

Folsom City Council Staff Report

MEETING DATE:	2/9/2021
AGENDA SECTION:	Old Business
SUBJECT:	Presentation Regarding Mandatory Commercial Organics Recycling Compliance Plan under AB1826 and Direction to Staff
FROM:	Public Works Department

BACKGROUND / ISSUE

The Public Works Department will make a presentation about the City's compliance status with California's Mandatory Commercial Organics Recycling law (AB 1826).

AB 1826 became effective in 2016 and required businesses meeting a certain threshold of organic waste generation to arrange for recycling. The City was required to provide an organics recycling program, educate captured businesses, and track and report compliance to CalRecycle. The Recycling Division responded to this requirement by contracting with three organics haulers to provide services to Folsom businesses. The City's Solid Waste Division (Division) also identified covered businesses and reached out to educate and assist them in developing programs.

In September of 2020 during an annual meeting with CalRecycle, the Division was notified that due to ongoing program gaps, evidenced by the high level of non-compliance, a formal compliance plan would be required by November 25, 2020. Implementation of an approved plan is required to avoid referral to the Jurisdiction Compliance Unit for consideration of a formal compliance order, under which the penalty for failure to comply could be up to \$10,000 per day.

The Division submitted a plan by the deadline with specific actions and milestones for ongoing education and outreach efforts. In a follow up call on December 8, 2020, CalRecycle deemed the plan to be inadequate stating that the proposed education and outreach was similar to previous efforts that did not work. Also, it was expressed that although the law does not require the City to have an enforceable ordinance, a successful program is required and the primary

tool for ensuring a successful program, defined as 100% compliance, is to adopt an ordinance. Also, on December 8, 2020, Folsom City Council approved Resolution No. 10560 authorizing the City Manager to execute an agreement with R3 Consulting Group, Inc. (R3) to assist the Recycling Division with mandated organics recycling programs. The Division has utilized R3 to develop the revised AB 1826 compliance plan being presented. The revised plan is due February 19, 2021. Recommendations within the plan will require future action from the City Council. The Public Works Department is requesting direction from the City Council regarding the plan prior to submittal.

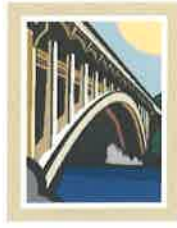
ATTACHMENTS

1. The proposed plan to become compliant with AB 1826, Mandatory Commercial Organics Recycling
2. Presentation Regarding Mandatory Commercial Organics Recycling Compliance Plan under AB1826 and Direction to Staff

Submitted,

Dave Nugen, Public Works Director

ATTACHMENT 1



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Folsom 2021 MORE Program Plan

Introduction

The City of Folsom (City) received a letter from the California Department of Resources Recycling and Recovery (CalRecycle) on October 26, 2020 stating that the City's implementation of AB 1826, Mandatory Commercial Organics Recycling (MORE), is not adequate and has subsequently formally requested an action plan.

The following criteria will be used to determine a covered generator under MORE as of January 1, 2021:

- » Businesses and groups of businesses that generate two (2) or more cubic yards of solid waste each week, determined by solid waste generation (including recycling and green waste). Covered organic materials include food, food soiled papers, plant debris, and untreated wood; and
- » All multifamily development (MFD) properties of five (5) or more units. Covered materials include landscaping plant debris.

Background

The City's Solid Waste Division provides collection of business and MFD trash and recyclables up to seven days per week. Food waste collection is operated under non-exclusive collection agreements that went into effect in 2015 with 3 haulers:

- » Atlas Disposal Industries, LLC
- » Imperial Western Products
- » Republic Services

Compliance Plan

The City has developed a compliance plan, Attachment A, which is broken into various tasks to be conducted by the City, its food waste haulers, and its consultant based on requirements of the City's agreements. This plan is intended as a:

- » Checklist for City staff to identify and monitor all entities subject to MORE; and

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Folsom 2021 MORE Program Plan

- » Timeline of activities to be undertaken to implement the updated MORE program in the City.

The City will continue outreach and education by first sending out a letter to all non-compliant customers by May 31, 2021 (depending on COVID restrictions).

The City will also conduct community meetings with stakeholders to solicit input and policy recommendations before the ordinance moves forward for council consideration, following with a study session with City Council to educate policy makers.

