



DATE: August 9, 2021

AGENDA ITEM #3

TO: Environmental Commission
FROM: Emiko Ancheta, Staff Liaison
SUBJECT: SB 1383 Short-lived Climate Pollutants Bill Presentation

RECOMMENDATION:

Receive informational presentation on SB 1383 Short-lived climate pollutants bill

BACKGROUND

In September 2016, Governor Jerry Brown signed into law Senate Bill 1383. The Bill establishes methane emissions reduction targets statewide in an effort to reduce emissions of short-lived climate pollutants (SLCP). In November 2020, the California Department of Resources Recycling and Recovery (CalRecycle) finalized the SB 1383 organic waste diversion regulations.

The bill establishes statewide reduction targets to reduce emissions of SLCP of 50% by 2020 and 75% by 2025; including but not limited to requirements for jurisdictions to conduct education and outreach on organics recycling to all residents, businesses (including those that generate edible food that can be donated) haulers, solid waste facilities, and local food banks and other food recovery organizations. The law also requires the state to increase edible food recovery by 20 percent by 2025. These are statewide targets and not jurisdiction targets. Local jurisdictions must comply with the SB 1383 regulations by January 1, 2022.

DISCUSSION

The Environmental Commission will receive an informational presentation on the requirements and components of SB 1383. The Environmental Commission's Work Plan includes Commissioner's work to coordinate communication and public education related to Solid Waste Disposal.

Attachments:

- A. SB 1383 Presentation
- B. SB 1383 Edible Food Recovery Requirements Fact Sheet
- C. CalRecycle Recycling and Organics Guide for Businesses
- D. SB 1383 Compliance Process

SB 1383

Reducing Short-Lived Climate Pollutants in California

An Overview of SB 1383's Organic
Waste Reduction Requirements and
Requirements for businesses

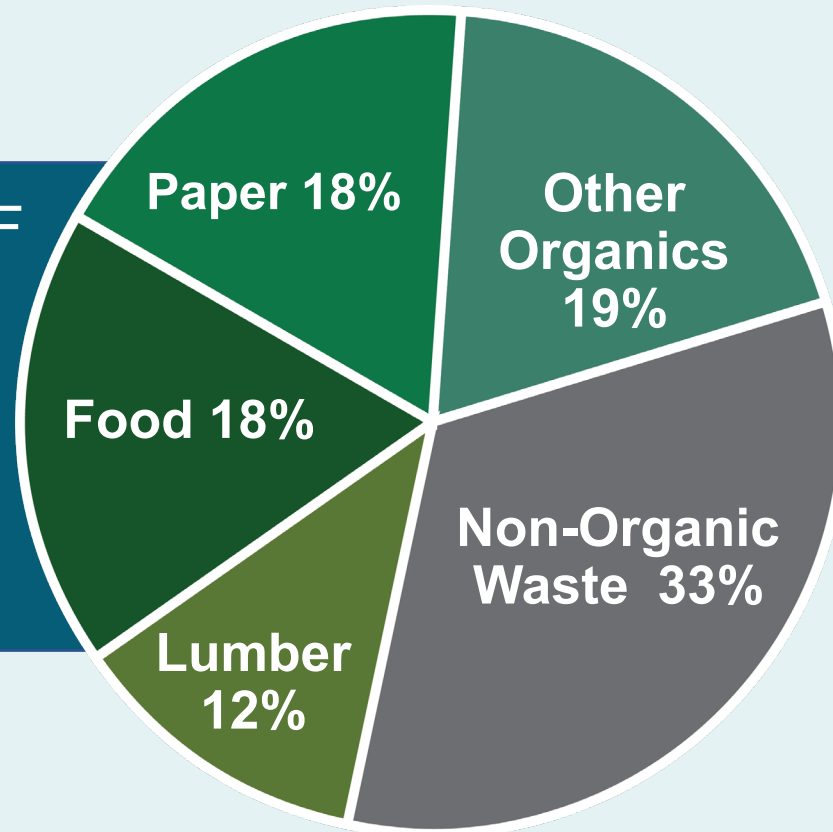
Attachment A



- **September 2016 - Governor Brown signed into law Senate Bill 1383**
- **November 2020 - CalRecycle finalized the SB 1383 regulations**
- **Requires the state to reduce organic waste disposal by 75% by 2025**
- **Requires the state to increase edible food recovery by 20 percent by 2025**

