

CALIFORNIA ORGANICS RECYCLING REGULATIONS



SUMMARY

The landfill has long been the accepted destination for food and other organic waste. However, this is changing, especially in California with passage of California's [AB 1826: Mandatory Organics Recycling Program \(MORe\)](#) and [SB 1383: Short-Lived Climate Pollutants Act](#).

SB 1383 targets the reduction of methane emissions from the disposal of organic waste and aims to achieve a 75 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. The law also sets a target to recover 20 percent of edible food for human consumption landfilled by 2025. Its requirements, effective as of January 1, 2022, expand upon the requirements of AB 1826 by including mandatory donation of edible food and extending to the residential setting. SB 1383 is meant to build off of AB 1826 and harmonize the requirements of the two laws.

This fact sheet lays out the elements of AB 1826 (MORe) and SB 1383 for retailers and provides information on local jurisdictions that have implemented organic diversion programs that are more restrictive than California's state-level regulations.

AM I A COVERED BUSINESS?

As of September 2020, businesses that generate two or more cubic yards of commercial solid waste a week are subject to the organic recycling requirements. Commercial solid waste, as defined in California Code Section 42649.1, includes all types of solid waste items that are disposed of by a store, office, or other commercial business including trash, recycling, and organics. Note that even if recyclable material is diverted from the solid waste stream by being recycled, it still counts toward the two cubic yard threshold.

Most retailers generate enough commercial solid waste to be subject to the program, though certain exemptions may apply, as described below. The MORe program requirements apply to individual store locations. Therefore, large retailers with multiple locations need to assess each individual store's waste stream to determine applicability on a site-by-site basis.

WHAT DOES MY BUSINESS NEED TO DO TO COMPLY?

Retail locations that generate enough commercial waste to be considered a covered business and are not otherwise exempt must follow the organic recycling and edible food recovery requirements below.

ORGANIC WASTE RECYCLING REQUIREMENTS

Covered businesses must subscribe to and comply with requirements of the organic waste collection service provided by their jurisdiction. Alternatively, they may independently collect and recycle all the organic waste that would otherwise be thrown away (i.e., "self-haul").

Businesses must:

- Provide collection containers for organics and recyclables adjacent to disposal containers, accompanied by guidance on what can or cannot be placed into each bin. The regulations allow for a menu of collection options such as:
 - 3 container system (Gray = Landfilling; Blue = Recycling; Green = Compost)
 - 2 container systems (Gray = Mixed materials; Blue = Recycling)
 - 2 container systems (Gray = Mixed materials; Green = Compost)
- Single container system (Gray = Mixed materials).
- Provide information on an annual basis to employees, contractors, tenants, and customers about proper sorting.
- Provide access to the municipality for inspections.

If a business does not generate any of the materials that would be collected in a container, they are exempt from the requirement to provide that container.

Note: each county, city or other local jurisdiction is responsible for developing its own ordinance to implement the recycling requirement. Many jurisdictions adopt the language of AB 1826; however, some have developed more comprehensive or more restrictive programs.

WHAT DO I DO WITH EDIBLE FOOD?

To be in compliance with the edible food recovery requirements, covered businesses must:

- Ensure that food donations follow the [California Retail Food Code](#)
- Recover the maximum amount of edible food that would otherwise be disposed
- Arrange food recovery through a contract or written agreement with food recovery organizations or services that will collect edible food for food recovery or allow the generator to self-haul. (CalRecycle provides a [Model Food Recovery Agreement](#) to assist commercial edible food generators with compliance)

The law establishes two tiers of covered commercial edible food generators.

Tier 1: Must comply by 2022.

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

Tier 2: Must comply by 2024.

- Restaurants (5,000+ sq. ft or 250+ seats)
- Hotels with on-site food facility and 200+ rooms
- Local education agencies with on-site food facility
- Large venues and events
- State agencies with cafeterias (5,000+ sq. ft or 250+ seats)
- Health Facilities with > 100 beds and On-Site Food Facility

WHAT ORGANIC WASTES MUST BE RECYCLED?

All organic waste streams are subject to the recycling requirement. This includes food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.

Food waste includes solid, semisolid and liquid food, such as, fruit, vegetables, cheese, meat, bones, poultry, seafood, bread, rice, pasta, and oils; coffee grounds and filters and tea bags; cut flowers and herbs; and any putrescible matter produced from human or animal food production, preparation, and consumption activities.

Green waste/landscaping waste includes grass clippings, leaves, branches, flower trimmings, hedge trimmings, and weeds.

