

In September 2016, Governor Brown signed [SB 1383 \(Lara, Chapter 395, Statutes of 2016\)](#), establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP) in various sectors of California's economy. As it pertains to CalRecycle, SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The law grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets ***and establishes an additional target that not less than 20 percent of currently disposed edible food is recovered for human consumption by 2025***

January 1, 2022: CalRecycle's regulations to meet the organic waste reduction targets for 2020 and 2025 and to achieve the 2025 edible food recovery goal take effect and are enforceable on this date.

SB 1383 Final Informal Draft for Edible Food Recovery Regulations

Article 1. Definitions

(8) "Commercial edible food generator" includes a Tier One or a Tier Two commercial edible food generator as defined in (a)(73) and (a)(74) of this section.

(16) "Designee" means an entity that a jurisdiction contracts with or otherwise arranges to carry out any responsibilities of this chapter. A designee may be a government entity, a hauler, a private entity, or a combination of those entities.

(19) "Edible food" means unsold or unserved food that is fit for human consumption, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. For the purposes of these regulations, "edible food" is not solid waste if it is recovered and not discarded.

(22) "Food" has the same meaning as in Section 113781 of the Health and Safety Code.

(24) "Food facility" has the same meaning as in Section 113789 of the Health and Safety Code.

(25) "Food recovery" means actions to collect and distribute food for human consumption which otherwise would be disposed.

(26) "Food recovery organization" means an entity that primarily engages in the collection or receipt of excess edible food from edible food generators and distributes that edible food to the public for consumption, including, but not limited to:

(A) A food bank as defined in Section 113783 of the Health and Safety Code;

(B) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code;
and,

(C) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

(27) "Food recovery service" means a person or entity that collects and transports edible food from an edible food generator to a food recovery organization or other entities for food recovery.

(28) "Food service distributor" means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.

(30) "Grocery store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh

fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments. Grocery store includes convenience stores.

(32) "Health facility" has the same meaning as in Section 1250 of the Health and Safety Code.

(34) "Hotel" has the same meaning as in Section 17210 of the Business and Professions Code.

(36) "Jurisdiction" means a city or county, or a city and county. A city or county, or a city and county, may utilize a Joint Powers Authority to comply with the requirements of this chapter, except that the individual city, county, or city and county shall remain ultimately responsible for compliance.

(38) "Large event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.

(39) "Large venue" means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this Chapter, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this Chapter, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site is a single large venue.

(40) "Local education agency" means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to solid waste.

(64) "Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on premises or immediate consumption.

(68) "Share table" has the same meaning as in Section 114079 of the Health and Safety Code

(71) "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items.

(73) "Tier One commercial edible food generator" means a commercial edible food generator that is one of the following:

(A) Supermarket.

(B) Grocery store with a total facility size equal to or greater than 7,500 square feet.

(C) Food service distributor.

(E) Wholesale food market.

(74) "Tier two commercial edible food generator" means a commercial edible food generator that is one of the following:

(A) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.

- (B) Hotel with an onsite food facility and 200 or more rooms.
- (C) Health facility with an on-site food facility and 100 or more beds.
- (E) Large venue.
- (F) Large event.
- (G) A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (H) A Local Education Agency facility with an on-site food facility.

(76) "Wholesale food market" means a food establishment in which food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.

Article 4. Education and Outreach Requirements

Section 40.2 Edible Food Recovery Education and Outreach

- (a) On or before February 1, 2022 a jurisdiction shall:
 - (1) Develop and maintain a list of food recovery organizations and food recovery services operating within the jurisdiction, and maintain the list on the jurisdiction's website. The list shall include, at a minimum the following information about each food recovery organization and each food recovery service:
 - (A) Name and physical address.
 - (C) Phone number.
 - (D) Collection service area.
 - (E) Hours of operation.
- (b) At least annually a jurisdiction shall:
 - (1) Provide commercial businesses that generate edible food with the following information:
 - (A) Information about the jurisdiction's edible food recovery collection program established pursuant to Section 10.1. of this chapter.
 - (B) Information about commercial edible food generators requirements specified in Article 10.
 - (C) Information about food recovery organizations and food recovery services operating within the jurisdiction, and where a list of those food recovery organizations and food recovery services can be found.
 - (2) The jurisdiction may provide this information by including it with regularly scheduled notices to those commercial businesses, including the notices provided pursuant to Section 40.1.

Section 40.3 Recordkeeping Requirements for a Jurisdiction's Compliance with Education and Outreach Requirements

- (a) A jurisdiction shall include all relevant documents supporting its compliance with this article in the Implementation Record required by Section 14.40 of this chapter including, but not limited to:
 - (1) Copies of the information provided to comply with this article, including: flyers, brochures, newsletters, invoice messaging, website, social media.
 - (2) The date, and to whom the information or direct contact was disseminated.
 - (3) If the material was electronic, a copy, with dates posted: of social media posts, e-mail or other electronic message.
 - (4) If a jurisdiction relies on a designee to comply with this section, it shall include a copy of the materials distributed by the designee.

Article 9. Locally Adopted Standards and Policies

Section 90.2 Edible Food Recovery Standards and Policies.

(a) A jurisdiction shall not implement or enforce an ordinance, policy, or procedure that prohibits the ability of a generator or food recovery organization to recover edible food that could be recovered for human consumption. (b) A local education agency shall not implement or enforce an ordinance, policy, or procedure that prohibits share tables or requires schools to adhere to a food safety standard not specified in the Part 7 of Division 104 of the Health and Safety Code.

