

CalRecycle Public Workshop April 16, 2013

Recycling Market Development Zone (RMDZ) Loan Program

INTRODUCTION

CalRecycle is considering changes to the RMDZ Loan Program to allow for statewide loans under specified conditions to help meet the goals of Assembly Bill (AB) 341, allow for the use of Cap & Trade funds if available, and limit the use of RMDZ funds to the purchase of equipment. The intent of this workshop is to obtain comments about these potential changes. CalRecycle also would like to discuss this topic at the June 5-6, 2013, Zoneworks meeting. Subsequently, a Request for Approval for changes to the RMDZ program will be presented for discussion at a future CalRecycle monthly public meeting.

In particular, CalRecycle is seeking feedback on the following:

1. Eligibility and allowed use of RMDZ funds
2. Options for using Cap & Trade funds

AB 341 (Chapter 476, Statutes of 2011) established a policy goal for California that not less than 75% of the solid waste generated is source-reduced, recycled, or composted by 2020. The ability to offer loans statewide would provide CalRecycle with greater flexibility to fund projects with high potential to assist in meeting California's 75% goal, provide more jobs, and reduce greenhouse gas (GHG) emissions. If Cap & Trade funds are made available, CalRecycle would also be poised to provide loans for GHG emissions reduction projects throughout the state.

POTENTIAL PROGRAM CHANGES

1. Eligibility and Allowed Use of RMDZ Funds

One set of issues involves the use of RMDZ SubAccount funds for loans outside of existing zones – i.e., should such use be allowed and, if so, under what conditions. CalRecycle is proposing several changes that impact Loan Program general criteria and project eligibility criteria.

a) Define Partnership

CalRecycle currently has authority under Public Resources Code (PRC) § 42023.1(f) to provide loans outside of zones where partnerships exist with public entities: “The department may expend the money in the subaccount to make loans to local governing bodies, private businesses, and nonprofit entities within recycling market development zones, or in areas outside zones where partnerships exist with other public entities to assist local jurisdictions to comply with PRC § 40051.”

To date, however, CalRecycle has not defined partnerships for the purposes of PRC § 42023.1(f). Because of its interest in being able to provide loans to businesses outside of existing Zones, CalRecycle is seeking input on developing a definition of “Partnership” to ensure consistency in determining whether a business is eligible for a loan.

- Potential examples to be included in a definition of a public entity partner include, but are not limited to: city or county, school, Economic Development Office and Small Business Development Center. The role of a partner would be similar to the role of a Zone Administrator; i.e., Zone Administrators are employed, contracted, or associated with a city or county, to represent the local compliance of Reg. Section 17901J.

Based on consultation with its Legal Office, CalRecycle will define this term as part of its General Criteria for the Loan Program (see #1d below). This could additionally include

requiring submittal of a document demonstrating that such a partnership exists, similar to the Zone Administrator's Certification that is used for businesses located inside the boundaries of an RMDZ.

b) Availability of RMDZ funds for businesses outside zones:

CalRecycle recognizes the concerns that some stakeholders have expressed about whether or not sufficient RMDZ SubAccount funds exist to make loans to businesses outside the zones. If CalRecycle receives funds from Cap & Trade, this could afford the opportunity to offer loans outside the zones and make additional strides towards reaching the 75% goal. As a result, CalRecycle staff is proposing that Cap & Trade funds, if available, be the first source to fund projects outside zones (see Issue #2). However, if Cap & Trade funds are not available or if a business does not fulfill the GHG emission reduction criteria associated with those funds, there still may be situations where CalRecycle desires to provide loan funds to a business outside of a zone, in which case the RMDZ SubAccount would be the only source.

CalRecycle staff is proposing that RMDZ SubAccount funds be made available for loans outside of zones under specified conditions. There are several options to consider regarding the appropriate conditions, including identifying a threshold below which RMDZ SubAccount funds would not be available for such loans:

- Example #1: Set aside the first \$3,000,000 of allocated RMDZ funds for loans inside zones. This is the amount of regular recurring repayments from performing borrowers. The remainder of the annual allocation would be available for loans both inside and outside zones.
- Example #2: All unutilized RMDZ funds as of January 1st will be available to fund loans outside zones.
- Example #3: Do not allow RMDZ funds to be available to fund loans outside of zones.

c) Limit the use of RMDZ funds to the purchase of equipment

- For many years, RMDZ funds have been used for purchase of equipment, working capital, refinance of onerous debt, purchase of real estate, and leasehold improvements. Some aspects of this have led to considerable problems when companies are unable to adhere to the terms of their loans (e.g., for loan defaults, there is no collateral or recovery from working capital, leasehold improvements, and onerous debt), and such a wide use of funds also means that fewer dollars are available for other projects. Borrower matching funds generally can cover working capital, and real estate is generally easier to finance via bank loans. Focusing the RMDZ funds on equipment would allow businesses to process more material and increase the recycling of materials and potentially allow for more loans.
- Staff thus is proposing limiting RMDZ loan funds to the purchase of equipment. As part of implementing this change, loan staff will help businesses apply for other state programs that can finance working capital, leasehold improvements, real estate and onerous debt.

d) The changes proposed above would necessitate the following updates to Loan Program General Criteria and Project Eligibility Criteria:

- Add to General Criteria: definition of partnership (see #1a above).
- Add to General Criteria: limitation of funding to equipment (see #1c above).
- Add to Project Eligibility Criteria: SubAccount funds will continue to require diversion of non-hazardous solid waste from California landfills, both inside and outside zones.

2. Options for Using Cap & Trade Funds

If Cap & Trade funds are available, CalRecycle staff is proposing that they be used before RMDZ SubAccount funds for loans both inside and outside zones to projects involving significant GHG emission reductions, with priority given to projects outside zones. After Cap & Trade funds are fully encumbered, then RMDZ funds could be available for loans outside of zones depending on resolution of Issue #1b.

- Using Cap & Trade funds to offer loans outside the zones would be contingent on what, if any; funding allocation is included in the revised Governor's Budget.
- All such loans would have to demonstrate significant GHG emission reduction potential.
- The Loan General Criteria for Cap & Trade funds would be identical to RMDZ Loan Criteria (including concept to fund equipment only).

OTHER POTENTIAL ADMINISTRATIVE CHANGES

CalRecycle also is considering other changes to streamline the loan program to significantly shorten the application review, approval, and funding process, and administer the loan program using generally accepted commercial loan practices. Although not the focus of today's workshop because they do not impact loan eligibility or funds for businesses in RMDZs, CalRecycle also welcomes comments about these potential changes.

- a) Simplify the loan application
 - Initial Application for early eligibility determination:
 - Create Application Guidelines and Instructions
 - Create a simple application cover page
 - Utilize the Small Business Development Center (SBDC) business plan template
 - Require historical financial statements with the initial application.
 - Post-Application for full eligibility determination:
 - Provide financial projections
 - Provide business documents
 - Provide permits
- b) Update the regulatory definition of "applicant" to conform to text in statute. This may be accomplished via a Section 100 Regulation change, a simple non-public process for very minor edits that do not change the intent or purpose of the regulation.
- c) Allow Loan program to change the interest rate on an outstanding loan; apply loan payments to principal, interest and fees; reverse late charges; and refinance and consolidate outstanding RMDZ loans.

