AB 2902 and AB 2346 Guidance

Background

AB 2902 (Wood, 2024) and **AB 2346** (Lee, 2024) were enacted to give jurisdictions:

- Added flexibility for adjusting procurement targets, and
- Expanded recovered organic waste products that are eligible procurement options.

The following information provides jurisdictions with an overview of these changes and guidance so that they can begin implementation:

Rural Exemption

- Pursuant to Public Resources Code (PRC) Section 42652.5(a)(9), a jurisdiction in possession of a rural exemption (14 CCR Section 18984.12(c), as it read on January 1, 2024), shall remain exempt from complying with the organic waste collection services requirements specified in 14 CCR Section 18984 et seq., and the procurement requirements specified in 14 CCR Section 18993.1 et seq. until January 1, 2037.
- Rural jurisdictions do not need to take any action to extend the rural exemption. Rural jurisdictions that are exempted are updated on the CalRecycle website and in the Electronic Annual Report.
- At a future time, CalRecycle will establish through regulations a process to renew the exemptions after January 1, 2037, for periods of up to five years.

Bear Bins

- Pursuant to PRC Section 42652.5(a)(10), jurisdictions that provide bins designed to keep bears out of the container(s) are not required to comply with the lid color requirements in 14 CCR Section 18984.7.

Adjusted Targets

Low Population and Elevation Waivers

- A jurisdiction in possession of a low population waiver or elevation waiver pursuant to 14 CCR Sections 18984.12(a) and 18984.12(d) will have a reduced recovered organic waste procurement target (PRC Section 42652.5(a)(8)). CalRecycle will revise the target by removing the population that was waived per the low population and/or elevation waiver.
- Jurisdictions are not required to submit anything to CalRecycle. CalRecycle will calculate and inform the jurisdiction of its adjusted recovered organic waste

procurement target.

- If a jurisdiction wants to estimate its adjusted procurement target before hearing from CalRecycle, information can be found on the following webpage: Procurement Targets and Recovered Organic Waste Products.

Five-Year Procurement Target (PRC Section 42652.5(n)(2))

- Pursuant to PRC Section 42652.5(n)(2), jurisdictions have **until January 1, 2027,** to notify CalRecycle about their intent to comply using a five-year procurement target which covers years 2027-2031. Note: On or before January 1 every five years thereafter, jurisdictions will have the opportunity to notify CalRecycle of future intentions to use a five-year procurement target. The five-year recovered organic waste procurement target is calculated by multiplying the jurisdiction's annual procurement target by five (PRC Section 42652.5 (n)(1)).
    - For jurisdictions that would like to participate in the five-year target option, please submit your intent to participate by emailing the SLCP inbox at SLCP.Organics@CalRecycle.ca.gov with a subject line titled: **Five-Year Target Request**.
- Note: If a jurisdiction chooses both the local per capita procurement target (PRC Section 42652.5 (m)) and the five-year procurement target (PRC Section 42652.5 (n)), then the five-year recovered organic waste procurement target is calculated by multiplying the jurisdiction's average annual procurement target by five (PRC Section 42652.5 (n)(1)).

Waste Characterization Studies (PRC Section 42652.5 (m)(1)(2))

- One or more local jurisdictions within the same county may determine a local per capita procurement target using information from a local disposal facility-based waste characterization study for a period not to exceed five years after the completion of the study. A disposal facility-based waste characterization study shall be performed by the local jurisdiction or jurisdictions, which shall apply the results of a study to the total amount of landfill disposal attributed to the local jurisdiction or jurisdictions by CalRecycle's Recycling and Disposal Reporting System.

  Disposal facility-based waste characterization study best practices:

  Based on past completed waste characterization studies, CalRecycle suggests the following strategies to ensure a robust, relevant and representative study meeting the requirements of AB 2346:

  1. Be representative of the disposed waste originating from the specific jurisdictions(s). To achieve this, sampling should be conducted in such a way that

it appropriately characterizes the waste composition of the jurisdictions in question.

2. Be representative of the waste disposed during the time the study was completed. To achieve this, the study should be designed to account for seasonal variations in waste composition.
3. Attempt to use the material type list from the latest CalRecycle *Disposal Facility-based Characterization of Solid Waste in California* study. If it is not possible to have a 1 for 1 match of the CalRecycle material type list, the material type list used in the study must be sufficient to accomplish the goal of the study.
    a. For example, if the goal of the study is to conduct a disposal facility-based waste characterization study to revise the procurement target then the study material type categories must align sufficiently so that CalRecycle can compare statewide SB 1383 organics directly with the results from the study.
4. Clearly demonstrate that sufficient sampling was conducted to achieve at least a 90% confidence interval for the relevant material types. See the following section titled *"Estimating the composition of a waste sample"* for example and details.
5. Follow the newest publicly available version of ASTM D 5231-92 "Standard Test Method for Determination of the Composition of Unprocessed Municipal Solid Waste". The newest version of this document is ASTM D5231-92R24, which was updated in 2024.