(c) Nothing in this chapter shall be construed to limit or conflict with the provisions of the California Good Samaritan Act of 2017 (the act). Specifically,

(1) Nothing in this chapter shall be construed to limit the amount or types of foods that may be donated under the act.

(2) Nothing in this chapter shall be construed to limit the ability of a person, gleaner or food facility to donate food as provided for in Section 114432 of the Health and Safety Code.

(3) Nothing in this chapter shall be construed to reduce the immunities provided by the California Good Samaritan Act as specified in Section 114434 of the Health and Safety Code.

(d) Nothing in this chapter prohibits an edible food recovery service or organization from refusing to accept edible food from a generator.

Article 10. Jurisdiction Edible Food Recovery Programs, Food Generators, and Food Recovery

Section 10.1 Jurisdiction Edible Food Recovery Program

(a) A jurisdiction shall implement an edible food recovery program that shall include the actions that the jurisdiction plans to take to accomplish the following:

(1) Educate commercial edible food generators as set forth in Section 40.2.

(2) Increase commercial edible food generators access to edible food recovery organizations and edible food recovery services.

(3) Monitor commercial edible food generators compliance as required in Article 14.

(4) Increase edible food recovery capacity if the analysis required by Section 11.1 indicates that the jurisdiction does not have sufficient capacity to meet its edible food recovery needs.

(b) A jurisdiction may fund the actions taken to comply with this section through franchise fees, local assessments or other funding mechanisms.

Section 10.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program

(a) A jurisdiction shall include all documents supporting its compliance with Section 10.1 in the Implementation Record required Section 14.40 of this chapter and shall also include at a minimum:

(1) A list of commercial edible food generators in the jurisdiction that have arrangements with edible food recovery organizations or services.

(2) A list of edible food recovery organizations in the jurisdiction and their edible food recovery capacity.

(3) Documentation of the actions the jurisdiction has taken to increase edible food recovery capacity.

Section 10.3. Commercial Edible Food generators

(a) Tier One commercial edible food generators shall comply with the requirements of this section commencing January 1, 2022, Tier two commercial edible food generators shall comply with the requirements of this section commencing January 1, 2024.

(b) Commercial edible food generators shall arrange to recover edible food that would otherwise be disposed in a manner that is appropriate for that business. An edible food generator may comply with the requirements of this section through any of the following:

(1) Contracting with food recovery services or organizations that will collect their edible food for food recovery.

(2) Self-hauling edible food to a food recovery organization that will accept the edible food for food recovery.

(c) An edible food generator shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or service.

Section 10.4. Record Keeping Requirements For Commercial Edible Food Generators

(a) A commercial edible food generator subject to the requirements in this article shall keep a record that includes the following:

(1) A list of each food recovery service or organization that collects or receives its edible food.

(2) A copy of contracts, written agreements or other documents between the edible food generator and a food recovery service or organization.

(3) An edible food generator that complies with the requirements of this article through contracting with a food recovery service or organization as allowed in Section 10.3 shall keep a record of the following for each food recovery organization or service that the edible food generator contracts with:

(A) The name, address and contact information of the service or organization.

(B) The types of food that will be collected by or transported to the service or organization.

(C) The established frequency that food will be collected or transported.

(D) The quantity of food collected or transported to a service or organization for food recovery.

1. Quantity shall be measured in pounds recovered per month.

2. An edible food generator may use an alternative metric provided by the food recovery service or organization to measure the quantity of food recovered.

Section 10.5. Edible Food Recovery Services and Organizations

(a) A food recovery organization or service that collects or receives 6 tons or more of edible food from edible food generators per year shall maintain a record that includes all of the following:

(1) The name, address and contact information for each edible food generator the service or organization collects or receives edible food from.

(2) The quantity in pounds of edible food collected from each edible food generator per month.

(3) The quantity in pounds of edible food transported to each edible food recovery organization per month.

(4) The total number of meals served per month if applicable.

(5) For a food recovery service, the name, address and contact information for each food recovery organization that the service transports edible food to for food recovery.

Article 11. Organic Waste Recycling Capacity Planning

Section 11.2 Edible Food Recovery Capacity

(a) Counties, in coordination with cities and regional agencies located within the county shall:

- (1) Estimate the amount of edible food that will be disposed of by commercial edible food generators that are located within the county and jurisdictions within the county.
- (2) Identify existing capacity at edible food recovery organizations that is available to commercial edible food generators located within the county and jurisdictions within the county.
- (3) Identify proposed new or expanded edible food recovery organizations that will be used to process edible food identified pursuant to subsection (1).
- (4) Identify the amount of capacity at edible food recovery organizations that is necessary to recover 20 percent of the edible food that is estimated to be disposed.

(b) If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified in (a)(4), then the jurisdiction(s) within that county that lack capacity shall.

(1) Submit an implementation schedule to the Department that demonstrates how it will ensure there is enough new or expanded capacity to recover the edible food currently disposed of by commercial edible food generators within their jurisdiction by the end of the reporting period set forth in Section 11.3 of this article.

(A) The implementation schedule shall include timelines and milestones for planning efforts to access additional new or expanded capacity included but not limited to:

1. Obtaining funding for edible food recovery infrastructure, including but is not limited to, modifying franchise agreements or demonstrating other means of financially supporting the expansion of edible food recovery capacity.
2. Identification of facilities, operations and activities inside the county that could be used for additional capacity.

(2) Consult with edible food recovery organizations and edible food recovery services regarding existing, or proposed new and expanded capacity that could be accessed by the jurisdiction and its commercial edible food generators.