



COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

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GRACE ROBINSON CHAN
Chief Engineer and General Manager

July 13, 2012

Ms. Carol Mortensen, Director
CalRecycle
1001 I Street
Sacramento, CA 95814

Dear Ms. Mortensen:

CalRecycle's Plan Entitled "California's New Goal: 75% Recycling"

The Sanitation Districts of Los Angeles County (Sanitation Districts) appreciate the opportunity to comment on CalRecycle's conceptual plan (Plan) to change solid waste management in California such that 75% of the solid waste generated in the state would be managed solely by source reduction, recycling, and composting. Although we are a signatory to a joint comment letter (attached) with the Regional Council of Rural Counties, the League of California Cities, and the California State Association of Counties, expressing concerns with CalRecycle's Plan, the Sanitation Districts submit this letter to address issues that focus on how the Plan would impact the Sanitation Districts' facilities and programs and the jurisdictions that they serve.

The Sanitation Districts play an integral role in ensuring that Los Angeles County has a diverse, reliable, and cost-effective solid waste management infrastructure. We own or operate materials recovery facilities (MRFs), transfer stations, recycle centers, waste-to-energy (WTE) facilities, composting facilities, and municipal solid waste landfills. This infrastructure provides jurisdictions with environmentally sound, cost-effective methods to: manage recovery of recyclables from the solid waste stream, dispose of non-recyclable materials at our sanitary landfills, and utilize appropriate portions of the waste streams for energy production. Diversion programs, including those that use green waste as alternative daily cover (ADC), save landfill capacity, avoid the adverse impacts of using soil, and recover valuable resources from the waste stream. The Sanitation Districts own and contract with facilities that are capable of composting biosolids and green waste that can then be used as soil amendment. Additionally, landfill gas generated by the decomposition of organic material in the landfills is beneficially used to produce renewable energy.

The Sanitation Districts appreciate CalRecycle's efforts to develop a Plan to increase recycling in California in response to AB 341. However, as currently drafted, the Plan would cause an unnecessary shift from the diverse, sustainable, and locally-suited diversion infrastructure to a costly, state-prescribed solid waste management system that may not be feasible to implement due to funding issues, siting difficulties in urban areas, and the lack of sufficient markets for the end products. CalRecycle should help to focus statewide efforts on:

- Advocating responsible legislation and regulation that maximizes the ability of local jurisdictions to implement innovative management programs to increase diversion and reuse;
- Support a diverse suite of management alternatives rather than eliminating successful, existing programs;
- Avoid significant changes in existing rules that have worked successfully, such as the per capita disposal baseline established by SB 1016;
- Minimize the implementation of programs that jeopardize continued use of valuable infrastructure.

LOCAL CONTROL OF SOLID WASTE MANAGEMENT PROGRAMS

CalRecycle's Plan clearly favors the establishment of new state regulations for the use of certain technologies (e.g., composting and anaerobic digestion), state-controlled funding mechanisms, and increased state oversight of programs. Local jurisdictions in Los Angeles County have surpassed the 50% diversion goal mandated by AB 939 by exercising their discretion in the selection of the types of programs, facilities, and technologies that are most effective and sustainable in this region of the state. Local jurisdictions are better qualified to identify and select the best programs for their stakeholders. Burdensome, new state-mandated programs will likely increase the cost of solid waste management in the County and force us onto a more costly path to 75% goal.

CalRecycle can partner in Los Angeles County's efforts to increase diversion from landfills by working to remove statutory and regulatory impediments to the development of innovative technologies and programs for the management of waste, and helping to develop local markets for diverted and recovered materials. For example, CalRecycle could work with local air districts on rules pertaining to composting facilities to make it easier to site new facilities. Additionally, granting diversion and renewable energy credits to innovative technologies would spur their development and construction. Because local jurisdictions usually bear the burden of funding, siting and permitting facilities, and implementing new programs, they should retain the control over selection of waste management options; and CalRecycle should focus efforts on the development of markets for recovered materials and composted products.

