

50 years of environmental awareness



# Earth Day Matters.

April 22, 2020

Earth Day Special Edition

## THE PAUSE THAT REFRESHES

The Days the Earth Stood Still. This pandemic is forcing a global lockdown with most everybody sheltering in place while leaving essential public services in play. The freeways are not rushing and the skies appear clear. Coyotes are roaming the urbanscape as birds serenade the streets. Even the seismologists are observing a lot less ambient seismic noise. With Earth Day here, the idea that nature could flourish during this crisis has helped give some a sense of meaning and purpose. The possibility that nature just hit the reset button is going viral on social media, giving many in isolation some sense of hope, peering outside their windows. When in actuality, human nature itself is finally hitting the panic button and it is us waking up to a new reality.

The mega-droughts morphed into ravaging forest fires with California and Australia calling it the new normal. The power outages led to PG&E bankruptcy, and the Governor calling it the new normal. Heatwaves and extreme weather are the accepted new normal. Hunger and homelessness are the new normal. With dominoes dropping along with the stock market and oil prices, this pandemic slowdown has ushered in a new reality far from abnormal while offering mankind an object lesson on how to handle the next pending crisis.

The overarching global climate change crisis has triggered many new normals, where this pandemic is just a run-up for the 7.8 billion people in this petri dish called Spaceship Earth. The latest Intergovernmental Panel on Climate Change Report stressed that just over a decade is all that remains to stop irreversible damage, and that we must act now. The Earth has already hosted five mass extinctions and does not need to be saved by mankind, but man needs to adapt to our host as the sixth mass extinction is now underway: *"Men come and go, but the earth abides."*



California is leading the way on achieving greenhouse gas reductions, renewable energy and low carbon fuel goals in 2020, while pivoting towards a new set of regulations for a net-zero 2045. While this pandemic has caused a roll-back of federal laws, and harkened others to call for a regulatory freeze; now, during this regulatory pause, is the time to reframe the narrative. How do we bring back the economy and regenerate the environment? How do we open up America and adapt to a new reality?

New cost-effective regulations can deliver deep carbon negative reductions in the near-term while creating sustainability jobs that build resiliency into our system, allowing mankind to adapt to the environment around us. Between the SB 1383 regulations, effective in over 20 months from now, and the Advanced Clean Truck Rule gearing up at CARB, the argument can be restructured so that these regulations are foundational in bringing back the economy and ecology. The 50th Anniversary of Earth Day could have flooded the streets with one billion people in more than 180 nations around world to pledge actions coalescing the ecology and the economy. A major service was being planned by Pope Francis where he believes humanity still has the ability to work together in regenerating our common home.

As we stumble down the flattening curve, be ready for Madison Avenue to gaslight us 'to a return to normalcy' and try to bring us back binging on all that we are told we had missed. We have taken a time out and reflected on what is important while working at home and planting our victory gardens. After being exposed so easily, it is imperative we take lessons learned and be poised for the new reality beyond any normalcy. Let's breathe in this Earth Day with a pause that refreshes.

## AB 341

(Chesbro, 2011)

Mandated Commercial Recycling

### Legislative Report

AB 341 made a legislative declaration that it is the policy goal of the State that not less than 75% of solid waste generated be source reduced, recycled, or composted by the year 2020, and would require CalRecycle to provide a report to the Legislature that provides strategies to achieve that policy goal. The bill sunsetted the Report requirement on January 1, 2017. The AB 341 Report to the Legislature was submitted in August 2015, and CalRecycle has published the highly informative State of Recycling for 2015, State of Disposal for 2015 and an update of both in 2016. No updates have been filed since.

AB 341 also required any business generating more than 4 cubic yards of commercial solid waste per week or a multifamily residential dwelling of 5 units or more arrange for recycling services, on and after July 1, 2012. CalRecycle shall review a jurisdiction's compliance with this section where each jurisdiction shall report the progress achieved in implementing its commercial recycling program, including education, outreach, identification, and monitoring by providing updates in the Annual Report by August 1st of each year.

