



LOS ANGELES COUNTY
SOLID WASTE MANAGEMENT COMMITTEE/
INTEGRATED WASTE MANAGEMENT TASK FORCE
900 SOUTH FREMONT AVENUE, ALHAMBRA, CALIFORNIA 91803-1331
P.O. BOX 1460, ALHAMBRA, CALIFORNIA 91802-1460
www.lacountyswimtf.org

GAIL FARBER, CHAIR
MARGARET CLARK, VICE-CHAIR

October 10, 2013

Mr. Ken Decio
Senior Integrated Waste Management Specialist
Department of Resources Recycling and Recovery
1001 I Street
Sacramento, CA 95812-4025

Dear Mr. Decio:

**CALRECYCLE'S DRAFT REGULATORY REVISIONS TO TITLE 14 AND 27
COMPOSTABLE MATERIALS/TRANSFER PROCESSING REGULATIONS
DATED SEPTEMBER 2013**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) appreciates the opportunity to comment on CalRecycle's consolidated regulatory revisions to Title 14 and 27 of the California Code of Regulations, dated September 2013, regarding (1) Compostable Materials Handling Operations and Facilities Regulatory Requirements; (2) In-Vessel Digestion Operation and Facilities Regulatory Requirements; (3) Enforcement of Solid Waste Standards and Administration of Solid Waste Facility Permits; Loan Guarantees; and (4) Joint Permit Application Form. The Task Force recognizes and appreciates CalRecycle's efforts to revise and adopt new regulations in order to manage "compostable organic" materials within the State in a manner that protects the public's health and safety. The Task Force continues to firmly believe that an integrated approach is necessary to reduce our dependence on landfilling while considering the health and safety of the public and environment. In order to facilitate an integrated approach, the proposed regulations must be applied uniformly to all technologies. This would help create a level playing field for all landfill diversion technologies to be successful in the future and help compliance with AB 341 (2011).

We have reviewed the draft proposal and would like to offer the following comments with a goal that our comments and concerns will be addressed prior to submittal of the draft regulations to the California Office of Administrative Law for their consideration:

General Comments:

1. As previously indicated by the Task Force on several occasions starting with our letters of August 13, 2008, and March 28, 2103 (copies enclosed), there is a clear need for CalRecycle to define the terms “organic”, “organic material,” and “compostable organic,” such as green materials, and “non-compostable organic.” such as a landfill plastic liner used to protect underground water quality (emphasis added). These terms are being used by CalRecycle throughout the Draft Regulation Text without having defined their terminology. The Task Force respectfully requests CalRecycle to (1) define these terms through the regulatory process, (2) void further use of these undefined terms, or (3) provide an explanation for CalRecycle’s failure to respond to the Task Force’s inquiries and concerns on this important issue for over five years.

Defining these terms would eliminate confusion among stakeholders and elected officials and reduce local government expenditures in otherwise complying with the regulations.

2. In general, the California Environmental Quality Act (CEQA) document is used by the appropriate Local Enforcement Agency (LEA) and CalRecycle to issue a Solid Waste Facility Permit and/or the State Regional Water Quality Control Board (Water Board) to issue Waste Discharge Requirements. In many cases, the LEA, CalRecycle, and/or Water Board use the CEQA document prepared by another entity (the “Lead Agency”) as a tool in the issuance of the Solid Waste Facility Permit/Waste Discharge Requirements. Thus the LEA, CalRecycle, and/or Water Board become the “Responsible Agency” pursuant to CEQA. In some cases, the LEA, CalRecycle, and/or Water Board are identified as the entities to monitor and enforce some of the mitigating measures adopted to address negative impact(s) of the project as identified in the project’s CEQA document even though they may be outside the State minimum standards adopted for solid waste facilities. Unfortunately, this fact may not be known by these agencies’ field personnel resulting in the lack of monitoring and enforcement of the appropriate mitigating measures.

