



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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Date: January 10, 2017
To: Elected Officials and Recycling Coordinators
From: Scott Smithline, Director
Subject: Reviews of Jurisdiction Mandatory Commercial Recycling and Commercial Organics Recycling Programs

This memo outlines how the Department of Resources Recycling and Recovery (CalRecycle) will exercise its existing statutory authority to formally review jurisdictions' mandatory commercial recycling and mandatory commercial organics recycling programs more frequently as needed. Specifically, CalRecycle will initiate a review and may refer a jurisdiction to enforcement **at any time** that CalRecycle receives information that a jurisdiction has not implemented, or is not making a good faith effort to implement, its required programs.

In establishing the requirements for jurisdictions to implement mandatory commercial recycling programs through AB 341 (Chesbro, Chapter 476, Statutes of 2011) and mandatory commercial organics recycling programs through AB 1826 (Chesbro, Chapter 727, Statutes of 2014)¹, the Legislature and Governor also set ambitious goals to increase recycling and reduce statewide solid waste disposal. In particular, AB 341 established a goal to source reduce, recycle or compost 75 percent of waste by 2020. Additionally, AB 1826 set a goal to reduce organics disposal by 50 percent by 2020.

AB 341 and AB 1826 require each jurisdiction to implement commercial recycling and commercial organics recycling programs designed to divert waste generated by regulated businesses. Jurisdictions' programs must, among other requirements, include "*education of, outreach to, and monitoring of, businesses,*" within their jurisdiction.

In spite of these goals and requirements, statewide disposal has increased every year since 2012. As a result, it is imperative that CalRecycle fully exercise its authority to ensure that jurisdictions' specified disposal reduction and recycling programs are in compliance with state law. In order to ensure that mandated statewide goals are met, AB 341 and AB 1826 specifically authorize CalRecycle to conduct reviews of jurisdictions' mandatory commercial recycling programs and mandatory commercial

¹ Per PRC 42649.82. Select rural jurisdictions that submitted a resolution to CalRecycle are exempt from the requirements of AB 1826. In 2020, if the statewide disposal of organic waste has not been reduced by 50 percent the exemptions will be repealed.



organics recycling programs at any time². This means that a jurisdiction may be formally reviewed at any time outside of and in addition to the regular review cycle.

Conducting reviews at any time allows CalRecycle and the jurisdiction to address program gaps early in the process so disposal reductions and mandated programmatic requirements can be achieved. CalRecycle will continue to provide jurisdictions with assistance, informal feedback and appropriate time to address gaps in programs.

However, if after extensive staff communication with the jurisdiction, the gaps are not addressed and a jurisdiction has not implemented, or is not making a good faith effort to implement, either program, CalRecycle will initiate a formal public review sooner rather than waiting until the end of the regular 4-year review cycle.

Specifically, the following will occur:

- Staff will inform the jurisdiction that a formal Letter of Concern from CalRecycle to the jurisdiction is coming. Once the Letter is received, the jurisdiction will have 30 days to respond.
- After CalRecycle receives the jurisdiction's response to the Letter, or lack thereof, an agenda item for approval by CalRecycle's Director will be presented at a CalRecycle monthly public meeting. The agenda item will indicate one of three potential staff recommendations:
 - The jurisdiction failed to respond and staff recommends that the jurisdiction be referred to CalRecycle's enforcement unit for consideration of a compliance order; or
 - The jurisdiction's response to the Letter is inadequate and staff recommends that the jurisdiction be referred to the enforcement unit for consideration of a compliance order; or
 - The jurisdiction's response to the Letter is adequate and staff recommend that the program be assessed again in 12 months. However, if the same gaps still persist within the next year, an agenda item that refers the jurisdiction to the enforcement unit for consideration of a compliance order will be presented at CalRecycle's next monthly public meeting.

In summary, CalRecycle plans to execute its existing authority to review compliance at any time in a formal public setting. CalRecycle's Local Assistance staff will continue to provide jurisdictions with tools/examples to implement your required education, outreach, and monitoring activities. In addition, CalRecycle will be soliciting ideas on what more the Department can do to assist local jurisdictions at SB 1383 workshops scheduled for February 2017.

Please contact/email your CalRecycle Local Assistance liaison for any questions that you have about this process or your program implementation.

Sincerely,



Scott Smithline
Director

² Public Resources Codes 42649.3(h) and 42649.82(g)(2))