



**DATE:** January 10, 2022  
**TO:** Council Sustainability Committee  
**FROM:** Director of Public Works  
**SUBJECT:** New California Recycling and Reuse Legislation

### **RECOMMENDATION**

That the Council Sustainability Committee (CSC) reviews and comments on this report.

### **SUMMARY**

On October 5, 2021, Governor Gavin Newsom approved five recycling and reuse bills: SB 343, AB 881, AB 1201, AB 962, and AB 1276. The bills address labelling requirements for recyclable and compostable products and packaging, the export of plastic waste, reusable/returnable glass bottles, and address single-use food ware. In addition to diverting more waste from landfills, the new recycling legislation will help stimulate a green economy, reduce litter, and reduce the impacts of climate change. Staff is working with the Alameda County Waste Management Authority (StopWaste) and Waste Management of Alameda County (WMAC) to ensure that the City is prepared to implement the requirements of the new laws.

### **BACKGROUND**

California has a history of enacting bold environmental goals for recycling and waste management. In 2010, StopWaste established a goal of diverting at least 75% of Alameda County solid waste from landfills by 2020 and in 2011, AB 341 became law establishing a statewide goal of recycling at least 75% of solid waste generated in California by 2020. In both cases diversion levels achieved fell short of the 75% goals. In December 2020, StopWaste adopted a new goal of “landfill obsolescence” by 2045<sup>1</sup>. Progress toward meeting the recycling goals was slow before the China National Sword policy, and since 2017, the China National Sword policy<sup>2</sup> has made it even more difficult for the State, Alameda County, and the City to meet the ambitious recycling goals.

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<sup>1</sup> Beyond 75% Diversion: A Plan For Landfill Obsolescence <file:///C:/Users/erikp/Downloads/Recycling%20Plan-20210203.1.pdf>

<sup>2</sup> China’s “National Sword” policy banned the import of many plastics and other materials to reduce the contamination of processing facilities.

In 2019, partially in response to the China National Sword, Governor Newsom signed The California Recycling Market Development Act (AB1583) into law, requiring CalRecycle to form a Statewide Commission on Recycling Markets and Curbside Recycling. The goal of the Commission was to provide policy recommendations to CalRecycle and state or federal agencies to help California reach its recycling and organic material recovery goals. Subsequently, in 2020, Governor Newsom passed AB 2287 which required the Commission to identify products that are recyclable or compostable and regularly collected by curbside recycling programs.

Although the state did not meet its 2020 recycling goal, it is preparing for the implementation of SB 1383, a far-reaching recycling law that aims to reduce greenhouse gas emissions by reducing the amount of organics sent to landfill in California. The State also passed new laws that will help move recycling efforts forward, including: AB 343 - Truth in Labeling; AB 881 - Plastic Waste Exports; AB 1201 - Compostable Products Standards; AB 962 - Returnable Beverage Bottles; and AB 1276 - Single-Use Food Serveware. In its report released July 2021, the Statewide Commission on Recycling provided thirty recommendations including policies to eliminate packaging that hinders recycling by creating a standardized Statewide Recyclable List. The report also includes a recommendation to create a certification standard for compostable products to reduce contamination in the organic waste management system.

### Recycling in Hayward

The City currently diverts about 73% of its solid waste from landfills, which helps to reduce community-wide greenhouse gas emissions. The current diversion level is about 7% higher than the diversion achieved in recent years and the increase may be related to the COVID pandemic and thus may not be sustainable. In order to reduce solid waste, the City has taken actions such as banning polystyrene containers at restaurants and vendors, and banning disposable plastic bags at retail stores.

In January of 2012, StopWaste enacted the Mandatory Recycling Ordinance (MRO) requiring businesses, institutions, and multifamily properties with five or more units to sort recyclables separate from trash. The goal of the ordinance was to keep recyclables and compostables to less than 10% of the material sent to landfills by 2020. After Governor Brown signed SB 1383 in 2016, requiring the state to reduce the disposal of organic waste by 50% by 2020 and 75% by 2025, StopWaste adopted a countywide model ordinance to serve as the enforcement mechanism for Alameda County jurisdictions. Council adopted the countywide Organics Reduction and Recycling Ordinance (ORRO) on November 16, 2021<sup>3</sup> to comply with SB 1383. Beginning in January 2022, SB 1383 regulations will be implemented in Alameda County under the ORRO to divert organic material from landfills and reduce food waste.

