



July 17, 2012

Caroll Mortensen
Director, CalRecycle
1001 I St.
Sacramento, CA 95814

SUBJECT: COMMENTS ON CALRECYCLE'S DRAFT REPORT "CALIFORNIA'S NEW GOAL: 75% RECYCLING"

Dear Director Mortensen,

On behalf of the above-listed entities, we thank you for the opportunity to comment on the Department of Resources, Recycling and Recovery's (CalRecycle) draft document entitled "California's New Goal: 75% Recycling" as released May 9, 2012. As CalRecycle moves forward with the process of collecting ideas, concepts and strategies to achieve the state's policy goals pursuant to AB 341, we would like to offer the following comments, which reflect our initial assessment of the implementation concepts in CalRecycle's draft document.

AB 341 Requirements

As required under AB 341 (Chesbro, Chapter 476, Statute of 2011), CalRecycle is charged with developing and submitting a report to the legislature on or before January 1, 2014 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.' We are concerned that the draft document fails to take into account the express requirements of AB 341 by focusing solely on reaching a recycling goal, without consideration to other beneficial waste management approaches such as source reduction, composting and energy recovery that will achieve the goals and requirements of AB 341. Failing to consider these other approaches will put pressure on local government and businesses to comply at a time when all stakeholders have limited resources. We therefore encourage CalRecycle to explore all approaches that provide environmental and economical sense and that meet the legislative requirements of the law.

General Principles

The business community supports the shared goal of responsible waste management but believes that any measures and regulations to achieve the express goals of AB 341 must be viewed through the lens of the economy, job creation and job retention. Concepts to achieve the state's goal should avoid onerous and excessive mandates that will lead to increased costs for business and ultimately consumers. Goals should focus on incremental and achievable efforts without inflicting harm to our state's slowly recovering economy. We believe that a thorough report should at a minimum incorporate implementation concepts and policy recommendations that are:

- cost-effective;
- technologically feasible;
- environmentally beneficial; and
- do not duplicate or overlap existing policy

It is also important that concepts to achieve the 75% goals of AB 341 provide businesses with flexibility in order to achieve environmental gains in waste management. A policy guidance designed to provide flexibility is more aligned with the realities of these difficult economic times, and will help make achieving the state's environmental goals much more plausible.

Increase Commercial Recycling

A proposal to increase commercial recycling seems inappropriate in light of the fact that CalRecycle recently implemented a mandatory commercial recycling program as a direct requirement under AB 341. These regulations took effect July 1, 2012. Industry was heavily involved in the rulemaking process (even before the enactment of AB 341), including the implementation phase via educational outreach, as such we believe that adjustments to this newly launched program is premature and unnecessary. A proposal to modify the program assumes it is ineffective without first allowing it time to develop. Furthermore, it ignores the amount of time, resources and stakeholder involvement that went into crafting the current program; it undermines this extensive process altogether and creates a sense of uncertainty for all stakeholders involved. It is therefore appropriate to first evaluate the effectiveness of the current commercial recycling program before proposing to lower thresholds and imposing additional requirements.

Extended Producer Responsibility

CalRecycle's proposal to establish a process for an Extended Producer Responsibility (EPR) approach is concerning to industry. While the draft lacks detail of how this process will be implemented, our general views are that these types of programs are challenging and an expensive undertaking. Imposing responsibility on the product producer over the entire life of the product ignores the tremendous cost burden and practical compliance challenges of such a program, and ignores the substantially higher costs that a consumer will face as a result. We strongly believe that all stakeholders (manufacturers, retailers, consumers, local government and waste haulers) should bear a responsibility in meeting the 75% goal. EPR as it is often proposed is nothing more than a shift of cost and responsibility from local government to producers. If the consumer is not involved, the program cannot succeed. Manufacturers are already doing everything that they can to ship with less packaging, design more recyclable products, produce more concentrated products, and use more recycled material in their products. Many manufacturers desiring to obtain more recycled material have implemented awareness campaigns promoting recycling of their product with some even establishing their own collection outlets (e.g. paper manufacturers).

Beverage Container Program

The draft minimizes the considerable infrastructure developed and resources expended to recycle beverage containers. Making strides to achieve the 75% goal will only be successful if consumers continue to recycle beverage containers and manufacturers, retailers and recyclers continue to support the existing infrastructure. Additional strategies to streamline the beverage container recycling program and support the existing recycling infrastructure should be part of the 75% recycling goals.

Implementation Costs

The implementation concepts identified in the draft document present a number of direct policy measures that CalRecycle believes are critical for reaching the 75% goal. While the draft details the benefits of each 'policy driver,' absent is an assessment of the costs associated with implementing these recommended policies. Assessing the overall costs associated with each of the proposed policy drivers is necessary and can be achieved by conducting a thorough economic analysis; one that evaluates cost to business, local government, consumers and other stakeholders.

Funding Sources

The draft document identifies potential funding sources for several of the outlined implementation concepts (e.g. recycling infrastructure). Two of the sources include; increasing the Integrated Waste Management Account (IWMA) Tipping Fee and or alternatively the use of cap-and-trade auction proceeds. Increasing fees seem inappropriate at a time when the waste stream and thus the need for state management programs has not increased - thanks in part to California's successful diversion rates, which currently exceeds existing requirements. Augmenting the IWMA fee unnecessarily increases costs, and may lead to an increase in the illegal dumping of waste, thereby negatively impacting state and local resources.

The draft document also identifies the use of cap-and-trade proceeds as a potential funding source; however given the legal uncertainties surrounding the auction, proposing to use these proceeds for purposes outlined in the draft is premature. Allocating proceeds from a program that has not yet officially launched and one that faces several legal uncertainties is unwise. We recommend that CalRecycle proceed cautiously on the issue of using cap-and-trade proceeds as a funding mechanism, as the cost impact to the state to start-up, and then stop programs created with auction revenue later found to be illegal could be significant.

Consumer Involvement

Consideration of how strategies impact consumers financially as well as the likelihood/ease of consumer participation is an important component of any recycling strategy. The draft document focuses on envisioned activities undertaken by government, manufacturers and retailers. We encourage CalRecycle to identify and consider consumer engagement strategies in each of the policy areas. Consumer involvement and buy-in, both as participants in reducing/diverting waste and ultimately as ratepayers/end users, is critical in attaining any additional recycling goals.

Again, we appreciate the opportunity to offer our preliminary comments on the draft document and we look forward to working with CalRecycle during the next several months. Should you have any questions, please feel free to contact Brenda Coleman with CalChamber at 916.444.6670 or Brenda.Coleman@calchamber.com

Sincerely,

CalChamber
American Chemistry Council
Building Owners and Managers Association of California
California Apartment Association
California Business Properties Association
California League of Food Processors
California Manufacturers and Technology Association
Consumer Specialty Products Association
International Council of Shopping Centers
NAIOP of California, the Commercial Real Estate Development Association
Western Wood Preserver's Institute

cc: Carroll Mortensen, Director, CalRecycle
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Martha Guzman-Aceves, Office of the Governor
The Honorable Wes Chesbro, California State Assembly

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