

Application to Petition for Reduced Diversion Requirements For Rural Jurisdictions
 (08-10)

To request a reduced diversion or planning requirement, please contact your Local Assistance and Market Development (LAMD) representative, who can assist you with completing this form. Once you have signed and completed this form, return it to your LAMD representative at the address below along with any additional information requested by LAMD staff. Once all documentation has been received, your LAMD representative will work with you to prepare your request to be considered by the California Department of Resources Recycling and Recovery (CalRecycle).

Mail Completed Documents to:

California Dept. of Resources Recycling and Recovery (CalRecycle)
LAMD
1001 I Street, 9th Floor
PO Box 4025
Sacramento, CA 95812-4025

Section I: Jurisdiction Information and Certification

To qualify for a rural reduction in the diversion and planning requirements, a jurisdiction must meet the rural definition and certain other requirements set forth in statute and regulation (Attachment A). **Please contact your LAMD representative to determine whether your jurisdiction is listed as rural. Also, prior to completing an application, please contact your LAMD representative to set up a site visit.**

| | | | |
|---|------|--|-----|
| Jurisdiction Information and Certification I certify under penalty of perjury that the information in this document is true and correct to the best of my knowledge, and that I am authorized to make this certification on behalf of: | | | |
| Jurisdiction Name | | County | |
| Authorized Signature | | Title | |
| Type/Print Name of Person Signing | Date | Phone (Include Area Code) () - | |
| Mailing Address | City | State | Zip |
| E-Mail Address | | Fax (Include Area Code) () - | |

Section II: Diversion Rate Request and Disposal Summary

Please enter requested information below. *All calculations/information should be based upon data for the year the reduced rate is being requested.

Diversion Rate Requested*: _____

Population*: _____

Disposal Summary:

Provide disposal tons for the past three years: _____ tons

Provide Annual Per Capita Disposal for each of the past three years (Contact LAMD staff if you have any questions): _____ lbs./person/day

Please explain how your analysis of the disposal and per capita disposal trends support your request for a reduced diversion rate:

Section III: Basis for Request

The following questions are in reference to the *Policy for Granting Reductions in the 50% Medium-term (year 2000) Diversion Requirement* dated October 27, 1994 (Attachment B). Please address the following questions and provide any additional information that will support your petition to reduce the diversion requirement.

1. Please include an overall statement as to why the jurisdiction is unable to meet the state-mandated 50 percent diversion requirement (now measured as a pounds/person/day disposal target). Discuss the diversion rate you think the jurisdiction can achieve and explain the basis for the reduced diversion rate that you are requesting.

2. Are there significant material types for which no programs have been implemented or for which programs are inadequate? Is there a significant waste generator in the jurisdiction that is not diverting materials?

3. Has source reduction (also known as waste prevention) been considered for those materials that cannot be recycled? Please describe.

4. Are there any major climate or geographic obstacles that hinder the planning and implementation of programs? Please describe.

5. Is the jurisdiction located a significant distance from major markets for diverted materials/recyclables? Is the population widely dispersed or is there a small population, which makes it difficult and expensive to collect recyclables? Please describe.

6. Is the jurisdiction's tax base limited by significant state or federal ownership of land? Please describe.

7. Is the jurisdiction experiencing severe economic distress, high unemployment, or above-average poverty? Please describe.

8. Please identify budget constraints that may impact the jurisdiction's ability to implement additional programs. Is the jurisdiction pursuing every feasible means of generating revenue to fund diversion programs? Please describe.

9. Are existing diversion programs currently effective? How effective are they? Please describe.

10. Are any programs being planned or expanded to increase the level of diversion? Is it feasible to develop additional programs to increase the level of diversion? Please describe.

Section IV: Disposal Characterization

In order to fulfill the requirement for documentation on the types and quantities of waste disposed in the jurisdiction, the following sources of jurisdiction-specific information should be attached to this application and titled "Attachment 1—Disposal Characterization:"

- Solid Waste Generation or Characterization Study (SWGS) information found in the jurisdiction's Source Reduction and Recycling Element (SRRE)
- Disposal Reporting System (DRS) data (most recent available) for the jurisdiction
- Any additional information may also be included.

