



Legislation Text

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TO: Board of Supervisors
FROM: Thomas Zeleny, Interim County Counsel
REPORT BY: Thomas Zeleny, Interim County Counsel
SUBJECT: Second Reading of Ordinance for Organic Waste Recycling and Food Recovery

RECOMMENDATION

Second reading and adoption of an ordinance for Organic Waste Recycling and Food Recovery regarding Senate Bill 1383 (also known as Mandatory Organic Waste Disposal Reduction) that requires reducing greenhouse gas generation by implementing programs that divert organic wastes from landfills.

EXECUTIVE SUMMARY

On December 7, 2021, the Board of Supervisors conducted a first reading of an ordinance for Organic Waste Recycling and Food Recovery regarding Senate Bill 1383 that requires reducing greenhouse gas generation by implementing programs that divert organic wastes from landfills.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No
County Strategic Plan pillar addressed: Vibrant and Sustainable Environment

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: This Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report prepared by CalRecycle, and the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR. On a separate and independent basis, the Ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment,

specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment.

BACKGROUND AND DISCUSSION

In 2016, Governor Brown signed into law Senate Bill 1383 (Lara, Chapter 395, Statutes of 2016) (“SB 1383”), 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. SB 1383 is the State’s most aggressive waste reduction law in the last 30 years and enacts the following targets to reduce organic waste in landfills:

- A. Achieve a 50% reduction in statewide disposal of organic waste from 2014 levels by 2020 and a 75% reduction by 2025; and
- B. Recover at least 20% of currently disposed surplus food by 2025.

Landfills are the third largest producer of methane. Food scraps, green waste, paper, and wood are organic materials that account for a significant portion of California's overall waste stream that is ultimately disposed in landfills. As a result, the State’s SLCP strategy includes managing disposal of organic waste to reach the reduction targets noted above. Increasing food waste prevention, encouraging edible food rescue, and expanding the composting and in-vessel digestion of organic waste will reduce methane from landfill operations. In addition to setting specific emissions reduction goals, SB 1383 and its implementing regulations mandate that cities and counties:

- 1. Provide organic waste collection services to all residents and businesses;
- 2. Develop and adopt an enforcement mechanism or ordinance by January 2022;
- 3. Establish an edible food recovery program;
- 4. Update the County’s procurement policy to purchase recycled content paper and recycled organic waste products (e.g., compost, mulch, and renewable natural gas) at a volume of 0.08 tons/resident;
- 5. Provide outreach and education for generators, haulers, facilities, edible food recovery organizations, and municipal departments;
- 6. Plan and secure access for recycling and edible food recovery capacity;
- 7. Monitor compliance and conduct enforcement; and
- 8. Maintain accurate compliance records.

The ordinance must be adopted by January 1, 2022 to mandate that organic waste generators, haulers, facility operators, and other entities subject to the requirements of SB 1383 and its implementing regulations comply with the law. It may also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange for the maximum amount of their edible food that would otherwise be disposed, to be recovered for human consumption.

The attached Ordinance meets the requirements of SB 1383 and is drafted so the County may meet its responsibilities under AB 1383. It also provides for County delegation of some of its responsibilities to

UVWMA, for those areas of the County under UVWMA jurisdiction, with the exception of the authority to impose civil penalties, as authorized by the SB 1383 Regulations (Cal. Code. Regs., tit. 14, § 18981.2). These responsibilities may include monitoring, reporting, education and outreach, waivers, and ensuring compliance by the hauler among others.

The County will need to meet all of the requirements of SB 1383 on its own for those areas of the County outside the jurisdiction of UVWMA, including those areas surrounding the City of Napa and extending south to the border of the City of American Canyon.

The County may delegate some of its responsibilities under SB 1383 to its recycling and waste services provider franchisee, Napa County Recycling and Waste Services, also as authorized by the SB 1383 Regulations. (Cal. Code. Regs., Tit. 14, § 18981.2). Similarly, UVWMA intends to delegate many of the responsibilities under SB 1383 to its recycling and waste services provider franchisee, Upper Valley Disposal Service, and to Clover Flat Land Fill. This will ensure implementation of AB 1383 programs throughout the County, including the UVWMA jurisdiction, and relieve much of the administrative burden of implementing SB 1383, which would otherwise be borne by the County, UVWMA, or its members. The delegation of responsibilities for that portion of the County under the jurisdiction of UVWMA must be done by UVWMA because only UVWMA franchises with entities on behalf of its members.

The County is eligible for waiver of the requirements of SB 1383 for the Lake Berryessa area, due to low population. Berryessa Garbage Service currently provides recycling and waste collection services to the area but has not had adequate enough customer base to fund expansion of its services to include organics recycling collection. County staff intends to submit the required paperwork to CalRecycle in January of 2022 to obtain a waiver for the Berryessa area. CalRecycle low population waivers are valid for a five-year period.

Planning and outreach for implementation of this ordinance has been underway for about two years. UVWMA and County staff have made numerous public presentations, including to the Board of Supervisors and all the up valley cities. Education and outreach to businesses that will be required to comply with this ordinance has also been ongoing, as well as to residents who will now be able to recycle food scraps in their green waste cans. All solid waste facilities in the County, including the Napa-Vallejo Waste Management Agency, the Devlin Road Transfer Station, the City of Napa Recycling and Composting Facility, the Upper Valley Disposal and Recycling Service Recycling and Composting Facility, and the Clover Flat Landfill are already committed through existing contracts with the County to support implementation of this State-mandated ordinance. The County will require its recycling and waste service providers to replace all existing containers that do not meet the color requirements of this ordinance. In order to avoid having to dispose of containers that still have useful life, non-conforming containers must be replaced once they are no longer functional or by January 1 of 2036, whichever is sooner. (Per CCR Sec. 18984.7).

The Cities of Calistoga and American Canyon, and the Town of Yountville have already adopted their ordinances in public meetings, while the cities of Napa and St. Helena are doing the same. Though the County

collaborates on recycling programs and projects at times with The Cities of Napa and American Canyon, those communities must adopt ordinances and meet the requirements of AB 1383 independently as they apply to their community.

Board of Supervisors Action:

On December 7, 2021, the Board of Supervisors passed a motion of intent to adopt the Ordinance. The Ordinance is now before the Board for formal adoption.

Attached for reference is the final version of the Ordinance.