

Environmental Management Department

SB 1383 Ordinance

August 23, 2022

SB 1383 Overview

- The California Department of Resources Recycling and Recovery (CalRecycle) oversees a variety of programs and policy initiatives to reduce the amount of solid waste sent to landfills and promote recycling in California, including organic waste recycling under SB 1383.
- SB 1383, as enacted in 2017 (Lara, Chapter 395, Statutes of 2016), establishes statewide targets to reduce the statewide disposal of organic waste by 50 percent by 2020 and 75 percent by 2025; and requires that no less than 20 percent of edible food that is currently disposed be recovered for human consumption by 2025.
- The SB 1383 regulations set forth a variety of programmatic and policy-related requirements for jurisdictions, generators, and other entities to support the Statewide goals of SB 1383.

Why is a local ordinance needed?

- The adoption of a local ordinance is seen as a key requirement for compliance with state regulations which states:
 - By January 1, 2022, a jurisdiction shall adopt enforceable ordinance(s), or similarly enforceable mechanisms that are consistent with the requirements of this chapter, to mandate that organic waste generators, haulers, and other entities subject to the requirements of this chapter that are subject to the jurisdiction's authority comply with the requirements of this chapter.
- The County filed a Notice of Intent to Comply (NOIC) in March 2022 to outline its compliance with SB 1383, which included a timeframe to have an ordinance passed and in place.

What Does SB 1383 Require?

- Jurisdictions will provide organic waste collection services to all residents and businesses who qualify. Jurisdictions will process the organic materials using recycling facilities.
- Jurisdictions will be required to recoup the aerobic or anaerobic compost and use the recycled organic material for renewable energy, compost, and/or mulch.
- Qualified food service businesses will be required to donate edible food to food recovery organizations.
- Counties specifically, must coordinate with jurisdictions to plan for the necessary organic waste recycling and food recovery capacity needed to divert organic waste from landfills into recycling activities and food recovery organizations.
- Jurisdictions are required to maintain records for compliance of SB1383. These records will assist regulated entities with preparing for compliance inspections required by local and state agencies. Jurisdictions are to report on program implementation. CalRecycle may issue waivers and exemptions to jurisdictions, local education agencies, and non-local entities that will exempt them from some or all of these collection requirements for a period of time.

Who is affected by this Ordinance and SB 1383?

- Residential customers
- Food distributors
- Food facilities
- Supermarkets
- Food recovery operations
- Franchised waste haulers

What's included in the Ordinance?

- Included in the new ordinance will be definitions, requirements, and enforcement. The Ordinance will be designed to ensure the El Dorado County is compliant with SB 1383 regulations.

Waivers

- El Dorado County was granted waivers for high elevation and low population which include:
 - South Lake Tahoe
 - Eastern Georgetown
 - Grizzly Flats

Brief Overview of the Ordinance

- Section 8.45.040 - Requirements for Single Family Organic Waste Generators
 - Single families must comply with the ordinance unless they are in an area with a waiver or qualify for self-hauling of waste.
 - Designated materials must be placed in the properly labeled collection containers.
- Section 8.45.050 - Requirements for Commercial Business Organic Waste Generators
 - Unless the generator has been exempted by the county, or a waiver has been issued or obtained, they must subscribe to Organic Waste collection services provided in the generator's service area by an authorized County franchisee, or meet the Self-Hauler requirements
 - Designated materials must be placed in the properly labeled collection containers.

Can I still self-haul? Section 8.45.060

- Residents can self-haul source separate recyclable materials and organic waste generated on-site to a facility that can process those materials.
- Transfer stations will accept the materials as long as they are separated and not comingled (contaminated).
- Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the County or Designee.
- A residential Organic Waste Generator that self-hauls Organic Waste is not required to comply with the requirements of this section as long as they are located in an area that received a waiver by CalRecycle and is not required to comply with the requirements of this section, unless hauling waste to a County approved disposal facility.

What are the requirements for the franchise waste haulers? Section 8.45.070

- Franchise haulers and permitted haulers providing residential, commercial, or organic waste collection services to generators within the County boundaries shall meet the following requirements and standards as a condition of approval of the franchise agreement:
 - Identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, Source Separated Organic Waste, and Mixed Waste.
 - Transport source separated recyclable materials, source separated organic waste, and mixed waste to a facility that recovers organic waste.
 - Franchised haulers and permitted haulers that have authorization to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement with the County.

