

INTRODUCTORY NOTES

Staff conducted a workshop on April 14, 2010, at the MMLA meeting to present revisions to the Countywide Integrated Waste Management Planning (CIWMP) Enforcement Policy Part II to reflect the passage and implementation of Senate Bill 1016 (Chapter 343, Statutes of 2008 [Wiggins, [SB 1016](#)]), which changed the measurement system from one based on estimated generation and diversion to one based on actual per-capita disposal. The following is a compilation of stakeholder feedback obtained from the workshop conducted on April 14, 2010, and subsequent comments that CalRecycle has received. This matrix identifies the comments that have been received, the page of the Enforcement Policy that is being referred to, a description of the issue, and staff response.

2010 CIWMP Update Stakeholder Comments Summary

| POLICY PAGE | DESCRIPTION OF ISSUE | STAKEHOLDER DISCUSSION OF ISSUE | STAFF RESPONSE |
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| 4 | SRRE Implementation | Please replace the expression "50 percent equivalent per capita disposal target" with "per capita disposal target" (i.e., delete the words "50 percent equivalent"). Based on previous studies conducted by CalRecycle (formerly CIWMB), waste generation is strongly influenced by changes in population as well as economic factors (e.g., taxable sales). | Staff does not concur with this recommendation as statute clearly states that the target is based upon generation and the target is a 50 percent equivalent. Recognizing that the targets were based upon generation, the statute also expressly states that the number is an indicator of performance and is not the determinative factor for compliance. |
| 5 | SRRE Implementation | It is stated that "If a jurisdiction is implementing some or all selected diversion programs and yet not achieving its 50 percent equivalent per capita disposal target the diversion requirements, <i>it may be that the SRRE is in need of revision</i> . This language needs to be revised/clarified to reflect the fact that jurisdictions are allowed to update their SRREs through the Annual Report process. | Staff concurs with this change and has revised the Enforcement Policy to incorporate this suggestion. |
| 10 | SRRE Implementation | The proposal states that, according to statute, "No more than 10 percent of the average (2003 through 2006) calculated per capita generation tonnage may be counted for a city, county, or regional agency's use of a CalRecycle-permitted transformation project (PRC Sections 41783)." The proposal should be revised/expanded to indicate how a | This is a misinterpretation of a staff report as there would be no impact on jurisdictions' transformation credit as a result of the mandatory commercial recycling regulation. Thus, staff does not concur with this recommendation to revise the Enforcement Policy. |

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| | | jurisdiction's transformation credit would be affected by the jurisdiction's implementation (or lack thereof) of mandatory commercial recycling which is being pursued by CalRecycle in concert with the California Global Warming Solutions Act, AB 32. | |
| 11 | Definitions | With change in definition to 200K tons, how will the process work if rural jurisdictions go over this number? Many rural jurisdictions will exceed this tonnage in about ten years. | Exceeding the 200,000 tons/year would only affect a rural jurisdiction that had a reduced per-capita disposal target. LAMD staff will monitor on an annual basis, as well as review the trend in disposal over a number of years. If a jurisdiction has a rural reduced target, and they exceed the disposal limit over a number of years, then staff would recommend the reduced target be removed. LAMD staff would work very closely with the rural jurisdiction to make this assessment. |
| 13 & 28 | Emerging technologies and diversion credit. | PRC Code 41783 highly supported. Re: Transformation bullets - includes Biological conversion, some technologies have GHG benefits which is important to notice. Limited transformation credits for emerging technologies. Proposed mandatory commercial recycling rule suggests there will be no transformation credits for this. | The statement that the proposed mandatory commercial recycling rule will change existing credits for transformation is a misinterpretation and will be addressed in the mandatory commercial recycling regulations. |
| 15 | Determination of SRRE & HHWE Implementation | It is stated that "Based on the information provided in a jurisdiction's annual reports submitted pursuant to PRC Section 41821 <i>and any other relevant information</i> , CalRecycle shall make a finding as to whether each jurisdiction was in compliance with PRC Section 41780..." This statement is too broad and open ended. If it refers to the information contained in page 18, an appropriate reference should be included to that effect. | Statute allows for any other information that describes a jurisdiction's efforts to comply with Section 41780 and, therefore, staff plans to leave this provision broad to allow jurisdictions maximum flexibility in providing information. |
| 16 | Determination of SRRE & HHWE Implementation | It is stated that "In addition to the above requirements, CalRecycle may review whether a jurisdiction is in compliance with PRC Section 41780 <i>at any time that CalRecycle receives information</i> that the jurisdiction may not be making a good faith effort to implement its SRRE or HHWE." This statement is too broad and open ended. The discussion needs to be expanded/clarified to reflect a reasonable standard regarding the credibility or validity of the information and its source, the jurisdiction's compliance track record, and the extent of review to be conducted. | This reference is directly from Statute; therefore, staff plans to leave it as is. In this situation staff would certainly investigate the reasonableness, credibility and validity of the information and its source. |