Organic Waste Is the Largest Waste Stream in California

CALIFORNIA DISPOSED OF APPROXIMATELY **27 MILLION TONS** OF ORGANIC WASTE IN 2017



California's Waste Stream

IN CALIFORNIA, MILLIONS ARE **FOOD INSECURE**

1 IN 8 CALIFORNIANS
1 IN 5 CHILDREN



CALIFORNIA THROWS AWAY **MORE THAN 6 MILLION TONS** OF FOOD WASTE EVERY YEAR!

CLIMATE CHANGE NEGATIVELY IMPACTS CALIFORNIA

Attachment A

Landfilled Organic Waste Emits
Methane Gas—
A Super Pollutant
More Powerful than CO2

Methane Gas Contributes to
Climate Change in California



CALIFORNIA
is already experiencing
the impacts of
CLIMATE CHANGE

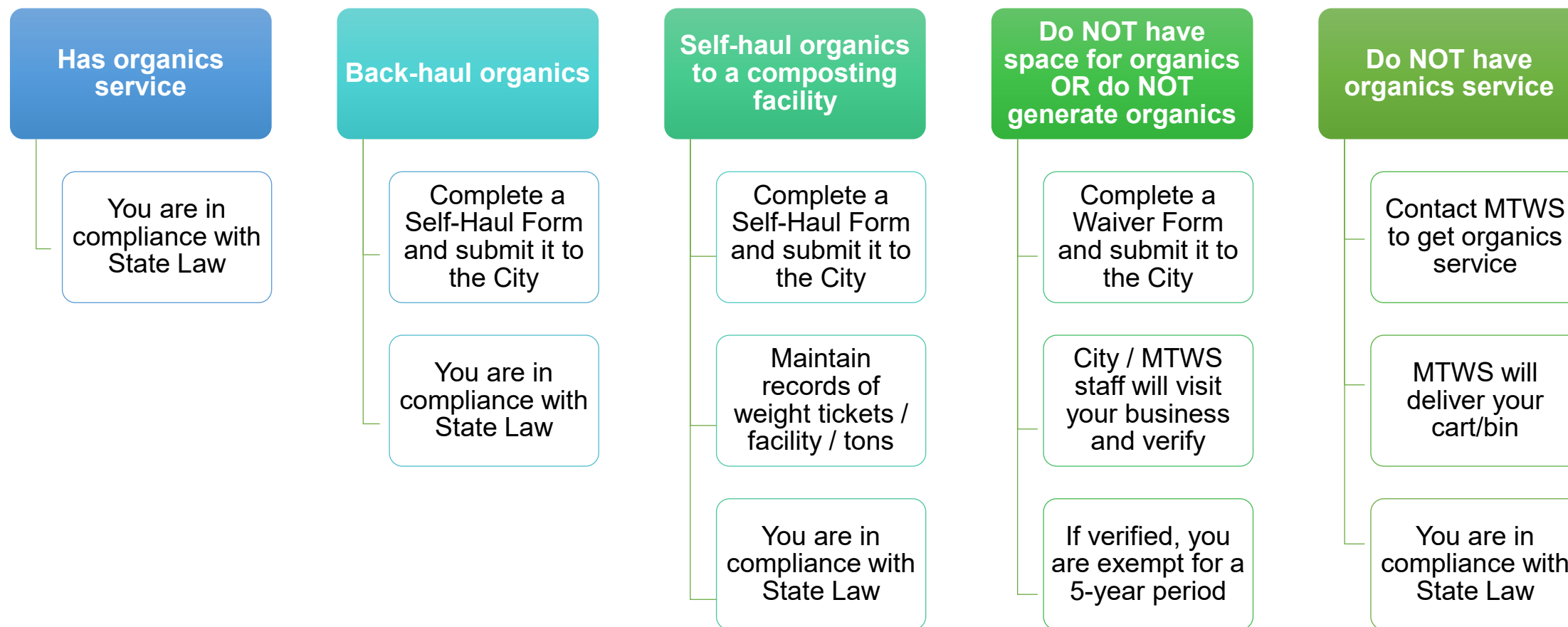
IN 2015 THE DROUGHT COST THE AGRICULTURE INDUSTRY IN THE CENTRAL VALLEY AN ESTIMATED \$2.7 BILLION & 20,000 JOBS

