

What's the Rural Difference?

A lot of people ask what is so challenging for rural solid waste jurisdictions versus urban and suburban communities and it really boils down to the combination of landscape and population. ESJPA's 26 member counties contain roughly 38% of the state's total land mass. However, those counties also account for 64% of California's total national forest system lands. That's fewer than half of the state's counties with almost two-thirds of the state's national forest lands. A few of our member counties are almost completely managed by federal land managers with Inyo County having more than 90% national forest and Bureau of Land Management lands and Alpine County containing around 96% federally managed lands. These are lands that include mountainous terrain, forests, deserts, and additional challenges in winter months during years when we still are lucky enough to get significant snowpack.

In comparison, our counties are among the most sparsely populated. Most recent census numbers indicate that ESJPA counties account for only around 2.8% of California's total population. In summary, the solid waste jurisdictions in ESJPA's 26 counties cover 38% of California's land but serve only 2.8% of its residents over a whole lot of open space and challenging terrain. These characteristics also influence how our residents handle their waste, which is unique in a few ways:

- Self-haul of solid waste is common. Rural communities often have many small transfer stations where residents haul their own waste.
- "Green waste," which is included in organic waste, is skewed more toward cleared brush to comply with state defensible space requirements and mitigate for wildfire impacts than common grass or shrub clippings that you might see in more urbanized areas.
- Franchises are limited to more densely populated areas limiting options for collection in unincorporated areas.
- The number of organics facilities is very limited. With the sparse population, many areas are without local infrastructure to take organic wastes.

What are Organics?

Before we go much further, let's answer an important question: What does the law say organics *are*? A lot of people think of organic waste recycling as simply composting food waste or ensuring edible food is utilized rather than put in a landfill, but the definition of "organic waste" spans a few statutes:

- Assembly Bill 901 (Gordon, 2015): Recycling and Disposal Facility Reporting
- Assembly Bill 1826 (Chesbro, 2014): Mandatory Commercial Organics Recycling
- Senate Bill 1383 (Lara, 2016): Short-Lived Climate Pollutants

SB 1383	MORe AB 1826	AB 901
“Organics” means material originated from living organisms and their metabolic waste products including but not limited to	“Organic waste” means	“Organics” means material originated from living organisms and their metabolic waste products. This includes, but is not limited to,
• food,	• food waste ,	• food,
• green material ,	• green waste ,	• green material ,
• landscape and pruning waste	• landscape and pruning waste,	• landscape and pruning waste,
• lumber,	• nonhazardous wood waste,	• nonhazardous lumber and dimensional wood,
• wood,		
• paper products,	• food-soiled paper waste that is mixed in with food waste	• compostable paper,
• printing and writing paper,		
• manure		• manure
• biosolids		• biosolids, and
• digestate, and		• digestate,
• sludges.		• biogenic sludges;
• organic textiles and carpets,		•
		• “agricultural material” “agricultural by-product material”
		and any product manufactured or refined from these materials, including
		• compost, and
		• wood chips.

If we wanted to get further into semantics, we could also try and parse out these definitions at an even more granular level. For example, is chewing gum considered food? (Answer: It is!) Are little Bella the labradoodle’s leavings that you scoop up when you take her for a walk considered “manure?” (Answer: They are! Buy compostable doggie poo bags, please!) Ultimately, solid waste jurisdictions now have the responsibility to make sure that all of their residents and commercial businesses comply with the provisions of the various organics laws in statute.

Organic Waste Recycling and Rural Responsibility

CalRecycle estimates that California disposes of approximately 30 million tons of organic waste each year. In 2020, ESJPA’s 26 member counties disposed of just over 1.7 million tons, around 5% of California’s total organic waste stream. Because of their unique characteristics and the relatively small contributions to organic waste, rural jurisdictions may be able to delay or be exempt from some of the requirements of the organics regulations. We worked hard with CalRecycle to agree on the following limited exemptions:

- **Mandatory Commercial Organics Recycling Rural Exemption:** Counties with population less than 70,000 do not have to provide organics collection until January 1, 2027.

- SB 1383 Rural Exemption: Counties with population less than 70,000 do not have to provide organics collection until January 1, 2027.
 - These counties still need to meet procurement standards recycled content paper and edible food diversion.
- SB 1383 Low population waivers:
 - County qualifications: Unincorporated census tracts with population density of less than 50 people per square mile.
 - Cities and special districts: The jurisdiction disposed less than 5,000 tons of solid waste in 2014 as reported in the CalRecycle Disposal Reporting System and has a total population of less than 7,500 people.
- SB 1383 Elevation Waiver, AKA “Bear Waiver”: Limited to census tracts $\geq 4,500$ feet
 - Exempts from collection of food waste and food-soiled paper
 - Allows residents to maintain wildlife-safe waste receptacles

The Unique Challenges of Rural Organics Collection

ESJPA jurisdictions are committed to implementing and complying with organics recycling regulations to their best ability. Unfortunately, the unique, wonderful, and sometimes challenging rural lifestyle has brought to the fore difficult hurdles to full compliance with the state’s organics regulations in every one of our jurisdictions. As our members have journeyed through the implementation process, here are a few of the things we’ve discovered:

1. These regulations were more complicated than everyone thought!

While we had a good idea that this program would be complex and difficult to implement, we’re not sure anyone truly knew just how complicated getting all the moving parts to work together would be. The timeframe to implement was very compact—the regulations were finalized in October 2020 and became effective in 2021, leaving little time for jurisdictions to truly prepare for what was ahead.