Food-soiled paper includes items such as soiled napkins, paper towels, tissues, and formed paper packaging such as egg cartons. Food-soiled paper does not include paper products with plastic coating, e.g., paper cups with polyethylene or other synthetic grease/water resistant coating. It can be difficult to tell if products with a coating is compostable as some wax materials are compostable.

CalRecycle recommends that businesses coordinate with their local organic recycling service provider to learn which types of food-soiled paper are acceptable at the local recycling facility. In addition, local jurisdictions are expected provide guidance to businesses on this issue.

The **edible** food recovery requirements apply to any food intended for human consumption. Edible food is not considered "solid waste" as long as it is recovered.

ARE THERE ANY EXEMPTIONS THAT MIGHT APPLY TO MY BUSINESS?

Jurisdictions can exempt businesses on a case-by-case basis from the requirements of the law if the business meets any of the following criteria:

- Lack of sufficient space at a business to provide additional organic material recycling bins.
- The current implementation of actions (such as food donation) that result in the recycling of a significant portion of organic waste.
- Limited-term exemptions for extraordinary and unforeseen events.
- The business or group of businesses does not generate at least one-half of cubic yard of organic waste per week.

The jurisdiction makes the determination regarding whether or not an exemption is allowed. A business cannot "self-exempt."

Retailers who believe they qualify for the one-half cubic yard exemptions should collect and record the amount of organic waste that they generate each week. The retailer should consider developing a procedure for collecting this information and provide training to ensure that the data provides a credible basis for the exemption.

The use of shared dumpsters is a challenge for retailers attempting to qualify for the one-half cubic yard exemptions. Under CalRecycle's interpretation of the program, if a group of businesses with shared refuse containers (e.g., located in a strip mall or business park) collectively generates more than one-half cubic yards of waste per week, the group will need to arrange for organic recycling services regardless of

the amount of organic waste generated by each business individually.

In addition, SB 1383 allows jurisdictions to apply for the following exemptions:

- Low Population Waiver Application for Cities and Special Districts that Provide Solid Waste Collection Services
- Low Population Waiver Application for Unincorporated Portions of Counties and Special Districts that Provide Solid Waste Collection Services Located in Unincorporated Portions of Counties
- Elevation Waiver Application
- Rural Exemption Application

Note that CalRecycle has no jurisdiction on tribal land, so a business located on tribal land not required to comply with requirements.

WHAT HAPPENS IF I DO NOT COMPLY?

The state-level regulations do not have enforcement mechanisms against individual businesses. Instead, the law allows local jurisdictions to apply enforcement and oversight mechanisms. Jurisdictions can choose to implement a local mandatory organic recycling commercial recycling program to enforce business compliance.

Approaches might include:

- Implementing a mandatory commercial organic waste recycling policy or ordinance that addresses organic waste recycling.
- Requiring a mandatory commercial organic waste recycling program through a franchise contract or agreement, or
- Requiring that organic waste go through a source-separated or mixed waste processing system that diverts material from disposal etc.

WHEN DO THE REGULATIONS TAKE EFFECT?

Regulations and enforcement began on January 1, 2022. Enforcement is transferred from CalRecycle to local jurisdictions beginning January 1, 2024. Enforcement consists of an annual compliance review to:

- Verify that covered businesses are subscribed to service or self-hauling;

- Verify service routes, inspect for contamination in multi-bin systems;
- Verify that waste is transported to a high diversion organic waste processing facility; and
- Verify edible food recovery arrangements.

CASE STUDIES

CalRecycle's [Food Scraps Management](#) website includes multiple examples of programs that businesses and jurisdictions across the state are implementing. These programs include compliance through food donation for grocery and produce items that are nearing sell-by dates, and disposal using anaerobic digesters.