Estimating the composition of a waste sample

The following method was used to estimate the composition of a waste sample belonging to a specific stratum (*that is, for the samples belonging to the same waste sector. The CalRecycle statewide waste characterization studies collect samples from the following sectors: single-family residential, commercial and multi-family residential, self-hauled, and mixed waste sectors*).

For a given stratum, the composition estimate denoted by r_j represents the ratio of the component's weight to the total weight of all the samples in the stratum. This estimate was derived by summing each component's weight across all of the selected samples belonging to a given stratum and dividing by the sum of the total weight of waste for all of the samples in that stratum, as shown in the following equation:

where:

- c = weight of particular component
- w = sum of all component weights
- i = 1 to n, where n = number of selected samples
- j = 1 to m, where m = number of components

$$r_j = \frac{\sum_i c_{ij}}{\sum_i w_i}$$

Example:
The following simplified scenario involves three samples. For the purposes of this example, only the weights of component *X* are shown.

	Sample 1	**Sample 2**	**Sample 3**
Weight (*c*) of *X*	5	3	4
Total Sample Weight (*w*)	80	70	90

$$r_X = \sum \frac{5 + 3 + 4}{80 + 70 + 90} = 0.05$$

To find the composition estimate for component *X*, the weights for that material are added for all selected samples and divided by the total sample weights of those samples. The resulting composition is 0.05, or 5 percent. In other words, 5 percent of the sampled material by weight is component *X*. This finding is then projected onto the stratum being examined in this step of the analysis.

Precision levels at the 90 percent confidence level were calculated for a component's mean as follows:

$$r_j \pm \left(z\sqrt{\mathrm{Var}(r_j)}\right)$$

- where *z* = the value of the *z*-statistic (1.645) corresponding to a 90 percent confidence level.

What to send to CalRecycle for review:

1. A study design that addresses all the items in PRC Section 42652.5(m).
2. Data and corresponding calculations resulting from the study.
3. The re-calculated procurement target for the specific jurisdiction(s).

Please submit all material to CalRecycle via the SLCP inbox at SLCP.Organics@CalRecycle.ca.gov with a subject line titled: Waste Characterization Study Target Request.

What to expect after submission to CalRecycle:

Upon receipt of your study, CalRecycle will take approximately 21 calendar days to review the study, the corresponding results and the calculations yielding the adjusted procurement target.

Direct Service Provider

- Pursuant to PRC Section 42652.5(h), a local jurisdiction may be credited for the procurement of organic waste products without executing a direct service provider

agreement with end users of recovered organic waste products (14 CCR Section 18993.1) if all the following conditions are met:

- The use of the recovered organic waste product by any entity is a result of the jurisdiction's adoption or enforcement of ordinances, regulations, resolutions, or policies.
  - A new or revised existing ordinance, regulation, resolution, or policy needs to be in place prior to any procurement taking place. The same applies also if a jurisdiction is utilizing a direct service provider agreement. Please note that if a jurisdiction already has an ordinance that meets the requirements of this section, no revision or new ordinance is necessary.
  - Jurisdictions should consult with their legal counsel regarding the language to authorize this activity.

- The jurisdiction complied with all other recordkeeping pursuant to 14 CCR Section 18993.2, and reporting requirements related to procurement targets, including verification, as determined by the department, that the entity is procuring on behalf of the jurisdiction.
- The recovered organic waste product is not applied to the recovered organic waste product procurement target of another jurisdiction.

Any new or revised ordinances, regulations, resolutions, or policies must be reported to CalRecycle via the Electronic Annual Report. A jurisdiction should also keep in its implementation record the related ordinance or similarly enforceable mechanism and documentation that substantiates this procurement activity. Please note that jurisdictions may continue using direct service provider agreements under 14 CCR Section 18993.1(e).