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| | | Otherwise, it is strongly recommended that the proposal be eliminated from any further consideration. | |
| 17 | Determination of SRRE & HHWE Implementation | The criteria proposed to determine whether the applicable diversion requirement has been achieved include whether the jurisdiction has “updated its SRRE and/or, HHWE to include any new or expanded programs it has implemented or plans to implement...” This language needs to be expanded to reflect the fact that jurisdictions are allowed to update their SRREs through the Annual Report process. | As was stated in the workshop, staff concurs and has edited the Enforcement Policy to clarify. |
| 17 | Conformance w/ SB1016 and planning documents | Some changes don't seem to conform to SB1016. It would help to clarify that jurisdictions are not required to revise the Source Reduction and Recycle Element (SRRE) or Household Hazardous Waste Element (HHWE). As it's currently written, it seems to imply that jurisdictions need to update the SRRE and HHWE rather than providing updates in the Electronic Annual Report. The second bullet on page 17 mentions the NDFE planning document, which seems odd to refer to this as a measure of a jurisdiction meeting the diversion requirement. A jurisdiction can implement great programs without needing to update the NDFE. | Staff added clarifying language as the intent is that updates to the SRRE, HHWE, and NDFE can be done in Electronic Annual Report. Also, staff removed reference to “Jurisdiction Meeting Diversion Requirements” as this applies to all jurisdictions. |
| 17 | NDFE updates | The criteria proposed to determine whether the applicable diversion requirement has been achieved include whether the jurisdiction has “updated its NDFE to reflect any new or expanded nondisposal facilities it is using or planning to use ” Clarification is needed since a city/county typically updates its NDFE only when an existing or proposed facility within its jurisdiction is in the process of obtaining a Solid Waste Facility Permit. For a large jurisdiction such as the County and City of Los Angeles, there are numerous haulers operating within their boundaries who may take the trash, recyclables, and/or green waste to various facilities depending on market conditions and other factors. Compliance with the subject language would require that jurisdictions amend their NDFEs every year to reflect all the nondisposal facilities operating within the surrounding region. Is that what CalRecycle intends to do? | As was stated in the workshop, staff clarified in the Enforcement Policy that jurisdictions can update this type of information in the NDFE section of the Annual Report, as needed, and jurisdictions can continue to revise the NDFE on an as needed basis. |

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| 18 | C&D reporting | Regarding the C&D bullet, why is this part of meeting the requirements of AB939; if it's GFE, then why is it there? | Staff clarified in the Enforcement Policy and removed the header of "Meeting Diversion Requirements"—all jurisdictions can provide this information in the EAR, not just jurisdictions justifying a good faith effort. This information regarding C&D programs was added per SB 1016 for all jurisdictions to provide this information in the Electronic Annual Report. |
| 24 | Definitions | "Disposal" refers to "...Board-permitted landfill..." Does the term "Board" refer to the State Water Resources Board or the former Waste Board? | It refers to CalRecycle. Staff concurs and has clarified this in the Enforcement Policy. |
| 25 | Definitions | "Good Faith Effort" should be expanded to clarify that any "alternative programs or activities that achieve the same or similar results" refer to alternative programs selected by the jurisdiction (taking into account the jurisdiction's physical and socio-economic characteristics, waste composition, etc.). | As was discussed at the Workshop, the changes to the policy are limited to those necessitated by the passage of SB 1016. The definition of "Good Faith Effort" and the process by which staff determines that a jurisdiction is making such an effort were not changed by SB 1016. Therefore, staff recommends adhering to the statutory definition and not changing the Enforcement Policy to add in this proposed language. |
| N/A | Outreach on Policy revision | CalRecycle's outreach to jurisdictions needs to be expanded to better engage them in the process, and this includes conducting a workshop in Southern California to discuss the proposed changes to the Enforcement Policy. Upon conducting this expanded outreach, the proposal should be revised and circulated again for comment prior to finalizing the Policy. | A workshop in Southern California is not warranted, in part because the proposed changes are strictly limited to conforming the CIWMP Enforcement Policy to SB 1016, not to opening up the basic approach already embodied in the Enforcement Policy, and also because extensive outreach has already been conducted to solicit stakeholder input. Staff held a workshop on April 14, 2010, to review the proposed edits to the Enforcement Policy. The workshop was broadcast statewide and comments could be provided via phone or email. |

