



WASTE MANAGEMENT

Public Affairs

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Via Email: caroll.mortensen@calrecycle.ca.gov

Subject: Draft 75% Recycling Plan

Dear Caroll:

Thank you for the opportunity to comment briefly on the draft 75% Recycling Plan (Plan) that CalRecycle recently released. Waste Management (WM) is very interested in working with you to develop an effective plan that will achieve the goals of AB 341, and would like to comment very generally at this time on some broad themes. We hope that as the Plan further develops it reflects the following themes.

Objective

Public Resources Code Section 41780.02 (a): On or before January 1, 2014, the department shall submit a report to the Legislature that provides strategies to achieve the state's policy goal that not less than 75% of *solid waste generated be source reduced, recycled, or composted* by the year 2020, and annually thereafter, pursuant to Section 41780.01. (emphasis added)

PRC 40196. "*Source reduction*" means any action which causes a net reduction in the generation of solid waste. "Source reduction" includes, but is not limited to, reducing the use of non-recyclable materials, replacing disposable materials and products with reusable materials and products, reducing packaging, reducing the amount of yard wastes generated, establishing garbage rate structures with incentives to reduce the amount of wastes that generators produce, and increasing the efficiency of the use of paper, cardboard, glass, metal, plastic, and other materials. "*Source reduction*" does not include steps taken after the material becomes solid waste or actions which would impact air or water resources in lieu of land, including, but not limited to, transformation. (emphasis added)

PRC 40180. "*Recycle*" or "*recycling*" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. "Recycling" does not include transformation, as defined in Section 40201. (emphasis added)

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40116. "Compost" means the product resulting from the controlled biological decomposition of organic wastes that are source separated from the municipal solid waste stream, or which are separated at a centralized facility. "Compost" includes vegetable, yard, and wood wastes which are not hazardous waste.

The above definitions, and others (e.g., "transformation", "gasification", should form the starting point for the 75% Plan. However, CalRecycle should thoroughly evaluate existing definitions to see if they will facilitate attainment of the 75% goal.

More than Recycling

AB 341 says that 75% of solid waste generated is to be source reduced, recycled or composted. Clearly "recycling" is only one of three broad strategies that will be used to meet this goal. Both source reduction and recycling are defined in current statute. We recommend further clarification of what constitutes source reduction, recycling and composting and how each of these will contribute to the statewide goal.

What is Recycling?

CalRecycle might also consider what makes sense to include within the recycling framework through establishing a new-tiered framework for different types of recycling – perhaps based on a life cycle assessment of the different types of recycling activities. Higher tier recycling with lower emissions and energy demands should be preferably encouraged. All forms of recycling should be allowed. Energy from waste (EfW) needs to be part of the 75% hierarchy. The plan must allow EfW to either count as a form of recycling or give it "special status" such that it can contribute to the 75% goal.

Energy from Waste

It is becoming increasingly clear that we live in an energy-constrained world. Energy from waste needs to be rationally considered along with other forms of recycling activities. Rather than imply that the recovery of energy from waste is a form of "disposal", CalRecycle should consider Energy from Waste (EfW) as a legitimate form of recycling ***if*** appropriate standards are met to protect human health and the environment – or, if not recycling, afford EfW "special status" such that ***it*** can contribute to the 75% goal. Energy recovery from waste should be placed in a tiered hierarchy system with recycling based on a life cycle assessment of emissions and energy demands. CalRecycle should consider reforming the existing statutory and regulatory system to ensure that the maximum beneficial use and value of the waste material can be realized – regardless of the type of recycling, energy recovery, and composting or source reduction activity.

Conversion Technologies

CalRecycle should support the development of conversion technologies that can produce energy and fuels from waste materials – i.e., energy from waste (EfW). These should be considered forms of recycling – or at least not considered disposal -- providing they operate in a manner protective of human health and the environment. CalRecycle should propose legislative

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clarification to allow conversion technologies to play a role in helping achieve the 75% goal established by AB 341.

Existing Waste to Energy Facilities

The draft Plan proposes that the three existing waste to energy plants in California should be considered disposal rather than recycling. Alternatively, WM recommends that CalRecycle support the continued recognition of the three existing mass-burn waste to energy plants as contributing to the 75% goal – provided they continue to operate in a manner that is protective of human health and the environment in accordance with applicable regulations. An overall life-cycle assessment of these plants demonstrates their effectiveness in reducing GHG emissions and providing an alternative source of California energy. WM believes that the existing WTE plants in California can and should continue to make valuable contributions to the goals of AB 341:

1. 90% volume reduction of waste requiring disposal, and
2. Additional materials recovery (principally metals) as part of the energy recovery process.

Consideration of Local and Geographic Differences

While the legislature established a statewide 75% goal, we know from our twenty plus years of implementing AB 939 that every jurisdiction is unique in their approach to meeting their mandated diversion (and SB 1016 disposal reduction) requirements. We strongly encourage CalRecycle to develop a plan that recognizes regional differences and incorporate strategies and programs that are waste shed based, rather than require a single set of programs and standards throughout the state. Towards this end, the plan should be structured in such a way to provide local governments and their service providers with maximum flexibility and incentives to help the state meet this 75% goal. Some areas of the state may be better suited to a particular suite of source reduction, recycling and composting strategies. Other parts of the state may require a completely different set of strategies. The plan should be structured in such a way as to accommodate local and regional differences. CalRecycle should consider whether such a plan would require all areas of the state to meet 75% or whether it may make more sense to create a structure where some jurisdictions may achieve higher rates than 75% while other jurisdictions may achieve lower rates.

