

Update on Senate Bill 1383 Regulation

As directed by Senate Bill 1383 (SB 1383, 2016), CalRecycle developed a regulation to reduce the statewide level of organic waste disposed in landfills 50 percent by the year 2020 and 75 percent the year 2025 and to recover 20 percent of edible food disposed in landfills for human consumption by the year 2025.

CalRecycle adopted the SB 1383 regulation on January 21, 2020 and submitted the rulemaking package to the Office of Administrative Law (OAL). The OAL reviewed the rulemaking package to determine if CalRecycle followed the formal rulemaking procedure required by State Government Code. After its review, the OAL issued a Decision of Disapproval (Decision) on March 11, 2020.

The Decision states that many provisions in the regulation do not meet the "clarity standard" in the State Government Code, meaning that they are not written or displayed so that the meaning will be easily understood by those persons directly affected by them. The Decision lists specific provisions in the regulation that must be revised to meet clarity standards. These provisions pertain to numerous aspects of the regulation, including definitions, organic waste collection systems, waivers, enforcement, and monetary penalties. The OAL believes that due to the lack of clarity in these provisions, local jurisdictions, waste haulers, residents, and businesses would not be able to understand how to comply with the requirements unless the regulation is revised.

The Decision says that the regulation includes various sections that provide a summary overview to explain the contents or necessity of certain articles of the regulation. According to the OAL, the "necessity standard" in State Government Code requires that the reason for each provision of the regulation should be included in the Initial Statement of Reasons and not the regulatory text itself, and that these sections must be removed. The Decision states that CalRecycle did not identify and make available all studies and reports upon which it relied in developing the regulation, in accordance with State Government Code, and directs CalRecycle to do so before the regulation can be approved by the OAL. It also states that CalRecycle must include the specific State statutes authorizing the adoption of the regulation for each section. In addition, the Decision says that CalRecycle is required to provide an Informative Digest that is updated with each revised draft of the regulation.

CalRecycle must update the regulation and re-submit the formal rulemaking package to the OAL by July 9, 2020. Within that timeframe, CalRecycle must release the revised text of the regulation for a 15-day public comment period.

SB 1383 requires CalRecycle and the California Air Resources Board to analyze the progress that the waste sector, state government, and local governments have made in achieving the organic waste landfill disposal reduction targets no later than July 1, 2020. The first SB 1383 Progress Analysis public workshop was originally scheduled for April 20, 2020 at the CalEPA Headquarters Building in Sacramento, California. CalRecycle is

rescheduling the workshop due to the COVID-19 public health emergency. CalRecycle has not yet announced the new date and time for the workshop.

Should have you have any questions, please contact Mr. Mike Mohajer, a member of the Task Force, at MikeMohajer@yahoo.com or at (909) 592-1147.



Caption: California Office of Administrative Law