In order to complete the activities identified in the attached compliance plan, the City will also rely on adopting an ordinance on or around June 30, 2021 to enforce compliance.

A second letter, with a 30-day notice to comply, will be mailed out to non-compliant customers that have not submitted exemption forms beginning July 1, 2021 (depending on COVID restrictions).

The City has set a target grace period for all account holders to comply with the City's new ordinance by June 30, 2022. As a result, target dates will be provided to the non-exclusive haulers.

The City's timeline is provided in Attachment A. Target dates, may be adjusted due to unforeseen circumstances and acts of God such as extended stay-at-home orders and other COVID restrictions.

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TASK	Target Audience	Responsible Party	Frequency	TARGET START	TARGET END
TASK 1 Analyze and Acquire Necessary Staff Resources					
1a. Determine Appropriate Staffing Level to Implement MORe Plan	City	Consultant	One-time	3/1/21	3/31/21
1b. Hire and/or Contract Necessary Staff to Implement Program Successfully	Potential Employees and/or Contractor	City	One-time	4/1/21	6/30/21
1c. Develop Enforcement Flow Chart and Determine Enforcement Officer Needs	City	Consultant	One-time	4/1/21	4/30/21
TASK 2 Outreach and Education					
2a. Maintain List of Covered Generators	Covered Businesses and MFDs	City	On-going; Daily	Part of normal operation; available on-demand	
2b. Identify Covered Generators Not Participating	Covered Businesses and MFDs	City	Initial by 4/30/21, On-going; Quarterly	4/16/21	4/30/21
2c. Send Letters to Notify all Non-compliant Businesses / MFDs of State Laws Letter 1 (May) - Program information, details, requirements, and alternative options Letter 2 (July) - 30-day Notice to Comply	Non-compliant Businesses and MFDs	City	One-time	5/1/21	7/31/21
2d. Continue to provide outreach, education, and site visits, including signage as needed or requested, to all non-compliant covered generators. Target: City or consultant to visit/call 10 businesses / MFDs per week	Covered Businesses and MFDs	City	Monthly; On-going	3/1/21	6/30/22
TASK 3 Draft Ordinance to Regulate Businesses to Have and Participate in Collection Services*					
3a. Draft Ordinance to include: 1) Universal service for trash, recycling, and organics to all customers. 2) Requirement for account holders providing shared service to multiple generators to also provide organics service. 3) Penalties for non-compliance as required by SB 1383. 4) Other SB 1383 requirements (inspection, enforcement, edible food recovery)	All residents and businesses, edible food recovery organizations	City and Consultant	One-time	3/1/21	3/31/21
3b. City Attorney Review, Finalize Draft Ordinance	All residents and businesses, edible food recovery organizations	City Attorney	One-time	4/1/21	4/30/21

Attachment A

TASK	Target Audience	Responsible Party	Frequency	TARGET START	TARGET END
3c. City Council Study Session Target: 4/13 or 4/27	All residents and businesses, edible food recovery organizations	City, Consultant, and City Council	One-time	4/13/21	4/13/21
3d. Conduct Community Meetings with stakeholders including businesses and Home Groups such as HOAs to Disseminate Information on Mandatory State Laws and City Ordinance	All residents and businesses, edible food recovery organizations	City and Consultant	One-time	4/13/21	5/25/21
3e. Introduction of Ordinance - First Reading Target: 5/25 or 6/8	All residents and businesses, edible food recovery organizations	City, Consultant, and City Council	One-time	5/25/21	5/25/21
3f. Ordinance - Second Reading and Adoption Target: 6/22 or 7/13	All residents and businesses, edible food recovery organizations	City, Consultant, and City Council	One-time	6/22/21	6/22/21
3g. Grace Period for Account Holder Compliance with Ordinance	All residents and businesses	City / Haulers	One-time	6/22/21	6/30/22