Along the same lines, local governments have different needs and objectives. Some jurisdictions have already embraced very aggressive recycling and waste reduction programs. Other jurisdictions, particularly those strapped for cash may not be willing to invest in recycling and waste reductions programs to the same degree. The Plan needs to consider and account for such differences.

Changing the Recycling Measurement System

The draft Plan suggests a new framework of evaluating attainment of AB 341 75% Recycling as compared to the AB 939 program. This has caused confusion among many local jurisdictions haulers, and recyclers as they have recently transitioned from AB 939's 50% diversion requirement to SB 1016's disposal reduction equivalent. WM suggests that, where possible,

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alignment be maintained between the system for tracking compliance with the 50% diversion and disposal reduction requirements of AB 939 and SB 1016, and the 75% goal of AB 341.

Composting and ADC

Achieving a substantial reduction of the use of landfill ADC/AIC in favor of other organic waste recycling activities in some areas of the state may make more sense than in others. Southern California has a critical lack of composting capacity – which is unlikely to change by 2020, due to limited places to site such facilities, and restrictive air and water permitting requirements, to name a few. Northern California, on the other hand, has significantly more organic waste diversion opportunities. An effective plan should consider these regional differences and “plan” accordingly. Limitations and restrictions on a particular use of waste derived materials in favor of another use of waste-derived materials must be carefully considered. If limitations and restrictions were to be imposed on the use of some wastes for landfill ADC, are there adequate and cost-effective alternatives available? Landfills, to the extent they continue to exist, will still need some materials to use for purposes of ADC/AIC. Where will they come from?

Further, there are many different types of ADC/AIC materials. Some types of ADC/AIC materials may have readily available alternative uses. Green waste ADC/AIC is a perfect example. Green waste can be used for compost, mulch, and fuel for energy recovery. Other waste materials, such as Auto Shredder waste, may not have a readily available alternative use.

WM would consider supporting a phase-out of green waste ADC/AIC landfill use **if there were reasonable alternative management capacity** for these waste materials such as composting, anaerobic digestion or other conversion technologies.

Beneficial Use of Waste Derived Materials at Landfills & “Disposal Related”

Before declaring that the beneficial use of waste derived materials at landfills is a form of disposal, CalRecycle should carefully evaluate the ramifications of such a declaration. Many types of waste derived materials are beneficially used in conjunction with landfill operations in addition to ADC/AIC. When a landfill closes, final cover must be placed over the landfill. Final cover materials can include waste derived materials including composting and recycled C&D materials. Further, waste derived materials can be used for road construction, drainage channels, wet-weather pads, landscaping, slope stabilization and a whole host of other beneficial activities. Calling this entirely “waste disposal” will make attainment of the 75% goal harder to achieve – by removing a significant outlet for the use of these waste derived materials. Further, why would the use of green material for slope stabilization at a landfill be any different than using the same green material for slope stabilization for a highway cut and fill slope? If green wastes were not used, then virgin raw materials would have to be used for either of these applications. CalRecycle should carefully consider the wide variety of materials that can be beneficially used at a landfill. If that material is used in virtually the same manner as elsewhere – then it should be considered recycling. If the material can be used beneficially at the landfill, but not elsewhere (e.g., treated auto shredder waste for ADC), then such beneficial use should be allowed to continue as a form of recycling.

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Fees

The use of fees to disincentivize one use in favor of incentivizing another may have significant problems under the provisions of Proposition 26. Any plan to use fees or fee revenues must be accompanied by a careful analysis of whether such fees are legal or would have to be adopted as a form of tax pursuant to Proposition 26.

Export of Recyclables

The draft Plan suggests that exports of recyclables may not count fully as a form of recycling and that in-state California recycling should receive preferential treatment for certain materials. Alternatively, CalRecycle should consider recognizing existing international standards that would have to be met for the export of recyclables to count as recycling. The imposition would be on the exporter to document that the export is being conducted in accordance with accepted standards. Alternatively, another approach that could be considered is to give in-state recycling a “recycling incentive adjustment”. If recyclables are sent to in-state end-use markets it gets an incentive of say 1.25x or 1.50x the recycling “credit”. In other words, if a ton of paper were used in state it would count as 1.25 or 1.50 tons toward the goal where if it is exported it is only one ton. This strategy is used successfully in the e-waste arena by some states to encourage rural recycling of e-waste by manufacturers.

Recycling Standards

WM supports the establishment of performance standards for facilities that process solid waste to produce separated recyclable commodities that are exempt from further management as a solid waste. Such facilities should have minimum performance standard in addition to compliance with the existing 3-part test in CalRecycle regulations. All such facilities should perform a mass balance of “materials coming” in vs. “materials going out” application of the 3-part test to each outgoing stream.

Product Stewardship

It may make sense to expand product stewardship programs to cover many types of special wastes, including:

- difficult-to-handle wastes,
- hazardous discards, or
- wastes that impose substantial burdens on the delivery of solid waste and recycling services.

This includes sharps, batteries, fluorescent lights, mattresses, etc. However, WM does not support the extension of product stewardship programs to other material types that do not pose similar types of problems.

Again, we appreciate the opportunity to provide our comments to you and your staff at Calrecycle. We look forward to working with you over the coming months in developing a plan

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that will guide California to reduce the amount of materials that are currently landfilled towards higher and better uses, and will also help us achieve the state's renewable energy and greenhouse gas reduction goals. Please contact any one of the undersigned if you have any questions regarding our comments and concerns regarding the draft Plan.

Sincerely,



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