

SB 343 & AB 881 *RDRS* Rulemaking

JUNE 22, 2022

Outline

- Background
- Timeline
- Introduction to SB 343 & AB 881
- Roadmap of changes
 - SB 343
 - AB 881
 - Other regulatory changes as they relate to RDRS
- Future Workshops & Resources
- Questions/Comments?

Background

- Two new statutes passed as of 2021, which affect the Recycling and Disposal Reporting System (RDRS):
 - Senate Bill (SB) 343
 - Assembly Bill (AB) 881
- RDRS updates will require changes to our regulations
- Goals over the next several months
 - Continue developing RDRS regulations, based on internal and external feedback.
 - Start formal rulemaking process.

Estimated Timeline

- Process timeline determined by SB 343 rulemaking deadline: 1 January 2024.
- Informal external rulemaking: June – Sep 2022
 - Three workshops - June 22, July 26, Aug 30
- Formal rulemaking begins: October – November 2022

SB 343 – Big Picture

- Prohibits false or misleading recyclability claims for products and packaging
- Prohibits selling products or packaging with false or misleading recyclability claims
- Defines ‘recyclability’ for the above purposes (42355.51(d))
 - Material Characterization Studies
 - **Information on materials, which is reported in RDRS**

AB 881 – Big Picture

- Mixed plastic waste originating in California that is exported out of country to be considered disposal for a jurisdiction's diversion rate (AB 939)
- 'Mixed' does not include plastics 1, 2, and 5
- 'Exported' does not include Canada or Mexico until 1 January 2024, or until later depending on expiration of 'relevant' trade agreement

RDRS Regulations – Highlight

- SB 343 and AB 881 require us to update regulations
- These statutes do not change who is required to report
- These statutes do change what is required to be reported
- If you are not currently required to report in RDRS, you will not be required to report by changes pursuant to SB 343 and AB 881
- Changes in reporting in RDRS are currently projected to take effect 2024 Q4

SB 343 & RDRS

- 42355.51 (Public Resources Code)
 - (d)(1)(A)(i): Entities must submit to CalRecycle:
 - (I): How the material collected or processed by the operations and facilities was collected
 - (II): What material types and forms are actively recovered, and not considered contaminants, by the operation or facility
 - (d)(1)(A)(ii): CalRecycle must publish this information

SB 343 & RDRS – Collection Method 1

- Regulations will require definition for 'collection method'
 - Primarily incorporates source sector, stream type, and bin type
 - Source sector: residential, commercial, and self-hauled (residential vs commercial)
 - Stream Type: mixed waste, recycling, composting, etc.
 - Bin Type: e.g., single vs dual bin
 - Example: contract-hauled residential dual-bin recycling, contract-hauled commercial construction/demolition debris

SB 343 & RDRS – Collection Method 2

- **New data collection**
- Who will be required to collect this data?
 - Haulers
 - Entities such as recyclers, composters, transfer/processors that accept materials directly from generators (e.g., self-hauled residential recycling)
- What data will be collected?
 - Collection method for materials received/sent for purposes other than beneficial reuse or disposal

SB 343 & RDRS – Collection Method 3

- How can entities gather collection method?
- Haulers
 - Contract agreements, billing records, hauling routes, alternative methods that CalRecycle approves
- Other reporting entities receiving from:
 - Generators: Analogous methods as source sector (e.g., vehicle type)
 - Haulers: From the hauler
 - Reporting entity other than a hauler: Assign collection method as the source activity type (e.g., tons received from a recycler/composter would go to the "recycler/composter" collection method)

SB 343 & RDRS – Collection Method 4

- **New reporting requirement for collection method**
- Recyclers, composters, transfer/processors, and disposal facilities
 - Report collection method for **inflows** of material accepted for purposes other than disposal or beneficial reuse
- Haulers and broker/transporters
 - Report collection method for **outflows** of material sent for purposes other than disposal or beneficial reuse

