

1 **RESOLUTION NO. 2022-11**

2 **A RESOLUTION OF THE ALBANY CITY COUNCIL AUTHORIZING**
3 **THE CITY MANAGER TO SUBMIT A NOTIFICATION OF INTENT TO COMPLY**
4 **WITH SB 1383**

5 **WHEREAS**, The Short-Lived Climate Pollutant Reduction Act of 2016 (Senate Bill 1383)
6 is a state mandate requiring diversion of 75% of organic waste from landfills and recovery of 20%
7 of edible food statewide by 2025; and

8
9 **WHEREAS**, on December 6, 2021, the City Council adopted Ordinance No. 2021-11
10 amending Section 15-2 of the Albany Municipal Code, opting into the Alameda County Organics
11 Reduction and Recycling Ordinance (ORRO); and

12
13 **WHEREAS**, local jurisdictions are the primary entities responsible for implementation and
14 enforcement of SB 1383 requirements; and

15
16 **WHEREAS**, the City of Albany expects to be facing continuing violations of the SB 1383
17 Regulations commencing during the 2022 calendar year; and

18
19 **WHEREAS**, Senate Bill 619 (Laird, 2021), through amendments to Section 42652.5 of the
20 Public Resources Code (Statute), created a mechanism called a Notification of Intent to Comply
21 through which a local jurisdiction may secure administrative civil penalty relief from any
22 continuing violations of the Regulations for the 2022 calendar year and may be eligible for a
23 broader and longer-term regulatory compliance path, including suspended administrative civil
24 penalties, through a corrective action plan; and

25
26 **WHEREAS**, the City of Albany is a local jurisdiction authorized by the Statute to submit a
27 Notification of Intent to Comply for CalRecycle approval; and

28
29



City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

RESOLUTION NO. 2022-11

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

The 22nd day of February, 2022, by the following votes:

AYES: Council Members Gary, McQuaid, Nason, Tiedemann and Mayor Jordan

NOES: none

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this

23rd day of February, 2022.

Anne Hsu
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 Albany

County: Alameda

Person Completing the Form:

First Name: Elizabeth

Last Name: Carrade

Title: Sustainability Coordinator

Mailing Address: 1000 San Pablo Ave

City: Albany

Zip Code: 94706

Email Address: ecarrade@albanyca.org

Phone Number: 510-528-5762

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

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



Signature

Elizabeth Carrade

Printed Name

Sustainability
Coordinator

Title

02/09/2022

Date

Description of the proposed actions with proposed schedules the jurisdiction will take to remedy the violations. The proposed actions shall be tailored to remedy the violations in a timely manner.

Regulatory Requirement and Description	
Action	Proposed Schedule
TASK 1:	Date to be completed:
TASK 2:	Date to be completed:
TASK 3:	Date to be completed:

Regulatory Requirement and Description	
Action	Proposed Schedule
TASK 1:	Date to be completed:
TASK 2:	Date to be completed:

EXAMPLE

Regulatory Requirement: (B.i.) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services	
Description: Not implementing mandatory residential foodwaste collection for all residents. Note: City already provides mandatory greenwaste collection to all residents	
Action	Proposed Schedule
TASK 1: <i>Purchase two additional collection trucks and modify collection routes</i>	Date to be completed: <i>4/7/2022</i>
TASK 2: <i>The city will work with its hauler to find a facility to accept mixed organic waste.</i>	Date to be completed: <i>4/14/2022</i>

Regulatory Requirement: (B.ii.) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services	
Description: 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.	
Action:	Proposed Schedule
TASK 1: <i>Purchase two additional collection trucks and modify collection routes</i>	Date to be completed: <i>4/21/2022</i>
TASK 2: <i>The city will work with its hauler to acquire and distribute appropriate containers to all commercial accounts. The city will obtain monthly reports from the hauler to monitor full distribution of carts.</i>	Date to be completed: <i>4/28/2022</i>

Notification of Intent to Comply
City of Albany, CA
03/01/2022

Report Summary:

The City of Albany is in the process of negotiating a new Collection Services Agreement, as the current agreement is set to expire on March 31, 2023. The City anticipates having a final Collection Services Agreement and resulting municipal code updates completed by the end of the calendar year. A new Collection Services Agreement will include several provisions aimed at helping the City comply with regulations defined in Senate Bill 1383. Without the support of a waste hauler, with provisions explicitly defined in a Collection Services Agreement, the City lacks capacity and funding necessary to conduct all activities required in the SB 1383 regulations, particularly those pertaining to contamination monitoring and inspections, cart and bin color and labeling requirements, procurement of recovered organic waste products, and recordkeeping and reporting for activities the City currently lacks the capacity to conduct. Please see below for more detailed descriptions of SB 1383 regulations the City will require a Collection Services Agreement to comply with.

Due to the COVID-19 pandemic, City staff and resources were redirected towards COVID-19 response. As a result, the City had insufficient time to begin development of a new Collection Services Agreement to ensure a finalized contract by January 1, 2022.

The City will remedy the violations before the start of January 1, 2023, by adopting a new Collection Services Agreement by December 31, 2022 that includes provisions to comply with regulations the City is currently unable to comply with due to capacity, funding, and staffing issues.

