

FIVE PILLARS

50%
LESS OIL

50%
RPS

DOUBLE
EFFICIENCY

MITIGATE
METHANE

HEALTHY
SOILS

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Sustainable Organics Recycling

Joining the Active 2030 Club on Climate Change

Last year, Governor Jerry Brown unveiled his Five Pillars Plan and batted 2 out of 5 when he signed SB 350 (DeLeon, 2015) that increased renewable energy to 50% by 2030, and doubled energy efficiency by 2030. The third pillar, to decrease petroleum use by 50% by 2030 was gutted, giving Big Oil a win. Big Oil also was able to hold SB 32 in committee last year, which had planned to decrease greenhouse gas emissions by 40% of 1990 levels by 2030. Groundwork was administratively paved for the Short-lived Climate Pollutants strategy to mitigate methane at CARB, and the Healthy Soils Initiative at the California Department of Food & Agriculture. Brown vowed *"California is not going to miss a beat. Be very clear about that. We don't have a declaration in statute, but we have the same authority. We're going forward. The only difference is my zeal has been intensified to a maximum degree."*

The administration started holding the Five Pillars Symposiums with CARB rolling out the AB 32 2030 Target Scoping Plan Update. As the Compost Coalition teamed up with the Bioenergy Association of California again this year, things were beginning to look bleak for California's climate programs. Legislative analysis and a pending court case coupled with low revenue from the auctions, placed the Cap-and-Trade program at risk as well as the AB 32 programs past 2020 as a whole. SB 32 – the bill to extend AB 32 – had stalled out in committee. Methane mitigation received political awareness after Aliso Canyon and the international Paris climate accords, but the connection to renewable natural gas production was not evident to all at the time. The **Rethink Methane Symposium** in February was a game changer on moving methane into the tank of CNG trucks with the new ultra-low NOx engines ready to be deployed.



Playing carbon chess across the board from Big Oil, the Governor was able to leverage Cap-and-Trade revenue allocation and preserve the low carbon fuel standard to get SB 32 back on his desk, while sacrificing Cap-and-Trade for now for possible industry sector caps or a carbon tax as highlighted in the AB 32 2030 Target Scoping Plan Update process. With the signing of SB 32 on September 8, the Governor's goals for 2030 with new legislative CARB oversight became law and he stated, *"This is big, and I hope it sends a message across the country."* We have now joined the Active 2030 International Club on Climate Change. Time is running out.

Amazingly, SB 1383 (Lara) hopscotched late on the last night through the Legislature with plans to reduce methane by 40% by 2030 linking the biomethane to promoting renewable natural gas, while appeasing dairies and deferring specific landfill regulations. SB 1383 requires a 50% reduction in the level of the statewide disposal of organic waste from the 2014 levels by 2020, and a 75% reduction in the level of the statewide disposal of organic waste from the 2014 levels by 2025.

The Edgar Institute's White Paper (attached) on SB 1383 determined that 9 million tons of organic waste will need to be diverted by 2020 with a GHG reduction benefit of 4 million metric tons per year, and 13.3 million tons of organic waste will need to be diverted by 2025 with a GHG reduction benefit of 6 million metric tons per year. To comply with AB 876 (McCarty, 2015) to provide 15 years of capacity, a total of 14 million tons of organic processing capacity will need to be in place by 2030.

"The bills today, they really are far reaching, and they keep California on the move to clean up the environment, to encourage vast innovation and to make sure we have environmental resilience that ... Californians really want and expect," Brown said. Our industry is ready to fulfill these great expectations to innovate and create energy and compost from our organic waste on the international stage.

Legislative Update

SB 32 (Pavley)

SB 32 is elegant, concise and simple in language and was tied to the passage of AB 197 (Garcia) which provides legislative oversight of CARB. SB 32 authorizes CARB to adopt rules and regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas (GHG) emissions which shall ensure that statewide GHG emissions are reduced to at least 40% below the statewide GHG emissions limit no later than December 31, 2030. The AB 32 2030 Target Scoping Plan Update to 2030 will determine the programs to get there.

The California Global Warming Solutions Act of 2006 (AB 32) designates CARB as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. Continuing to reduce GHG emissions is critical for the protection of all areas of the state by the adverse impacts of climate change, including an increased frequency of extreme weather events, such as drought, heat, and flooding. Placing 2030 targets into law, adds certainty that programs will continue past 2020.

