



WESTERN PLACER
WASTE MANAGEMENT AUTHORITY

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January 2, 2014

Caroll Mortensen, Director
Department of Resources, Recycling and Recovery
1001 I Street
Sacramento, California 95812

JAN 8 - 2014

RE: CALRECYCLE UPDATE ON AB 341 LEGISLATIVE REPORT

Dear Director Mortensen:

The Western Placer Waste Management Authority (Authority) has reviewed CalRecycle's Update on the AB 341 Legislative Report (Update). The Authority supports many of the concepts in the revised Concept List; however, we have concerns about others. This letter respectfully provides our comments and recommendations on those concepts.

Background

The Authority is a regional agency comprised of Placer County and the Cities of Roseville, Rocklin and Lincoln. The Authority provides recycling and waste disposal services to these communities as well as the City of Auburn, the City of Colfax and the Town of Loomis. Together, the agencies that utilize the Authority's facility are referred to as the "Participating Agencies".

Mixed solid waste collected in western Placer County is processed at the Authority's state-of-the-art Materials Recovery Facility (MRF). Residents and businesses within the Authority's service area are not required to separate their recyclables prior to delivery to the MRF. The MRF is designed to separate, process and market recyclable materials removed from the mixed solid waste stream. The residuals are disposed at the Western Regional Sanitary Landfill, also owned and operated by the Authority. Our MRF has proven to be highly successful and cost-effective in assisting the Participating Agencies to meet (and far exceed) the current 50% diversion rate mandate. The MRF typically diverts approximately 30% from the MRF processing lines; however this does not include the additional recyclables received and diverted via the facility's buy-back center, drop-off center, compost facility, and landfill diversion (inert waste and construction/demolition waste). The facility-wide diversion rate achieved in 2012 was over 44%. Over the last decade, the diversion rate achieved at the Authority's facility has continued to increase while at the same time we have been able to maintain and, in some cases, reduce our tipping fees.

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Businesses within the Authority's service area automatically participate in a recycling program by virtue of sending their mixed solid waste to the Authority's MRF for processing. As such, the Participating Agencies have effectively achieved a 100% participation rate by local businesses in a cost-effective recycling program.

As mentioned, the Authority supports several key concepts mentioned in the Update, in particular:

1. **Funding for Infrastructure** – The Authority supports this concept, especially the use of Cap and Trade funds and California Energy Commission funding for anaerobic digestion (AD) and solid waste related projects that reduce greenhouse gases (GHG).

The Authority is researching the possibility of utilizing AD technology to divert food waste; economic viability is a key consideration in whether such a project would be feasible.

2. **Regulatory Changes** – The Authority supports this concept, however, only when they are grounded in sound science, address market conditions, streamline the permitting process and support the use of conversion technologies.
3. **Indirect Incentives for Organics Infrastructure** – The Authority supports this concept, especially climate change offsets and Renewable Portfolio Standard eligibility to improve economic viability. These financial incentives will be pivotal to the success of any organics program and should be a priority.
4. **Commercial Recycling** – The Authority agrees with the revised approach that the Mandatory Commercial Recycling regulation not be expanded at this time. CalRecycle should first fully evaluate the effectiveness of the current program.
5. **EPR Framework** – The Authority partners with the California Product Stewardship Council and supports Extended Producer Responsibility (EPR) legislation requiring manufacturers to be responsible for the end of life management of hazardous or difficult to recycle products.
6. **State Procurement** – The Authority supports this concept; State agency procurement of recycled content products is important for market development of recycled materials.
7. **Define Post-Recycled Residuals** – The Authority supports this concept, however only if the definition does not include a standard requiring a specific level of recyclables/organics in the residuals and supports the use of conversion technologies. Energy recovery must be recognized as a beneficial use (provides jobs, energy, reduces GHG, avoids landfills, etc.) for residuals that are currently disposed in landfills and for which other viable markets do not currently exist.

The Authority also has several comments and concerns on some of the key concepts outlined in the Update.

1. **Landfill Disposal Phase Out of Organics** - The Update proposes regulation that would ban or phase out the disposal of organics in landfills and also proposes to allow the ARB Scoping Plan to address organics mandates.

- a. The Authority would support an organics mandate if it includes a phased approach to allow time for adequate markets to develop an infrastructure to be sited, permitted, and implemented across the state. Any mandate must account for local conditions and provide flexibility.
 - b. The Authority would oppose an immediate, complete ban on organics in landfills. There is a significant lack of organics infrastructure in place to justify an immediate ban. The Update acknowledges this, stating that existing organics infrastructure is insufficient to handle increased tonnages from a new mandate.
2. **State Funding Models / Supplement Tipping Fees** - The Update proposes to explore methods to supplement CalRecycle's current landfill disposal fee revenues to fund necessary CalRecycle oversight of waste management programs and activities.
- a. The Authority opposes raising CalRecycle's landfill disposal fee; that would only be a short term solution as landfilled tonnages will continue to decline with increased diversion. The Authority also opposes applying the disposal fee to Alternative Daily Cover (ADC) or other beneficial uses.
 - b. The Authority supports the development of a more appropriate and reliable long term funding source that is separate from the landfill disposal fee.
3. **MRF Performance Standards** - The Update proposes to develop performance standards and a certification process for determining if mixed waste processing is "comparable to source separation" in removing recyclables from waste.
- a. The Authority opposes a single numeric standard for all MRFs, as it is not appropriate for making a reasonable or accurate comparison. A purely numeric standard does not take into account the variability of programs and facilities - one cannot make an "apples to apples" comparison of MRFs to each other, or to source separation. For example, although source separation may yield higher "per load" diversion than mixed waste MRFs, it only represents material collected from participants that participate in the program.

