



DATE: November 20, 2019
TO: Alameda County Waste Management Authority Board
FROM: Kelly Schoonmaker, Program Manager
SUBJECT: SB 1383 Short Lived Climate Pollutant Strategy: Update

SUMMARY

At the October 11, 2018 committee meetings and February 27, 2019 WMA meeting, staff presented an overview of SB 1383, The Short-Lived Climate Pollutant Strategy, which directs CalRecycle to divert 75% of organics from landfill and recover 20% of edible food for human consumption by 2025. At the time of this writing, CalRecycle is anticipating the release of the final regulations in January, 2020. SB 1383 regulations will be implemented and enforced largely by local jurisdictions, and will affect waste haulers, composters, food recovery organizations, and all organics generators, including single-family and multi-family residential. Staff will provide a brief background on the regulations, an update on the rulemaking process, StopWaste’s activities related to the regulations, and an overview of the implications for StopWaste and member agencies.

DISCUSSION

As presented at previous meetings, the regulations contain many requirements for local jurisdictions, including:

- Planning
- Enforcement
- Monitoring
- Education
- Documentation
- Procurement
- Reporting

At the end of September 2019, the state released the third draft regulatory package for public comment, with few changes from the previous draft. While StopWaste supports the intent of the regulations, we have significant concerns about implementation, specifically the highly prescriptive nature of the regulations and the many requirements for cities.

StopWaste submitted a comment letter to CalRecycle outlining our primary concerns, along with more comprehensive and detailed comments. Member agencies also submitted comments and letters in support of our comments. Below is a summary of our main criticisms of the regulations:

- **Proposed enforcement timelines are too short.** The proposed regulations require that non-compliant generators be re-inspected within 90 days until compliance is achieved.

StopWaste currently has a total of 20,000 covered commercial accounts and conducts 6,000 inspections per year, finding about 3,000 violations per year. Re-inspecting non-compliant accounts within 90 days would require shifting resources to focus on the smaller subset of non-compliant accounts, dramatically reducing the number of accounts inspected.

- **Edible food recovery requirements do not incentivize food waste prevention:** Staff made this comment on previous drafts and at public hearings. Because the biggest greenhouse gas reduction benefit is achieved through the prevention of surplus edible food, we have recommended incorporating incentives for preventing food waste upstream, such as de minimis waivers for participation in edible food recovery.
- **Procurement requirements are unrealistic and may do more harm than good to existing markets.** Staff have several concerns about procurement requirements: the concept of forcing a city to annually procure a minimum amount of any product, the unintended consequences of driving up prices for quality compost and creating artificial demand for poor quality compost, and a flawed methodology that not only bases the target on amount of organics disposed in landfill, but also uses a statewide per capita average to do so, which inflates the target for cities with existing organics diversion programs.
- **Penalties:** As written, this section leaves the determination of the violation level and the amount of the penalty to the discretion of CalRecycle Local Assistance Staff, potentially resulting in inconsistent and unfair enforcement. For example, with AB 341 and AB 1826, member agencies have experienced unclear and inconsistent application of requirements by different Local Assistance Staff members, including those who shared the same supervisor.

As the release of the final regulatory package draws nearer, StopWaste has begun to shift from advocacy on rulemaking to working with member agencies on implementation strategies. Staff will continue communication and collaboration with CalRecycle informally and formally through participation in stakeholder groups, such as the Procurement and Enforcement Resource Group.

RECOMMENDATION

This item is for information only.

LINKS

Draft Regulatory Text (updated link): <https://www2.calrecycle.ca.gov/Docs/Web/115719>