AB 197 created the Joint Legislative Committee on Climate Change Policies consisting of at least 3 Members of the Senate and at least 3 Members of the Assembly and would require the committee to ascertain facts and make recommendations to the Legislature and to the houses of the Legislature concerning the state's programs, policies, and investments related to climate change.

SB 1383 (Lara)

SB 1383 requires CARB to approve and begin implementing the comprehensive strategy to reduce emissions of short-lived climate pollutants to achieve a reduction in methane by 40%, hydrofluorocarbon gases by 40%, and anthropogenic black carbon by 50% below 2013 levels by 2030. With the methane emission reduction goals, the following targets to reduce the landfill disposal of organics were adopted; (1) A 50% reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020; (2) A 75% reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025.

The methane generated by the diversion of organics with anaerobic digestion technologies would be used to produce renewable natural gas. The CA Energy Commission, in consultation with CARB, shall develop recommendations for the development and use of renewable gas. In developing the recommendations, the CEC shall identify cost-effective strategies that are consistent with existing state policies and climate change goals by considering priority end uses of renewable gas, and adopt policies and incentives to significantly increase the sustainable production and use of renewable gas, and shall consider additional policies to support the development and use in the state of renewable gas, including biomethane and biogas, that reduce short-lived climate pollutants in the state. Priority shall be given to fuels with the greatest greenhouse gas emissions benefits, including the consideration of carbon intensity and reduction in short-lived climate pollutants.

Cap-and-Trade Compromise Deal with AB 1613

The road to SB 32 and SB 1383 was paved with a Cap-and-Trade budget deal. What was once a hopeful \$3.1 billion disbursement has been attenuated down to just \$900 million as the auction revenue amount has dissipated with market uncertainty. The adopted 2030 goals hope bring certainty past 2020. AB 1613 amended the 2016 Budget Act to appropriate \$900 million of Greenhouse Gas Reduction Funds somewhat consistent with the 2016 Cap and Trade Plan. After many hearings and numerous proposals from both the Assembly and the Senate for spending Cap-and-Trade revenues, AB 1613 passed. AB 1613 allocates funding for waste diversion for \$40 million down from \$80 million, healthy soils for \$7.5 million, and heavy duty vehicles for \$150 million. The \$40 million for low carbon fuel incentives at CARB was not included.

Bill Watch

SB 32 (Pavley)

TOPIC: Requires the Air Resources Board (ARB) to approve statewide greenhouse gas (GHG) emissions limits equivalent to 40% below the 1990 level by 2030. The bill would also require CARB to prepare and submit to the Joint Legislative Budget Committee and appropriate policy committees a report relating to the greenhouse gas emissions reductions achieved toward those limits. This bill would become operative only if AB 197 of the 2015-16 Regular Session is enacted and becomes effective on or before January 1, 2017.

STATUS: Signed by Governor on Sep. 8.
SUPPORT

SB 1383 (Lara)

TOPIC: Would require CARB to approve and implement Short-lived Climate Pollutants strategy to achieve 40% reduction in methane, 40% reduction of hydrofluorocarbon gases, and a 50% reduction in anthropogenic black carbon below 2013 levels, by 2030.

Passed out of Assembly Natural Resources on June 27 with a 6-1 vote.

STATUS: Enrolled to Governor on Sep. 6.
SUPPORT

AB 197 (Garcia)

TOPIC: This bill would add 2 Members of the Legislature to the state board as ex officio, nonvoting members. The bill would provide that the voting members of the state board are appointed for staggered 6-year terms and upon expiration of the term of office of a voting member, the appointing authority may reappoint that member to a new term of office, subject to specified requirements. The bill would require the state board to establish the initial staggered terms. The bill would create the Joint Legislative Committee on Climate Change Policies consisting of at least 3 Members of the Senate and at least 3 Members of the Assembly.

STATUS: Signed by Governor on Sep. 8.
SUPPORT

AB 1613 (Committee on Budget)

TOPIC: The Budget Act of 2016 made appropriations for the support of state government for the 2016-17 fiscal year. Amends the 2016 Budget Act to appropriate \$900 million of Greenhouse Gas Reduction Funds consistent with the 2016 Cap and Trade Plan. \$40 million for waste diversion projects for organic material which fund projects that have a double environmental benefit of capture greenhouse gases while also reducing methane emissions; \$7.5 million for the Healthy Soils program, to establish innovative farming practices that capture carbon, reduce water use and improve soil health.

