

SB 1383 Edible Food Recovery Information

What is edible food? Edible food is food intended for people to eat, including food not sold because of appearance, age, freshness, grade, surplus, etc. Edible food includes, but is not limited to, prepared foods, packaged foods and produce. All edible food must meet the food safety requirements of the [California Retail Food Code \(PDF\)](#).

Information for Edible Food Generators

[SB 1383](#) (Lara, Chapter 395, Statutes of 2016) requires certain businesses that are defined as either a “Tier 1” or “Tier 2” edible food generator to [recover edible food](#). See the table below for a description of the types of businesses that fall under the Tier 1 and Tier 2 categories and when they are required to start recovering edible food.

Tier 1 Edible Food Generators

These entities are required to recover the maximum amount of edible food (that would otherwise be disposed of) starting January 1, 2022

- **Grocery store** – a store that is 10,000 square feet or more in size that is 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.
- **Supermarket** - a full-line, self-service retail store with gross annual sales \$2,000,000 or more that sells a line of dry grocery, canned goods, or nonfood items and some perishable items
- **Food service provider** - 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
- **Food distributor** - a company that distributes food to entities including, but not limited to, supermarkets and grocery stores
- **Wholesale food vendor** - a business engaged in the wholesale distribution of food, where food is received, shipped, stored, or prepared for distribution to a retailer, warehouse, distributor, or other destination

Tier 2 Edible Food Generators

These entities are required to recover the maximum amount of edible food (that would otherwise be disposed of) starting January 1, 2024

- **Restaurant** with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet
- **Hotel** with an on-site food facility and 200 or more rooms
- **Health facility with an on-site food facility** and 100 or more beds
- **Large venue** - 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. 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. 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

- **Large event** - 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 is 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
- **A state agency with a cafeteria** with 250 or more seats or a total cafeteria facility size equal to or greater than 5,000 square feet
- **A local education agency with an on-site food facility**

SB 1383 [requires](#) Tier 1 and Tier 2 edible food generators to do the following:

- **Recover excess edible food.** SB 1383 does not require all excess edible food to be donated. It does however, state the following for Tier 1 and Tier 2 edible food generators:
 - Tier 1 and Tier 2 edible food generators shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or service.
 - Edible food generators are allowed to give away excess food to employees, take it home for personal use, give it away to customers, etc.
 - Edible food generators must recover (for human consumption) the maximum amount of edible food that would otherwise be disposed of. This can be accomplished by *donating or paying for the food* to be recovered by a food recovery organization or service, which includes, but is not limited to food banks, food pantries, soup kitchens, for-profit food recovery services and other non-profits that distribute food to people in need.
 - A large venue or large event operator that does not provide food services, but allows for food to be provided, shall require food facilities operating at the large venue or large event to comply with the SB 1383 edible food recovery requirements.
- **Establish contracts or written agreements.** Tier 1 and Tier 2 generators must establish contracts or written agreements with food recovery organizations and services. Food recovery organizations and services vary in the amount and types of food they can receive, so edible food generators may need to establish contracts or written agreements with multiple food recovery organizations and services to be in compliance. CalRecycle has developed a [Model Food Recovery Agreement](#) that can be used as an example. These contracts can include the establishment of a regular edible food delivery or collection schedule, identifying allowable edible foods for recovery, and cost-sharing options.

- **Maintain Recordkeeping.** Tier 1 and Tier 2 edible food generators must maintain records of their food recovery activities. This recordkeeping includes the following:
 - A list of each food recovery service or organization that collects or receives its edible food under a contract or written agreement
 - A copy of contracts or written agreements between the edible food generator and a food recovery service or organization
 - For each food recovery organization or service that the Tier 1 and Tier 2 edible food generators has a contract or written agreement with, records must be kept of:
 - The name, address and contact information of the service or organization
 - The types of food that will be collected by or self-hauled to the service organization
 - The established frequency that food will be collected or self-hauled
 - The quantity of food collected or self-hauled to a service or organization for food recovery. The quantity shall be measured in pounds recovered per month

Jurisdictions are required to monitor compliance by performing annual inspections to review the following records:

- Contract or written agreement information for food recovery organizations and services
- Schedules for food recovery deliveries or collections
- Quantity of food recovered in pounds per month
- Types of food each food recovery organization will receive or collect

More information for Tier 1 and Tier 2 edible food generators is available on CalRecycle's website: <https://www.calrecycle.ca.gov/organics/slcp/foodrecovery/donors>

Information for Food Recovery Organizations and Food Recovery Services

SB 1383 requires Tier 1 and Tier 2 edible food generators to recover (for human consumption) the maximum amount of their edible food that would otherwise be disposed, but it does not require food recovery organizations and services to participate. Each food recovery organization and service can decide if they would like to work with edible food generators and what, if any, food they will take.

Food Recovery Organization vs. Food Recovery Service

The SB 1383 regulations make a distinction between a *Food Recovery Organization* and a *Food Recovery Service*. These definitions are important because the [requirements for these entities](#) are slightly different under the regulations.

Food recovery organization: *an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities including, but not limited to, a food bank, a nonprofit charitable organization, or a non-profit charitable temporary food facility.*

Food recovery service: *a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery.*

If a food recovery organization or service does decide to participate in SB 1383 by working with a Tier 1 or Tier 2 edible food generator, they will need to do the following:

- **Contracts or written agreements.** Tier 1 and Tier 2 edible food generators are required to have written agreements or contracts with food recovery organizations or services. CalRecycle has developed a [Model Food Recovery Agreement](#) that can be used as an example. The contracts or written agreements can include:
 - Establishing a regular food recovery delivery or collection schedule
 - Identifying allowable foods for recovery
 - Cost-sharing options (food recovery organizations and services do not need to accept recovered food for free, they can decide to charge for their collection/recovery services)
- **Recordkeeping.** Food recovery organizations or services that have a contract or written agreement to collect or receive edible food directly from Tier 1 or Tier 2 edible food generators are required to keep records.

Recordkeeping requirements for Food Recovery Organizations

- The name, address, and contact information for each Tier 1 or Tier 2 edible food generator that the organization receives edible food from
- The quantity in pounds of edible food received from each Tier 1 or Tier 2 edible food generator per month
- The name, address, and contact information for each food recovery service that the organization receives edible food from for food recovery

Recordkeeping requirements for Food Recovery Services

- The name, address, and contact information for each Tier 1 or Tier 2 edible food generator that the service collects edible food from
- The quantity in pounds of edible food collected from each Tier 1 or Tier 2 edible food generator per month
- The quantity in pounds of edible food transported to each food recovery organization per month
- The name, address, and contact information for each food recovery organization that the service transports edible food to for food recovery
- **Reporting.** Food recovery organizations and services must report the total pounds recovered from Tier 1 and Tier 2 edible food generators in the previous calendar year to the jurisdiction where their primary address is physically located. The jurisdiction will in turn report to CalRecycle the pounds collected to measure statewide progress toward achieving 20 percent edible food recovery goal.

Please visit CalRecycle's *Food Recovery in California* webpage for more information:
<https://www.calrecycle.ca.gov/Organics/SLCP/FoodRecovery>