SB 1383: Short Lived Climate Pollutants Act

- **Unfunded State Mandate**
- **Local government requirements by January 1, 2022:**
 - Provide organic waste collection for all residents and most businesses
 - Conduct outreach and education to generators
 - Establish edible food recovery program
 - Inspect and enforce generators for compliance with SB 1383
 - Conduct facility capacity planning for processing organics



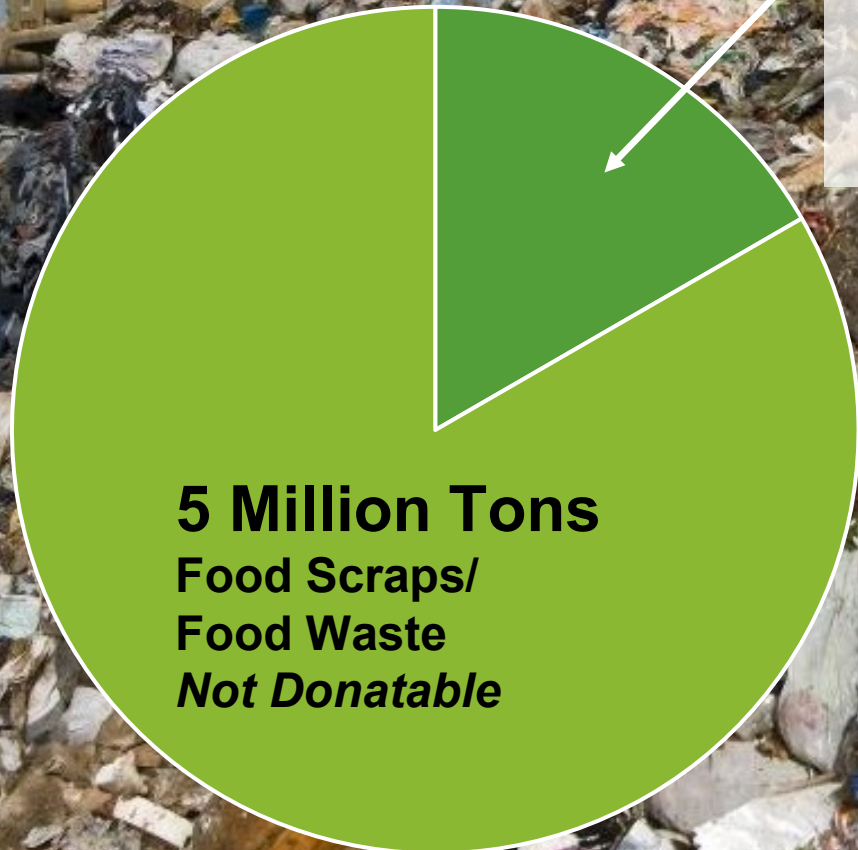
How To Get Into Compliance



Why Recover Edible Food?

Save Food: Californians send six million tons of food scraps or food waste to landfills each year, of which one million tons are potentially donatable, edible food.

California Annual Food Waste



1 Million Tons
Edible, *Potentially Donatable* Food

5 Million Tons
Food Scraps/
Food Waste
Not Donatable

Edible Food Recovery: Who is Covered?

