

## **REQUEST FOR APPROVAL**

**To:** Ken DaRosa, Acting Director

**From:** Matt Henigan, Deputy Director, Materials Management and Local Assistance

**Date:** September 15, 2020

**Subject:** Determining AB 1826 Reduction of Statewide Organics Disposal in 2020

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### **Summary of Request:**

The purpose of this Request for Approval is to share staff's findings regarding implementation of the AB 1826 provisions requiring CalRecycle to decide whether to: 1) require businesses that generate two or more cubic yards of solid waste, recyclables, and organics per week to arrange for recycling services on or after January 1, 2020, and 2) extend the rural exemption from these requirements pursuant to Public Resources Code Sections 42649.81(a)(4) and 42649.82(D), respectively.

Staff used 2018 Statewide Waste Characterization Study (WCS) and 2019 landfill disposal tonnages provided by the California Department of Tax and Fee Administration (CDTFA) to determine whether the statewide disposal of organic waste has been reduced by 50% of the 2014 level of disposal. Based upon this data, staff has concluded that the statewide disposal of organic waste has not been reduced by 50% of the 2014 level of disposal.

Local Assistance and Market Development (LAMD) staff will work with each affected jurisdiction to determine a plan for implementing by December 31, 2020, the lowered threshold. This will also support jurisdictions in preparing for the implementation of the SB 1383 regulatory requirements, which will include providing mandatory collection services for all organic waste generators.

While the due date for implementation is still the end of 2020 in preparation for 1383 implementation on Jan. 1, 2022, if jurisdictions require additional time to inform the regulated businesses and provide collection service, then CalRecycle will utilize the "At Any Time" process. This process has been in place since 2018 and is utilized when jurisdictions need additional time to fulfill their statutory requirements. Jurisdictions would submit a plan to CalRecycle providing the jurisdiction's plans/timeline to implement the lower threshold. CalRecycle would review the plan and determine if it is reasonable.

### **Recommendation:**

Staff recommends the AB 1826 threshold be lowered to require businesses that generate two or more cubic yards of solid waste, recyclables, and organics per week to arrange for recycling services and extend the rural exemption until December 31, 2026.

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**Acting Director Action:**

Based on the information and analysis provided in this Request for Action and the findings set out above, I hereby approve the recommendation that the AB 1826 threshold be lowered to require businesses that generate two or more cubic yards of solid waste, recyclables, and organics per week to arrange for recycling services, and that the rural exemption be extended until December 31, 2026.

Dated: 15 Sept. 2020



Ken DaRosa, Acting Director

Department of Resources, Recycling and Recovery

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**Background Information:**

AB 1826 (Chapter 727, Statutes of 2014) established new requirements for mandatory commercial organics recycling. The law phases in the requirements for businesses, including multifamily residential dwellings that consist of five or more units, over time based upon the amount and type of waste, recyclables, and organics that the regulated business produces on a weekly basis. The law also contains a 2020 trigger that could increase the scope of affected businesses if the AB 1826 organic waste reduction targets are not met.<sup>1</sup> Additionally, this law allows certain rural areas to be exempt, for a specified amount of time, and those exemptions will also expire if the waste reduction targets are not met.

This 2020 trigger was the focus of an Informational Item presented at the Department's October 2018 Public Meeting. At that meeting, staff informed stakeholders about the process and timing for making the determination of whether the waste reduction targets have been met.

Public Resources Code (PRC) Section 42649.81(a)(4) requires CalRecycle to determine whether the statewide disposal of organic waste was not reduced by 50 percent of the level of disposal during 2014:

"On or after January 1, 2020, if the department determines that statewide disposal of organic waste has not been reduced to 50 percent 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 the organic waste recycling services specified in paragraph (3), unless the department determines that this requirement will not result in significant additional reductions of organics disposal."

This expansion can only be delayed if CalRecycle finds that including these businesses would not result in significant additional reductions in organic waste disposal.

