deadline.

FISCAL IMPACT

There are no fiscal or local job impacts to the City for submitting a Notice of Intent to Comply. However, the City can be assessed fines for non-compliance of SB 1383 beginning January 1, 2024 retroactive to January 1, 2022 if a Notice of Intent to Comply is not submitted by the March 1, 2022 deadline. This legislation provides the City with at least one year of relief from possible financial penalties for non-compliance. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



ERIC LOPEZ
DIRECTOR OF PUBLIC WORKS

Attachments – Resolution
A – Notice of Intent to Comply

APPROVED:



THOMAS B. MODICA
CITY MANAGER

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AUTHORIZING THE CITY
MANAGER TO SUBMIT A NOTICE OF INTENT TO
COMPLY WITH THE REGULATIONS OF SB1383 PER THE
SB619 STATUTE

WHEREAS, CalRecycle, in consultation with the California Air Resources
Board, has adopted regulatory requirements (Regulations), consistent with the mandate of
Senate Bill 1383 (Lara, 2016), that are designed to achieve the organic waste reduction
goals established in Section 39730.6 of the Health and Safety Code through a 50 percent
(50%) reduction in the level of the statewide disposal of organic waste from the 2014 level
by 2020 and a 75 percent (75%) reduction in the level of the statewide disposal of organic
waste from the 2014 level by 2025; and

WHEREAS, the City of Long Beach is a local jurisdiction required to comply
with the Regulations; and

WHEREAS, the City of Long Beach is facing continuing violations of the
Regulations commencing during the 2022 calendar year; and

WHEREAS, Senate Bill 619 (Laird, 2021), through amendments to Section
42652.5 of the Public Resources Code (Statute), created a mechanism called a Notification
of Intent to Comply through which a local jurisdiction may secure administrative civil penalty
relief from any continuing violations of the Regulations for the 2022 calendar year and may
be eligible for a broader and longer-term regulatory compliance path, including suspended
administrative civil penalties, through a corrective action plan; and

WHEREAS, the City of Long Beach is a local jurisdiction authorized by the
Statute to submit a Notification of Intent to Comply for CalRecycle approval; and

WHEREAS, CalRecycle shall approve a Notification of Intent to Comply that

1 is duly adopted by the jurisdiction by formal written resolution and meets the requirements
2 of the Statute;

3 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
4 follows:

5 Section 1. The City Council of the City of Long Beach by and through its
6 City Manager hereby formally adopts the Notification of Intent to Comply, attached as
7 Attachment "A".

8 Section 2. The City Council of the City of Long Beach hereby authorizes
9 and directs the City Manager on its behalf, to submit the Notification of Intent to Comply,
10 Attachment "A", to CalRecycle for approval pursuant to the Statute.

11 Section 3. By submitting the Notification of Intent to Comply pursuant to
12 and subject to the above referenced requirements, the City of Long Beach represents and
13 certifies that it will implement the proposed actions to remedy the violations according to
14 the proposed schedule as approved by CalRecycle and in accordance with the Statute and
15 Regulations.

16 Section 4. The City of Long Beach by and through its City Manager also
17 acknowledges and agrees to comply with any maximum compliance deadline in any
18 corrective action plan that CalRecycle, in its sole discretion, determines to be necessary
19 and appropriate under the circumstances for the correction of any violation(s) of the Statute
20 and Regulations identified in its Notification of Intent to Comply.

21 Section 5. This resolution shall take effect immediately upon its adoption
22 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

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I hereby certify that the foregoing resolution was adopted by the City Council
of the City of Long Beach at its meeting of _____, 2022
by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

Notification of Intent to Comply

CalRecycle is providing this optional form as a convenience to assist jurisdictions (counties, cities, a county and city, or special districts providing solid waste collection services) for purposes of submitting a notification of intent to comply to CalRecycle [see Public Resources Code (PRC) section 42652.5(c)].

A jurisdiction may submit a notification of intent to comply if it is facing continuing violations of the Short-lived Climate Pollutants: Organic Waste Reductions requirements in Title 14 California Code of Regulations (14 CCR). The written notification of intent to comply, adopted by resolution of the jurisdiction's governing body, shall be sent to CalRecycle no later than **March 1, 2022**, to NOIC@CalRecycle.ca.gov.