SB 343 & RDRS – Recovered Materials

- Statute mentions both type and form
- No new reporting
 - RDRS already collects material type information on tons sent for recycling and end use
 - But RDRS materials list is a mixture of types and forms (e.g., aluminum bottles)
 - Staff will update material type list to more consistently separate between "type" and "form"
- Increased granularity in reporting mixed materials

SB 343 & RDRS – Publishing Information

- No regulatory updates
- CalRecycle will add or amend existing public reports to meet publication requirements
- Will not reveal otherwise confidential information according to regulations

AB 881 & RDRS

- 41821.5(b)(4) (Public Resources Code)
 - (A): Entities to submit to RDRS the jurisdiction of origin for exported mixed plastic
 - (B): CalRecycle must publish this information

AB 881 & RDRS – Jurisdiction of Origin 1

- **Data collection requirements**

- **All** entities that handle mixed plastic waste will have to record jurisdiction of origin for those materials
 - Important: If materials contain mixed plastic waste, which could be extracted and exported by a downstream entity, then the upstream entity will need to record origins for the mixed materials
- Mixed plastic waste is defined for purposes of jurisdiction of origin reporting and may be a new material stream in RDRS.

AB 881 & RDRS – Jurisdiction of Origin 2

- **Data transfer requirements**
- All entities that handle mixed plastic waste and/or materials containing mixed plastic waste will have to **pass along** jurisdiction of origin for those materials to the next entity in the chain
- Hauler → Recycler/Composter → Transfer/Processor (exports)
 - The hauler will need to pass origins to the recycler/composter
 - The recycler/composter will need to pass origins to the transfer/processor

AB 881 & RDRS – Jurisdiction of Origin 3

- **Reporting requirements**
- Entity who exports mixed plastic waste will report those tons in RDRS and the origins for those tons
- Reporting requirements for outflows have otherwise not changed (e.g., recycler sending mixed plastic waste to a transfer/processor will need to report that outflow in RDRS)

AB 881 & RDRS – Jurisdiction of Origin 4

- How can entities gather origins?
- Haulers:
 - Contract agreements, billing records, etc.
- Other entities receiving from:
 - Generators: same methods as before (e.g., asking self-haulers their origin)
 - A reporting entity: obtain from the sending entity

AB 881 & RDRS – Disposal tonnages

- AB 881 changes "disposal" definition to include exported mixed plastic waste
- Will be updating regulatory definition of disposal to match, 18794.2(c)
- Will affect disposal tons assigned to jurisdictions in California (for the Electronic Annual Report)

AB 881 & RDRS – Publishing Information

- We must publish the disposal numbers
- Will be additions to existing public reports (e.g., public report 1)

Summary of regulatory updates

| Category | SB 343 (Recyclables) | AB 881 (Mixed Plastic Waste) |
|------------------|--|--|
| Definitions | Collection Method (CM) | Export; Mixed Plastic Waste |
| Methods | Methods to gather CM | Methods to determine and pass along jurisdiction of origin |
| Disposal Rate | N/A | Exported mixed plastic waste now part of disposal |
| New Requirements | Report CM for inflows or outflows based on entity; Report components of mixed material outflows | Report origins for exported mixed plastic waste; Provide origins for mixed plastic waste to destination |

Other Regulatory Changes

- Department is considering other regulatory changes to clarify and optimize processes
- We intend to provide a summary of these changes in the next workshop
- Some examples
 - Clarifying process for correcting errors in quarterly reports
 - Requiring that SWIS number is provided if you have one
 - Clarifications to registration requirements and processes

Future Workshops Resources

- Workshops on July 26 and Aug 30
 - See rulemaking website for links to registration
 - <https://calrecycle.ca.gov/laws/rulemaking/rdrsupdates/>
- AB 881 and SB 343 RDRS Rulemaking
Listserv: <https://www2.calrecycle.ca.gov/Listservs/Subscribe/169>
- Email: SB343_AB881_rulemaking@calrecycle.ca.gov. (*case insensitive*)

Questions and Comments

- If viewing via Go To Webinar, use the "Raise Hand" or "Ask Question" feature
- If viewing via webcast, send comments to:
SB343_AB881_rulemaking@calrecycle.ca.gov.