As stated above, businesses within the Authority's service area automatically participate in a recycling program by virtue of sending their mixed solid waste to the Authority's MRF for processing (note: we have flow control agreements

with several agencies requiring delivery of solid waste to the MRF). As such, the Participating Agencies have effectively achieved a 100% participation rate by local businesses in a cost-effective recycling program.

In addition, as a result of their use of the Authority facilities, the Participating Agencies have a long history of meeting, and far exceeding, the state disposal rate targets. Equivalent diversion rates range from 66 to 84% and the countywide average diversion rate is 74%, far above the statewide average of 65%.

- b. Finally, the Authority believes that AB 341 did not call for a minimum recovery standard at individual facilities, but rather the intent of AB 341 was to provide businesses flexibility to utilize existing programs and infrastructure to divert materials from landfilling.
4. **Measurement** - The Update proposes sweeping changes to how diversion is measured under AB 341, e.g. an “Intellectually honest” approach, or one where only “true” recycling and composting would count as diversion. Landfill beneficial reuse and ADC would not count as diversion under this new philosophy.
- The Update also proposes a new base year generation rate and per capita disposal baseline. Together, these changes would lower the current statewide diversion rate from 65% to a 50% “recycling rate”, according to the Update.

- a. The Authority opposes changing how diversion / recycling is measured. Jurisdictions would be required to divert far more waste than currently required to reach 75% diversion because their starting point (baseline) would be artificially lower and certain diversion activities would no longer be counted. The costs to the Authority and our Participating Agencies would be significant due to lack of infrastructure and lack of established markets for products currently being landfilled. In addition, incremental costs to recover additional material are not linear; to achieve additional recycling (both to make up for lost diversion credit and meet new mandates) the additional costs would likely be exponentially more expensive.

Finally, the approach openly conflicts with the intent and direction in AB 341, and every legislative analysis prepared for the legislature, which was codified in PRC 41780.02 specifically requiring CalRecycle to provide “strategies to achieve the state’s policy goal that not less than 75% of solid waste generated *be source reduced, recycled, or composted by 2020.*”

- b. With respect to beneficial reuse of waste material, the Plan also plainly conflicts with PRC 41781.3, which states that beneficial reuse at a landfill, including ADC, “*shall constitute diversion through recycling and shall not be considered disposal...*”
- c. The Authority supports diversion credit for MRF fines used as ADC when a demonstration study has confirmed it meets state standards and when there are no other viable markets for the material. The Authority currently produces approximately 31,200 tons per year of MRF fines for use as ADC. These materials – which generally consist of dirt, small shreds of paper, glass and inert materials – have been used by the Authority as ADC since 2003.
- d. Prior to their use, the Authority conducted a 1-year demonstration project to prove the material met the stringent requirements for landfill cover materials. The Authority has investigated other uses and markets, but to date has been unable to identify any other viable uses for the material other than ADC. It does not make sense to discount a diversion activity that provides a beneficial use, avoids use of virgin materials, conserves landfill space, and for which there are no alternative markets.

- e. The Authority recommends retaining the current statutory definition of diversion until existing and proposed measures (e.g. existing Mandatory Commercial Recycling, phased organics regulation, and objective life cycle analysis tool) are developed, implemented, and measured.

Finally, the Authority has some overarching recommendations as you move forward with your plan for meeting the State's policy objective.

First, The Authority strongly believes the Plan needs to:

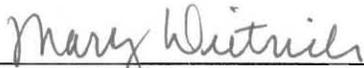
1. Build upon the existing diversion programs and infrastructure that have yielded a statewide diversion rate of 65%.
2. Facilitate state funding for the new infrastructure needed to recycle the additional millions of tons per year of waste to be diverted, which industry studies have indicated could cost over \$1 billion statewide.
3. Include reasonable implementation timelines to account for siting, permitting, financing, franchise agreement modifications, construction and other variables.
4. Collaborate with air districts to revise new source review rules to allow combustion devices that use biogas from AD technologies to be permitted without the procurement of emission reduction credits.
5. Support incentive programs that will encourage long-term investment in renewable products, fuels, and energy from waste-derived materials, such as the Renewable Portfolio Standard, the AB 32 low carbon fuel standard (LCFS), and the federal LCFS.

Second, The Authority recommends CalRecycle prioritize and, more importantly, phase implementation of the proposed strategies as follows:

1. Allow full implementation of the Mandatory Commercial Recycling regulations.
2. Implement a phased organic waste diversion program, which should first address funding, market development, and infrastructure needs, before mandating additional diversion.
3. Develop a robust and objective lifecycle analysis tool to help jurisdictions select technologies that result in a net environment benefit and provides a scientifically-sound basis to grant diversion and renewable energy credits to new technologies.
4. Retain the current statutory definition of diversion until the above strategies are implemented and an assessment is made as to what level of diversion has been achieved with these measures.

In conclusion, the Authority is pleased to see that CalRecycle understands the need for infrastructure funding, market development, EPR, and permit streamlining. If CalRecycle addresses these needs, while incorporating the additional recommended strategies, the Authority believes higher diversion can be achieved in a manner that is financially manageable, protects the environment, utilizes emerging technologies, and provides jobs.

Thank you for considering our proposed approach for moving California towards higher diversion.



Mary Dietrich
Executive Director

cc: Mary Nichols, Chair, California Air Resources Board
Scott Smithline, Assistant Director, CalRecycle
Matt Rodriguez, Secretary, California Environmental Protection Agency
Martha Aceves-Guzman, Deputy Legislative Secretary, Office of Governor Brown
WPWMA Board of Directors