Section V: Disposal and Diversion Collection Systems

Please provide information about the diversion and disposal collection systems provided in the jurisdiction.

Give a general description of the jurisdiction's contractual agreement(s) for diversion and disposal collection with the hauler(s) (i.e. exclusive /competitive franchise, length of contract, AB939 requirements, variable can/bin rate incentives, etc.), and funding sources/rates: (parcel fees, gate fees, tipping fees, utility fees, etc.) Attach additional sheet if needed.

Please provide any additional information about the jurisdiction's disposal or diversion collection systems that you feel may support your request :

Section VII: Programs Supporting Diversion Activities

Please describe your procurement programs and any ordinances adopted (PRC Section 41787). Please attach copies of procurement policies, ordinances, training and/or outreach materials.

Please describe your public information, education and outreach programs (PRC Section 41787). Describe the sectors and materials that are targeted, e.g., single residential greenwaste, and the frequency of mailings, advertisements, waste assessments, etc., during the last year.

ATTACHMENT A

Statutes and Regulations Pertaining to Rural Reductions

Note: There are a number of references to the California Integrated Waste Management Board below. Please contact your LAMD liaison to discuss the process for approval of a Petition for Rural Reduction under the Department of Resources Recycling and Recovery (CalRecycle).

Statute: *Public Resources Code (PRC Sections 41787, et seq.)* (Requires the implementation of certain programs and requires that certain conditions exist.)

41787. (a) (1) The board may reduce the diversion requirements of Section 41780 for a rural city if the rural city demonstrates, and the board concurs, based on substantial evidence in the record, that achievement of the diversion requirements is not feasible due to both of the following conditions:

- (A) The small geographic size or low population density of the rural city.
- (B) The small quantity of solid waste generated within the rural city.

(2) The board may reduce the diversion requirements of Section 41780 for the unincorporated area of a rural county if the rural county demonstrates, and the board concurs, based on substantial evidence in the record, that achievement of the diversion requirements is not feasible due to both of the following conditions:

- (A) The large geographic size or low population density of the rural county.
- (B) The small quantity of solid waste generated within the rural county.

(3) The board may grant a reduction in diversion requirements pursuant to this subdivision only if the rural city or the rural county demonstrates to the board, and the board concurs, based on substantial evidence in the record, that it has, at a minimum, implemented all of the following programs:

- (A) A source reduction and recycling program designed to handle the predominant classes and types of solid waste generated within the rural city or rural county.
- (B) A public sector diversion and procurement program.
- (C) A public information and education program.

(b) If, as part of the review performed pursuant to Section 41825, the board finds that a rural city or a rural county, which previously qualified for a reduction in diversion requirements pursuant to subdivision (a), is no longer eligible for that reduction, the board shall issue an order requiring the rural city or rural county to comply with the diversion requirements of Section 41780.

41787.1. (a) Rural cities and rural counties may join to form rural regional agencies pursuant to Article 3 (commencing with Section 40970) of Chapter 1.

(b) A rural regional agency, and not the rural cities or rural counties which are member jurisdictions of the rural regional agency, may be responsible for compliance with Article 1 (commencing with Section 41780) of Chapter 6 if specified in the agreement pursuant to which the rural regional agency is formed.

(c) (1) The board may reduce the diversion requirements of Section 41780 for a rural regional agency, if the rural regional agency demonstrates, and the board concurs, based on substantial evidence in the record, that achievement of the diversion requirements is not feasible because adverse market or economic conditions beyond the control of the rural regional agency prevent it from meeting the requirements of Section 41780.

(2) Before a rural regional agency may be granted a reduction in diversion requirements pursuant to paragraph (1), it shall demonstrate that, at a minimum, it has established all of the following regionwide programs:

(A) A source reduction and recycling program or programs designed to handle the predominant classes and types of solid waste generated within the rural regional agency.