The statewide recycling rate has since dipped from 50% in 2014, 47% in 2015, 44% in 2016, 42% in 2017, to 40% in 2018 and could go as low as 33% in 2020, should the China ban be fully executed as expected. CalRecycle mounted a \$12.8 million recycling outreach campaign to assist in cleaning up the feedstock and is posting up resources to assist cities and counties in maintaining a diversion rates. The industry is adjusting to the new normal with technology, generator education, and rate increases. The AB 1593 Statewide Recycling Commission will convene by July 1, 2020 to address this crisis and will also have the SB 1383 Progress Report in hand.

## AB 1826

(Chesbro, 2014)

Mandated Commercial Organics Recycling

### Annual Reports

On or after January 1, 2020, should CalRecycle determine that the statewide disposal of organic waste has not been reduced to 50% of the level of disposal during 2014, a business that generates two cubic yards or more per week of commercial solid waste shall arrange for organic waste recycling services. Based on an increase of over 11.6 million tons of new disposal since the 2014 base year, it will be determined that California has not met this 2020 goal. The 2018 Waste Characterization Study will be published this spring to provide further evidence that this goal was not met.

In October 2018, CalRecycle presented a process in determining [AB 1826 Reduction of Statewide Organics Disposal in 2020](#). CalRecycle recommended Option No. 1 at the time where the determination would use the 2018 Statewide Waste Characterization Study (WCS) data and the 2019 Recycling and Disposal Reporting System Data. The 2018 WCS will be available and based upon 2 quarters of reported landfill disposal to the Board of Equalization, it looks like the 2019 data will be adding 3 million tons of disposal to increase to almost 11.6 million tons of new disposal over the 2014 base year.

CalRecycle may present an item at their monthly meeting in the near future to discuss the AB 1826 trigger. CalRecycle will have adequate data to show that the statewide disposal of organic waste has not been reduced by 50%, if anything has probably increased, and will immediately trigger the 2 cubic yards threshold. CalRecycle may continue to push AB 1826 along to phase in SB 1383 with expectations that jurisdictions will have this collection program in place by 2021. Given COVID-19, CalRecycle should harmonize AB 1826 with SB 1383 to trigger on January 1, 2022.

## AB 1045

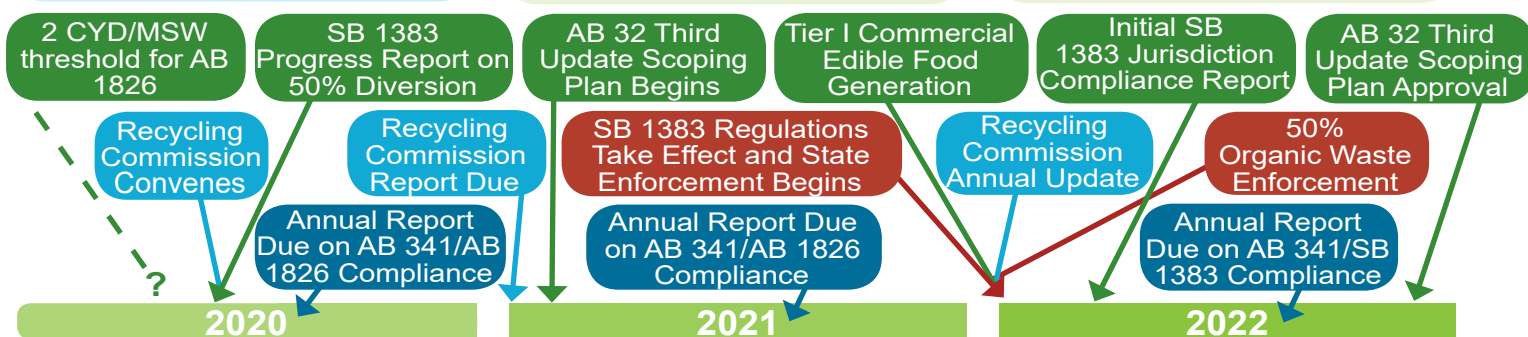
(Irwin, 2015)

Permit Coordination, Markets, Assessment

### Annual Posting

[AB 1045 \(Irwin, 2015\)](#) was passed over four years ago to assess the State's progress in developing the required compost infrastructure, assisting in developing the compost industry through permit coordination, and promoting compost use. CalEPA was put in charge with the California Department of Food and Agriculture to meet quarterly, develop recommendations, post them on their website no later than January 1, 2017, and update annually thereafter to 2021. CalFire was added in 2018 to the mix in order to promote the application of compost on fire-ravaged land. CalEPA released a 29-page report in November 2018 that restated the obvious in the compost world without breaking down the regulatory silos or even mentioning composting being designated as an essential public service (EPS).