A jurisdiction shall, at minimum, include the following in its notification:

1. A description, with specificity, of the continuing violations.
2. A detailed explanation of the reasons, supported by documentation, why the local jurisdiction is unable to comply.
3. A description of the impacts of the COVID-19 pandemic on compliance.
4. A description of the proposed actions the local jurisdiction will take to remedy the violations within the timelines established in 14 CCR section 18996.2 with a proposed schedule for doing so. The proposed actions shall be tailored to remedy the violations in a timely manner.

Upon approval by CalRecycle of a jurisdiction's notification and implementation of the intent to comply, a jurisdiction may be eligible for both of the following:

1. Administrative civil penalty relief for the 2022 calendar year pursuant to PRC section 42652.5(d).
2. A corrective action plan pursuant to 14 CCR section 18996.2.
 - a. CalRecycle may address through a corrective action plan any violations disclosed in a jurisdiction's notification that will take more than 180 days to correct. In this situation, the proposed actions and schedule in the jurisdiction's approved notification will be in effect until a corrective action plan is issued.

CalRecycle will respond in writing to a jurisdiction within 45 business days of receiving its notification with an approval, disapproval, request for additional information, or timeline for a decision on approval or disapproval. CalRecycle will include details about why a jurisdiction did not meet the requirements for a Notification of Intent to Comply when disapproving the jurisdiction's notification.

Please clearly print or type responses. Attach additional pages as necessary.

Jurisdiction Name: City of Long Beach

County: Los Angeles

Person Completing the Form: Thomas B. Modica

First Name: Thomas

Last Name: Modica

Title: City Manager

Mailing Address: 411 W Ocean Blvd, 10th Floor

City: Long Beach

Zip Code: 90802

Email Address: tom.modica@longbeach.gov

Phone Number: 562-570-5091

1. Select using the check boxes below or write in the continuing violations for each applicable regulatory section. For each selection, please describe the specific violations related to the regulatory section.

Example:

- (B) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services
- i. Not implementing mandatory residential foodwaste collection for all residents. Note: City already provides mandatory greenwaste collection to all residents*
 - ii. Not implementing mandatory commercial organics collection for all businesses under 2 cubic yards. Note: City already provides mandatory commercial organics collection to all businesses 2 cubic yard or more.*

Disclaimer: The list of possible continuing violations below is not inclusive of all potential violations of the regulations.

(A) 14 CCR section 18984 Combined Organic Waste Collection Services. *This requirement is not included since the requirements are further specified in sections 18984.1-18984.11.*

- (B) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services
- (C) 14 CCR section 18984.2 Two-Container Organic Waste Collection Services
- (D) 14 CCR section 18984.3 Unsegregated Single Container Collection Services
- (E) 14 CCR section 18984.4 Recordkeeping Requirements for Compliance with Organic Waste Collection Services
- (F) 14 CCR section 18984.5 Container Contamination Minimization
- (G) 14 CCR section 18984.6 Recordkeeping Requirements for Container Contamination Minimization
- (H) 14 CCR section 18984.7 Container Color Requirements
- (I) 14 CCR section 18984.8 Container Labeling Requirements
- (J) 14 CCR section 18984.11 Waivers Granted by a Jurisdiction
- (K) 14 CCR section 18985.1. Organic Waste Recovery Education and Outreach.
- (L) 14 CCR section 18985.2. Edible Food Recovery Education and Outreach
- (M) 14 CCR section 18985.3. Recordkeeping Requirements for a Jurisdiction's Compliance with Education and Outreach Requirements
- (N) 14 CCR section 18988.1. Jurisdiction Approval of Haulers and Self-Haulers
- (O) 14 CCR section 18988.3. Self-haulers of Organic Waste
- (P) 14 CCR section 18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program
- (Q) 14 CCR section 18989.1. CALGreen Building Codes
- (R) 14 CCR section 18989.2 Model Water Efficient Landscape Ordinance
- (S) 14 CCR section 18991.1. Jurisdiction Edible Food Recovery Program