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<sup>1</sup> Note that this AB 1826 trigger is based upon whether there is a 50% reduction in the 2014 level of "AB 1826 organics," which is defined as food waste, green waste, landscape and pruning waste, non-hazardous wood waste, and food-soiled paper waste that is mixed in with food waste. This definition of organics is narrower than the definition proposed in the pending rulemaking to implement SB 1383.

As mentioned above, CalRecycle must also determine if exemptions for rural jurisdictions will be extended or terminated pursuant to PRC Section 42649.82(D):

“On or after January 1, 2020, if the department determines that statewide disposal of organic waste has not been reduced to 50 percent of the level of disposal during the 2014 calendar year, all exemptions authorized by this paragraph shall terminate unless the department determines that applying this chapter to rural jurisdictions will not result in significant additional reductions of disposal of organic waste.”

These exemptions can only be extended if CalRecycle finds that terminating the exemptions would not result in significant additional reductions in organic waste disposal.

#### **Findings:**

#### **1. Determination of Whether Organics Disposal Has Been Reduced by 50% and Whether Businesses Generating Two+ Cubic Yards of Solid Waste, Recyclables, and Organics Must Arrange for Organics Recycling Services**

Staff used the 2018 Statewide Waste Characterization Study (WCS) data along with 2019 statewide landfill disposal tonnages provided by CDTFA to determine whether the 2020 trigger has been met.

The 2014 Waste Characterization Study estimated that AB 1826 organic waste made up 33.7 percent of the overall waste stream. In 2014, the total landfill disposal tonnage was 30,864,279 and the organic waste disposal tonnage was 10,404,250. Therefore, to meet the goal of AB 1826 (50% of 2014 baseline by 2020) statewide disposal of organic waste needed to be reduced by 5,202,125 tons ( $10,404,250 * 0.5 = 5,202,125$  tons).

The 2018 Waste Characterization Study estimated that AB 1826 organic waste made up 28.2 percent of the overall waste stream. Based on a total 2019 landfill disposal tonnage of 43,176,840 tons (as recorded by CDTFA), the organic waste disposal tonnage in 2019 was approximately 12,175,869 tons ( $43,176,840 * 0.282 = 12,175.869$  tons).

Because the statewide disposal of organic waste was not reduced by 50 percent of the level of disposal during 2014 for AB 1826 organic waste, businesses that generate two cubic yards or more of solid waste, recyclables, and organics must now arrange for organic waste recycling services.

Local Assistance and Market Development (LAMD) staff will work with each affected jurisdiction to determine a plan for implementing by December 31, 2020, the lowered threshold. This will also support jurisdictions in preparing for the implementation of the SB 1383 regulatory requirements, which will include providing mandatory collection services for all organic waste generators.

While the due date for implementation is still the end of 2020 in preparation for 1383 implementation on Jan. 1, 2022, if jurisdictions require additional time to inform the regulated businesses and provide collection service, then CalRecycle will utilize the “At Any Time” process. This process has been in place since 2018 and is utilized when jurisdictions need additional time to fulfill their statutory requirements. Jurisdictions would submit a plan to CalRecycle providing the jurisdiction’s plans/timeline to implement the lower threshold. CalRecycle would review the plan and determine if it is reasonable.

**2. Determination of Whether Organics Disposal Has Not Been Reduced by 50% and Whether the Rural Exemption Should be Extended**

Under AB 1826, if statewide disposal of organic waste has not been reduced to 50% of the 2014 level (as determined through the process outlined above), then the rural exemption terminates "unless" CalRecycle determines eliminating the rural exemptions will not result in significant additional organic disposal reductions. To prevent or delay the end of exemptions, CalRecycle must positively find that extending the AB 1826 requirements to rural jurisdictions would not result in significant additional reductions.

Staff has determined that the relative impact by rural jurisdictions on statewide disposal is approximately one percent of the statewide organic waste disposal, which is not significant. Therefore, CalRecycle will extend the current AB 1826 rural exemption until December 31, 2026. This extension also aligns with the provisions regarding rural exemptions contained in Section 18984.12(c) of the proposed SB 1383 regulations.