

August 1, 2023

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Via email: oalelectronicssubmissions@oal.ca.gov

Explanatory Statement for Changes Without Regulatory Effect: Title 14, California Code of Regulations, Sections, 2000, 2095, and 2130:

The Department of Resources Recycling and Recovery (CalRecycle) requests that the Office of Administrative Law (OAL) approve the enclosed changes without regulatory effect pursuant to California Code of Regulations (CCR), title 1, section 100. The proposed regulatory changes are appropriate under section 100 because, as described below, they are required for existing regulations to be consistent with changes to the statute that the regulation implements.

As required by section 100, CalRecycle has no discretion to adopt changes that differ in substance from the ones proposed. These proposed amendments are nonsubstantive and can be considered “changes without regulatory effect” as they do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Statutory Changes Necessitating Changes Without Regulatory Effect

On July 28, 2009, Governor Arnold Schwarzenegger signed Sen. Bill No. 63 (SB 63) into law. SB 63, Chapter 21 of the Statutes 2009 severed the Division of Recycling from the Department of Conservation and merged it with the abolished Integrated Waste Management Board into the Department of Resources Recycling and Recovery. The Department of Resources Recycling and Recovery’s Division of Recycling succeeded to and is vested with all the authority, duties, powers, purposes, responsibilities, and jurisdiction in the performance of a function carrying out Division 12.1 of the Public Resources Code. Pub. Res. Code Sec. 40401(a)(2). The regulations CalRecycle proposes to change without regulatory effect implement, clarify, or make specific

provisions of Division 12.1, commencing with section 14500 of the Public Resources Code.

These changes are without regulatory effect because they are superseded by the change in law under which they were promulgated and they do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Explanation of Changes

1. 14 CCR section 2000(a)(18)

The definition of “Division” is amended to reflect that it is the Division of Recycling under the Department of Resources Recycling and Recovery. The regulatory provision is inconsistent with and superseded by the change implemented by SB 63 in 2009 and CalRecycle has no discretion to adopt a change which differs in substance to the proposed change. This change does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

(18) “Division” means the Division of Recycling which is within the Department of ~~Conservation~~ Resources Recycling and Recovery.

2. 14 CCR section 2095

This section is amended to reflect that it is referring to the correct Department. SB 63 removed the Division of Recycling from the Department of Conservation and placed it within the Department of Resources Recycling and Recovery. The regulatory provision is inconsistent with and superseded by the change implemented by SB 63 in 2009 and CalRecycle has no discretion to adopt a change which differs in substance to the proposed change. This change does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Section 2095. Payments.

Payments to consumers shall be in cash or by check or by voucher, which is immediately redeemable for cash. All financial transactions shall be reported and recorded in currency of the United States of America (“dollars”). Where the actual transaction is made in foreign currency it shall be converted to dollars for reporting and recording at the prevailing exchange rate at the time of the payment. All payments to the Division shall be in dollars and made by either check, draft, money order or cashier's check payable to the State of California, Department of ~~Conservation~~ Resources Recycling and Recovery.

3. 14 CCR subsections 2130(c), (c)(1), and (c)(2)

These subsections are amended to reflect that it is referring to the correct Department. SB 63 removed the Division of Recycling from the Department of Conservation and placed it within the Department of Resources Recycling and Recovery. The regulatory provision is inconsistent with and superseded by the change implemented by SB 63 in 2009 and CalRecycle has no discretion to adopt a change which differs in substance to the proposed change. This change does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

(c) Upon receiving notification of the Division's decision denying a certification application or notification to revoke a certificate issued to a dropoff or collection program or community service program, the operator shall have the right to request a hearing with the Department of ~~Conservation~~Resources Recycling and Recovery.

(1) The operator shall submit directly to the director of the Department of ~~Conservation~~Resources Recycling and Recovery, within ten (10) calendar days of receipt of the notification from the Division, a written request for a hearing. Such request shall include, at a minimum, all of the following:

- (A) The operator's name, mailing address, and daytime telephone number; and
- (B) The requested certification category, as defined in section 2000(a)(5) of these regulations, or current certification number; and
- (C) The facility name and street address, if applicable; and
- (D) The date on the notification from the Division and the stated reasons for denial or revocation; and
- (E) A clear and concise statement of the basis for objecting to denial of the certification application or revocation of the certificate.

(2) The director of the Department of ~~Conservation~~Resources Recycling and Recovery shall schedule the hearing within twenty (20) working days of receipt of the written request for a hearing.

Conclusion

These proposed changes are appropriate pursuant to CCR, Title 1, Section 100. As a result of the passage of SB 63, several provisions within existing regulations are now inconsistent with and superseded by the changed statute, and therefore CalRecycle has no discretion to adopt changes which differ in substance from the proposed changes. The additional amendments explained within this document are nonsubstantive and can be considered "changes without regulatory effect" as they do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Sincerely,

Kris
Chisholm

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Chisholm
Date: 2023.08.01
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Kris Chisholm
Attorney
CalRecycle