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| <p>N/A</p> | <p>Mandatory commercial recycling and C&D reporting</p> | <p>The policy should be revised to specifically address how CalRecycle will address mandatory commercial recycling and a jurisdiction's implementation (or lack thereof) of a construction and demolition debris recycling ordinance.</p> | <p>As was discussed at the workshop, this is not an opportunity to change the CIWMP Enforcement Policy overall. Changes are specific to SB1016 updates.</p> <p>Note: The CIWMP Enforcement Policy does not specify how individual programs will be evaluated, but rather delineates the criteria and process by which CalRecycle staff conducts its evaluation of local jurisdiction programs.</p> <p>CalRecycle's implementation of the mandatory commercial recycling regulation is discussed separately and thoroughly in the background material for that rulemaking and will be the subject of a separate workshop to be conducted on June 16. That workshop will include broadcast and phone access for all interested parties.</p> |
| <p>N/A</p> | <p>Mandatory Commercial Recycling (MCR) integration with CIWMP and the Global Warming Solutions Act (AB32).</p> | <p>AB32 scoping plan mandates mandatory commercial recycling (MCR) - how do we roll this into the context of AB939? How does local government roll MCR in and how will it be enforced? AB32 enforcement is uncertain. What will be the follow-up to CIWMP with MCR?</p> | <p>The CIWMP Enforcement Policy does not specify how individual programs will be evaluated, but rather delineates the criteria and process by which CalRecycle staff conducts its evaluation of local jurisdiction programs. Instead of revising the CIWMP Policy to include an entirely new process by which to implement and enforce mandatory commercial recycling, the proposed mandatory commercial recycling regulation would take advantage of existing AB 939 processes, including allowing jurisdictions flexibility in choosing programs, as well as using the existing AB 939 reporting and enforcement processes. Also, CalRecycle is proposing NOT to require jurisdictions to amend SRREs, but rather allow jurisdictions to report on commercial recycling programs in the Electronic Annual Report.</p> |

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| N/A | Global Warming Solutions Act (AB 32) | The policy needs to be expanded to address the impact of jurisdictional compliance with the requirements of the California Global Warming Solutions Act (AB 32, 2006) since CalRecycle is imposing the implementation of mandatory commercial and multi-residential recycling programs on jurisdictions. | As was discussed at the workshop, this is not an opportunity to change the CIWMP policy overall, and if anyone wishes to suggest policy changes, those will be considered in the future, as deemed necessary. |
| N/A | Consistency w/ Global Warming Solutions Act (AB32) | Please look at rigor between consistency and AB32 requirements. The Annual Report is a vehicle to measure AB 32 greenhouse gas reductions. Greenhouse gas mandatory reporting requirements needs to be considered. Many cities in Southern California are using Annual Reports to support AB 32 reporting. | The purpose of this update is related to SB1016 only. |
| N/A | Regional agency compliance | The policy should be revised to specifically address how CalRecycle will address regional agency compliance. | PRC Section 40970 expressly provides that formation of a regional agency does not diminish the responsibility of the individual member jurisdictions to comply with the Integrated Waste Management Act. Pursuant to PRC Section 40975(b) (3), before a regional agency agreement is approved by the Department, it must include provisions relating to the obligations of all member jurisdictions upon termination of or withdrawal from the regional agency. This includes provisions that the withdrawing jurisdiction (or, member jurisdictions of an abolished regional agency) comply with Act, including PRC Section 41780. Therefore, jurisdictions that leave a regional agency are treated as an individual jurisdiction and the Enforcement Policy applies in the same manner. |
| N/A | New Cities compliance | The policy should be revised to specifically address how CalRecycle will address new city compliance. | PRC Section 41791.5 provides that newly incorporated cities have 18 months after incorporation to submit their planning documents. Statute also provides for extensions under certain circumstances. Thereafter, the same requirements in the Enforcement Policy apply to the new City. |