

# **SB 1335 – Food Service Packaging At State Facilities**

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# Overview

- Introduction to SB 1335
- What Kinds of Facilities will be Impacted?
- What Kinds of Packaging will be Allowed/Disallowed?
- Reusable, Recyclable, and Compostable
- What is the Timeline for Rulemaking?
- How Can You Become Involved?

## Introduction

- Passed in 2018
- Facilities Must use Only Approved Foodservice Packaging
- CalRecycle Develops Approved List
  - Reusable, Recyclable, or Compostable
  - Other Factors
- Department of General Services
  - Affected Entities, Contract Language, Procurement

# CalRecycle's Statutory Duties

- Statutory Duties include:
  - Establish a process, and develop criteria, for determining types of foodservice packaging that is reusable, recyclable, or compostable
  - Develop a list of approved types of foodservice packaging that may be used by food service facilities
  - Evaluate the list of approved types of foodservice packaging no less than once every five years

# Department of General Services

- Statutory Duties include:
  - Identify suppliers, distributors, brokers, or manufacturers of approved food service packaging, when feasible
  - Publish list of approved food service packaging and update State Contracting Manual
  - Ensure contracts with food service facilities are compliant with SB 1335
  - Revise state contracting and procurement rules

# Food Service Facility

§ 42370.1(b) “**Food service facility**” means an operation or business that is located in a state-owned facility, operating on or acting as a concessionaire on state property, or under contract to provide food service to a state agency and that stores, prepares, packages, serves, vends, or otherwise provides prepared food. “**Food service facility**” may include, but is not limited to, a cafeteria, commissary, restaurant, deli, store, shop, market, or mobile food unit.

1. Located in a State-owned facility
2. Operating on State property or acting as a concessionaire on State property
3. Under contract to provide food service to a State agency

# Food Service Packaging

§ 42370.1(c) **“Food service packaging”** means a product used for serving or transporting prepared, ready-to-consume food or beverages, including, but not limited to, plates, cups, bowls, trays, and hinged or lidded containers. **“Food service packaging”** does not include beverage containers or single-use disposable items, such as straws, cup lids, plastic bags, and utensils, or single-use disposable packaging for unprepared foods.

# Foodservice Packaging

- Foodservice Packaging IS:
  - Plates, Cups, Bowls, Trays, and Hinged or Lidded Containers
- Foodservice Packaging IS NOT:
  - Beverage Containers, Straws, Cup Lids, Plastic Bags, Utensiles, or Packaging for Unprepared Foods
- What About:
  - Wraps, Tubs, Paper Bags, Boxes, Buckets,

# Prepared Food

§ 42370.1(d) **“Prepared food”** means a food or beverage prepared for consumption on or off a food service facility’s premises, using any cooking or **food preparation technique**. **“Prepared food”** does not include prepackaged, **sealed food** that is **mass produced by a third party** off the premises of the food service facility.

# Reusable Food Service Packaging

§ 42370.2(c)(1-2) For purposes of determining if a type of food service packaging is reusable pursuant to subdivision (a), the director shall consider, at a minimum, all of the following criteria:

- (1) Whether the packaging is **conventionally disposed** of after a single use.
- (2) Whether the packaging is **sufficiently durable and washable** to allow for **multiple uses**.

## Reusable

- How Many Times Must it be Able to be Reused?
- Does it Need to be Capable of Being Washed Like Other Service Ware?
- How Often Are “Reusable” Items Typically Disposed of After a Single Use?

# Recyclable Food Service Packaging

§ 42370.2(d)(1-6) For purposes of determining if a type of food service packaging is recyclable pursuant to subdivision (a), the director shall consider, at a minimum, all of the following criteria:

- (1) Whether the type of food packaging is eligible to be labeled as “recyclable” in accordance with the uniform standards contained in Article 7 (commencing with Section 17850) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code.
- (2) Whether the type of food service packaging is **regularly collected, separated, and cleansed** for recycling by recycling service providers.
- (3) Whether the type of food service packaging is **regularly sorted and aggregated** in to **defined streams for recycling processes**.
- (4) Whether the type of food service packaging is **regularly processed and reclaimed or recycled** with **commercial recycling processes**.
- (5) Whether the food service packaging material **regularly becomes feedstock** that is used in the production of **new products**.
- (6) Whether the food service packaging material is recycled in **sufficient quantity**, and is of **sufficient quality**, to **maintain a market value**.

# Recyclable

- Collected
- Separated and Aggregated
- Cleansed and Processed
- Feedstock for New Products
- Market Value

# Compostable Food Service Packaging

§ 42370.2(e)(1-4) For purposes of determining if a type of food service packaging is compostable pursuant to subdivision (a), the director shall consider, at a minimum, all of the following criteria:

- (1) Whether the food service packaging will, in a **safe and timely manner, break down** or otherwise become part of **usable compost** that can be composted in a **public or private aerobic compost facility** designed for and capable of processing post-consumer food waste and food-soiled paper.
- (2) Whether food service packaging made from plastic is certified to meet the ASTM standard specification identified in either subparagraph (A) or (C) of paragraph (1) of subdivision (b) of Section 42356 and adopted in accordance with Section 42356.1, if applicable.
- (3) Whether the food service packaging is **regularly collected and accepted** for processing at public and private compost facilities.
- (4) Whether the type of food service packaging is eligible to be labeled as “compostable” in accordance with the uniform standards contained in Article 7 (commencing with Section 17580) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code.