There have been no postings on the Cal-EPA website, and there has not been a quarterly or annual public meeting in years. AB 1045 is to expire on January 1, 2021 with no fanfare or follow-up. The SB 1383 Progress Report requires an update on reducing regulatory barriers to the siting of organics recycling facilities and the timing and effectiveness of policies that will facilitate the permitting of organics recycling infrastructure. It's [10:45, and Cal-EPA does not know where our compost is](#). The California Air Pollution Control Officers Association (CAPCOA), with CalRecycle and CARB, published the Discussion Paper in August 2018, Composting in California – addressing Air Quality Permitting and Regulatory Issues for Expanding Infrastructure, which presents a thorough discussion on EPS designation. AB 1036 (McCarty, 2017) attempted to add composting facilities to the EPS definition, but failed due to opposition by several air districts. Of the 35 air districts, 21 have an EPS definition in their district rules.



# SB 1383

(Lara, 2016)

Short-Lived Climate Pollutants

## Progress Report

No later than July 1, 2020, CalRecycle in consultation with CARB, shall analyze the progress made in achieving the organic waste reduction goals for 2020 and 2025. The analysis shall include the following:

(1) The status of new organics recycling infrastructure development, including the commitment of state funding and appropriate rate increases for solid waste and recycling services to support infrastructure expansion;

(2) The progress in reducing regulatory barriers to the siting of organics recycling facilities and the timing and effectiveness of policies that will facilitate the permitting of organics recycling infrastructure (Refer to the AB 1045 column); and

(3) The status of markets for the products generated by organics recycling facilities, including cost-effective electrical interconnection and common carrier pipeline injection of digester biomethane and the status of markets for compost, biomethane, and other products from the recycling of organic waste.

If CalRecycle determines that significant progress has not been made, CalRecycle may include incentives or additional requirements in the SB 1383 regulations to facilitate progress toward achieving the organic waste reduction goals for 2020 and 2025. CalRecycle may, upon consultation with stakeholders, recommend to the Legislature revisions to those organic waste reduction goals.

CalRecycle will determine that significant progress has not been made, with 11.6 million more tons of waste being buried since the 2014 base year. The industry has been asking for a larger commitment of State funding, and looks forward to additional incentives in achieving the goals over the next five years and inclusion within the Climate Resilience Bond.

# AB 32

(Pavley, 2006)

Greenhouse Gas Reduction

## Scoping Plan Update

In 2006, the Legislature passed the California Global Warming Solutions Act of 2006 (AB 32), which created a comprehensive, multi-year program to reduce greenhouse gas (GHG) emissions in California. AB 32 required CARB to develop a Scoping Plan that describes the approach California will take to reduce GHGs and achieve the goal of reducing emissions to 1990 levels by 2020. The Scoping Plan was first approved by the Board in 2008 and must be updated every five years. The First Update to the Climate Change Scoping Plan was approved by the Board on May 22, 2014. In 2016, the Legislature passed SB 32, which codifies a 2030 GHG emissions reduction target of 40 percent below 1990 levels. With SB 32, the Legislature passed companion legislation AB 197, which provides additional direction for developing the Second Update to the Scoping Plan that was adopted in November 2017.

The Third Update to the Scoping Plan needs to be adopted by November 2022, which should begin in early 2021. This update will validate that the 2020 GHG reductions target was achieved and will determine the progress made toward the goals of reducing GHGs and methane by 40% by 2030, plus review the Scoping Plan goal for the Waste Sector to be Net-Zero GHG emissions by 2035. The Waste Sector can expound on the role that SB 1383 - diverted organic waste plays in achieving the low carbon fuel standard with the production and use of carbon negative renewable natural gas. The SB 1383 Progress Report due on July 1, 2020 and the AB 1593 Recycling Commission Report due on January 1, 2021 will be the foundational documents for the Third Update of the Scoping Plan. We can show CARB that our industry is Deep Carbon now with carbon negative fuel and near-Zero NOx.

