



SUMMARY REPORT

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**Agenda Date:** 6/8/2021

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**To:** Board of Supervisors

**Department or Agency Name(s):** Transportation and Public Works

**Staff Name and Phone Number:** Johannes J. Hoevertsz 707-565-2231

**Vote Requirement:** Informational Only

**Supervisorial District(s):** Countywide

**Title:**

SB 1383 Implementation Informational Presentation

**Recommended Action:**

Informational Item - Staff will take direction from the board, and return on October 5, 2021 for action to approve:

- A) Organic Waste Disposal Reduction Ordinance potentially requiring mandatory participation in collection service, diversion of all organic waste and setting associated standards and reporting requirements for haulers
- B) MOU with Zero Waste Sonoma for administration of specified responsibilities to be assigned;
- C) Solid Waste Customer Rate Increases in accordance with Prop 218; and
- D) Franchise Agreement Amendments with Recology Sonoma Marin and Sonoma Garbage Collectors

**Executive Summary:**

The Department of Transportation and Public Works (TPW) is pleased to present an informational item for consideration of requirements under Senate Bill 1383. In 2016, Governor Brown signed SB 1383 into law in an effort to reduce emissions of short-lived climate pollutants, such as methane, which are generated from landfilling organic material like food and yard trimmings. SB 1383 is the most significant waste reduction mandate to be adopted in California in the last 30 years, establishing a statewide target of a 75% reduction of organic material disposed in landfills and a 20% increase of edible food recovery by 2025, compared to the 2014 baseline. The SB 1383 regulations place requirements on multiple entities including local governments, residential households, commercial businesses, haulers, and food recovery organizations. The regulations are scheduled to go into effect in stages as follows:

- January 1, 2022 - CalRecycle's SB 1383 regulations go into effect and are enforceable.
- January 1, 2024 - Jurisdictions are required to impose penalties for non-compliance on regulated entities subject to their authority.
- January 1, 2025 - The state must achieve a 75% reduction of organic material disposed in landfills compared to the 2014 baseline. In addition, no less than 20 percent of currently landfilled edible food must be recovered for human consumption.

This workshop discusses the County's efforts to implement SB 1383 and the remaining required actions that

the County must take. These actions will come up for discussion and approval by the Board on October 5, 2021:

- A) Organic Waste Disposal Reduction Ordinance, potentially requiring mandatory participation in collection service, diversion of all organic waste and setting associated standards and reporting requirements for haulers
- B) MOU with Zero Waste Sonoma for administration of specified responsibilities to be assigned;
- C) Prop 218 Hearing for Solid Waste Customer Rate Increases; and
- D) Franchise Agreement Amendments with Recology Sonoma Marin and Sonoma Garbage Collectors

**Discussion:**

**1. Program Overview & Goals**

SB 1383, and the detailed regulations promulgated by CalRecycle, require the County to:

Reduce methane gas emissions by diverting organic waste from our landfill through mandatory organic waste collection service provided to all residential and commercial generators;

- 1. Educate generators about proper separation of organic materials, waste prevention and recycling, and availability of organic waste collection services;
- 2. Conduct inspections of randomly-selected disposal containers for contaminants;
- 3. Require all haulers providing residential, commercial, or industrial organic waste collection services to meet specified requirements as a condition of their authorization to collect organic waste;
- 4. Enforce the law's diversion requirements by County ordinance, including imposition of penalties on generators found to be noncompliant;
- 5. Assess the County's organic waste recycling and edible food recovery capacity and generate plans for how capacity will be expanded, if needed to comply with the law;
- 6. Develop and implement an edible food recovery program to reduce waste and food insecurity;
- 7. Procure recovered organic waste (e.g. compost) in accordance with a target determined by CalRecycle;
- 8. Conduct extensive recordkeeping of all implementation efforts and tender compliance reports to the State; and
- 9. Pay penalties to CalRecycle if assessed for noncompliance.

The County may utilize a Joint Powers Authority (JPA) to comply with SB 1383 requirements, however, the County remains ultimately responsible for compliance. Since 1992, the County and its 9 cities have been a part of the JPA formerly known as the Sonoma County Waste Management Agency, now Zero Waste Sonoma (ZWS). ZWS has managed programs and provided education to the public on topics related to waste reduction and disposal and it has also assisted the County and cities in complying with state-mandated regulations and reporting requirements. However, because the extensive requirements of SB 1383 go beyond the services

specified in the JPA agreement, ZWS is working with member agencies to negotiate a Memorandum of Understanding (MOU) to delineate which tasks ZWS shall assume on behalf of the County and cities. The tasks that ZWS will likely assume include capacity assessments, education and outreach, record-keeping, reporting, monitoring, and some enforcement tasks.