List of All Continuing Violations as of 02/09/2022

- **Regulatory Requirement:** 14 CCR section 18984.5 Container Contamination Minimization
 - 18984.5(b):
 - **Description:** Due to the lack of an updated Collection Services Agreement between the City and a waste hauler, the City currently has no mechanism in place to comply with Section 18984.5(b) as there is a lack of capacity and funding available to conduct reviews of hauler routes, and as a result, the City is unable to comply with violation noticing requirements defined in 18984.5(b)(1)(A).
 - **Proposed Action and Schedule:** The City will include provisions to meet the requirements of Section 18984.5(b) and subsequent requirements in a new Collection Services Agreement. The City anticipates having a final Collection Services Agreement adopted by December 31, 2022.
- **Regulatory Requirement:** 14 CCR section 18984.7 Container Color Requirements
 - **Description:** Due to the lack of an updated Collection Services Agreement between the City and a waste hauler, the City currently has no mechanism in place to comply with Section 18984.7.
 - **Proposed Action and Schedule:** The City will include provisions to meet the requirements of Section 18984.7 in a new Collection Services Agreement. The

City anticipates having a final Collection Services Agreement adopted by December 31, 2022.

- **Regulatory Requirement:** 14 CCR section 18984.8 Container Labeling Requirements
 - **Description:** In partnership with the County, the City has already begun the process of re-designing container labels and educational materials to meet the requirements of SB 1383. Due to the lack of an updated Collection Services Agreement between the City and a waste hauler, the City lacks the capacity to finalize designs and place labels on new containers.
 - **Proposed Action and Schedule:** The City will include provisions to meet the requirements of Section 18984.8 in a new Collection Services Agreement. The City anticipates having a final Collection Services Agreement adopted by December 31, 2022.
- **Regulatory Requirement:** 14 CCR section 18988.1 Jurisdiction Approval of Haulers and Self-Haulers
 - **Description:** The City is in the process of negotiating a new Collection Services Agreement, as the current Agreement expires on March 31, 2023. The City will require the hauler to meet the requirements of Article 7 and the requirements of Article 3 as applicable.
 - **Proposed Action and Schedule:** The City anticipates having a final Collection Services Agreement adopted by December 31, 2022.
- **Regulatory Requirement:** 14 CCR section 18993.1 Recovered Organic Waste Product Procurement Target
 - 18993.1(a)
 - **Description:** The City will need annual allocations of recovered organic waste products defined in a Collection Services Agreement in order to help the City meet its annual procurement target.
 - **Proposed Action and Schedule:** The City will include provisions in a new Collection Services Agreement to help the City comply with requirements under section 18993.1(a). The City anticipates having a final Collection Services Agreement adopted by December 31, 2022.
- **Regulatory Requirement:** 14 CCR section 18995.1 Jurisdiction Inspection Requirements
 - 18995.1(a):
 - **Description:** The City requires the support of a waste hauler to implement an inspection and enforcement program that meets at least the minimum requirements defined under 18995.1(a). Without support from a waste hauler, the City lacks the capacity and funding necessary to meet the minimum requirements.
 - **Proposed Action and Schedule:** The City will include provisions in a new Collection Services Agreement to help the City comply with requirements under section 18995.1(a)(2) as they pertain to annual route reviews of commercial businesses and residential generators for compliance with container contamination requirements set forth in Section 18984.5. The City anticipates having a final Collection Services Agreement adopted by December 31, 2022.

- 18995.1(b):
 - **Description:** The City requires the support of a waste hauler to implement an inspection and enforcement program that meets at least the minimum requirements defined under 18995.1(b). Without support from a waste hauler, the City lacks the capacity and funding necessary to meet the minimum requirements for route reviews and inspections.
 - **Proposed Action and Schedule:** The City will include provisions in a new Collection Services Agreement to help the City comply with requirements under section 18995.1(b) as they pertain to sufficient route reviews and inspections. The City anticipates having a final Collection Services Agreement adopted by December 31, 2022.
- 18995.1(c):
 - **Description:** The City requires the support of a waste hauler to implement an inspection and enforcement program that meets at least the minimum requirements defined under 18995.1(c). Without support from a waste hauler, the City lacks the capacity and funding necessary to meet the minimum requirements for route reviews and inspections, and consequently the minimum requirements for records for inspections, route reviews, and compliance reviews.
 - **Proposed Action and Schedule:** The City will include provisions in a new Collection Services Agreement to help the City comply with requirements under section 18995.1(c) as they pertain to recordkeeping for each inspection, route review, and compliance review. The City anticipates having a final Collection Services Agreement adopted by December 31, 2022.
- 18995.1(d):
 - **Description:** The City requires the support of a waste hauler to implement an inspection and enforcement program that meets at least the minimum requirements defined under 18995.1(d). Without support from a waste hauler, the City lacks the capacity and funding necessary to meet the minimum requirements for route reviews and inspections, and consequently the minimum requirements for documentation for inspections, route reviews, and compliance reviews.
 - **Proposed Action and Schedule:** The City will include provisions in a new Collection Services Agreement to help the City comply with requirements under section 18995.1(d) as they pertain to documentation of route reviews, compliance reviews, and inspections. The City anticipates having a final Collection Services Agreement adopted by December 31, 2022.
- 14 CCR section 18995.2 Implementation Record and Recordkeeping Requirements
 - **Description:** The City will be unable to comply with record and recordkeeping requirements for sections that are to be covered by a new Collection Services Agreement (see above for specific sections).
 - **Proposed Action and Schedule:** Once a new Collection Services Agreement is finalized and includes all remaining provisions that the City needs to comply with the full regulations defined in SB 1383, the City can meet requirements defined in section 18995.2. The City cannot maintain all records required by SB 1383 if the

City is still working on implementation of regulations. The City will include provisions in a new Collection Services Agreement to help the City comply with requirements under section 18995.2(a). The City anticipates having a final Collection Services Agreement by December 31, 2022.