(B) A regional diversion and procurement program or programs.

(C) A regional public information and education program or programs.

(d) (1) Notwithstanding Section 40974, any civil penalty imposed on a rural regional agency by the board pursuant to Section 41813 or 41850 shall be imposed only on a member rural city or county that is in violation of this division as a city or county irrespective of its membership in the rural regional agency. If a rural regional agency elects to apportion penalties pursuant to this subdivision, the member jurisdiction to that rural regional agency shall, as a condition of the agreement establishing the rural regional agency, be required to account on an individual jurisdictional basis for their compliance with the diversion requirements of Section 41780, as prescribed by Section 41780.2.

(2) In determining whether to impose a penalty on a member of a rural regional agency pursuant to this subdivision, the board may consider all of the following:

(A) The relevant circumstances that resulted in the agency's failure to achieve the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, and whether the member contributed to the circumstances that resulted in the failure to achieve the diversion requirements.

(B) Whether the agency's joint powers agreement specifies that all liability for fines and penalties rests with the member, with no liability assigned to the agency.

(C) Whether the imposition of penalties on members and not on the agency would provide for flexibility that would allow the agency to resolve the problem that is preventing the members from meeting the diversion requirements.

(D) Limiting penalties to a maximum of ten thousand dollars (\$10,000) per day if a member's failure does not cause other members or the agency to fail to implement programs in the agency's source reduction and recycling element.

41787.2. (a) A rural city or a rural county, which has received, or is eligible for, a reduction in diversion requirements pursuant to Section 41787, may become a member of a rural

regional agency for the purpose of complying with the diversion requirements of Section 41780, in which case the region's maximum disposal tonnage allowable shall be calculated as follows:

- (1) Determining the regional maximum disposal tonnage allowable, excluding members with reduced diversion requirements.
- (2) Determining the maximum disposal tonnage allowable for those members authorized to meet reduced diversion requirements.
- (3) Adding the calculated maximum disposal tonnages determined pursuant to paragraphs (1) and (2) to determine the regional maximum disposal tonnage allowable.

(b) (1) A rural regional agency may not assume responsibility for compliance with diversion requirements upon formation pursuant to subdivision (b) of Section 41787.1, and for compliance with Article 1 (commencing with Section 41780), if the rural regional agency is comprised of more than two rural counties, unless authorized by the board pursuant to paragraph (2).

- (2) The board may authorize the assumption of responsibility for compliance with diversion requirements by a rural regional agency upon formation, which is comprised of more than two rural counties, if the board finds that the rural regional agency's assumption of responsibility will not adversely affect compliance with this part.

41787.3. The board, in consultation with rural cities and rural counties, shall develop model programs and materials to assist rural cities and rural counties in complying with the requirements of Chapter 2 (commencing with Section 41000) and Chapter 3 (commencing with Section 41300). Those model programs and materials shall be designed to assist rural cities and rural counties in achieving the purposes of this division in a manner which minimizes, to the maximum extent feasible, the costs imposed on rural cities and rural counties to comply with this division.

Regulation: *Title 14 of the California Code of Regulations Section 18775 (14 CCR 18775).*

18775. Reduction in Diversion and Planning Requirements.

(a) A rural jurisdiction, as defined in Public Resources Code sections 40183 and 40184, may petition the Board, at a public hearing, to reduce the planning requirements and diversion requirements specified in Public Resources Code section 41780. To petition for a reduction, the jurisdiction shall present verification to the Board which indicates that achievement of the requirements is not feasible. To qualify to petition for a reduction in the diversion and planning requirements, a jurisdiction must meet the following:

(Note: (1) and (2) and (4) in the regulation does not apply as statute was changed in PRC 40183 and 40184.)

- (3) For a rural regional agency, consist of rural cities and counties, not to exceed more than two rural counties, unless authorized by the Board.