The County also intends to amend its two franchise agreements with Sonoma Garbage Collectors and Recology Sonoma Marin to conduct route reviews (contamination checks) and provide organics collection services as required by SB 1383. These expanded services will trigger related increases in collection rates, which will be subject to a Prop 218 process.

The following sections summarize SB 1383 requirements.

Mandatory Organic Waste Collection Service for Residents and Businesses in the County

The County must provide organics collection service to all residential and commercial generators within its jurisdiction, except as waivers may be applicable. For example, CalRecycle will grant waivers for low-density, rural areas and the County may grant waivers for commercial customers who generate only a small amount of organic waste. Because the SB 1383 regulations require contamination monitoring, Recology and Sonoma Garbage Collectors will conduct annual route reviews in which carts/dumpsters will be randomly checked for contamination. If contamination is found, written notice must be sent to the generator to encourage compliance.

Edible Food Recovery Requirements for the County

The County will be required to develop a list of food recovery services and organizations available to service commercial edible food generators in the unincorporated areas. In coordination with the cities, the County must also review existing capacity at food recovery organizations throughout the county, and identify proposed new or expanded food recovery services that may be needed to recover the edible food that is estimated to be disposed by commercial edible food generators. Ultimately, the County is responsible for increasing edible food recovery capacity if it is determined that the County does not have sufficient capacity to meet its edible food recovery needs.

ZWS will support the County in providing required annual notices to commercial edible food generators (also known as Tier One and Tier Two Generators) about the food recovery requirements they must meet, information on available food recovery organizations and services, and actions that they can take to prevent or reduce the creation of food waste.

Edible Food Recovery Requirements for Food Generators

Tier One Commercial Edible Food Generators must donate their excess edible food and comply with the associated recordkeeping requirements starting January 1, 2022. Tier Two Commercial Edible Food Generators must do the same starting January 1, 2024. Tier One and Tier Two Generators must maintain a contract with each food recovery organization that provides a pick-up service to, or accepts donated food from, the generator. Additionally, Tier One and Tier Two Generators must keep records of the amounts and types of food donated, as well as the frequency of donation.

Tier One Commercial Generators	Tier Two Commercial Generators
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Supermarkets with gross annual sales of \$2 million dollars or more	Restaurants with 250 or more seats, or a total facility size 5,000 sq. ft. or greater
Grocery stores (10,000+ sq. ft.)	Hotels with on-site food facility, and 200 or more rooms
Food service providers	Health facility with on-site food facility, and 100 or more beds
Food distributors	Large venues that annually seat or serve an average of more than 2,000 individuals per day of operation
Wholesale food vendors	Large events that serve an average of more than 2,000 individuals per day of operation

Requirements for Food Recovery Organizations:

Food recovery organizations will be required to maintain records of the contact information of each organization they service. Additionally, they must keep records of the kinds and amounts of food collected, delivered, or rejected.

Enforcement Requirements

The County is required to adopt an ordinance requiring all residential and commercial generators in the unincorporated to subscribe to organic material collection services. The County ordinance will also require all haulers of organic waste to identify the facilities to which they will transport organic waste as a condition of approval to operate in the County.

Records of all inspections and enforcement actions must be maintained for a minimum of five years. The enforcement process will begin with a Notice of Violation (NOV). Prior to January 1, 2024, anyone in violation of the requirements will be provided with educational materials. After January 1, 2024, enforcement is required and will involve progressive actions, including monetary penalties if necessary.

Enforcement over Jurisdictions

The regulations also provide that if CalRecycle finds that a jurisdiction is not fulfilling one of more of its responsibilities to implement and enforce SB 1383, CalRecycle may engage in enforcement actions of its own. Those actions may include:

- Conducting more frequent inspections
- Taking over direct enforcement
- Establishing a schedule for compliance and a probationary period, requiring a work plan, requiring the jurisdiction to demonstrate it has sufficient staffing; and/or
- Seeking administrative penalties.