New Recovered Organic Waste Products

- A local jurisdiction may count compost produced and procured from the following compost operations, as described in 14 CCR Section 17852, as it read on January 1, 2024, towards its recovered organic waste procurement target (PRC Section 42652.5(l)):
  - Vermicomposting operations
    - “"Vermicomposting" means an activity that produces worm castings through worm activity.” [14 CCR Section 17852]
  - Operations composting green material, agricultural material, food material, and vegetative food material
    - Operations composting green material, agricultural material, food material and vegetative food material, if the total amount of feedstock and compost onsite at any one time does not exceed 100 cubic yards and 750 square feet. [PRC Section 42652.5]
  - Mushroom farm (composting)

        - "Mushroom Farm" means an activity that produces mushrooms. The handling of compostable material at a mushroom farm prior to and after use as a growth medium is subject to regulation pursuant to this chapter and is not considered mushroom farming." [14 CCR Section 17852]
    - Ordinance Adoption
        - The jurisdiction will need to adopt an ordinance or enforceable mechanism requiring compost and/or vermicompost procured by the jurisdiction to be used in a manner that meets the definition of "land application" in 14 CCR Section 17852(a)(24.5)(A) and that meets the pathogen, metals, and physical contamination limits that apply to existing composting facilities.
        - Please ensure that the land application activity meets appropriate land application requirements. Verify any additional requirements with the Local Enforcement Agency.
        - Note: A new or revised existing ordinance, regulation, resolution, or policy needs to be in place prior to any procurement taking place.
    - Implementation Record
        - A jurisdiction should keep in its implementation the related enforceable ordinance or similarly enforceable ordinance and record documentation that substantiates this procurement activity.
    - Electronic Annual Reporting
        - Any new or revised ordinances, regulations, resolutions, or policies must be reported to CalRecycle via the Electronic Annual Report.

- Pursuant to PRC Section 42652.5(j), a local jurisdiction may count up to 10 percent of its recovered organic waste product procurement target with mulch produced from tree trimming operations and edible food recovery. Please note that mulch from tree trimmings and edible food recovered under 14 CCR Section 18991.1 may collectively count for up to 10% of a jurisdiction's procurement target, not 10% for each product.

    - Mulch produced from tree trimming operations conducted by the jurisdiction or a service provider operating under contract to the jurisdiction when applied to landscape areas owned or managed by the jurisdiction or given away to residents, can be counted if the local jurisdiction does both of the following:
        - Provides documentation of the amount of mulch used and distributed, and where it was applied.
        - Adopts an ordinance or other enforceable mechanism requiring that mulch be used in a manner that meets the definition of "land application" in subparagraph 14 CCR Section 17852(a)(24.5)(A) and that meets the pathogen, metals, and physical contamination limits that apply to existing composting facilities.
            - A new or revised existing ordinance, regulation, resolution, or policy needs to be in place prior to any procurement taking place. Please note that if a jurisdiction already has an ordinance that meets the requirements of this section, no revision or new ordinance is necessary.

        - A jurisdiction should keep in its implementation record the related enforceable ordinance or similarly enforceable mechanism and documentation that substantiates this procurement activity.
        - Any new or revised ordinances, regulations, resolutions, or policies must be reported to CalRecycle via the Electronic Annual Report.

    - Edible food recovered in compliance with 14 CCR Section 18991.1 generated from a commercial food generator located within the jurisdiction.
        - Jurisdictions would need to quantify the edible food recovered from the commercial edible food generators located within their jurisdiction.
            - One ton of edible food shall be considered equivalent to one ton of organic waste products.
            - While the commercial edible food generators are not required to report to the jurisdiction, they are required to keep records of the amount of edible food donated as outlined in 14 CCR Section 18991.4.
        - A jurisdiction should also keep in its implementation record documentation that substantiates this procurement activity.

- Pursuant to PRC Section 42652.5(l), a local jurisdiction may count the following direct expenditures towards its recovered organic waste product procurement target until December 31, 2035:
    - Investments for community composting operations serving the jurisdiction, including, but not limited to, an investment made to establish or expand a compostable materials handling operation outlined in 14 CCR Section 17852 or community composting operation outlined in 14 CCR Section 18982. Examples of investments include purchasing equipment, purchasing land for the operation, etc.
    - Equipment that is used only to apply compost or mulch, limited to the following:
        - Compost spreaders
        - Drag harrows
        - Chippers
        - Stump grinders
        - Blowers, including attachments for the blowers such as cones
            - Note: The jurisdiction must use the equipment to spread compost or mulch during the same year that the purchase expense is applied toward its recovered organic waste product procurement target (PRC Section 42652.5(l)(1)(B)).
            - Note: Equipment can be purchased by a jurisdiction, if it chooses to, and provided to other entities, such as farms and ranches located in the jurisdiction.
    - Development of compost or mulch distribution sites to make free compost and mulch accessible and available to residents.
    - The conversion factor shall be twenty-one dollars and thirty-eight cents ($21.38) for each ton of organic waste attributed to the target.