# AB 1583

(Eggman, 2019)

Statewide Recycling Commission

## Commission Report

Since 1991, existing law requires CalRecycle to build a comprehensive market development plan that will stimulate market demand for post-consumer waste material and secondary waste material generated in the State. At one time, the California Integrated Waste Management Board (1990-2009) convened a Markets Committee on a monthly basis to implement this law.

The AB 341 Report that presented a market development plan to the Legislature to reach a stated recycling rate goal of 75% by 2020 has not been updated since 2016. Meanwhile, the statewide recycling rate fell from 50% in 2012 to 40% in 2018. With the full implementation of the China Sword to further ban most all recyclables, the statewide recycling rate could go as low as 33%. AB 1593 (Eggman, 2019) created a Recycling Commission to stop the drop, which also includes SB 1383 new tons.

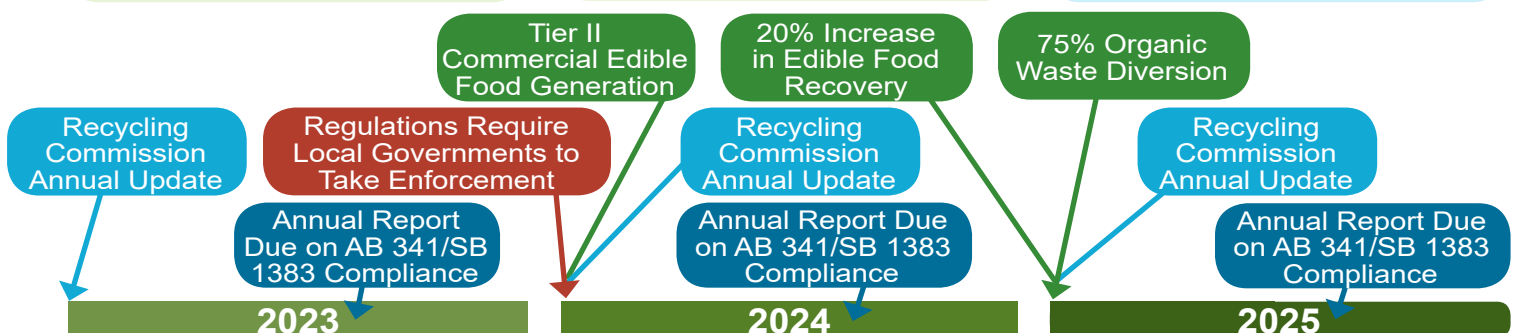
CalRecycle shall, by July 1, 2020, convene a Statewide Commission on Recycling Markets and Curbside Recycling consisting of representatives of public agencies, private solid waste enterprises, and environmental organizations with expertise in recycling.

The commission shall, by January 1, 2021, do both of the following:

(A) Issue policy recommendations to achieve the market development goals established by AB 939 (Sher, 1989), AB 341 (Chesbro, 2012), and SB 1383 (Lara, 2016); and

(B) Identify products that are recyclable or compostable, as defined in the Sustainable Packaging for the State of California Act of 2018, and regularly collected in curbside recycling programs.

The Recycling Commission shall update the recommendations and identifications made regularly, but not less often than annually.



# SB 1383 and Statewide Recycling Rate Update

## Regulatory Pause

We have been waiting to exhale, with our masks on, over the uncertainty and cost of SB 1383. CalRecycle reported on April 20, 2020 that a [30-day comment period](#) has begun on the fourth draft of regulatory package where CalRecycle presented a list of [50 main substantive changes](#), but with no major policy changes. All colors of the rainbow have been used over 183 pages. A [clean copy of the SB 1383 regulations](#) can be downloaded here and is only 135 pages, losing 48. The regulations may be adopted within a few months with the effective date remaining the same on January 1, 2022.

CalRecycle released a [guidance letter to all local jurisdictions](#) on COVID-19 Recycling Related issues on April 21, 2020, which indicated that CalRecycle can consider these types of disasters in their evaluation of each jurisdictions program implementation and regulatory compliance.