➤ **Tier 1 (Compliance by 1/1/2022)**

- Supermarket
- Grocery store with a total facility size >10,000 sqft
- Food service provider
- Food distributor
- Wholesale food vendor

➤ **Tier 2 (Compliance by 1/1/2024)**

- Restaurant with >250 or more seats, or a total facility size >5,000 sqft
- Hotel with an on-site food facility and 200+ rooms
- Health facility with an on-site food facility and 100+ beds
- Large venues & events
- A state agency with a cafeteria with 250+ or total cafeteria facility size >5,000 square feet
- A local education agency facility with an on-site food facility

Edible Food Recovery - Business Need to:

➤ **Recover Edible Food**

-Save the maximum amount of edible food that would otherwise be disposed (e.g. in landfill or compost) to feed people instead.

➤ **Contract**

-Have a contract or written agreement with each food recovery organization or service that picks up or receives edible food from your business.

➤ **Track and Report:**

-Maintain records of food recovered each month, including:

- ❖ Type
- ❖ Frequency
- ❖ Pounds
- ❖ Compliance by 1/1/2021

City Municipal Code Updates

- **The City will update its Municipal Code as required by SB 1383 in Fall 2021**

- **Updates include:**
 - Mandatory Recycling and Organics Recycling
 - Waivers for lack of space, no organics
 - Self haul regulation

 - Edible food recovery requirements for Tier 1 and Tier 2

 - Penalties for non-compliance
 - Beginning 1/1/2024

Compliance

- **Businesses without recycling and/or organics should have received a letter from the City detailing upcoming changes and service requirements**
- **If a business is eligible for an exemption due to not generating organics or lacking space, they will need to fill out the waiver form and submit the completed form to the City**

Contacts

- **City of Los Altos**
 - Recycle@losaltosca.gov
 - Mail to: 1 N. San Antonio Rd. Los Altos, CA 94022
 - eancheta@losaltosca.gov
 - <https://www.losaltosca.gov/publicworks/page/trash-pick-and-recycling>
- **Mission Trail Waste System**
 - (650) 473-1400
 - <https://missiontrail.com/LosAltos/>
- **Cal Recycle**
 - <https://www.calrecycle.ca.gov/organics/slcp>
 - SLCP.organics@calrecycle.ca.gov
- **Edible Food Recovery**
 - SCCFoodRecovery.org

Questions?



Senate Bill 1383: Edible Food Recovery Requirements for Businesses

Recovering surplus edible food to feed people is not only a great idea, but also a California law, starting January 1, 2022.

What is Senate Bill (SB) 1383?

California SB 1383 is a bill that sets goals to reduce disposal of organic waste in landfills, including edible food, in order to reduce greenhouse gas emissions.

What does my business need to do to comply?



Recover Edible Food: Save the maximum amount of edible food that would otherwise be disposed (e.g. in landfill or compost), so it can be used to feed people instead.



Contract: Have a contract or written agreement with each food recovery organization or service that picks up or receives edible food from your business.



Track and Report: Maintain records of type, frequency, and pounds of food recovered each month.

Why recover edible food?

- **Save Food:** Californians send over 6 million tons of food scraps or food waste to landfills each year, of which almost 1 million tons are potentially donatable, edible food.
- **Feed People:** Over 9 million Californians (23%) don't know where their next meal will come from.
- **Fight Climate Change:** Food that ends up in landfills emits greenhouse gases, contributing to climate change.

When do I need to have my contract in place, and begin recovering food and keeping records?

Tier 1 Businesses: January 1, 2022

- Supermarkets
- Grocery stores (10,000+ sq. ft.)
- Food service providers
- Food distributors
- Wholesale food vendors

Tier 2 Businesses: January 1, 2024

- Restaurants ($\geq 5,000$ sq. ft. or 250+ seats)
- Hotels with on-site food facility and 200+ rooms
- Health facilities with on-site food facility and 100+ beds
- Large venues and events
- State agencies with cafeteria ($\geq 5,000$ sq. ft. or 250+ seats)
- Local education agencies with an on-site food facility

How do I get started?