Please note that the above direct expenditures may collectively count for up to 10% of

a jurisdiction's procurement target (not 10% for each expenditure).

See the following scenarios below for additional guidance on eligible expenses under PRC Section 42652.5(l):

- **Scenario 1**: Multiple jurisdictions are investing in the same activity, such as establishing a community composting operation or compostable materials handling operation that serve all the jurisdictions or purchasing equipment that is used by a single entity (e.g., a ranch).
  - They will need to maintain the documentation that substantiates each jurisdiction's investment. For example, each jurisdiction's documentation could state the total amount of the project and how much each jurisdiction invested and document how much and when the investment by the jurisdiction was made and what the investment was for, such as purchasing a compost spreader or equipment for an aerated static pile system.
- **Scenario 2**: If a jurisdiction purchased and used a compost spreader that cost $100,000, but that equates to more organic waste than is needed in that year for the procurement target.
  - Investments may only be counted in the year in which the investment is made and do not roll over from year to year. For example, if a jurisdiction purchased a compost spreader that cost $100,000, but that equates to more organic waste than is needed in that year for the procurement target, the jurisdiction cannot roll over a portion of the investment into the next year to use towards its procurement target.
  - A jurisdiction should also keep in its implementation record documentation that substantiates the direct expenditure procurement activity allowed in PRC Section 42652.5(l).
- **Scenario 3**: A jurisdiction invests in a $48,000 lot for community composting operations but arranges for a 2-year installment plan where they can pay $2,000 a month (no interest rate). The jurisdiction invests in the property at the start of 2026 and is set to have it completely paid off by the end of 2027. The jurisdiction would like to know if it can count the portion of the expense paid in a specific year for 10% of that year's target or if it is required that only the total amount of the investment ($48,000) is counted towards 10% of the procurement target for the year in which the investment is made. For instance, if the jurisdiction pays $24,000 in 2026 and the same amount in 2027, can $24,000 be counted towards 10% of a jurisdiction's procurement target in 2026 and another in 2027? Or is it required that the jurisdiction counts $48,000 to 10% of the 2026 procurement target?
  - There are no requirements or conditions in the statute or regulations that indicate investments for community composting operations can only count toward one year's procurement target. For the scenario presented, the jurisdiction may count $24,000 paid in 2026 to 10% of that year's target, and the remaining $24,000 paid in the following year to 10% of the jurisdiction's procurement target in 2027.

- **Scenario 4**: A jurisdiction invests in renting a piece of land owned by a third party for the development of a compost site (pursuant to PRC Section 42652.5(l)(1)(C)) and signs a lease to rent the space for X years. Can the amount paid in rent count towards 10% of the jurisdiction's target for different years?
    - PRC Section 42652.5(l)(1)(C) states that direct expenditures on the "development of compost or mulch distribution sites to make free compost and mulch accessible and available to residents" may count towards a jurisdiction's recovered organic waste product procurement target. The amount paid in rent for a given year can count towards 10% of a jurisdiction's procurement target for that year (and subsequent years depending on the lease term).
- **Scenario 5**: A jurisdiction purchases a piece of land for community composting operations (pursuant to PRC Section 42652.5(l)(1)(A)). If the total amount of the investment exceeds 10% of the jurisdiction's procurement target, can the excess amount paid count towards 10% of the jurisdiction's target for the following year?
    - Per PRC Section 42652.5(l)(2)(A), the direct expenditures by a local jurisdiction may count for up to 10 percent of a jurisdiction's total procurement target. The purchase can only be applied toward the calendar year in which the transaction occurs. The jurisdiction cannot roll over a portion of the investment and apply it towards the following year's procurement target unless any portion of the transaction occurred in the following year (PRC Section 42652.5(l) and 14 CCR Section 18993.1(a)).
- **Scenario 6**: A jurisdiction purchases equipment to apply compost (pursuant to PRC Section 42652.5(l)(1)(B)) but arranges for an installment plan that spans over X years, can the jurisdiction count the portion of the expense paid to 10% of its procurement target for each year until the installment plan is completely paid off?
    - PRC Section 42652.5(l)(1)(B) states, "equipment that is used only to apply compost or mulch, including, and limited to, compost spreaders, drag harrows, chippers, stump grinders, and blowers, if the jurisdiction uses the equipment to spread compost or mulch in compliance with procurement requirements during the same year that the purchase expense is applied toward its recovered organic waste product procurement target" (emphasis added). If a jurisdiction arranges for an installment plan that spans over X years for the purchase of equipment, the jurisdiction can apply the amount paid toward its procurement target for different years as long as it uses the equipment during the same year(s) the purchase expense is applied.