- (T) 14 CCR section 18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program
- (U) 14 CCR section 18992.1. Organic Waste Recycling Capacity Planning
- (V) 14 CCR section 18992.2. Edible Food Recovery Capacity
- (W) 14 CCR section 18993.1. Recovered Organic Waste Product Procurement Target
- (X) 14 CCR section 18993.2. Recordkeeping Requirements for Recovered Organic Waste Procurement Target
- (Y) 14 CCR section 18993.3. Recycled Content Paper Procurement Requirements
- (Z) 14 CCR section 18993.4. Recordkeeping Requirements for Recycled Content Paper Procurement
- (AA) 14 CCR section 18994.2. Jurisdiction Annual Reporting
Note: This requirement is not included since jurisdictions are still expected to report to CalRecycle.
- (BB) 14 CCR section 18995.1. Jurisdiction Inspection Requirements
Note: Section 18995.1(a)(1) should not be included because a jurisdiction should already be completing this action due to the requirements of PRC Chapter 12.9 (commencing with Section 42649.8)
- (CC) 14 CCR section 18995.2. Implementation Record and Recordkeeping Requirements
- (DD) 14 CCR section 18995.3. Jurisdiction Investigation of Complaints of Alleged Violations
Note: This requirement is not included since jurisdictions are still expected to investigate complaints.
- (EE) 14 CCR section 18995.4. Enforcement by a Jurisdiction

Use the check box(es) below to write in the continuing violations for any regulatory section(s) not reflected above and describe the specific violations related to the regulatory section.

Example:

- (1) (Type regulatory section number) (Type regulatory section title)
 - i. Describe the specific violations related to the regulatory section

- (1)
- (2)
- (3)
- (4)
- (5)

2. A detailed explanation of the reasons why the jurisdiction is unable to comply, supported by documentation, if applicable.

The City was not able to comply due to lack of local infrastructure for processing combined loads of food waste, yard debris, and food soiled paper. Infrastructure is now more available and we are releasing a RFP/Q to find a facility that can process this combined stream. We are also restructuring and enhancing our staffing levels to meet the needs of this requirement. We are having to change job classifications, work with unions, complete a cost of service study to increase rates, purchase new equipment and redesign our Bureau to meet the requirements of this state law. There have also been supply chain delays in accessing the required equipment needed for this program.

We also had to change our Municipal Code to require that organics collection is required/automatic subscription; this was not possible to do during the pandemic as so many of our businesses were closed down. We have also been working closely with our private haulers to have them expand their programs and start directly providing this service to their customers.

3. A description of the impacts of the COVID-19 pandemic on compliance.

Fully implementing various facets of SB 1383 regulations during the pandemic has been difficult for the City to accomplish due to staff citywide being furloughed for almost a year, staff had to reduce their hours during this time. There were also ongoing staffing challenges to maintain operations of our existing solid waste collection. We faced increased staff shortages due to Covid. We continue to have

challenges in receiving purchases of new supplies such as trucks and carts. This is also causing delay of us being able to begin new programs.

4. Provide a description of the proposed actions the jurisdiction will take to remedy the violations with a proposed schedule for completing each action. The proposed actions shall be tailored to remedy the violations in a timely manner. See optional format below.

Regulatory Requirement: CCR Section: 18984.1,.2,.3 Combined Organic Waste Collection Services.

Description: The City does not have a residential organics program and there is not a full implementation for mandatory collection from businesses/commercial accounts for accounts that generate under 2 cubic yards. The City is allowing for a 1 cart, 2 cart, or 3 cart system for managing organics.

Tasks: City Service Accounts	Completion
Task 1: CLB to issue RFQ/RFP to determine processing options for co-mingled loads of yard debris and food waste from City-Serviced Accounts	May 31, 2022
Task 2: City to purchase additional trucks for organics collection	Purchase 1 – 8 trucks expected by 3/31/23 Purchase 2 – 4/31/23
Task 3: City to purchase additional carts for organics collection	12/31/23
Task 4: Continue implementation of commercial organics collection program	12/31/23
Task 5: City to develop educational campaign to educate residents about organics program	4/30/23
Task 6: City to implement educational campaign for city-serviced residential program	12/31/23
Task 7: City to issue waivers for City-serviced commercial accounts that qualify	12/31/23
Task 8: City to distribute carts to City-serviced accounts	Prior to collection beginning
Task 9: City to begin residential collection	1/1/24
Task 10: Continued increase of staffing (organics drivers) to service the routes	12/31/23
Task 11: Meet and confer process with union(s) to implement organics collection for City-serviced Accounts	2022-2024
Private Hauler Accounts	
Task 12: City to issue waiver to accounts serviced by Private Haulers	12/31/22
Task 13: City to ensure private haulers have provided organics services to all required commercial accounts	12/31/22

Regulatory Requirement: CCR Section: 18984.4 Recordkeeping Requirements for Compliance with Organic Waste Collection Services

Description: Not implementing recordkeeping requirements for compliance with organic waste collection services due to delay in organics collection.