Attachment A

TASK	Target Audience	Responsible Party	Frequency	TARGET START	TARGET END
TASK 4 Review and Negotiation of Franchise Agreements**					
4a.	City Council Study Session <i>Target: 4/13 or 4/27</i>	All businesses and MFDs	City, Consultant, and City Council	One-time	4/13/21 4/13/21
4b.	Franchise Agreement Review and Negotiations; Updates may Include changes to Education and Outreach Requirements, Signage, and Reporting	Haulers; Businesses and MFDs	City	2 months	4/1/21 5/31/21
4c.	Attorney Review of Amended Franchise Agreements	Haulers; Businesses and MFDs	City Attorney	1 month	6/1/21 6/30/21
4d.	Present Franchise Agreement Amendments to City Council for Approval <i>Target: 6/22 or 7/13</i>	Haulers; Businesses and MFDs	City, Consultant, and City Council	One-time	6/22/21 6/22/21
4e.	New or Amended Franchise Agreement Requirements Take Effect	Haulers; Businesses and MFDs	City	One-time	1/1/22 1/1/22
TASK 5 Recordkeeping					
5a.	Maintain Service Account and Generator Information and Compliance Status	City; Haulers; CalRecycle	City	On-going	In progress On-going/Annually
5b.	Maintain Records of all Education and Outreach Efforts	City; CalRecycle	City	On-going	In progress On-going/Annually
5c.	Maintain Records of all Enforcement Actions	City; CalRecycle	City	On-going	6/30/22 On-going/Annually

**All references to residential reflect planning for the requirements of SB 1383 in parallel with the MORE plan implementation.*

***The timeline for task 4 is based on maintaining the current model of the City providing commercial trash and recycling service and contracting out the commercial organics service. A major change to our service delivery structure would require a modified timeline.*

ATTACHMENT 2



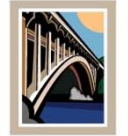
Update AB 1826 Commercial Organics Recycling Compliance Plan

February 9, 2021



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Presentation Overview



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- Background of AB 1826
- Overview of Folsom's Program



- Compliance Status/Gaps Identified by CalRecycle
- Proposed Compliance Plan

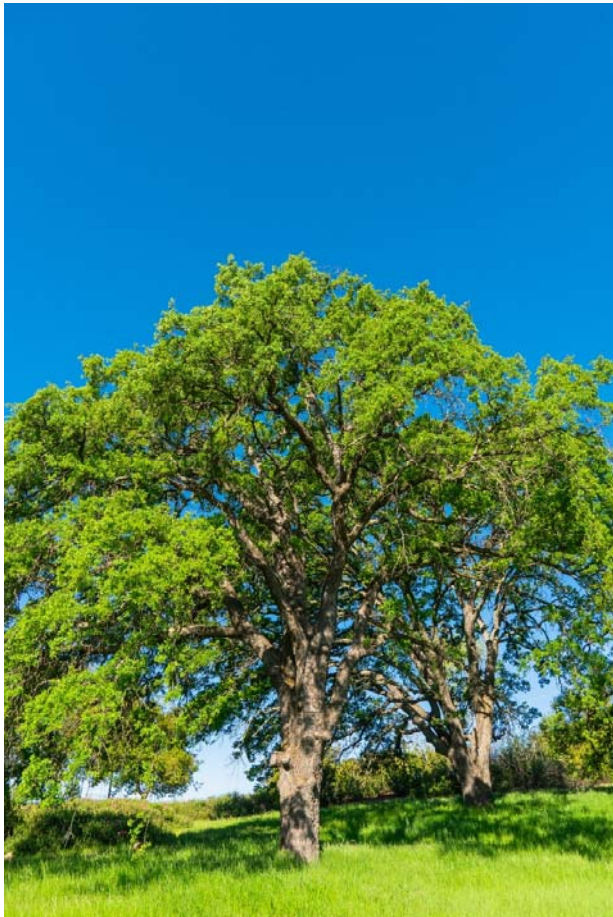


- Next Steps

Mandatory Commercial Organics Recycling (MORe)