DIVERSIFIED SOLID WASTE MANAGEMENT OPTIONS

AB 341 (Chesbro) includes the following declarations under Sections 40004(a)(2) and (a)(3) which express the intent of the Legislature to sustain the existing diversion infrastructure and to preserve the broad discretion conferred to local agencies regarding the management of municipal solid waste:

“(2) The existing network of public and private solid waste processing and composting facilities provides a net environmental benefit to the communities served, and represents a valuable asset and resource to this state, one that must be sustained and expanded to provide the additional solid waste processing capacity that will be required to achieve the additional solid waste diversion targets expressed in Section 41780.1 and the commercial solid waste recycling requirement expressed in Section 42649.

(3) The provisions in existing law that confer broad discretion on local agencies to determine aspects of solid waste handling that are of local concern have significantly contributed to the statewide diversion rate exceeding 50 percent, and further progress toward decreasing solid waste disposal requires that this essential element of local control be preserved.” Ch. 476, Statutes of 2011.

The bill analyses from the Senate and Assembly also reaffirm the Legislature's intent to support and expand the existing diversion infrastructure in California.

Additionally, the bill does not call for reclassifying diversion options such as WTE and ADC as disposal activities in order to redefine recycling. This reclassification as proposed in the section of CalRecycle's Plan titled "The Numbers! What does 75% Recycling Mean?" should be removed. Banning organics from landfills and increase tipping fees, as proposed in Policy Concepts 2b and 8a of the Plan, respectively, should also be removed.

WTE Helps Achieve AB 32 Greenhouse Gas (GHG) Reduction Goals While Diverting End-of-Line Wastes from Landfills

The three WTE facilities in California produce energy from waste that has been through source separation or a materials recovery facility. In operating these WTE facilities, significant GHG emissions are avoided (over 400,000 MTCO₂e per year). As noted in CalRecycle's June 2009 report entitled "Life Cycle Assessment and Economic Analysis of Organic Waste Management and GHG Options", WTE is one of the most effective ways of reducing GHG emissions in California. Without WTE, these end-of-the-line wastes would be landfilled and the opportunity for energy recovery would be significantly reduced. CalRecycle's proposal to redefine post-recycled residuals would potentially undermine the long-term financial viability of WTE facilities since less waste would be allowed to be transformed. State law already caps diversion from transformation at 10%. Consequently, we disagree with CalRecycle's proposed redefinition of post-recycled residuals.

Green Waste as ADC is an Important Diversion Program for Los Angeles County

Prior to the use of green waste as ADC, there was no separate collection of green waste in Los Angeles County. In the 1980s, the Sanitation Districts sought and obtained regulatory approval to use shredded green waste as ADC to provide a reliable, local market for jurisdictions, reduce the transport and use of dirt for daily cover, and conserve landfill space. These benefits were acknowledged by California Integrated Waste Management Board (now CalRecycle) in the Initial Statement of Reasons for the ADC regulations it adopted in 1996, which in part reads:

"Alternative daily cover (ADC) is an emerging technology for solid waste landfills with potential for significant benefits. ADC can save municipal solid waste landfill capacity, reduce landfill operating costs, provide markets for recycling of waste-derived materials, and provide an environmentally sound alternative to adverse impacts sometimes associated with using soil for daily cover."

Over the years, local government and private industry have invested millions of dollars in equipment and infrastructure to implement separate green waste collection and recycling programs. Largely as a result of this 20-year program, 79 jurisdictions in Los Angeles County are now collecting source-separated green waste. These jurisdictions typically receive 5-10% of their mandated diversion requirement from this program. In reclassifying ADC as disposal, as proposed by CalRecycle, some jurisdictions may abandon the green waste collection program since they would no longer have a financially viable outlet. The investments made by local jurisdictions would potentially be lost and additional costs would be incurred to recoup that loss in their diversion portfolio. This is not our understanding of the Legislature's intent when it enacted AB 341, nor is it consistent with AB 1647 (Bustamante), which declared that the use of waste-derived ADC constitutes diversion through recycling and not disposal.

