
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2023 - 2024 Regular

Bill No.	AB 573	Hearing Date:	7/12/2023
Author:	Garcia		
Version:	6/27/2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Brynn Cook		

SUBJECT: Organic waste: meeting recovered organic waste product procurement targets

DIGEST: This bill authorizes local jurisdictions to comply with the state's recovered organic waste procurement requirements by procuring California-derived organic waste products that are processed at out-of-state facilities.

ANALYSIS:

Existing law:

- 1) Requires the California Air Resources Board (CARB) to complete, approve, and implement a comprehensive strategy to reduce emissions of short-lived climate pollutants (SLCPs) in the state to achieve, among other things, a reduction in the statewide emissions of methane by 40%. (Health and Safety Code (HSC) §§39730 et seq.)
 - a) Requires that methane emissions reduction goals include specified targets to reduce the landfill disposal of organic waste by 50% relative to its 2014 level by 2020, and achieve a 75% reduction relative to 2014 by 2025. (HSC §39730.6)
- 2) Requires the Department of Resources Recycling and Recovery (CalRecycle), in consultation with CARB, to adopt regulations to achieve those targets for reducing organic waste in landfills pursuant to SB 1383 (Lara, Chapter 395, Statutes of 2016). These regulations include:
 - a) Requires local jurisdictions to impose requirements on generators and authorizes local jurisdictions to impose penalties for noncompliance with those requirements.
 - b) Establishes different levels of requirements and phased timelines for local jurisdictions based on different categorizations for those local jurisdictions.
 - c) Establishes process for local jurisdictions facing penalties for violations of these requirements to obtain relief by submitting a notice of intent to comply that includes an explanation of why they were unable to comply

and a description of the proposed actions to come into compliance in a timely manner. (Public Resources Code (PRC) §42652.5)

- 3) Requires local jurisdictions, beginning January 1, 2022, to annually procure a quantity of recovered organic waste products that meet or exceed their annual recovered organic waste product procurement target.
 - a) Requires CalRecycle to calculate the annual recovered organic waste product procurement target based on the per capita procurement target of 0.8 tons of organic waste per resident per year and the jurisdiction's population.
 - b) Authorizes jurisdictions to comply by either directly procuring recovered organic waste products for use or giveaway, or through a direct service provider contract. (Title 14 §18993.1 of the California Code of Regulations (CCR))
- 4) Defines "compostable materials" as any organic material that when accumulated will become active compost. (Title 14 § 17852 CCR)
- 5) Defines "jurisdiction" as a city, county, a city and county, or a special district that provides solid waste collection services. (Title 14 §18982 CCR)

This bill:

- 1) Authorizes a local jurisdiction, until December 1, 2039, to send California-derived organic waste to an out-of-state facility for processing for purposes of reaching SB 1383 targets.
- 2) Requires that the out-of-state operation or facility meet the following requirements:
 - a) It has been in operation since January 1, 2022;
 - b) It has been appropriately permitted in the jurisdiction in which it is located;
 - c) It provides all information to the local jurisdiction needed to allow it to comply with the appropriate recordkeeping requirements; and
 - d) It limits the processing capacity of that operation or facility to the capacity available as of January 1, 2022.
- 3) Excludes rural jurisdictions that have already been granted a waiver through CalRecycle from their SB 1383 organic waste collection requirements.
- 4) Specifies that the amount of a local jurisdiction's procurement requirement is limited to the amount of California-derived recovered organic waste that the local jurisdiction sent outside the state for processing.

Background

- 1) *Organic Waste and Short-Lived Climate Pollutants*. Organic material accounts for more than a third of California's waste stream: food waste alone accounts for approximately 18% of landfilled material, and yard waste accounts for another seven percent of the total waste stream. Organic waste is not only a high volume problem in landfills--it also has an oversized impact on climate. According to CalRecycle, methane emissions from decomposing organic waste in landfills account for approximately 20% of the State's total methane emissions. Methane is a climate "super pollutant" that is 84 times more potent than carbon dioxide over a 20-year timescale.
- 2) *Organic Waste and Methane Emission Reduction Goals (SB 1383 Regulations)*. In 2016, the Legislature passed SB 1383 (Lara, Chapter 395, Statutes of 2016), which established emission reduction targets for short-lived climate pollutants including hydrofluorocarbon gasses, anthropogenic black carbon, and methane. SB 1383 required CARB to approve and implement a comprehensive short-lived climate pollutant strategy that included a 2030 target of reducing methane emissions by 40% relative to 2014 levels. In order to achieve these reductions in methane emissions, SB 1383 set a goal of reducing landfill disposal of organic waste from 2014 levels 50% by 2020 and 75% by 2025; and to rescue at least 20% of currently disposed of surplus food for meals by 2025. CalRecycle was given the authority to adopt regulations that would achieve these organic waste reduction requirements.
- 3) *Procurement and Processing*. Creating a strong market for organic materials is an important step in diverting that same organic waste from landfills. To develop markets for organic waste products, like mulch, compost, and digestate, CalRecycle has established organic waste procurement requirements for jurisdictions through SB 1383 regulations. The procurement targets are based on the average amount of organic waste generated by Californians annually, multiplied by the population of a jurisdiction.

To be compliant with SB 1383 procurement requirements, facilities that process organic waste must follow certain protocols and meet certain reporting requirements. CalRecycle has developed detailed guidance on how processing facilities must calculate the amount of organic waste that is recovered vs. sent to disposal. This includes a set sampling procedure that processing facilities can follow. These processing operators are also required to maintain records

and report to CalRecycle sampling results and daily outgoing weights of organic material sent for recovery and disposal.