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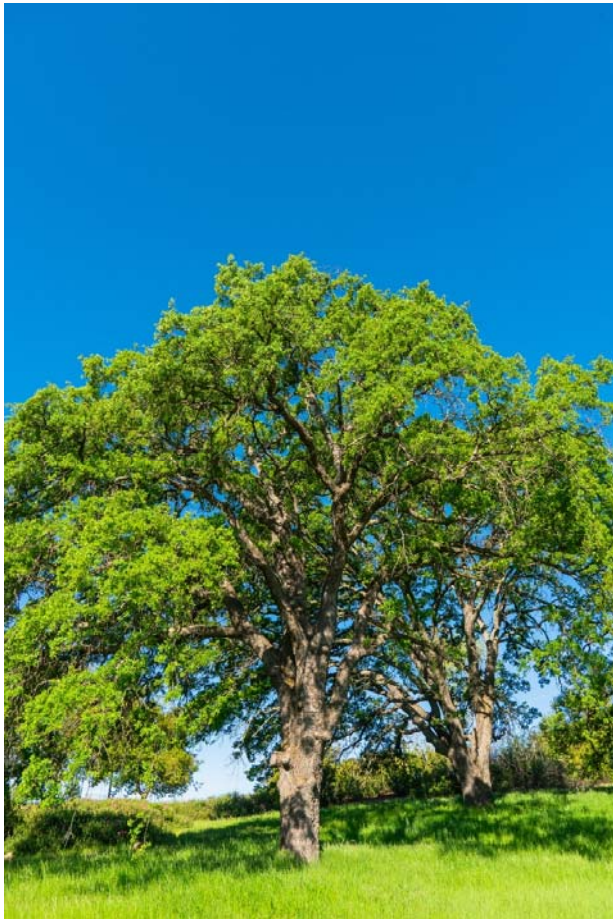


- In 2014, Governor Brown signed AB 1826 requiring businesses to recycle organic waste depending on how much they generate each week.
- By 2016 local jurisdictions were required to implement a program including organics recycling, education and outreach, and annual monitoring.
- AB 1826 is an unfunded mandate.

Mandatory Commercial Organics Recycling (MORe)

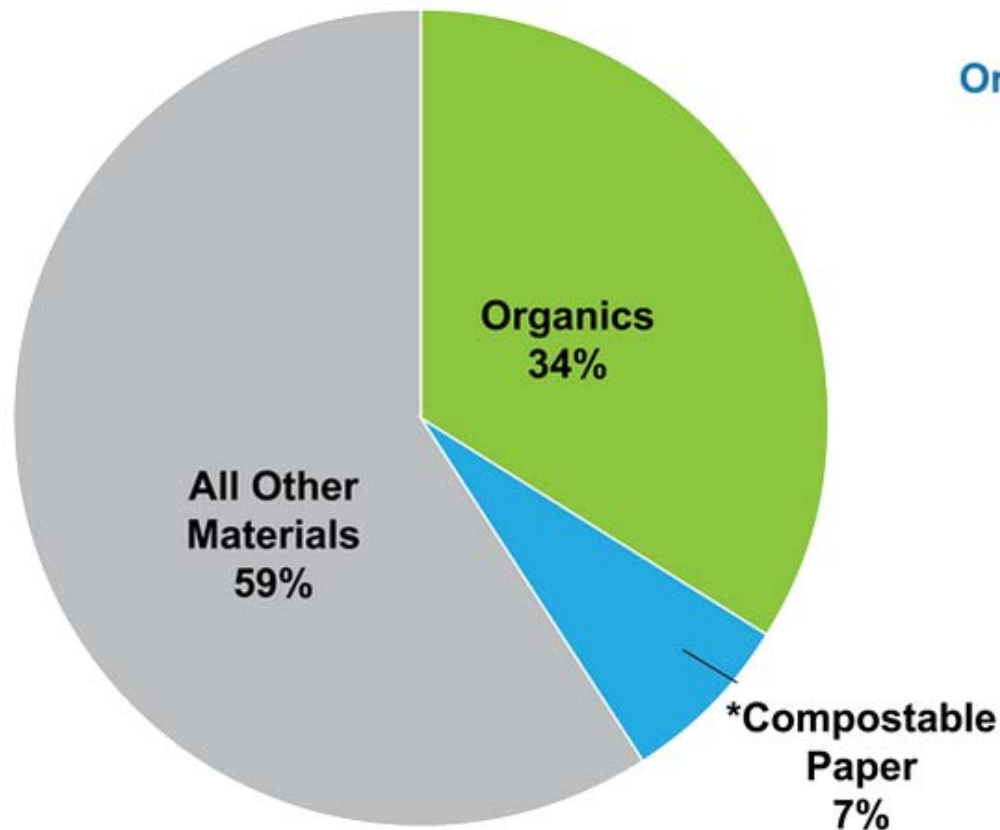
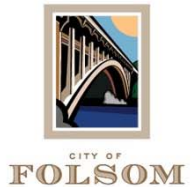