If the intent of CalRecycle's Plan is to force this material solely into composting and anaerobic digestion, this will have significant cost and siting impacts with no corresponding increase in environmental benefits. Given the land use and air quality permitting constraints that currently exist in the highly urbanized portions of Los Angeles County, it is unlikely that new composting infrastructure will be developed in the foreseeable future. As regulations become more stringent in air basins that are currently in non-attainment of national ambient air quality standards for the ozone (including the South Coast Air Basin that overlies much of the Sanitation Districts' service area), new composting facilities will eventually be required to control volatile organic compounds and ammonia. These measures may include composting inside a building or under engineered covers with ventilation through scrubbers which greatly increase the cost and complexity of the construction and operation of these facilities. Anaerobic digestion of organics potentially results in a substantial fraction¹ of inert material that must be managed, presumably at a landfill, so not all of the organic material should be counted as diversion. Consequently, the ADC program needs to remain as a diversion option for jurisdictions until there are feasible and affordable alternatives to manage these materials.

SIGNIFICANT RULE CHANGES MIDSTREAM

Since the passage of SB 1016 (Wiggins) in 2008, diversion has been measured on a per capita disposal basis (total annual disposal divided by population). By law, the average per capita disposal rate from 2003 to 2006 serves as the baseline for assessing the effectiveness of a jurisdiction's diversion program and compliance with AB 939. Four years after jurisdictions have successfully adapted to SB 1016 and invested in diversion programs to comply with this new diversion metric, CalRecycle proposes to change the metric again.

Under CalRecycle's proposed Plan, jurisdictions would actually have to meet a diversion goal in excess of 80%. This is a result of two significant changes being proposed: (1) Establishment of a new baseline, using the average capita disposal rate from 1990 to 2010, that would dramatically reduce the amount of disposal allowed; and (2) Replacement of a diversion goal with a recycling-only goal, effectively eliminating diversion credits for WTE, ADC or other forms of diversion (such as beneficial use at landfills).

CalRecycle contends that 2003 to 2006 was a period of high waste generation and, therefore, not representative of an average disposal rate. We believe that the time period since 2006 is unrepresentative of an average disposal rate since the nation has experienced the worst economic downturn since the Great Depression resulting in a reduction in the amount of wastes generated. We are also concerned about the quality of data prior to 2003; therefore, CalRecycle should carefully evaluate this data prior to its use. The current baseline was established as a result of significant input from jurisdictions, cities, and counties across the State.

NEW STATE FEES

CalRecycle proposes a series of fee increases in order to fund state-prescribed programs, add enforcement staff, provide a stable funding source for the state agency's operating budget, establish grants for composting projects, and replace recycling market redevelopment zones with a statewide loan program. If based on disposal, ratepayers in Los Angeles County would contribute approximately 30% of the funds to these new state programs but would need to be assured that this region will get back an equitable share of the funds collected. If the state funding does not offset the additional cost of implementing the new mandates, local jurisdictions will need to cover the remaining costs. The recession

¹ Final Report on "Anaerobic Digestion of Food Waste" prepared by East Bay Municipal Utility District for U.S. Environmental Protection Agency Region 9, March 2008

has had significant fiscal impacts on solid waste facility operations, in many cases resulting in cuts in staffing and capital projects in order to reduce expenses and minimize rate increases. Cities and counties are still grappling with significant budget shortfalls. With local jurisdictions having difficulty in passing the cost of new programs down to ratepayers, new state fees would be particularly burdensome. Given this economically-fragile state, it is untimely to impose additional financial burdens on jurisdictions and facility operators with new fees.

Economic sustainability should be a major consideration when developing new funding sources. Clearly, increasing the per ton fee for disposal at landfills is not a sustainable funding source, when the Plan's fundamental goal is to reduce disposal. This model is unsustainable and should be avoided in favor of programs that achieve independent, economic viability based on future waste management conditions.

The Sanitation Districts look forward to working with CalRecycle and other stakeholders in refinement of the Plan. Should you have any questions regarding our comments, please feel free to contact Mr. Glenn Acosta at (562) 908-4288, extension 2723.

Very truly yours,

Grace Robinson Chan



Charles Boehmke
Department Head
Solid Waste Management Department

CB:TJL:ddg
Attachment

cc: Mark Leary, Chief Deputy Director, CalRecycle
Howard Levenson, Deputy Director, CalRecycle
Scott Smithline, Assistant Director, CalRecycle