CalRecycle also sets standards for the quality of the organic material leaving a processing facility, specifying that all material that a transfer/processing facility or operation sends to a recovery activity (like composting or anaerobic digestion) should be 80 percent “clean” or comprised of less than 20 percent of incompatible material by 2022. By 2024, those requirements are ratcheted up to a 90 percent clean or less than 10 percent of incompatible material.

- 4) *Out of State Processing.* To meet their SB 1383 goals, locals must ensure that the organic materials they procure meets all processing requirements laid out in regulations, including requirements that processing facilities measure and report data on their recovery rates to CalRecycle. As a result, CalRecycle currently only counts organic waste towards SB 1383 procurement targets if that organic material is processed at an in-state, not an out-of-state, facility.

Separate from the SB 1383 requirements, jurisdictions may choose to ship organic materials out of state for processing. The choice to use out-of-state processing facilities is a matter of cost and logistics. Local jurisdictions have an incentive to opt for the lowest cost option available. For more remote areas of the state that do not have their own processing facilities, facilities across state lines may be closer and less expensive than in-state options.

- 5) *Missed Targets and Low Capacity.* California is behind on its organic waste reduction targets. While the state’s goal is to reduce organic material in landfills by 50 percent relative to 2014 levels in 2020, the total amount of organic materials actually increased by a million tons over that time period. According to a report by the Little Hoover Commission, California is unlikely to meet its 2025 goals, noting that:

“Even if state estimates of increased processing capacity are met, California is likely to be short of the necessary capacity by approximately 8 million tons a year. For reasons of both cost and time, the state is highly unlikely to add sufficient capacity by 2025.”

To date, more than a hundred local jurisdictions have sought an extension of the deadline for complying with the state’s requirement.

Comments

- 1) *Purpose of Bill.* According to the author, “As jurisdictions ramp up their organic waste collection programs, many cities and counties have struggled to

meet their procurement targets due to a limited amount of organic waste infrastructure across the state. In some cases, purchasing compost from within state borders and delivering it to a jurisdiction can require trucking compost hundreds of miles, unnecessarily increasing vehicle miles traveled and ratepayer costs. CalRecycle acknowledges that the state still needs approximately 50-100 new or expanded facilities for the successful implementation of SB 1383 and that it can take years to site and permit new facilities. While jurisdictions wait for in-state compost facilities to get sited and permitted, AB 573 will help local jurisdictions in meeting procurement requirements by allowing California-derived material processed at existing out-of-state compost facilities to count towards procurement, which will both reduce vehicle miles traveled and potential financial impacts on ratepayers.”

- 2) *Today’s Help, or Tomorrow’s Competition?* The intent of AB 573 is to give local jurisdictions more options to meet SB 1383 procurement targets at a time when the in-state processing infrastructure is still being developed. This could be especially useful in rural areas of the state where processing options are fewer and further between, and where out-of-state options may be closer than in-state ones. However, allowing locals to send their organic waste out of state for processing introduces a risk that there will be no market pressure to develop in-state facilities. Providing breathing room for locals to meet procurement targets in the short term may undercut critical efforts to develop in-state organic waste processing infrastructure.

To address these concerns, the bill provides several guardrails, including specifying that local jurisdictions in California can only use out-of-state facilities that were operating before AB 573 was passed and that have not expanded their processing capacity. These measures discourage expansion of out-of-state processing facilities to accommodate more throughput of organic waste from California. As local jurisdictions procure more organic material in pursuit of reaching their SB 1383 targets, the amount of organic waste needing to be processed will increase. Since AB 573 adds some caps to the amount of waste that can be sent out of state for processing, based on the current capacity of those out-of-state facilities, the increase in organic waste material needing to be processed over time could support in-state markets (although the degree to which this could happen will depend on the current capacity of out of state facilities.)

Suggested Amendment. The committee and authors may wish to consider shortening the sunset allowing locals to count organic material that was processed out of state towards SB 1383 goals. The current sunset date is Dec 1,

2039—however, a seven-year sunset, until Dec 1, 2031, may provide sufficient time to allow in-state infrastructure to be developed.

- 3) *Out of State, Out of Hand.* Shipping organic waste out of California introduces an issue for enforcement. CalRecycle does not have the authority to enforce the processing standards it lays out in SB 1383 regulations for out-of-state facilities. While CalRecycle can and does regulate products that are manufactured out of state and then sold into the state, it cannot enforce specific processes at out-of-state facilities. SB 1383 regulations lay out specific requirements for how organic waste must be handled and reported at processing facilities. How will CalRecycle ensure that these criteria are being satisfied when the Department has no way of auditing out-of-state facilities to learn if entities are in compliance with SB 1383 regulations, and no way of penalizing those entities if they failed to comply?
- 4) *Committee amendments. Staff recommends the committee adopt the bolded amendments contained in comments 2 above.*

Related/Prior Legislation

AB 1985 (R. Rivas, Chapter 344, Statutes of 2022) provides an exemption for rural jurisdictions and authorizes CalRecycle to create a delayed and ramping enforcement timeline for penalties for rural local jurisdictions to meet their organic waste procurement targets.

SB 613 (Laird, Chapter 508, Statutes of 2021) pushed back the timeline for penalties for local jurisdictions that have not complied with SB 1383 requirements until January 1, 2023.

SOURCE: CR&R Environmental Services

SUPPORT:

California Compost Coalition
 City of Riverside
 City of Tustin
 County of Imperial
 Cr&r, INC.
 Republic Services - Western Region
 Rural County Representatives of California (RCRC)
 Truckee; Town of

OPPOSITION:

None received

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