STATUS: Enrolled to Governor on Sep. 9.
SUPPORT

Follow-up on NOP Decision and Impact on Compost

Farmers, composters and distributors of compost used as an organic input material have been living in a world of uncertainty following the June 21 ruling, by a US District Court judge in San Francisco, which vacated the NOP 5016 guidance, effective August 22, because the department didn't properly follow the Administrative Procedures Act, providing for a more public process.

While the ruling left the majority of the composting industry, certifiers, and some certified organic farmers both in the dark about how to proceed and potentially open to

lawsuits should residues of prohibited pesticides be found in organic compost, NOP has issued the below guidance. While there were some indications that the Justice Department might ask the judge, or an appeals court, for a stay of her order, that has not occurred.

As noted in their press release, this ruling does not impact the status quo from 2010 and there is no requirement by NOP, CDFA, CCOF or other certifiers for testing of materials - outside of the CalRecycle regulatory regime for metals and pathogens - although bioassays may be requested.

AB 32 2030 Target Scoping Plan Update

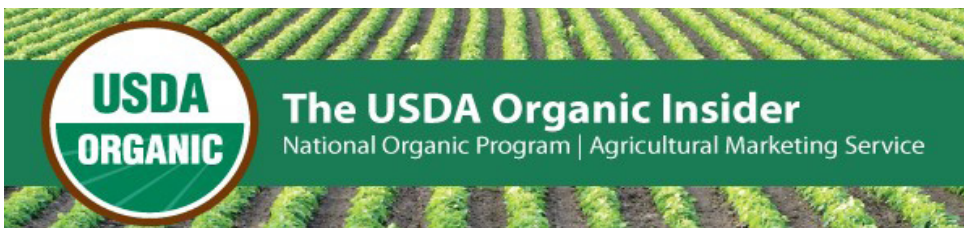
On June 17 2016, CARB released the 2030 Target Scoping Plan Concept Paper and Updated GHG Inventory on and CCC submitted comments on July 8. The 2030 Target Scoping Plan Concept Paper provided an additional opportunity for public and stakeholder engagement and input and framed up SB 32 legislation. With the passage of SB 32, the AB 32 Scoping Plan Update now has statute to back it up on how to most effectively achieve a 40% reduction in GHG emissions by 2030 as compared to 1990 statewide GHG emissions. The content of this paper has been informed by several public workshops which included workshops on how to achieve the 2030 goals for both the transportation and electricity sectors. This Scoping Plan Update will provide the road map to 2030 and be the basis to implement SB 32. Be ready for an active fall.

<http://www.arb.ca.gov/cc/scopingplan/scopingplan.htm>

AB 901 Regulations

CCC attended a series of eight topical workshops, conducted by CalRecycle as part of their informal rulemaking process, to aid in the development of new regulations on reporting requirements for recycling, composting, and disposal facilities, subsequent to the passage of AB 901 (Gordon). Additional meetings will focus on gathering additional information regarding reporting thresholds, organic materials, penalties and enforcement, multiple operations, jurisdictional requests and confidentiality, jurisdiction of origin and source sector, and material types and products. Key takeaway is that proprietary information will be protected...even from jurisdiction requests.

CCC has requested and received lists of outbound materials from MRFs, composters, and CDI processors to be used in informing CalRecycle staff on streamlining the reporting of material types and products.



Announcement

August 18, 2016

Greetings!