A greater complicating factor was the lack of investment by the state. This was a 100% unfunded mandate laid at the feet of local jurisdictions. We were told that we could simply raise our franchise fees to compensate for the additional staff and resources needed to implement SB 1383 and pass those costs onto our residents, and in this economy you can probably guess how popular that has been in our rural communities. Since the regulations were finalized, we have successfully advocated for investments in local assistance in the last two state budget packages, including \$180 million this year, but we don’t feel we should have had to fight for the state to invest in such an important program.

The program also lacks some important baselines, particularly for edible food procurement. Jurisdictions are required to recover 20% of their edible food but there are no established baselines to guide them on what that number truly means.

Finally, without local facilities to receive organic materials, we're finding that compliance is just raising VMT to move the materials to a proper location. We are aware that the state knows the infrastructure insufficient, but until we have it in place we're just putting more heavy duty vehicles on the road to move it to out-of-area facilities.

2. The goalposts keep moving.

Unlike MORE, SB 1383 has no good faith effort provisions. In other words, it doesn't matter if a jurisdiction is making every effort to comply and enforce compliance among their commercial and residential customers. Results are what matter. What we are now seeing is an effort by CalRecycle to enforce this 100% compliance retroactively on MORE as well, regardless of what's in statute. Jurisdictions have experienced other interpretive changes throughout implementation of SB 1383 that don't meet the letter of the regulations.

The most controversial interpretation, and one on which we still do not have complete clarity, is the ability to allow residents to haul their own waste. Mandatory curbside collection is simply not desirable or even feasible in some areas of many ESJPA counties. Homes are built on gravel or dirt roads with no access to waste collection vehicles, particularly during the snowiest parts of winter. We have been working with CalRecycle for months to get clarity on this issue but still have no definitive answer to whether self-haul is permissible.

3. Procurement requirements are infeasible for most rural communities.

The SB 1383 regulations require jurisdictions to "procure" a certain amount of recovered organic waste products each year, with the amount varying by county based on population. These recycled organics products can be in the form of compost, mulch, or other byproducts used for biofuels or bioenergy and have the altruistic purpose of creating green jobs and driving infrastructure investments to create these products. The unforeseen circumstance is that the demand for these products along with the interest to invest in infrastructure in rural communities is simply not commensurate with the targets that have been set for rural jurisdictions.

For example, Nevada County has a population of 101,242 and is required annually to procure 5,000 tons of recovered organic waste products, or around 20,000 cubic yards. If you're a football fan, you can think of that in terms of covering an entire football field with mulch up to the crossbars of the goalposts, which are 10 feet from the ground. In other words, it's a lot of mulch! It's especially a lot of mulch if you need to find people to take it off your hands and put it to use in a county where 30% of the acreage is national forest land.

And while we would love to see this program result in the increased use of biofuels and bioenergy, California's current open rulemaking to transition commercial vehicles to zero-emission engines simply does not, thus far, contain a path to utilizing biofuels procured from organic wastes. We're engaged in that rulemaking process and hoping to see that change, especially since it is a mandate in SB 1383. Similarly, bioenergy facilities that use organics such as woody biomass still face broad political challenges and are not cost-effective in the

near term. Most rural communities don't have a biomass-to-energy facility in close enough proximity to be cost effective or feasible.

4. The waivers need refinement to capture more communities.

In rural counties, census tracts can often include large, unserviceable areas along with more densely populated communities. As you can see in the Nevada County map, census tract 701 is around 20 miles long with limited vehicle access for curbside collection. We proposed breaking census tracts down into smaller block groups to account for areas like this, and we still believe it would be an appropriate way to grant waivers for those areas with low population density.

Similarly, we suggested the elevation waiver be examined more closely since bears are very common at elevations lower than 4,500 feet. Without this exemption, residents could be expected to invest in extremely expensive bear-proof receptacles or risk endangering their safety. There is also the risk of creating an environment that unnecessarily results in the deaths of bears and other wildlife as they become nuisance animals.

Finally, we would suggest an emergency waiver for areas that lose electricity for multiple days at a time due to public-safety power shut-offs (PSPS) and enhanced powerline safety settings. High wildfire risk areas, particularly those serviced by Pacific Gas & Electric, are subject to multiple PSPS and EPSS events each year during wildfire season. These events lead to spikes in the amount of residential organics due to spoiled food. Jurisdictions serving these communities need consideration for the increased organics generated during these events.

Solutions for Rural California

Now that we've told you who we are, what we contribute, and what our biggest challenges are, we do have some suggestions to alleviate some of the burdens on our small jurisdictions:

1. A pause for all

There would be much benefit to simply pausing the program to get everyone on the same page. Again, we are committed to making the SB 1383 program work, but we strongly believe that, in its current form, it will not reach its intended goals. There are significant issues with the interpretation of the requirements, and we need clarification before jurisdictions expend more time, effort and resources.

2. Make the rural exemption permanent

Rural jurisdictions contribute such a small percentage of the total organic waste stream that a permanent exemption would be appropriate, particularly since local organic waste infrastructure is insufficient to meet CalRecycle's requirements.

3. Recognize good faith effort

Jurisdictions that extend maximum effort to comply with SB 1383 should be recognized, particularly since requiring 100% compliance from businesses and residents is a near-impossible ask. Allowing for good faith effort acknowledges that jurisdictions can meet their responsibilities under SB 1383 while also recognizing that they do not have complete control over their residents.