



LOS ANGELES COUNTY  
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INTEGRATED WASTE MANAGEMENT TASK FORCE  
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GAIL FARBER, CHAIR  
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January 26, 2011

Mr. Mark E. Leary, Acting Director  
California Department of Resources  
Recycling and Recovery (CalRecycle)  
801 K Street, MS, 19-01  
Sacramento, CA 95814

Dear Mr. Leary:

**COMMENTS REGARDING PROPOSED MANDATORY COMMERCIAL RECYCLING REGULATIONS TO REDUCE GREENHOUSE GAS EMISSIONS**

On behalf of the Los Angeles County Integrated Waste Management Task Force (Task Force), we appreciate the opportunity to comment on the Department of Resources Recycling and Recovery's (CalRecycle's) proposed mandatory commercial recycling (MCR) regulations discussed at its January 19, 2011, Proposed Mandatory Commercial Recycling Regulation Informal Stakeholder Feedback Workshop. The Task Force also sincerely thanks CalRecycle for considering comments previously submitted by the Task Force. At this time, we would like to offer the following comments related to the current version of the proposed MCR regulations and the HF&H Cost Study discussed during the informal stakeholder workshop. We are also meeting with representatives of the California Air Resources Board regarding their MCR analysis and will be submitting comments under a separate cover.

Pursuant to the California Integrated Waste Management Act of 1989 (Assembly Bill 939, as amended) and Chapter 3.67 of the Los Angeles County Code, the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated and cost-effective and environmentally sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, waste management industry, environmental groups, the public, and a number of other governmental agencies.

## **PROPOSED REGULATION COMMENTS**

Many technical and necessary revisions have been made to the MCR proposed regulatory text (Proposed Regulations) directly in response to Task Force comments. Most noteworthy are the changes specified in “Handout #1” (copy enclosed) as distributed at the January 19, 2011, workshop concerning §9XXX4(f) of the Proposed Regulations, which separates the possible enforcement actions without creating a “double jeopardy” situation under both AB 32 and AB 939 enforcement protocol. In keeping with the topic of separating AB 32 and AB 939, the Task Force believes a dangerous precedent is being set by §9XXX4, which establishes an AB 32 MCR superiority clause and disregards compliance with AB 939 disposal targets. As stated in previous communications, we believe it is inappropriate to tie compliance with this regulation to an unrelated existing statute (AB 939, as amended; PRC Section 40000 et. seq.) since MCR relies on the adoption of the AB 32 Scoping Plan and is not tied to the diversion requirements of AB 939. Therefore, all references to (1) the 50% diversion requirement or disposal target, (2) source reduction and recycling element, and (3) household hazardous waste element should be removed and CalRecycle’s authority should be established by the California Air Resources Board (ARB)/CalRecycle Enforcement Agreement per AB 32.

Additionally, several technical updates are necessary to the Proposed Regulations:

- **Subsection 9XXX1(b)** – The term “public entity” was introduced into the definition of both “business” and “hauler” (§9XXX1(b)(4) and §9XXX1(b)(9), respectively) but was not defined. To avoid any confusion, the term “public entity” should be defined and exemplified, i.e. “including but not limited to school districts, cities, state agencies, etc.”
- **Subsection 9XXX1(b)** – The term “commercial recycling program” should be defined within §9XXX1(b) due to its extensive usage throughout the Proposed Regulations.
- **Subsection 9XXX1(b)(1)** – Please refer to “Annual Report” in §9XXX3(e) and §9XXX3(i)(4)(j) in a consistent manner, i.e. refer back to §9XXX1(b)(1) where it is defined.
- **Subsection 9XXX1(b)(11)** – “Mixed Waste Processing” is defined as “processing solid waste that contains both recyclable materials and trash **and yields diversion results comparable to source separation.**” This definition needs to be clarified because, as written, it could be read to preclude mixed waste processing from recycling processes. Depending on how diversion is accounted, these types of facilities do not yield comparable diversion result to other processing methods such as single stream processing. The definition should also be expanded to include “compostable materials.”

- **Subsection 9XXX1(b)(14)** – The term “recycling facility” is not used elsewhere in the Proposed Regulations, and as such, we question the need for its definition.
- **Subsection 9XXX2(a)** – Should be expanded to read, “On or before July 1, 2012, the owner or operator of a business, as defined in §9XXX1(b)(4), shall, consistent with local requirements, recycle, compost, or otherwise divert its commercial solid waste by taking one or any combination of the following actions:”
  - **Subsection 9XXX2(a)(1)** – Delete “or” from the sentence end.
  - **Subsection 9XXX2(a)(2)** – Please see comment on Subsection 9XXX1(b)(11).
  - **Subsection 9XXX3(a)** – Should be expanded to read, “diverts commercial solid waste generated by businesses, as defined in §9XXX1(b)(4), from disposal.”

### **COST STUDY COMMENTS**

The HF&H Cost Study utilizes emission reduction factors provided by the ARB based on their document *Proposed Method for Estimating Greenhouse Gas Emission Reductions from Compost from Commercial Organic Waste*, which establishes the Compost Emission Reduction Factor (CERF). Unfortunately, many of the underlying assumptions of ARB’s methodology do not apply to the Southern California region. For example, the Report estimates that the sum transportation distance, including not only feedstock delivery but also compost delivery, is just over 75 miles. Unfortunately, the Los Angeles region has no commercial or regional composting facilities. Based on our experience, from the Los Angeles area to a composting or green waste facility, the estimate needs to be increased to approximately 150 transportation miles each way not including compost delivery. This one caveat, if taken into consideration, would triple the Transportation Emissions ( $T_e$ ) factor. Correctly accounting for emissions is doubly important when considering the fact that the HF&F Cost Study makes the assumption that all organics will be composted.