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- Threshold for captured businesses phased in over several years.
- 2016 – 8 yards organics
- 2017 – 4 yards organics
- 2019 – 4 yards solid waste (including trash, recyclables and organics)
- 2020 – 2 yards solid waste

Mandatory Commercial Organics Recycling (MORe)



Organics Include

- Food Waste
- Landscape Trimmings
 - Leaves
 - Grass
 - Trimmings
 - Branches
 - Stumps
- Non-Hazardous Wood Waste
- *Compostable Paper

*Compostable paper includes food-soiled paper and other compostable paper

Data from CalRecycle's 2014 Waste Characterization Report

Folsom Program Overview



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- Contracts with three private haulers to provide food waste collection.
- Letters mailed to account holders and service locations.
- Follow up provided by phone, email and site visits, as necessary.
- Webpage dedicated to organics education.
- Online forms available to:
 - Register a Program
 - Request Assistance
 - Request Exemption

Food Waste Program Status



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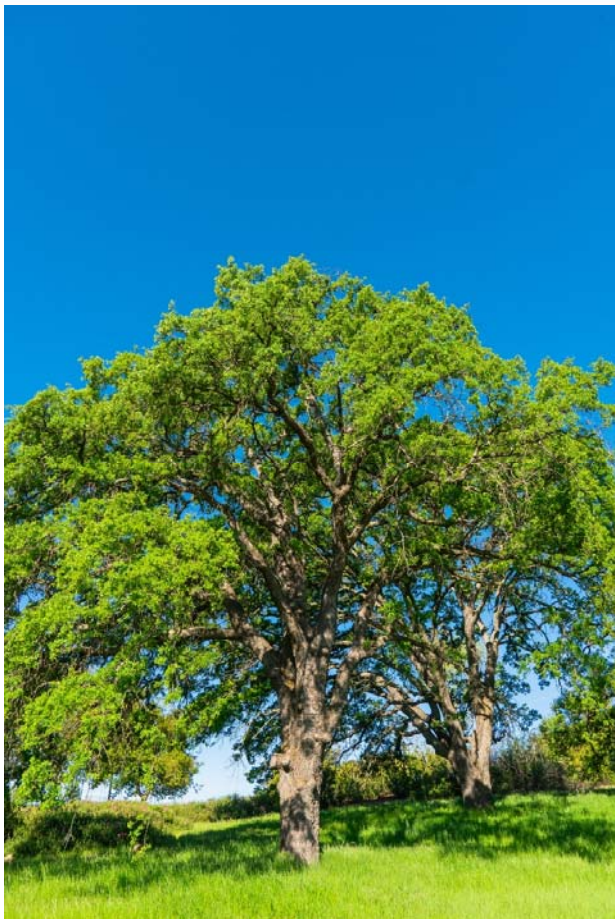
Program	Number of Accounts
Subscribe to collection service	153
Exempt – generate less than ½ yard per week	62
Temporary exemption due to COVID restrictions*	17
Recycle food waste through another method (donation, composting, back-haul, etc.)	17

**This represents formal COVID exemptions requested and granted to Folsom's public schools. The City has expressed a desire to CalRecycle that all businesses be temporarily exempt until COVID restrictions are at the orange tier.*