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<sup>3</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5213907&GUID=D85469C5-D502-4D3D-9E95-F0D34BFA360D&Options=&Search=>

## DISCUSSION

Following is a summary of five California recycling and reuse bills signed into law by Governor Newsom in October 2021, with a focus on information relevant to Alameda County and Hayward. All five bills were supported by the StopWaste Board of Directors.

### SB 343: Truth in Labeling

SB 343 expands on California's existing "Truth in Environmental Advertising" law by prohibiting the use of the "chasing-arrows" symbol and other claims of recyclability on products and packaging that are not truly recyclable. Under this law, CalRecycle must define which products and packaging shall be considered recyclable in California on or before January 1, 2024. Recyclable products or packaging are defined (among other criteria) as being of material type and form collected by curbside recycling programs encompassing 60% or more of the state population. Once the list of defined recyclable products is released, manufacturers will have eighteen months to comply. The bill could also result in businesses using more readily recyclable packaging to ship their products.

This bill will reduce confusion about what is truly recyclable, helping the City's residents sort their recyclable material more accurately. As a result, contamination in the recycling system should decrease and the labeling requirements for recyclable packaging is expected to send a signal upstream to manufacturers to support the recycling market.

SB 343 should also create greater consistency across jurisdictions about recyclable products and packaging. Staff plans to refer to CalRecycle's statewide list of approved recyclable products to determine what materials are appropriate for recycling in Hayward in the new solid waste franchise agreement.

### AB 881: Plastic Waste Exports

California currently leads the nation in plastic waste exports, the majority of which is sent to Southeast Asia. In 2019, 14.4 million tons<sup>4</sup> of plastic waste were shipped from ports in California to international markets. Manufacturers in receiving countries pick out valuable pieces to use as raw materials to make new products. However, not all the waste is recycled, and the unused plastic waste is often dumped illegally, burned, or landfilled. The most commonly disposed material is mixed plastic. AB 881 addresses this issue by reclassifying the export of mixed plastic waste as disposal, only allowing truly recyclable source-separated plastic to be counted towards California's recycling goals. Consistent with the Basel Convention<sup>5</sup>, an agreement which limits the export of harmful and hazardous waste, the permitted exports include only known easily recyclable plastics such as polyethylene<sup>6</sup> (PE), polypropylene<sup>7</sup> (PP) and polyethylene terephthalate<sup>8</sup> (PET).

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<sup>4</sup> Statistic from CalRecycle's State of Disposal and Recycling for Calendar Year 2019 (February 12, 2021)

<sup>5</sup> The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal is a multilateral agreement governing exports and imports of primarily hazardous waste for recovery and disposal

<sup>6</sup> Polyethylene (PE) is commonly used for plastic bags and plastic film.

<sup>7</sup> Polypropylene (PP) is used in food containers that hold products like yogurt and butter. Polypropylene fibers are commonly used to weave indoor and outdoor rugs.

<sup>8</sup> Polyethylene terephthalate (PET) is typically used for disposable water bottles. When used as a fiber it is known as polyester.

Hayward's plastics are already handled in a manner consistent with AB 881. WMAC and Tri-CED, WMAC's subcontractor for residential recycling, do not send mixed plastic waste to international destinations. Hayward's PE, PP and PET plastics are sent to domestic recyclers. The only materials exported internationally are mixed paper, cardboard, and some high-density polyethylene [HDPE] bottles. AB 881 should, therefore, have no impact on Hayward's diversion rates.

#### *AB 1201: Compostable Product Standards*

Increasing organic material recovery is a key step in diverting waste from landfills. However, a major challenge has been distinguishing between compostable and non-compostable products that are visually identical. Some fiber products can contain harmful "forever chemicals", or PFAS<sup>9</sup>, and contaminate processing facilities, requiring expensive removal. As a result, the Biodegradable Products Institute (BPI) no longer certifies fiber products containing intentionally added fluorine levels (like PFAS) as "compostable".

Existing California law prohibits the sale of plastic products that are falsely labeled as "compostable", "biodegradable", or "decomposable". AB 1201 expands the product labeling requirement to include all products (not just plastic products) and directs CalRecycle to develop a list of products. Reducing consumer confusion about what can be composted and broadening the scope of products that fall under this requirement will ultimately decrease contamination in processing facilities, increase the quality of the composted soil product, and reduce the disposal of organic waste in landfills (a requirement of SB 1383).

Despite standardized statewide labeling requirements, there are likely to be differences in what products are accepted in composting facilities across jurisdictions. Some products that meet the statewide definition of "compostable", like compostable plastic bags/biobags, are discouraged from being used by Hayward residents because they do not breakdown quickly enough in WMAC's facility that composts residential organics.