Section 8.45.090 - Requirements for Commercial Edible Food Generators

- Commercial food generators include:
 - Tier 1 – Supermarkets and grocery stores
 - Tier 2 - Restaurants with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet. This tier has until January 1, 2024, to start complying.
- What do they need to do?
 - Arrange to recover the maximum amount of Edible Food that would otherwise be discarded.
 - Contract with or enter into a written agreement with a Food Recovery Organization for the collection of edible food.
 - Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 - Allow the County or its designated entity to access the premises and review records.
 - Keep records, for a period of no less than five years

Section 8.45.100 - Requirements for Food Recovery Organizations

- Food Recovery Services/Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement shall maintain the following records:
 - The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 - The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

Section 8.45.100 - Requirements for Food Recovery Organizations, con't

- Food Recovery Organizations and Food Recovery Services that are physically located in the County and contract with or have written agreements with one or more Commercial Edible Food Generators shall report to the County the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators.

Section 8.45.110 - Waivers, exemptions for generators

- The County may issue waivers or grant exemptions for residential or commercial generators to comply with some or all organic waste reduction requirements. The County may review generator's qualifications for waivers and exemptions and will rescind the waivers or exemptions if the generator no longer qualifies.
- The County may act to obtain waivers or grant exemptions from some or all the requirements of this chapter for emergency circumstances, abatement, quarantined materials, and federally regulated waste. Conditions eligible for waivers or exemptions may include temporary equipment or operational failure, disasters, sediment debris from flood control infrastructure, homeless encampments, or illegal disposal sites as part of an abatement activity.

Section 8.45.110 - Waivers, exemptions for generators

- De Minimis and Physical Space Waivers for Commercial Business and Multi Family Residential Dwellings are available if the following criteria are met:
 - The Commercial Business' total Solid Waste collection service is two (2) cubic yards or more per week and the Organic Waste subject to collection in Organic Waste containers comprises less than twenty (20) gallons per week per applicable container of the business' total waste; or,
 - The Commercial Business' total Solid Waste collection service is less than two (2) cubic yards per week and the Organic Waste subject to collection in Organic Waste comprises less than ten (10) gallons per week per applicable container of the business' total waste.
- An application for a waiver must be submitted to EMD and if approved, will be valid for 5 years.

Section 8.45.130 - Inspections and Investigations

- County representatives or its Designees are authorized to conduct inspections and investigations, at random, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from the entities defined in this ordinance.
- The entities regulated by this ordinance shall provide or arrange for access during all Inspections (except for residential property interiors) and shall cooperate with the County employee or its Designee during such inspections and investigations.
- The County or its designee shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

Section 8.45.140 – Enforcement

- Education of this ordinance and SB 1383 will be ongoing. Enforcement will be required for non-compliance starting January 1, 2024.
- Violations noted after January 1, 2024, will result in a Notice of Violation and a fines as follows:
 - For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.
 - For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.
 - For a third or subsequent violation, the amount of the base penalty shall be \$250 to \$500 per violation.

- The Process for Enforcement will include:
 - County will monitor compliance with the chapter through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program.
 - County or Designee will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a container by using a cart tag or other means.
 - Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the County shall commence an action to impose penalties, via an administrative citation and fine, pursuant to chapter 9.02 of the County Code.
 - Notices shall be sent to “owner” at the official address of the owner maintained by the County tax collector or if no such address is available, to the owner at the address of the Multi-Family Residential Dwelling or Commercial property.

Compliance Deadline Extension

- The County may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable.
- Any entity that receives a Notice of Violation has the right to appeal to EMD.

Education Period for Non-Compliance

- Upon passage of this ordinance and through December 31, 2023, the County will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, to determine compliance, and if the County determines that any of the entities covered under this chapter are not in compliance, it shall provide educational materials to the entity describing its obligations under this chapter and a notice that compliance is required, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

Civil Penalties for Non-Compliance

- Beginning January 1, 2024, if the County determines that any of the entities described in this chapter are not in compliance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action as needed.