WHAT'S HAPPENING IN YOUR NECK OF THE WOODS: COUNTY LEVEL IMPLEMENTATION/TRENDS

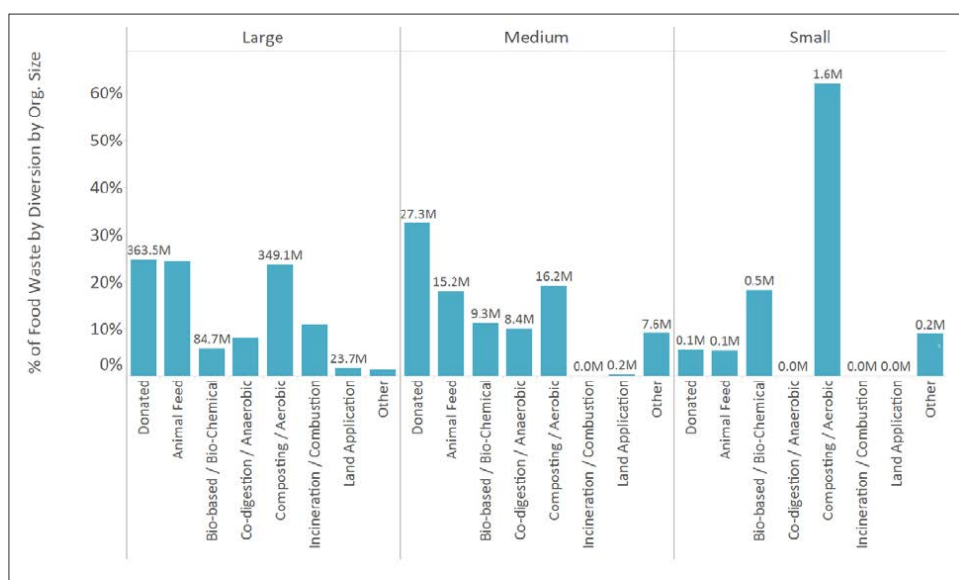
The majority of California's local jurisdictions have implemented organic recycling programs that mirror AB 1826. However, some jurisdictions have implemented more restrictive organic management practices. For example, cities within Alameda County, such as the City of Hayward, must include penalties for non-compliance with organic recycling, whereas such fines are optional under AB 1826. Other jurisdictions have enacted landfill bans on all yard waste. The table below provides examples of local jurisdictions with more stringent requirements. Local jurisdictions may also need to adopt local regulations to comply with AB 1383.

Rule Code	Details
<p>Alameda County</p> <p>Alameda County Waste Management Authority (ACWMA) Mandatory Recycling Ordinance 2012-01</p> <p>ACWMA Plant Debris Landfill Ban Ordinance 2008-01</p>	<p>Violation of any provision of the Alameda County Mandatory Recycling Ordinance shall constitute a misdemeanor punishable by a fine not to exceed \$500 for the first violation, a fine not to exceed \$750 for the second violation within one year and a fine not to exceed \$1000 for each additional violation within one year.</p> <p>Violation of any provision of this Ordinance may also be enforced as an infraction punishable by a fine not to exceed \$100 for the first violation, a fine not to exceed \$200 for the second violation within one year and a fine not to exceed \$500 for each additional violation within one year.</p> <p>There shall be a separate offense for each day on which a violation occurs.</p> <p>Alameda County law prohibits disposal of plant debris in county landfills. ACWMA Plant Debris Landfill Ban Ordinance 2008-01 requires landscape professionals, residents and businesses to separate all plant debris from garbage. Those subscribing to 4 or more cubic yards of weekly on-site garbage service must place plant debris in the designated "organics" bin, and those who haul to their local facility must deposit plant debris in the disposal facility's designated "clean green" area. Plant debris includes grass, leaves, shrubbery, vines and tree branches.</p>
<p>San Francisco</p> <p>Ordinance No. 100-09</p>	<p>San Francisco requires all businesses to separate recyclable, compostable and landfill material. Businesses are required to subscribe to adequate trash, recycling and composting service.</p> <p>San Francisco's regulations are also more stringent than AB1826 because they require property owners/managers to provide color-coded, labeled bins in convenient locations (blue for recycling, green for compost, black for trash). Additionally, property owners/managers are required to provide training to tenants, employees, contractors and janitors. Moreover, food vendors that provide disposable food service ware or to-go containers must provide color-coded labeled bins for use by customers and visitors, and the bins must be placed near a main exit.</p>

<p>San José Ordinance No. 24133</p>	<p>All San José businesses are required to comply with AB 1826 by receiving collection service from Republic Services. All the material collected at businesses is processed locally at the Newby Island Resource Recovery Park. Recyclable material is separated by type, baled, and sold to recycled-content manufacturers. Food waste and other organic material is separated and sent to an anaerobic digestion facility.</p>
<p>Monrovia Chapter 8.10</p>	<p>The city of Monrovia worked with its trash service provider, Athens, to develop a closed loop organics recycling program. The program involves taking all organic waste generated by commercial and multi-family properties and mixing it with green waste collected from residential properties. The material is turned into compost and mulch, which is available to residents at no cost. The program is paid for through increases to residential and commercial "Cal AB 1826 Organic Charge" service fees.</p>

ORGANIC WASTE COMPLIANCE CHALLENGES FOR RETAIL AND INDUSTRY SOLUTIONS

CalRecycle suggests that businesses reference the Food Waste Reduction Alliance's [Best Practices and Emerging Solutions Toolkit](#) to develop organic waste compliance strategies. The most recent data from the Food Waste Reduction Alliance, in the graph below, shows that retail/wholesale businesses are using a number of diversion measures for food waste.