# Compostable

- Regularly Collected and Accepted
- Breaks Down
  - Safe and Timely Manner
- Labeling Standards

## Other Factors

- Litter
- Marine Debris
- Toxic Chemicals
- Impacts to Wildlife

# List of Approved Food Service Packaging

§ **42370.2(b)(1)** The regulations adopted pursuant to subdivision (a) shall be used for determining the types of food service packaging that may be included on the list developed pursuant to Section 42370.3.

**(b)(2)** The regulations shall also specify how the list shall be maintained and updated, in accordance with subdivision (b) of Section 42370.3.

§ **42370.3(b)** The department shall regularly, but no less than once every five years, evaluate the list of approved types of food service packaging to determine whether each of the types of approved food service packaging is reusable, recyclable, or compostable. After evaluation, the department may amend the list to remove or add a type of food service packaging based on whether it is reusable, recyclable, or compostable. The department shall post any updates to the list on its Internet Web site.

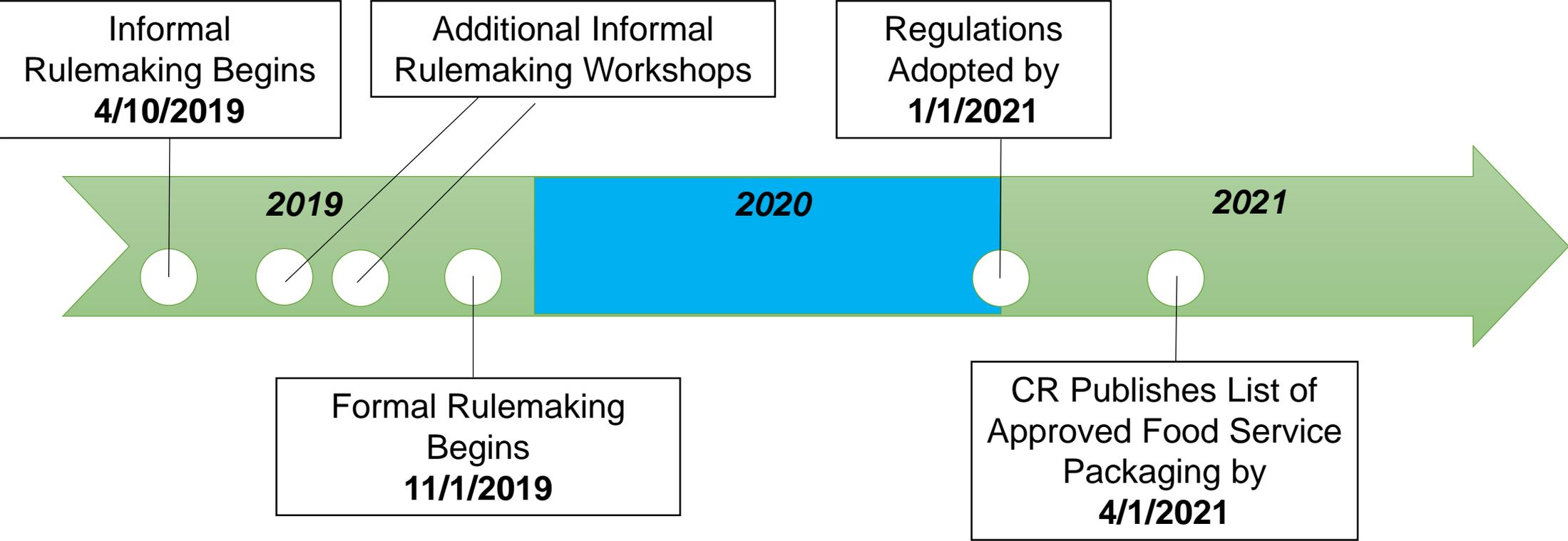
## List of Approved Food Service Packaging

- Published 90 Days After Regulations are Adopted
- Published on CalRecycle's Website and DGS's
- Updates no Less Frequently than Once Every Five Years

# Stakeholder Involvement

- Informal Rulemaking Workshops
  - Data Requests
- Formal Rulemaking Process
  - Office of Administrative Law
- Requesting New Packaging Types to be Evaluated

# SB 1335 Implementation Timeline



CR – CalRecycle

# CalRecycle Regulatory Process Next Steps

June 4, 2019	Informal Rulemaking Workshop #2: Draft Regulatory Text
October/November 2019	Begin Formal Rulemaking
January 1, 2021	Adopt Final Regulations

## CalRecycle Contact Information

- Send comments and questions to SB 1335 Program email: [SB1335@calrecycle.ca.gov](mailto:SB1335@calrecycle.ca.gov)
- Staff Contacts:
  - [Andrew.Parrish@calrecycle.ca.gov](mailto:Andrew.Parrish@calrecycle.ca.gov) or 916-341-6458
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- Subscribe to the SB 1335 listserv at:  
<https://www2.calrecycle.ca.gov/Listservs/Subscribe/156>