#### *AB 962: Returnable Beverage Bottles*

Since the implementation of the California Beverage Container Recycling Program (Bottle Bill Program), the state's beverage bottle recycling rate has increased from 52% in 1988 to 68% in 2020<sup>10</sup>. The process has been very slow and there remains a large quantity of beverage containers that are disposed of each year.

AB 962 authorizes returnable/reusable glass bottles to circulate through California's Bottle Bill Program. As of January 2024, processors will be permitted to wash reusable glass beverage containers or transfer them to another approved processor instead of being crushed and remade into new products. The law ensures that recycling centers and processors are paid the same amount as they would receive for recycling single-use glass bottles. As a result, AB 962 promotes a more environmentally and economically sustainable business model.

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<sup>9</sup> Per- and Polyfluoroalkyl Substances (PFAS) are a group of manufactured chemicals that break down very slowly and can build up in people, animals, and the environment over time.

<sup>10</sup> <https://www.bottlebill.org/index.php/current-and-proposed-laws/usa/california>

Additional glass bottles are not expected to be directed to, or away from, Hayward recycling centers. According to Jeff Donlevy, a member of the Statewide Commission on Recycling and manager of Ming's Recycling in Hayward, since AB 962 does not include a funding mechanism to incentivize refillable glass bottles, companies transitioning to refillable bottles will need to compensate the local recycling centers or distributors for the additional work required for reuse.

#### AB 1276: Single-Use Food Serviceware

Single-use food ware items are a leading source of litter and, even when properly disposed, typically end up in landfills. Amidst the COVID-19 pandemic, the consumption of single-use foodware has increased significantly, contributing to even greater amounts of plastic waste.

Existing California law addresses part of this problem by prohibiting restaurants from providing single-use plastic straws unless requested by customers. AB 1276 expands the law to include all single-use foodware accessories and standard condiments. The law applies to utensils (forks, knives, spoons, and sporks); chopsticks; condiment cups and packets; straws; stirrers; splash sticks; and cocktail sticks. Additionally, this law prohibits packaging items in bundles to allow customers to take only the desired item(s). AB 1276 is intended to keep single-use foodware out of landfills, but it can save restaurants money that is typically spent on disposable foodware. This law applies to on-site dining, third-party delivery platforms, and takeout. It does not apply to school cafeterias, correctional institutions, health care facilities and residential care facilities.

Cities and/or counties are required, on or before June 1, 2022, to designate an enforcement agency to enforce these requirements. For the City, the Alameda County Health Department is the enforcement agency for the plastic straw upon request law.

### **ECONOMIC IMPACT**

Increased recycling state-wide will have an overall positive impact on the economy. According to the EPA<sup>11</sup>, recycling and reuse activities in the United States accounted for 681,000 jobs, \$37.8 billion in wages, and \$5.5 billion in tax revenues in 2012. Specifically, AB 962 will help stimulate the green economy by providing jobs such as production line workers, managers, and bottle collectors. Reuse practices like AB 962 create an average of thirty times more jobs than landfills<sup>12</sup>. Additionally, AB 1276 can save restaurants money by purchasing fewer single-use service ware.

### **FISCAL IMPACT**

The new state laws described in this report will not cause a fiscal impact to the City's General Fund. Outreach related to these bills will be accomplished by existing, budgeted staff, and non-General Fund sources.

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<sup>11</sup><https://www.epa.gov/smm/recycling-economic-information-rei-report>

<sup>12</sup><https://www.ecocyclesolutionshub.org/about-zero-waste/jobs-eco-impact/>

## **STRATEGIC ROADMAP**

This agenda item relates to the Strategic Priority of Combat Climate Change. Specifically, this agenda item relates to the implementation of the following project:

- Project 5a: Conduct outreach regarding single-use disposables.
- Project 5b: Develop ordinance regulating single-use food ware in restaurants and coordinate with county-wide efforts

AB 1276 eliminates the need for a local ordinance to regulate single-use food ware, however it accelerates the need for the City to conduct outreach to ensure the City's restaurants are aware of the new requirements that take effect in June 2022.

## **SUSTAINABILITY FEATURES**

The recently approved recycling and reuse bills all support California's bold recycling goals by increasing consumer awareness, preventing contamination, and reducing plastic waste. If executed successfully, these regulations will increase the amount of waste that is recycled, reducing greenhouse gas emissions, and decreasing its contribution to climate change.

## **PUBLIC CONTACT**

There has been no public contact for this agenda item.

## **NEXT STEPS**

The City will continue working with StopWaste and Waste Management to ensure compliance with state laws and to coordinate public outreach efforts.

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