Task 1: Implement record keeping requirement as outlined in sections 1-5	12/31/23
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Regulatory Requirement: CCR Section 18984.5 Container Contamination Minimization

Description: Not able to implement route review program until a organics program is established citywide. City is planning to implement option B – Route Reviews.

Task 1: Increase staffing to develop and implement requirements of option B (b.1A – B 3)	12/31/23
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Regulatory Requirement: CCR CRR Section 18984.6 Recordkeeping Requirements for Container Contamination Minimization

Description: Not implementing due to delay in establishing organics program citywide.

Task 1: Implement requirements of 1,2, 4, & 5	12/31/23
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Regulatory Requirement: CCR Section 18984.7 Container Color Requirements

Description: As new customers are added to this program, we will provide the required carts.

Task 1: City to provide approved containers for organics service as program is rolled out	12/31/23
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Regulatory Requirement: CCR Section 18984.8 Container Labeling Requirements

Description: Not implementing due to delay in implementing organics collection. The City has already designed labels for containers and will be able to place them on all containers once program(s) are fully implemented. The City cannot implement labels now as they reflect future sorting requirements and not what is available today.

Task 1: Implement requirements of this section as new carts are provided to customers	12/31/23
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Regulatory Requirement: CCR Section 18985.1 Organic Waste Recovery Education and Outreach

Description: City to provide City endorsed letters to private haulers for them to provide to their customers regarding requirements. City to send letters to City-serviced accounts as increased service is available and City-staff determine remaining commercial customers required to have the service. The City has provided the Private Haulers these types of letters for AB 341 and AB 1826 in previous years.

Task 1: Develop new letter for private haulers to provide their customers under this regulation. Require private haulers to send out the letter	4/30/22
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Task 2: Confirm City-serviced commercial accounts that still need service and send out letter	12/31/23
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Regulatory Requirement: CCR Section 18985.3 Recordkeeping Requirements for Compliance with Education and Outreach Requirements

Description: Unable to implement record keeping until all required documents are developed and provided to impacted parties.

Task 1: Maintain Records as required by this section	12/31/23
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Regulatory Requirement: CCR Section 18991.2 Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program

Description: Without a full program in place, the City is unable to meet the required record keeping requirements.

Task 1: Develop and implement record keeping requirements, as required	3/1/23
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Regulatory Requirement: CCR Section 18993.1 Recovered Organic Waste Product Procurement Target

Description: The City is not currently able to meet this requirement due to lack of available product in our fleet fueling. Our Fleets Services Department recently included this requirement in our Fuel RFP and none of the respondents had this fuel available. The City is confident that once this fuel is available on the marketplace we can utilize this in fueling our trash fleet and other possible vehicles.

Task 1: Further assess all procurement options within the City Operations, work with Private Haulers to see if they could be a direct service provider and/or if they are donating approved products in CA, and explore if options are feasible to meet this requirement.	12/31/23
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Task 2: Purchase fuel once available (assuming City has not been able to meet the requirement sooner).	12/31/23
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Regulatory Requirement: CCR Section 18993.2 Recordkeeping Requirements for Recovered Organic Waste Procurement Requirement

Description: Procurement target not met, therefore no records showing target met.	
Task 1: Implement task above	12/31/22
Task 2: Maintain records as required by this section	12/31/22
Regulatory Requirement: CCR Section 18993.3 Recycled Content Paper Procurement Requirements	
Description: With the newly adopted Administrative Regulation, the City is in process of complying with this requirement however it is not fully compliant.	
Task 1: Develop system to fully integrate AR 23-7 into all City purchasing	12/31/22
Regulatory Requirement: CCR Section 18993.4 Recordkeeping Requirements for Recycled Content Paper Procurement	
Description: The City is in process of implementing our recently passed Administrative Rule, 23-7 which outlines the requirements of this aspect of the law.	
Task 1: Implement required record keeping	12/31/22

I hereby certify under penalty of perjury that the information provided herein is true and correct to the best of my knowledge.

-----	Tom Modica	City Manager	2/ /2022
Signature	Printed Name	Title	Date