## 2. Stakeholders and Outreach

All residents of Sonoma County will be impacted by these changes, in both practical and financial ways. Most generators who already have (and properly use) a 3-can system will not need to change their behavior. However, all customers will see noticeable increases in trash collection service rates. Because SB 1383 requires the County, by and through its franchised haulers, to provide organic waste collection services to all customers within the unincorporated County, many residential and commercial generators who do not currently receive service will be required to subscribe. The state may approve exceptions for those parcels in sparsely populated areas (fewer than 75 people per square mile), which may apply to approximately 4,389 parcels. . After exempting these parcels, based on current service participation data there are up to 9,281 parcels that may become subject to mandatory service requirements under SB 1383. These parcels, which do not currently use a County-franchised hauler for solid waste collection services, are located in every supervisorial district, with heavier concentrations in the 5th and 1st Districts as follows:

### **District 1: 1,789 Parcels**

Agricultural: 202  
Commercial: 52  
Multi-Family: 13  
Residential: 1522

### **District 2: 1,488 Parcels**

Agricultural: 147  
Commercial: 39  
Multi-Family: 2  
Residential: 1,300

### **District 3: 182 Parcels**

Agricultural: 74  
Commercial: 32  
Multi-Family: 6  
Residential: 70

### **District 4: 1,303 Parcels**

Agricultural: 257  
Commercial: 123  
Multi-Family: 10  
Residential: 913

### **District 5: 4,519 Parcels**

Agricultural: 254  
Commercial: 133  
Multi-Family: 22  
Residential: 4,110

Some of these parcels may be eligible for “de minimus” waivers, an approval process for which is currently being developed by ZWS. For example, if an agricultural operation composts on site and any remaining organic

material they produce is less than 20 gallons per week, that business would qualify for a locally-issued waiver. Staff have inquired with CalRecycle as to whether residential parcels can be exempted from mandatory service requirements. Per CalRecycle, this is not allowed by the regulations because more than half of organic waste is generated by the residential sector.

Staff have met with the Office of Equity and are currently working with the staff of Zero Waste Sonoma and EDB to identify stakeholders and develop a community engagement plan. All commercial customers have been notified of the change in law via a mailer from Zero Waste Sonoma, though additional communications in both Spanish and English are also planned.

**3. Consequences of Inaction and Alternatives:**

This is a State-mandated program, so there are no meaningful alternatives, except as the Board may direct staff to implement the program more independently. For example, the County could elect to administer the tasks proposed to be assigned to Zero Waste Sonoma. However, this would be inefficient and the County would need to identify funding and staff resources that are otherwise available through Zero Waste Sonoma. Regardless if the work is performed by Zero Waste Sonoma or the County, funding for the effort will ultimately come from rate payers.

If the County does not take the actions required by CalRecycle's regulations within the timeframes required, CalRecycle can impose penalties up to \$10,000 per violation per day.

**4. Policy Direction:**

Staff requests the Board to provide policy direction on the scope of the mandatory service ordinance. The Board has the following options to consider:

- A. Direct staff to develop an ordinance that will require participation in organics-only service. SB 1383 only mandates provision of organics collection services (a green can). Thus, the Board has discretion to limit the scope of the mandatory service ordinance accordingly. However, because organics-only service can result in contamination (e.g. dumping of garbage and non-organic recycling into the organic waste stream), Recology must charge more for this service to account for associated sorting and handling of the material to remove non-compostable constituents.

OR

- B. Direct staff to develop an ordinance that will require participation in "universal" (3-can) service, which includes garbage and recycling services. Universal service will prevent contamination of recyclables and dumping in rural areas. And, greater participation in the system will reduce overall costs to customers.

Recology will be present at the Board Workshop to describe the relative costs of these options, which are still being developed as of the writing of this staff report.

Additional Considerations:

Whether the Board requires an organics-only service or universal service, staff recommend inclusion of exceptions to the maximum extent allowed by law. These exceptions include:

- A) Premises that are presently undeveloped, such that there is no generation of organic or solid waste on site;

- B) Premises that are inaccessible to solid waste collection trucks due to road weight limitations, steep terrain, or limited visibility;
- C) Premises owner/occupant composts all yard trimmings and food waste onsite, and otherwise agrees to deliver solid waste to permitted facility in compliance with applicable laws; and
- D) Commercial or multifamily complex lacks sufficient space to provide additional organic material recycling bins.

**Prior Board Actions:**

None

**FISCAL SUMMARY**

**Narrative Explanation of Fiscal Impacts:**

At this time, there are no known fiscal impacts, as this is an informational item only. TPW staff are actively engaged in the development of the various contracts necessary to implement SB 1383, with costs for those services to be recovered by the contracting parties, who will in turn recover them from all garbage customers. Zero Waste Sonoma is increasing its tip fee and the franchised haulers will be increasing customer rates. It is not yet clear which County department will maintain responsibility for enforcement of the required ordinance, however it is anticipated such position will be funded by Zero Waste Sonoma and have no impact on County funds. Staff will return to your board if additional enforcement resources are required or this changes.

**Narrative Explanation of Staffing Impacts (If Required):**

None

**Attachments:**

County Presentation SB 1383

**Related Items "On File" with the Clerk of the Board:**

None