



October 16, 2020

Tracie Onstad Bills, Executive Director  
California Resource Recovery Association  
915 L Street, Suite C-216  
Sacramento, CA 95814

Dear Ms. Bills,

Thank you for your letter requesting SB 1383 (Lara, Chapter 395, Statutes of 2016) relief in response to the COVID-19 pandemic. CalRecycle remains committed to safeguarding public health, safety, and the environment during the COVID-19 pandemic. CalRecycle will continue to work with local governments, waste haulers, and others during this unprecedented time.

Per your letter, I have provided responses to each of your requests below:

- **Amend the implementation timeline to reflect the reduced capacity of local jurisdictions and the fact that regulations have not yet been adopted. Delaying the first two reporting deadlines, and subsequent formal review, would allow jurisdictions to focus limited resources on implementing programs.**

SB 1383 required CalRecycle to adopt regulations to achieve the organic waste reduction goals for 2020 and 2025. Per statute, the regulations are required to take effect on or after January 1, 2022. CalRecycle is in the final stages of completing the regulations and anticipates formal approval this Fall. This would provide jurisdictions more than one year to prepare prior to the effective date of January 1, 2022.

CalRecycle is unable to delay the effective date of the regulations without conflicting with the statutorily mandated goal of 75 percent organic waste diversion. CalRecycle is also unable to delay the reporting deadlines without changing the regulations. A substantial regulatory delay would shorten the implementation timeline, thus delaying achievement of the targets established by the Legislature and the state's climate goals.

CalRecycle acknowledges the budgetary and resource difficulties jurisdictions face because of COVID-19. While CalRecycle does not intend to revise the regulations to delay the first two reporting deadlines, CalRecycle is committed to provide technical assistance and any other guidance, as needed, to help overcome this barrier, including reporting guidance.

While CalRecycle does have authority to impose penalties on jurisdictions starting January 1, 2022, it is important to note that the enforcement structure under the SB 1383 regulations does allow CalRecycle to focus on compliance assistance first and reserve enforcement discretion for egregious offenders.

The regulatory enforcement process, should CalRecycle exercise its enforcement discretion in that manner, allows for extended timelines and under certain circumstances can give jurisdictions up to three years to come into compliance before penalties are issued. CalRecycle has released guidance on the compliance process (<https://www2.calrecycle.ca.gov/Docs/Web/117837>).

- **Support statewide funding for increased organics recycling infrastructure and local implementation efforts. The state has a crucial role to play in supporting the development of regional infrastructure to process organic waste. We would encourage far greater investment through the California Climate Investments, additional tax incentives, and any economic stimulus proposed by the state and federal governments. A number of legislative funding efforts were proposed this year; however, they were delayed due to COVID-19. CalRecycle support for these and other types of funding would not only reduce local government compliance costs but would serve as a stimulus and source of green jobs in the middle of a historic recession.**

In our SB 1383 progress report, published on August 18, 2020, CalRecycle highlights the importance of continued and expanded investment of in-state organics processing infrastructure.

California has awarded nearly \$140 million in grants to organics recycling and recovery projects, in the form of grants and loans to encourage infrastructure development. These investments are largely funded through California Climate Investments using Cap-and-Trade auction proceeds. Additional state agencies, such as the California Energy Commission and the California State Treasurer's Office, provide funding and incentives for organics processing infrastructure.

Current economic conditions provide limited certainty about the amount of Cap-and-Trade proceeds that will be generated in the upcoming auctions. CalRecycle recognizes that achieving the goals of SB 1383 will require continued and expanded investments from the public sector (including federal, state, and local government funding) as well as the private sector.

CalRecycle will be hosting two informational funding webinars in early 2021 to highlight existing private and public funding resources to help support recycling and composting projects. CalRecycle agrees that as California looks toward economic recovery after the fallout of COVID-19, continued and expanded investment in developing organics recycling collection and infrastructure can provide opportunities to create reliable, in-state jobs while also supporting our climate goals.

- **Streamline unnecessary permitting hurdles. Section 43032 of the Public Resources Code directs the Department to “*develop a policy that promotes the development of coordinated permitting and regulation of composting facilities while protecting the environment.*” While some progress has been made by the Department to further study the air impacts of composting facilities, we are not aware of any attempts to coordinate permitting.**

As required by AB 1045 (Irwin, Chapter 596, Statutes of 2015), the California Environmental Protection Agency (CalEPA) in collaboration with CalRecycle, the State and Regional Water Boards, the California Air Resources Board, local air districts, and the California Department of Food and Agriculture (CDFA), have worked to develop recommendations for promoting organic waste processing and recycling infrastructure statewide to increase the diversion of organic wastes from landfills.

CalEPA has recommended these agencies continue to address technical barriers to constructing and permitting compost facilities in California. Since statewide laws and planning requirements set minimum pollution control standards that apply to organic materials management infrastructure, and local and regional authorities establish the rules and enforce the laws, technical and complex processes are required to develop solutions that achieve both air quality and recycling goals.

CalRecycle continues to work with these agencies as co-regulators of organic material handling facilities. Specifically, CalRecycle is working directly with CARB, the California Air Pollution Control Officers Association (CAPCOA), and local air districts via a commercial compost work group to identify ways to address air permitting issues that sometimes impede compost facility development.

As part of that effort, CalRecycle is funding a research contract that will result in best management practices at compost facilities that reduce volatile organic compound emissions. CalRecycle has begun efforts to document best management practices observed at active facilities that could be used by project proponents, local governments, impacted communities, and others.