(b) Based on information presented at the hearing, the Board may establish reduced diversion requirements, and alternative, but less comprehensive, planning requirements. A petitioner may identify those specific planning requirements from which it wants to be relieved and provide justification for the reduction. Examples of reduced planning

requirements could include, but would not be limited to, reduced requirements for solid waste generation studies, and reduced requirements and consolidation of specific component requirements. These reduced planning requirements, if granted, must ensure compliance with Public Resources Code section 41782.

(c) Rural jurisdictions requesting a reduction in the diversion and planning requirements must include the following information in the reduction petition:

(1) A general description of the existing disposal and diversion systems, including documentation of the types and quantities of waste disposed and diverted. Documentation sources may include, but are not limited to, the following:

(A) Solid Waste Generation or Characterization Studies;

(B) Diversion data from public and private recycling operations;

(C) Current year waste loading information from permitted solid waste facilities used by the jurisdiction;

(2) Identification of the specific reductions being requested (i.e. diversion or planning requirements or both);

(3) Documentation of why attainment of mandated diversion and planning requirements is not feasible. Examples of documentation could include, but are not limited to:

(A) Evidence from the documentation sources specified in paragraph (c)(1) of this section;

(B) Verification of existing solid waste budget revenues and expenses from the duly authorized designated representative of the jurisdiction;

(4) The planning or diversion requirements that the jurisdiction feels are achievable, and why.

(5) Documentation verifying that the rural city or county has implemented those programs identified in Public Resources Code section 41787(a) (3).

(6) Documentation verifying that the rural regional agency has implemented those region wide programs identified in Public Resources Code section 41787.1(c)(2).

Authority cited: Section 40502 of the [Public Resources Code](#).

Reference: Sections 40183, 40184, 41787, 41787.1, 41787.2, 41802, and 40973 of the [Public Resources Code](#).

ATTACHMENT B

Department of Resources Recycling and Recovery (CalRecycle)

California Integrated Waste Management Board Approved on October 27, 1994

Policy for Granting Reductions in the 50 percent Diversion Requirement

It is CalRecycle's policy to consider and act on Petitions for Reduction in the 50 percent diversion requirement based upon a collective evaluation of a standard set of criteria. These criteria shall be designed to determine as nearly as possible whether a jurisdiction can meet the diversion requirement and whether it has made a good faith effort to do so.

Based on CalRecycle's findings, it shall approve, modify, or disapprove a request for reduction. CalRecycle may set an appropriate, alternative diversion level. CalRecycle shall review the conditions upon which the Petition was granted to determine whether to revise the terms of or revoke the Petition. (Attach additional sheets for explanations as needed.)

Criteria

A. Waste Stream Criteria

1. Is there a lower than average waste generation rate?

Waste generation rate provides a relative indication of the potential for diversion. For example, one county generates 3.2 pounds of waste per person per day compared to the statewide average of 8.1 pounds per person per day. An analysis of the county's waste stream reveals that there are fewer significant waste types than in other jurisdictions. So, the opportunities for diversion are limited.

2. What is the total waste loading compared to the statewide total?

This is a general indicator of the cost-effectiveness and cost/benefit of diversion programs in a jurisdiction compared to other areas of the state. For example, one county generates .003% of the state's waste stream while another generates 10 percent. This may mean that the county cannot take advantage of economies of scale.

3. What percentage of the waste stream is residential, commercial, and industrial?

For example, an analysis of one county reveals that there is no industrial waste and very little commercial waste from only 30 businesses. So, the opportunities for diversion are different.

4. Are there significant wastes types for which no programs have been implemented or for which programs are inadequate?

For example, a city may have a business that generates a large amount of old corrugated cardboard. If there is no program for recycling this material, then it is possible that the city's overall diversion could be increased.

5. Are there large waste types that cannot be recycled?

For example, a county may have a significant amount of sewage sludge in the waste stream that cannot be diverted. This means that relatively greater amounts of other waste types must be diverted to reach the statewide diversion mandate. This may not be cost-effective or feasible.

