

Senate Bill 1383 Organic Waste Regulations Update

In September 2016, Governor Brown signed into law Senate Bill 1383 (SB 1383) which establishes targets to achieve a 50% reduction of the statewide landfill disposal of organic waste from the 2014 level by 2020 and 75% reduction by 2025.

The law also establishes an additional target that not less than 20% of currently disposed edible food is recovered for human consumption by 2025. SB 1383 grants the California Department of Resources Recycling and Recovery (CalRecycle) the authority to develop regulations to achieve the organic waste landfill disposal reduction targets. SB 1383 regulations were approved by the California State Office of Administrative Law in November 2020. The regulations will become effective on January 1, 2022, at which time local jurisdictions must implement the following regulatory requirements:

- Provide mandatory organic waste collection for residents and businesses.
- Develop edible food recovery programs for large food-generating businesses.
- Secure organic waste recycling infrastructure capacity.
- Procure recycled organic waste products.
- Develop ordinances to enforce the requirements with mandatory minimum penalties.

Jurisdictions that do not implement the regulatory requirements will be subject to facing penalties of up to \$10,000 per day issued by the State.

SB 1383 requires CalRecycle, in consultation with the California Air Resources Board (CARB), to analyze the progress that the waste sector, state government and local governments have made in meeting the organic waste reduction targets for 2020 and 2025. The progress report was due on July 1, 2020 but was delayed because of the COVID-19 pandemic. The report, "Analysis of the Progress Toward the SB 1383 Organic Waste Reduction Goals" was released for public review and comment in August 2020.

SB 1383 allowed CalRecycle to include incentives or additional requirements in the regulations to achieve the targets or to recommend revisions to the targets to the California State Legislature if they determined that significant progress has not been made. The Report did not recommend changes to the SB 1383 goals or implementing timelines to the State Legislature.

CalRecycle conducted a workshop on August 25, 2020, to present the Report's findings and recommendations and receive public comments from stakeholders. In December 2020, CalRecycle released an updated report which includes an addendum with public comments from dozens of stakeholders, including local jurisdictions, expressing concerns about the feasibility of complying with the regulations by January 1, 2022. The concerns include the lack of progress in the development of organics infrastructure, inadequate commitment of State funding, CalRecycle's delay in finalizing the regulations, lack of market development for recycled organic waste products beyond mandates on

local jurisdictions and the severe economic, social and fiscal impacts of the COVID-19 pandemic. Some stakeholders commented that the regulations and the Report do not adequately support the use of anaerobic digestion, biomass conversion or non-combustion thermal conversion technologies in reducing landfill disposal of organic waste. Stakeholders commented on the law stating that regulations must come into effect "on or after January 1, 2022." They said CalRecycle should delay the implementation timeline due to these concerns and the lack of progress toward meeting the 2020 target.

CalRecycle also released the "SB 1383 Compliance Process" in August 2020. The Process states that CalRecycle may allow jurisdictions up to an additional three years to come into compliance before penalties are issued. Only jurisdictions making a "substantial effort" to comply, including providing adequate staff and sufficient funding and adopting ordinances will be eligible for compliance extensions. Many jurisdictions may not be able to comply due to the impacts of the COVID-19 pandemic.

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