Green Waste Program Status



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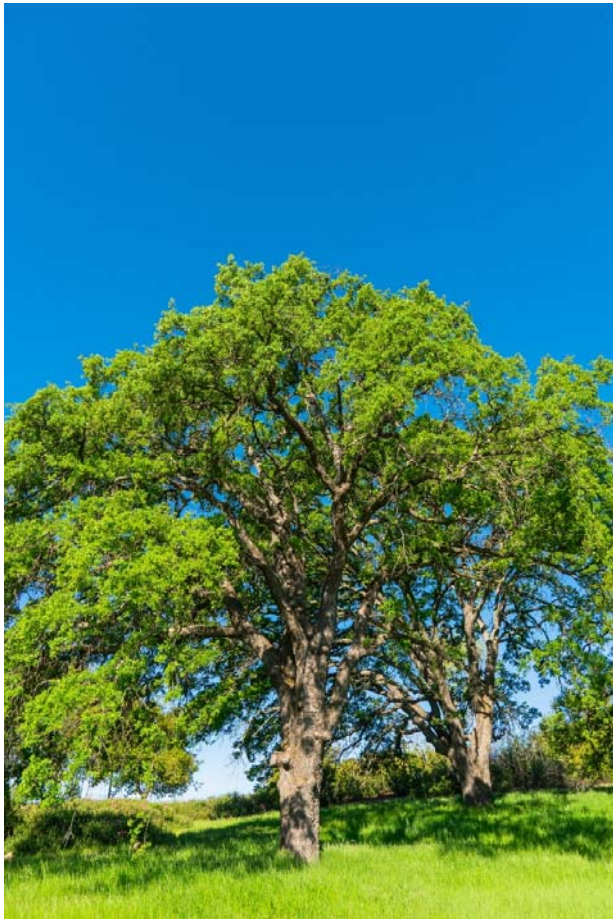
Program	Number of Accounts
Landscaper hauls to recycler	170
Subscribe to City collection	11
Exempt – generate less than ½ yard per week	2
Temporary exemption due to COVID restrictions	14
Grass cycling or composting	7

**This represents formal COVID exemptions requested and granted. The City has expressed a desire to CalRecycle that all businesses be temporarily exempt until COVID restrictions are in the orange tier.*

AB 1826 City Compliance Status



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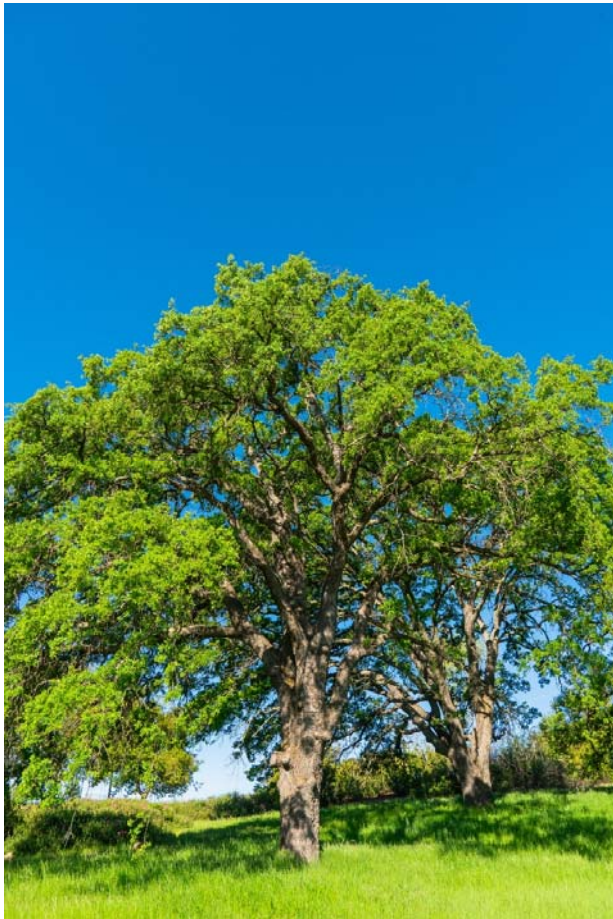


- October 2020 – Folsom received a notice of program gaps.
- November 2020 – Folsom submits compliance plan to CalRecycle.
- December 2020 – Folsom City Council authorizes contract with R3 Consulting to assist with development and implementation of organics mandates.
- December 2020 – Compliance plan rejected by CalRecycle.
- January 2020 – Contract executed and R3 assists staff to development of a revised plan due to CalRecycle in February.

Proposed Compliance Plan



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- Evaluate staffing needs and acquire additional resources.
- Targeted outreach and education.
- Local ordinance to mandate compliance.
- Revise hauler contracts.
- Record keeping.

Staffing



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- The Recycling Division has one full time Environmental Specialist Supervisor who splits time with the Household Hazardous Waste Division.



- The Recycling Division has one part time employee working about 15 hours per week.
- The Recycling Division is requesting two Senior Environmental Specialists. Initially new staff would be dedicated to organics programs.



- Additional staffing may be requested following a consultant analysis of staffing needs.

