REQUEST FOR APPROVAL

To:	Howard Levenson Deputy Director
From:	Cara Morgan Branch Chief
Request Date:	June 15, 2015
Decision Subject:	Revision of CalRecycle's Policy Document "Countywide Integrated Waste Management Plan (CIWMP) Enforcement Policy Part II"
Action By:	July 21, 2015

Summary of Request:

In August 2001, the California Integrated Waste Management Board adopted a revised "Countywide Integrated Waste Management Plan Enforcement Policy Part II" (CIWMP) as the basis for determining whether or not a jurisdiction has adequately implemented its Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE), including the diversion programs described therein. In July 2010, the CIWMP was updated to reflect the passage and implementation of Senate Bill 1016 (Chapter 343, Statutes of 2008), which changed the measurement system from one based on estimated generation and diversion to one based on actual per-capita disposal. The CIWMP now needs to be revised to reflect the passage and implementation of AB 341 (Chapter 476, Statutes of 2011), AB 1826 (Chapter 727, Statutes of 2014), and AB 1594 (Chapter 719, Statutes of 2014). All proposed changes to the policy document have been highlighted in yellow (Attachment 1).

Recommendation:

Staff recommends that the proposed changes be approved for finalization of the policy document. Upon approval, the final document will be posted to CalRecycle's web site, tentatively in July 2015.

Assistant Director Action:

On the basis of the information and analysis in this Request for Approval and the findings set out above, I hereby approve the revisions to the Countywide Integrated Waste Management Planning (CIWMP) Enforcement Policy Part II.

Dated: 7/13/15

Howard Levenson

Howard Levenson, Deputy Director
Materials Management and Local Assistance

Attachments:

1. Revised "Countywide Integrated Waste Management Plan Enforcement Policy Part II" (CIWMP)

Background Information, Analysis, and Findings:

First adopted in August 2001, the "Countywide Integrated Waste Management Plan Enforcement Policy Part II" (CIWMP) is the basis for determining whether or not a jurisdiction has adequately implemented its Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE), including the diversion programs described therein. This is the core guidance document that staff uses in the biennial and quadrennial jurisdiction review cycles to prepare recommendations regarding a jurisdiction's performance in implementing the programs described in these elements.

In July 2010, the CIWMP was updated to reflect the passage and implementation of Senate Bill 1016 (Chapter 343, Statutes of 2008), which changed the measurement system from one based on estimated generation and diversion to one based on actual per-capita disposal. Updates made included adding the new disposal measurement system, removing references to the biomass diversion credit, and removing references to SB 1066 (Chapter 672, Statutes of t1997), which had expired. Additionally, references to the Board were changed to CalRecycle as appropriate.

The CIWMP now needs to be revised to reflect the passage and implementation of AB 341 (Chapter 476, Statutes of 2011), AB 1826 (Chapter 727, Statutes of 2014), and AB 1594 (Chapter 719, Statutes of 2014). All changes to the policy document have been highlighted in yellow (Attachment 1).

The revised CIWMP document was posted on CalRecycle's website and listserve notices went out to stakeholders informing them of the revised document. CalRecycle held two stakeholder workshops in April 2015. One workshop was in Sacramento and was broadcast statewide, and the other workshop was held in Diamond Bar. At the workshops, staff presented the changes to the proposed CIWMP changes and solicited input from attendees. Additionally, staff invited stakeholders to send in written comments.

The following summarizes the major changes that staff proposes making to the CIWMP to conform with the provisions of AB 341 (Mandatory Commercial Recycling), AB 1826 (Mandatory Commercial Organics Recycling), and AB 1594 (Greenwaste/ADC):

- Addressed in the Background section that the CIWMP addresses criteria that CalRecycle will use during the Jurisdiction Review to determine each jurisdiction's compliance with its SRRE, HHWE, Mandatory Commercial Recycling (MCR), Mandatory Organics Recycling (MORe), and AB 1594 Greenwaste/ADC (AB 1594) programs.

- Explained that full implementation of AB 1594 includes using the jurisdiction's per capita disposal rate and diversion programs to determine compliance, whereas full

implementation of MCR and MORe are not dependent on the jurisdiction's compliance with the diversion rate requirements.

- Provided criteria that staff would consider in evaluating implementation of AB 1594, MCR, and MORe. These criteria are illustrative of what staff would ask the jurisdiction during staff's annual site visits and reviews of the implementation of the programs.

- Addressed that rural exemptions are allowed under MORe and that eligible jurisdictions are exempt from implementing the requirements of the law and are not subject to enforcement by CalRecycle.

- Identified the due dates for jurisdictions to report information in the annual reports for each of the laws.

- Added in the steps for issuing a Compliance Order if the jurisdiction has failed to adequately implement its MCR and/or MORe requirements, regardless if a jurisdiction met the diversion requirements of PRC Section 41780, and did not demonstrate a good faith effort to implement MCR and/or MORe. Also included steps for addressing whether a jurisdiction has not met the diversion requirements of PRC Section 41780 and has not made a good faith effort to address the barriers to diverting greenwaste that was being used as alternative daily cover.

- Included the imposition of penalties for not meeting the MCR, MORe, and/or AB 1594 requirements.

Based on comments received from stakeholders, staff made the following changes to the proposed CIWMP:

a. The CIWMP refers to <u>every</u> business instead of those that meet the threshold.
    i. Staff modified the CIWMP to clarify, where needed, that this refers to those businesses that are above the threshold in place at any particular time.

b. The CIWMP indicates the need for <u>annual</u> outreach/education/monitoring, when the law does not specifically state that it must be annual.
    i. Staff did not change the CIWMP in response to this comment. The CIWMP indicates that staff will be asking about whether or not education/outreach/monitoring is being done annually as part of its evaluation of the effectiveness of those programs.

c. Jurisdictions must recycle 100 percent.
    i. Staff did not change the CIWMP in response to this comment. There is no statement in the CIWMP that jurisdictions must recycle 100 percent of the organic waste generated. The requirement to recycle is on businesses, and this is addressed adequately in the CIWMP and the Frequently Asked Questions; e.g., businesses have to recycle all of their organic waste, but CalRecycle understands that such recycling may in some cases result in residuals that may have to be landfilled.

d. Concern about the intention of the CIWMP language with respect to enforcement, that "each jurisdiction must…. 4) signify through adoption of an ordinance or other legal means for imposition of penalty…"
    i. Staff clarified in the CIWMP that enforcement by jurisdictions is discretionary.

Staff also made several changes to the AB 1826 Frequently Asked Questions (FAQ) in response to stakeholder comments. These included ensuring that language in different FAQ responses is consistent with statute; providing clarifications regarding the management of fats, oil, and grease, and the management of street sweepings; and clarifying FAQ responses regarding potential costs of program implementation.

If approved at the July 21, 2015, CalRecycle Monthly Public Meeting, staff will post the updated policy on CalRecycle's Local Government Central website at: www.calrecycle.ca.gov/LGCentral.