Cities in Santa Clara County are working together to provide resources. Please visit SCCFoodRecovery.org for step-by-step guidance, and tools to help you:

- **Confirm.** Make sure the law applies to your business.
- **Understand.** Learn more about the requirements.
- **Connect.** Find a food recovery organization using our list.
- **Contract.** Set up service using our sample agreement.
- **Recover.** Safely collect and store food for pickup.
- **Track.** Record the type, frequency and pounds of food.
- **Monitor.** Prepare for inspections.
- **Report.** Our website will connect you to reporting information.



Recycling & Waste Reduction Commission
of Santa Clara County

Together, we can do this important work
for our community and the planet!

Visit our website for helpful tools:

SCCFoodRecovery.org



Why Do We Need Mandatory Organics Recycling?

An important part of California's efforts to protect the environment is to increase the diversion of organic materials away from landfills and toward the production of value-added products such as compost, fertilizers, and biofuels. Compost, made from a mixture of food and yard wastes that have been fully decomposed, can fertilize and condition soil.



Compost is a key to healthy soil, and healthy soil is critical to reducing carbon in the air. Keeping recyclable and compostable materials out of the garbage is an excellent first step toward cost savings and improved operational efficiency.

Company/ Jurisdiction Name
Street Address
City, State, ZIP Code

Recipient Name
Address
City, State, ZIP Code



Recycling and Organics Recycling Guide for Businesses



By California's Department of Resources Recycling and Recovery

Recycling Laws

Businesses that generate a certain amount of solid waste are subject to various recycling laws:

MCR: Mandatory Commercial Recycling (AB 341)

Businesses, including schools and public entities that generate 4 cubic yards or more of commercial solid waste per week, shall arrange for recycling services.



MORe: Mandatory Organics Recycling (AB 1826)

Businesses, including schools and public entities that generate 2 cubic yards or more of commercial solid waste per week (total for trash, recycling and organics), shall arrange for organic waste recycling services.



Educating and Involving Customers to Achieve California's Recycling Goals

- Effective July 1, 2020, *MCR*- and *MORe*-covered businesses must provide organics and recycling containers at front-of-house to collect waste generated from products purchased and consumed on the premises ([AB 827, McCarty, Chapter 441, Statutes of 2019](#)).

These containers must be placed adjacent to trash containers and be visible, easily accessible, and clearly marked.

- This law targets businesses that sell products meant for immediate consumption.
- Full-service restaurants do not have to provide containers for patrons but must provide containers for employees to separate post-consumer recyclables and organics for customers.
- Please contact your city/county or hauler for more information and for signage.*
- Model signage is available at calrecycle.ca.gov. Search for "[Education/Outreach Toolkit](#)"



State Resources

Attachment C

Mandatory Commercial Recycling information:

<https://www.calrecycle.ca.gov/recycle/commercial>

Mandatory Organics Recycling information:

<https://www.calrecycle.ca.gov/Recycle/Commercial/Organics/>

*To find your city or county contact, call 916-341-6199.

Find your local assistance staff here:

<https://www2.calrecycle.ca.gov/LGCentral/Contacts>

Local Resources

(Enter resources here such as city/county, food bank and hauler contact info)

SB 1383 Compliance Process



California Department of Resources Recycling and Recovery

CalRecycle

CalRecycle Compliance Assistance

California's effort to reduce super pollutants builds on the state's shared commitment to reduce greenhouse gas emissions, improve human health, and create clean jobs that support resilient local economies. Implementing a state-wide plan (SB 1383, Lara, Chapter 395, Statutes of 2016) to reduce short-lived climate pollutants, harmful super pollutants with significant warming impacts, is essential to achieving California's climate goals.

CalRecycle will provide compliance assistance to jurisdictions, including:

- Implementation Checklists
- Training and Guidance
- Model Implementation Tools (Model: Franchise Agreement, Edible Food Recovery Agreement, Enforcement Ordinance, Procurement Policy)

CalRecycle Enforcement Discretion

The SB 1383 enforcement structure allows CalRecycle to focus on compliance assistance first and dedicate enforcement efforts to serious offenders. Regulations allow for flexibility and deadline extensions in some instances when there are extenuating circumstances causing compliance issues despite a jurisdiction's substantial efforts, such as the COVID-19 pandemic and natural disasters.