With the re-opening of California following Governor Newsom's 6-step program, there will be an organic harmonic convergence by July 1, 2020. The SB 1383 regulations should be adopted, the SB 1383 Progress Report will be posted, and the Recycling Commission will have convened for the first time. The SB 1383 Progress Report should determine that significant progress has not been made, and should provide a series of incentives and additional requirements in the SB 1383 regulations to facilitate further progress, and make recommendations to the Legislature. The 2018 Waste Characterization should be posted in a few weeks, which when properly evaluated will show no progress on the AB 1826 and SB 1383 mandates. The Recycling Commission will pick up the ball after July 1, 2020 and post their own Report to the Legislature by January 1, 2021.

After this regulatory pause and with two reports in hand, the new Legislative Session will begin and can make the needed regulatory reform to SB 1383 in 2021 to provide the necessary incentives and any revisions to the SB 1383 organic waste reduction goals.

## Statewide Recycling Rate

Pounds Per Person Per Day (PPD) - CalRecycle

**2012 | 4.3 PPD**  
29.3 million disposal tons  
50% statewide recycling rate

**2013 | 4.4 PPD**  
30.2 million disposal tons  
50% statewide recycling rate

**2014 | 4.5 PPD**  
31.2 million disposal tons  
50% statewide recycling rate

**2015 | 4.7 PPD**  
33.2 million disposal tons  
47% statewide recycling rate

**2016 | 4.9 PPD**  
35.2 million disposal tons  
44% statewide recycling rate

**2017 | 5.2 PPD**  
37.8 million disposal tons  
42% statewide recycling rate

**2018 | 5.6 PPD**  
40 million disposal tons  
40% statewide recycling rate

**2020 | 2.7 PPD (AB 341) Target**  
20.0 million AB 341 disposal tons  
75% statewide recycling rate

**Full China Ban (CalRecycle)**  
33% statewide recycling rate

CalRecycle plans to release a series of tools after the SB 1383 regulations are approved by OAL. The tools will be posted on their website with CalRecycle and HF&H presenting these tools across the state at several trade shows and to trade associations. Realizing that the SB 1383 regulations will become effective on January 1, 2022, there is plenty of work that needs to occur over the next 20 months on program development, franchise negotiations, and ordinance review. A cadre of working groups prepared the following SB 1383 resources:

- Model Franchise Agreement
  - Addresses many SB 1383 requirements related to the collection, processing, collection containers, contamination monitoring, and more
- Model Mandatory Organics Disposal Reduction Ordinance
  - Establishes enforceable SB 1383-related requirements for organic waste generators, haulers, and other regulated entities
- Model Procurement Policy
  - Assists jurisdictions with their requirements related to the procurement of recovered organic waste products.

## SB 1383 Regulations

CalRecycle has released a revised draft of the SB 1383 regulatory text and the final, identified list of documents it relied upon for the rulemaking for a 30-day public review and comment period.

**Please note, CalRecycle is only required to respond to comments on the regulatory text that are directed at the changes that are in purple in this fourth draft.** The official notice including the identified list of documents relied upon and full text of the regulation including the newly proposed changes clearly indicated is available on the [SB 1383 Rulemaking](#) website. This comment period will run from **April 20, 2020 – May 20, 2020**. Comments must be submitted by 5:00 PM on **May 20, 2020**.

CalRecycle updated the SB 1383 rulemaking package making minor changes to the final regulatory text and made available for review various source documents relied upon for the rulemaking in response to review by the Office of Administrative Law (OAL). The items identified by OAL that have been addressed by CalRecycle in the regulatory text are primarily to improve clarity of the regulatory language to ensure that the meaning of the regulations will be more easily understood by those persons directly affected by them.

As CalRecycle moves into the next phase of implementation following completion of the regulations, CalRecycle will need to present the draft analysis required by SB 1383 by July 1, 2020. Since this analysis will show that significant progress has not been made, incentives and funding will need to be identified, as well as any additional requirements.

The regulations may be adopted by July, when the Recycling Commission convenes. Additionally, after final adoption of the regulations CalRecycle will release a series of implementation tools, including a model ordinance, model franchise agreement, model procurement policy, and model food recovery agreement. These tools will be available to help the regulated community prepare for implementation in advance of the January 1, 2022 effective date of the regulations.