Ordinance



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- To provide an enforcement mechanism to penalize non-compliant businesses and account holders.



- To require account holders to provide organics service to all businesses using trash service they provide.

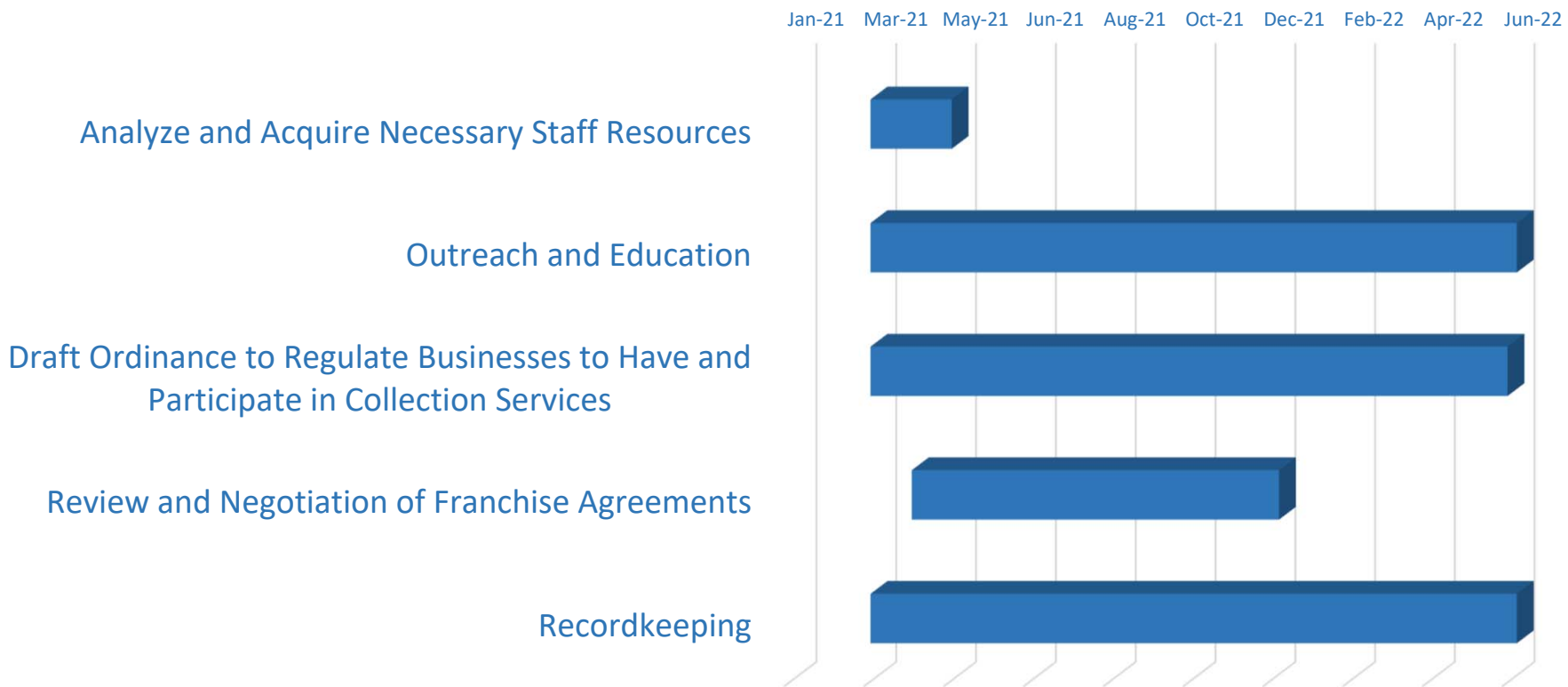


- Mandated by SB 1383.

Compliance Plan Timeline



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Next Steps



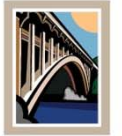
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- **Staffing**

- We are requesting the addition of two (2) Environmental Specialist positions to be added to the existing FY 21 Budget
- This staffing is necessary to meet the existing mandates in the Recycling Division to avoid regulatory fines from CalRecycle and will assist with the future policy and program requirements for SB 1383 regulations
- With your concurrence we will return to you with the appropriate Resolution to authorize the additional staff

- **Proceed with Proposed Compliance Plan**

Questions?



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City of Folsom
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