While the regulations become effective Jan. 1, 2022, the enforcement process is an escalating process and the timelines are not triggered until a Notice of Violation (NOV) is issued.

- CalRecycle has discretion to address compliance issues with a jurisdiction through compliance evaluations prior to moving to enforcement proceedings.
- CalRecycle will consider the totality of circumstances surrounding a jurisdiction's compliance prior to issuing NOVs.
- CalRecycle has discretion to issue NOVs and, depending on circumstances, not seek penalties.

If CalRecycle takes enforcement action, it can consider **extenuating circumstances** as well as **substantial efforts** made by a jurisdiction and place the entity on a Corrective Action Plan (CAP). CalRecycle has enforcement discretion to allow for a longer timeline for compliance.

- Low population and rural waivers also delay or exclude implementation of certain requirements for jurisdictions, or portions of jurisdictions, in particular circumstances.

Regulations allow for extended timelines (under certain circumstances), giving jurisdictions **up to 3 years** to come into compliance before penalties are issued.

SB 1383 Enforcement Process Timeline



Notice of Violation - If CalRecycle determines a jurisdiction is violating one or more requirements and decides to take enforcement action, it must issue an NOV:

- A jurisdiction will have **90 days** to correct the violation.
- That timeframe can be extended an **additional 90 days** to a **total of 180 days** if the department finds that additional time is necessary.

Corrective Action Plan (CAP) - For violations due to barriers outside a jurisdiction's control (**extenuating circumstances**) and when a **substantial effort** is made towards compliance:

- Jurisdictions can be placed on a Corrective Action Plan, allowing up to **24 months** (from the date of the NOV issuance) to come into compliance.
- A CAP issued due to inadequate organic waste recycling infrastructure capacity may be **extended for a period of up to 12 months** if the jurisdiction has demonstrated **substantial effort** to CalRecycle.

Extenuating circumstances are:

- Acts of God such as earthquakes, wildfires, flooding, and other emergencies (such as pandemics) or natural disasters.
- Delays in obtaining discretionary permits or other government agency approvals.
- An organic waste recycling infrastructure capacity deficiency requiring more than 180 days to cure.

Substantial effort is where a Jurisdiction has done everything within its authority and ability to comply. **Substantial effort does not include** circumstances where a decision-making body of a jurisdiction has not taken the necessary steps to comply with the chapter, including, but not limited to:

- Failure to provide adequate staff resources to meet its obligations, or
- Failure to provide sufficient funding to meet its obligations, or
- Failure to adopt the ordinance(s) or similarly enforceable mechanisms.

If a jurisdiction does not demonstrate that they have made a **substantial effort**, they would not be eligible for the 2-3 year extended compliance deadlines. However, CalRecycle will consider the totality of circumstances surrounding a jurisdiction's compliance prior to issuing NOVs.

Penalties are imposed after all other compliance actions have failed.

- If a jurisdiction does not meet NOV or CAP deadlines, CalRecycle has another opportunity to exercise enforcement discretion by determining when to commence an action to impose penalties.
- When CalRecycle commences an action to impose administrative civil penalties, it shall serve an accusation and hold a hearing—if requested by the respondent (roughly, a 180-day process).

AB 939’s Good Faith Effort vs. SB 1383’s Compliance Determination

AB 939 established a specified waste diversion target for each jurisdiction.

- A **Good Faith Effort** determination relies upon a suite of indicators to determine if a jurisdiction is actively trying to implement programs and achieve its targets.

SB 1383 establishes a statewide target and prohibits a target for each jurisdiction.

- SB 1383 requires a more prescriptive approach and state minimum standards.
- Jurisdictions must demonstrate compliance with each prescriptive standard.
- Legislators amended SB 1383 to remove the requirement that CalRecycle use the AB 939 **Good Faith Effort** requirement for its enforcement for SB 1383.
- The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the **Good Faith Effort** standard.