Each diversion compliance strategy has some challenges. The following section addresses some common challenges and offers some potential solutions.

FOOD DONATION LIABILITY

- **Challenge:** Retailers that wish to donate food that is fit for human consumption may be reluctant for fear that the business could be held liable for any resulting damage or injury were the food to spoil after leaving the business.
- **Solution:** In 2017, California Passed AB 1219, which is known as the Good Samaritan Food Donation Act. Under AB 1219, donors and recipients of any food that is fit for human consumption at the time it was donated are absolved of any liability associated with damage or injury resulting from consumption. Of course, the Act does not preclude liability if the injury resulted

from negligence or a willful act in the preparation or handling of the donated food. To take advantage of this provision, businesses should maintain records demonstrating the condition of food at the time it was donated.

TRANSPORTATION

- **Challenge:** Transportation constraints may be an impediment to coordinating food donations (e.g., distance, cost, and fleet availability).
- **Solution:** Some jurisdictions, including Fresno (Food to Share), Orange County (Waste Not OC), Los Angeles (Safe Surplus Food Prevention and Donation Resources),

and San Diego (Save the Food), have partnered with food recovery programs to reduce waste and assist with food insecurity. Because these programs typically coordinate transportation, they can serve as models for similar programs. Retail participation through donations is key to the success of food recovery programs. Developing successful food recovery programs will be an essential part to compliance with AB 1826 in 2022.

STORAGE

- **Challenge:** Some retailers are concerned that storing organic waste could inhibit cleanliness within a store and/or a kitchen.
- **Solution:** Disposal stations that are color coded, including green for organics, blue for recycling, and black for trash, can be utilized to properly separate and store organic material. Moreover, to the extent possible, retailers can seek to reduce the purchase of organics and/or packaging by working with suppliers so that less organic material is brought into the business from the start.

TRAINING EMPLOYEES AND EDUCATING CUSTOMERS

- **Challenge:** Employees need to understand the organic recycling requirements to ensure compliance. In some cases, language barriers may cause compliance issues. Additionally, customers in certain restaurants and cafeterias will need to be educated about proper organics disposal.
- **Solution:** Retailers should consider establishing an Organics Team that will designate at least one person to take ownership of the organics diversion plan and regularly check that items are properly discarded. Additionally, all new employees and tenants should be trained, and retrained if compliance is an issue. Signs that explain the program should be placed in obvious locations and made available in all applicable languages for both employees and customers. Some

jurisdictions, such as the City of Hayward, provide signage in multiple languages. CalRecycle also provides an outreach and education toolkit. Detailed signs providing instructions to customers, including tailored pictures of common waste items at the business, can often help customers know which items should be composted.

COMMUNAL DISPOSAL

- **Challenge:** Retail stores located at a mall may use a shared dumpster for waste disposal. If a building owner provides waste collection services to all its tenants, then the cumulative amount of solid waste generated by the stores will determine whether the Mandatory Organic Recycling Program applies. If the cumulative generation of all businesses exceeds 4 cubic yards of solid waste per week, then individual stores will not be exempt from the program even if the business individually does not generate 4 cubic yards of solid waste per week. As mentioned above, this collective interpretation also applies to businesses seeking the one-half a cubic yard or one cubic yard exemption for organic waste described above.
- **Solution:** A retailer that faces this challenge may decide to study whether it is cost effective and feasible to secure its own separate waste disposal services to avoid this issue.

Prepared by RRS. Founded in 1986 and headquartered in Ann Arbor, Michigan, RRS is a sustainability and recycling consulting firm that strives to create a world where resources are managed to maximize economic and social benefit while minimizing environmental harm.

The firm has industry professionals, engineers, economists, technical analysts, and communication specialists who share this vision and possess core strengths in materials and recovery, life cycle management, applied sustainable design, and collaborative action development.



ABOUT THE RETAIL COMPLIANCE CENTER

The Retail Compliance Center (RCC) provides resources on environmental compliance and sustainability for all types and sizes of retailers. The RCC's goal is to develop retail-specific resources, tools and innovative solutions to help companies cost-effectively improve their compliance and environmental performance.

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