Excluded from the scope of the HF&F Cost Study on Commercial Recycling were many vitally important factors and variables to Southern California, and especially the County of Los Angeles, that when omitted, provide an incomplete representation of the solid waste management system in our region. For example:

- **Public Education and Outreach** – While stated as altogether “beyond the scope of this study,” CalRecycle did provide their estimated figures for this aspect of the regulations at the January 19, 2011, Informal Stakeholder Workshop. The average “start-up costs” incurred by a large jurisdiction were estimated as \$115,000, with a total cost to *all* jurisdictions statewide totaling \$14.3M. The Task Force would like to note, as an example, that a single “mail-out” in the City of Los Angeles can incur a quarter million dollar cost, and as such, the figures presented seem to be underestimating the true impact this will

have upon large and already budgetary constrained jurisdictions. We believe that for the largest jurisdictions (over 1 million population), the annual cost of implementing a commercial recycling program that fully complies with the proposed regulations and includes comprehensive education, monitoring, and enforcement could range from \$2 million to \$10 million or more when fully loaded labor rates are considered.

- **Organic Materials** – This Cost Study assumes all organics (including green waste) will be composted (p.15). Unlike other parts of the State, the Los Angeles County region has no commercial or regional composting facilities. For the Los Angeles region, impacts such as increased traffic congestion, air pollution, and greenhouse gas (GHG) emissions as a result of transporting organic waste to out-of-region composting facilities must be taken into account especially considering the fact that 67% of the statewide tons disposed are generated in the “Southern California A” region. The Task Force would like to stress that other, superior options to composting exist and are being utilized or are currently in the development process, namely green waste as alternative daily cover (ADC) and conversion technologies (CTs), which were both explicitly excluded from the Cost Study. CTs are processes capable of converting residual waste into useful products, green fuels, and clean renewable energy without combusting the waste. The Task Force recommends the inclusion of CTs in the consideration of any solid waste management mandate expansion. Numerous studies, including those conducted by the State of California, have confirmed that CTs provide triple benefits with regard to GHG emissions reductions including reducing waste transportation, reducing landfill disposal, and displacing fossil fuels by producing fuel and energy, which composting is incapable of doing.
- **Export Commodities** – The Cost Study states that it assumes “paper, cardboard, metals, and plastics are exported to foreign recyclers” (p.14) while the correlative ARB proposed methodology for estimating Recycling Emissions Reduction Factor (RERF) (found in the accompanying document *Proposed Method for Estimating Greenhouse Gas Emission Reductions from Recycling*) utilizes distinct percentages for the remanufacturing destination distribution of various recycled materials in California. A single set of assumptions should be utilized.

As a result, flawed assumptions and missing factors are leading to an incomplete and inaccurate representation of the solid waste management system in Southern California. These inaccuracies create a bias towards specific management scenarios and may lead to poor policy decisions that ultimately adversely impact the environment.

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Thank you for the consideration of our comments. We look forward to continue working constructively with CalRecycle on this and other related issues. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147.

Sincerely,

*Margaret Clark*

Margaret Clark, Vice-Chair  
Los Angeles County Solid Waste Management Committee/  
Integrated Waste management Task Force and  
Council Member, City of Rosemead

MS/RG:ts

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Enc.

cc: CalRecycle (Howard Levenson, Cara Morgan, Brenda Smyth)  
John Laird, Secretary, California Natural Resources Agency  
Linda S. Adams, Acting Secretary for Environmental Protection  
Mary D. Nichols, Chairman of the California Air Resources Board  
Webster Tasat, ARB Emission Inventory Analysis Section Manager  
League of California Cities  
League of California Cities, Los Angeles County Division  
California State Association of Counties  
Each Member of the County of Los Angeles Board of Supervisors  
Each City Mayor and City Manager in the County of Los Angeles  
South Bay Cities Council of Governments  
San Gabriel Valley Council of Governments  
Gateway Cities Counsel of Governments  
South California Association of Governments  
Los Angeles County Department of Public Works (Pat Proano)  
Each City Recycling Coordinator in Los Angeles County  
Each Member of the Los Angeles County Integrated Waste Management Task Force  
Each Member of the Task Force Alternative Technologies Advisory Committee



**Informal Stakeholder Workshop  
Proposed Mandatory Commercial Recycling Regulation**

January 19, 2011

10 am - 4:00 pm

Byron Sher Auditorium

**Handout #1**

Proposed Change to 9XXX4(f)

9XXX4(f) Pursuant to §41850 of the Public Resources Code , CalRecycle shall hold a hearing to determine whether the jurisdiction has complied with the terms of the compliance order in §9XXX4(d). If CalRecycle determines that the jurisdiction has failed ~~to make a good faith effort~~ to implement its compliance order commercial recycling program and meet the requirements of §9XXX3, CalRecycle ~~may impose administrative civil penalties upon the jurisdiction of up to ten thousand dollars (\$10,000) per day until the jurisdiction implements the program as provided by §41850 of the Public Resources Code~~ shall take additional enforcement action pursuant to an ARB/CalRecycle Enforcement Agreement, or, if an Enforcement Agreement does not exist, CalRecycle shall, within 60 days document its determination that the jurisdiction remains out of compliance, forward that documentation and make recommendations to the Air Resources Board for further enforcement action pursuant to Part 6, Division 25.5 (section 38500) of the Health and Safety Code).