CalRecycle is also a member, along with CalEPA, of a work group organized by CDFA and the U.S. Environmental Protection Agency focused on removing or reducing barriers to on-farm composting projects.

- **Provide additional education and outreach to affected jurisdictions. We have appreciated the Department’s willingness to engage with our organization’s annual conference and through our Technical Councils to understand the scope of the regulations. We believe California’s jurisdictions and businesses would also benefit from more outreach and implementation support from the Department, including public outreach materials that would provide consistent messaging throughout the state. We would look forward to working with you to make that happen.**

We agree that jurisdictions and businesses will benefit from more outreach, and we look forward to collaborating with you on effective outreach strategies. In the meantime, CalRecycle is in the planning and research phase of its \$15.9 million, three-year statewide education campaign that will utilize community-based social marketing to educate the public about the importance of waste reduction, recycling, and composting. As part of the campaign, tools and training on the education strategies utilized will be provided to local jurisdictions.

Additionally, for organic waste management, CalRecycle has recently developed model signage to support local jurisdictions, industry, and regulated businesses. The new signage is available in multiple languages for three-container systems (gray/blue/green), two-container systems (gray/blue and gray/green), and single container systems (gray).

CalRecycle has also developed flyers and brochures in multiple languages to assist businesses and schools with compliance. The model signage, and the flyers and brochures, can be found on CalRecycle's website here:

<https://www.calrecycle.ca.gov/Recycle/Commercial/Organics/PRToolkit/>

CalRecycle will continue to publish resources to provide jurisdictions with education and outreach tools on this webpage: <https://calrecycle.ca.gov/organics/slcp/education>.

CalRecycle remains committed to providing guidance to support implementation of SB 1383 and respond to the various needs of local governments and regulated entities.

- **Complete sample ordinances and other regulatory tools currently in development as soon as possible to give local government's better direction on how to roll out these programs ahead of the regulatory deadlines.**

In response to input from stakeholders, CalRecycle has released the model franchise agreement, model enforcement ordinance, model procurement policy, and model edible food recovery agreement. They can be accessed here:

<https://calrecycle.ca.gov/organics/slcp/education>.

Until the regulations are approved, the model tools will be considered draft policies. CalRecycle, in coordination with HF&H, intends to host a statewide webinar regarding the tools in the future.

- **Offer additional tools for compliance with procurement requirements in the bill. The proposed regulations include aggressive procurement requirements to stimulate market demand. The Department should more explicitly identify additional cost-effective opportunities for jurisdictions to comply with these requirements. For instance, funding the implementation of a carbon farm plan that relies on compost application could be among the most effective ways to achieve these targets while simultaneously**

**supporting the state's Healthy Soils efforts. We recommend that the Department explicitly identify opportunities like this in its outreach efforts.**

We understand cost-effective opportunities are especially important right now and appreciate the example above. We will consider incorporating it in future grant and loan cycles and are open to discussing other tools and outreach that will help stakeholders successfully implement SB 1383 requirements. As mentioned above, CalRecycle contracted with HF&H to produce tools, model ordinances, and guidance on all aspects of SB 1383, including procurement. CalRecycle is also actively developing additional outreach materials and guidance documents, including a customizable procurement calculator, Frequently Asked Questions, and links to a variety of resources outlining opportunities for jurisdictions to comply with the procurement requirements.

Additionally, CalRecycle continues to assist CDFA in its implementation of the Healthy Soils Program. CDFA recently selected 20 Healthy Soils Program (HSP) Demonstration Projects to receive a total of approximately \$2.97 million in grant funding. The demonstration projects will improve soil health, sequester carbon, and reduce atmospheric greenhouse gases (GHGs). The on-farm demonstration projects will provide data and showcase conservation management practices to mitigate GHG emissions, increase soil health, and help promote widespread adoption of conservation management practices throughout the state. For more information on the projects, please visit: <https://www.cdfa.ca.gov/oefi/healthysoils/DemonstrationProjects.html>

- **The state needs to do its part to procure finished compost. Through CalTrans, DGS, State Parks, the State Lands Commission, and CalFire, the State could procure compost at a rate comparable to that which is being required of local governments under the proposed regulations. Additionally, AB 2411 has given the Department additional tools to increase the use of compost and mulch.**

CalRecycle has been collaborating with the Department of General Services (DGS) to identify additional opportunities for expanding procurement of a variety of products, including finished compost. Additionally, AB 2675 (Lowenthal, Chapter 617, Statutes of 2014) increased the State Agency Buy Recycling Campaign's (SABRC) procurement requirement to 75 percent on January 1, 2020. This affected most product categories, such as paper products, compost, and mulch. CalRecycle has been working with state agencies regarding the increased procurement requirements.

Additionally, CalRecycle adopted its AB 2411 (McCarty, Chapter 238, Statutes of 2018) implementation plan in December 2019 and is continuing efforts to increase procurement of compost by state agencies. Notably, CalRecycle recently conducted two workshops for more than 1,000 CalTrans employees focused on increased procurement and utilization of compost.

Moving forward, CalRecycle wants to assure jurisdictions that evaluation of their compliance with waste diversion and recycling requirement will include consideration of

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the myriad of impacts resulting from COVID-19. We urge you and your members to prioritize the health and safety of your staff and the public. CalRecycle remains committed to working with you to provide assistance and guidance during this challenging time.

We look forward to collaborating with CRRA and would like to offer up a phone call to further discuss opportunities for partnership.

Sincerely,

Ken DaRosa  
Acting Director, CalRecycle