On June 20, 2016, a judicial decision from the United States District Court for the Northern District of California ruled that the USDA National Organic Program (NOP) published guidance titled Allowance of Green Waste in Organic Production Systems (NOP 5016) was a legislative rule subject to notice-and-comment rulemaking under the Administrative Procedure Act (APA). The court prospectively vacated NOP 5016, effective on August 22, 2016, and grandfathered in compost purchased or used between 2010 and that date. In response to the court's decision, the USDA Agricultural Marketing Service (AMS) plans to conduct a notice-and-comment rulemaking. A proposed rule is under development. In the interim, accredited certifying agents must continue to review and approve all materials used by organic producers, including compost, as part of an operation's organic system plan. Certifying agents are responsible for ensuring that all materials used by organic producers comply with the USDA organic regulations. Certifying agents may request additional information deemed necessary to evaluate compliance with the regulations (§§ 205.201(a)(1) and 205.201(a)(6)). To determine whether a compost product may comply with the regulations, certifying agents may gather information from the compost supplier and/or from the organic producer, including the type and source of feedstocks used. Information may include results of bioassay testing or other quality assurance testing from the compost supplier or results of any on-farm bioassay testing. The information gathered must be sufficient to verify compliance with the USDA organic regulations. As always, testing is performed at the discretion of certifiers and state organic programs "when there is reason to believe that the agricultural input or product has come into contact with a prohibited substance or has been produced using excluded methods." 7 C.F.R. § 205.670(b).

The California Compost Coalition

is a registered Lobbying Coalition with the Fair Political Practices Commission (FPPC), created in 2002 by a group of compost operators in response to demands for increased recycling of organic materials & production of clean compost, bioenergy, renewable natural gas, and biochar.

CCC Members

Agromin
Atlas Disposal
Burrtec Waste Industries
Caglia Environmental
California Wood Recycling
CleanFleets.net
Clover Flat Compost
Cold Canyon Compost
CT Bioenergy Consulting LLC
Harvest Tulare
Harvest Lathrop
Marin Sanitary Service
Mt. Diablo Recycling
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Organic Waste Solutions
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Sonoma Compost
Tracy Delta Compost
Upper Valley Recycling
Vision Recycling
Zanker Road Resource Management
Z-Best Compost Facility
Zero Waste Energy Development
Zero Waste Energy, LLC

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CCC Members News

The year 2016 has been a great year for bioenergy legislation. The Bioenergy Association of California (BAC) hit a Grand Slam on all accords with SB 32, SB 1383, AB 2323 on pipeline incentives and SB 840 on interconnection and pipeline gas. BAC is a trade association of private companies and public agencies working to convert organic waste to energy. BAC's members include energy and technology companies, investors, consulting firms, utilities, and public agencies responsible for solid waste, wastewater, air quality and environmental protection.

There is common membership with CCC including Atlas Refuel, CleanFleets.Net, Harvest Power, Organic Waste Solutions, Phoenix Energy, and Zero Waste Energy. Clean Energy, CCC and CleanFleets.Net have formed a powerful

alliance with BAC to promote our common goals at CARB for the development of our facilities and the deployment of our CNG fleets with low carbon fuel while securing feedstocks. The California Refuse Recycling Council were active pushing bioenergy legislation to the very end.

Earlier this summer, things were looking bleak for California's climate programs. Legislative analysis and a pending court case cast a long shadow over the state's Cap-and-Trade program. The Cap-and-Trade and Low Carbon Fuel Standard (LCFS) auctions had abysmal results. And SB 32 – the bill to extend AB 32 – had stalled.

And then things got worse. BAC and Clean Energy met with the Governor's Office, which confirmed media stories that the Governor was negotiating with the oil industry to revise SB 32 and the LCFS. The Governor wanted to pass a 2/3 vote bill in order to remove legal uncertainty around the Cap-and-Trade program, but the only way to get to a 2/3 vote (if at all) was to weaken the LCFS.

BAC and its members moved into high gear to defend the LCFS. BAC reached out to other biofuels and clean vehicle groups, and environmental and public health groups, to form a very effective coalition to defend the LCFS. Clean Energy, CR&R, CRRC,

LA County Dept. of Public Works, Wastewater Capital and other BAC members pulled out all the stops to

educate legislators on the importance of the LCFS to create jobs, reduce air pollution and provide certainty for businesses investing in California. BAC met with dozens of legislators to make sure that they would not agree to a deal that gutted the LCFS.

Once it was sure that the LCFS would not be part of a bad deal, the BAC Coalition kept up the momentum to pass SB 32. BAC did not do it alone – many other companies, agencies and coalitions were involved – but BAC members played a critical role, culminating in meetings with the Speaker of the Assembly and President of the Senate, who confirmed that our efforts were paying off.



**Bioenergy
Association of
California**

For additional information about these policies and BAC, visit www.bioenergy.org.

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