6. Is there a significant waste generator in the jurisdiction that is not diverting materials?

For example, a city may have a business which generates large amounts of a recyclable paper. If there is no program for recycling this material, then it is possible that the city's overall diversion could be increased.

7. Has source reduction been considered for those materials that cannot be recycled? If source reduction is not a feasible alternative, explain why.

For example, a nursery may be able to reuse empty pots, flats, tubs, and barrels in which plants and trees are shipped.

B. Geographic, Demographic & Economic Criteria

1. Does the climate hinder implementation of programs?

For example, mountainous counties that receive a significant amount of snow each year may have difficulty collecting recyclables during the winter.

2. Are there major geographical barriers that hinder the planning and implementation of programs?

For example, a county may have mountains which divide it into separate wastesheds. This may make it more costly to collect and transport recyclables.

3. Is the jurisdiction located a significant distance from the major markets for its materials?

For example, a jurisdiction may be hundreds of miles from a seaport or regional processing facility which can accept the materials it is collecting. The further from these markets the jurisdiction is, the more it costs to haul recyclables and less profitable or feasible it may become to divert materials.

4. Is the population widely dispersed or is there a small population which makes it difficult and expensive to collect recyclables?

For example, a county with scattered pockets of population may not be able to collect the volume of recyclable materials that makes diversion cost-effective.

5. Is the jurisdiction's tax base limited by significant state or federal ownership of land?

For example, the land in some counties is owned mostly by the state or federal governments. Although some revenue may be generated for counties through the management of these lands, this revenue is generally not available for the implementation of diversion programs. Only a small percentage of land can generate property tax revenues or business taxes for these counties.

6. Is the jurisdiction experiencing severe economic distress, relatively high unemployment, or above-average poverty?

This is an indicator of a jurisdiction's ability to generate revenue to fund diversion programs.

7. Is the jurisdiction pursuing every feasible means of generating revenue to fund diversion programs?

For example, has a jurisdiction explored tipping fees, collection fees, parcel charges, variable can/bin rates, grants and loans, RMDZ designation, and cooperative marketing.

C. Current Programs & Short-term Goal Achievement

1. Did the jurisdiction achieve the 25 percent goal? If not, why not?

The answer to this question may uncover reasons why it is or is not feasible to meet the 50 percent mandate. For example, markets may be distant or the volume of recyclables may be low. It also may provide an indication of the jurisdiction's willingness to implement diversion programs.

2. What diversion programs are currently in place? How effective are they?

This information provides an indication of the jurisdiction's overall willingness and ability to meet the diversion mandates.

3. Is the jurisdiction working cooperatively with other jurisdictions?

This information provides an indication of a jurisdiction's willingness and ability to overcome potential obstacles to diversion. It also indicates opportunity for diversion.

4. Is the jurisdiction receiving diversion or market assistance from CalRecycle?

This information indicates a jurisdiction's willingness to seek help in overcoming potential obstacles to diversion. It also uncovers opportunities for diversion.

5. Is the jurisdiction promoting waste prevention consistent with the hierarchy identified in PRC Section 40051?

In order to answer this question, a jurisdiction must describe the waste prevention programs which are currently being implemented. Do those programs target major waste types? Is the jurisdiction using waste prevention education materials prepared by CalRecycle or other sources?

D. Proposed Programs

1. Are programs aside from Source Reduction and Recycling Element (SRRE) contingency programs proposed to increase the level of diversion?

This information provides an indication of a jurisdiction's commitment to the intent of the Integrated Waste Management Act of 1989, and the potential for long-term success in waste reduction.

2. Is it feasible to develop additional programs or bolster existing programs to increase the level of diversion?

This information provides an indication of a jurisdiction's commitment to the intent of the Integrated Waste Management Act of 1989, and the potential for long-term success in waste reduction.

3. What role will Waste Prevention play in future diversion efforts?

Continuing diversion will depend on an educated and informed public.

E. Unique Criteria

These criteria are generally specific to each jurisdiction. This provides an opportunity for consideration of issues not provided in the above criteria that may be unique to a jurisdiction.