As such, the proposed “Joint Permit Application Form” should be modified to indicate if the LEA, CalRecycle, and/or Water Board are the “Responsible Agency” pursuant to the requirements of CEQA and enumerate mitigating measures that these agencies are responsible for monitoring and enforcing.

Specific Comments:

1. Section 17852, Subsection (a) (26), "Mixed Material." – The existing definition refers to "non-organics" and "plastics." These terms need to be clearly defined for the purpose of "Compostable Materials Handling Operations and Facilities Regulatory Requirements," and "In-Vessel Digestion Operations and Facilities Regulatory Requirements."
2. Section 17852, Subsection (a) (27.5), "Nuisance." – Based on the proposed definition, "nuisance" may be anything that is injurious to human health and affects at the same time an entire community (emphasis added). Please expand the definition to specifically define the term "entire community" and factors considered to define the term. For cases such as surface and ground water contamination or "odor" what criteria are to be used to establish the boundaries of the entire affected community?

Based on the proposal, it is first of all next to impossible to substantiate the existence of any nuisance based on the tools currently available to regulatory agencies. Secondly, it makes it impossible for a private citizen to substantiate the existence of any type of nuisance.

It is strongly recommended the proposed definition be revised by deleting Subparagraph "B" and deleting the word "and" at the end of the Subparagraph "A."

The foregoing is also applicable to Section 17896.2, Subsection (a) (18).

3. Sections 17854.1 and 17857.1 – Please provide a list of criterion used for establishing a threshold limit of 12,500 cubic yards for "Green Material Composting Operations" under the "EA Notification Tier" and "Registration Permit Tier."
4. Section 17856 – Agricultural Material Composting Operations. To assist local governments with the effectiveness of their diversion programs, this Section needs to be expanded to include the following new subsection:
 - o "Subsection (e) – These sites shall record the quantities of agricultural materials received, by jurisdiction of origin, and submit the data to the appropriate jurisdictions on a calendar quarterly basis."
5. Section 17857.1 – Green Material Composting Operations and Facilities. To assist local governments with the effectiveness of their diversion programs, this Section needs to be expanded to include the following new subsection:

- “Subsection (d) - These sites shall record the quantities of green materials received, by jurisdiction of origin, and submit the data to the appropriate jurisdictions on a calendar quarterly basis.”
6. Section 17862 – Research Composting Operations. Please expand to (a) require surface and ground water protection, (b) prohibit any surface water from leaving the property without a NPDES Permit, and (c) control and mitigate any odor nuisances and obtain a permit from the appropriate local air pollution control district/air quality management district.
 7. Section 17863.4, Subsection (f) – Odor Impact Minimization Plan. We strongly recommend specifying a timeframe by which the Enforcement Agency (EA) is to direct the operator to prepare and implement a Best Management Practice Feasibility Report (Report) as specified in Section 17863.4.1. We also strongly recommend specifying a timeframe (possibly a week) within which the EA would review the results of the Report in order to reduce and eliminate the time the public is exposed to the odor nuisance. If the foregoing measures are ineffective in addressing the odor nuisance then alternatives should be considered such as enclosing operations within a structure that operates under negative pressure. As an alternative, the facility’s permitted daily waste intake can be incrementally reduced until such time the nuisance is eliminated or reduced to a level that is no longer a nuisance to the public. Considering odor nuisances are hazardous to public health and safety, it is imperative that mitigation measures be clearly established to ensure such nuisances are addressed in an efficient and timely manner.
 8. Section 17868.2 – Maximum Metal Concentrations. Please refer to Line #25 and revise Table 2 to Table 3.
 9. Section 17868.3.1(a). Revise the second sentence as follows so that disposal is not the first option and rather additional processing shall take place before disposal is considered. “Compost that contains more than 0.1% by weight of physical contaminants greater than 4 millimeters shall be designated for ~~disposal~~, additional processing, **disposal**, or other use as approved by local, state or federal agencies having appropriate jurisdiction.”
 10. Section 17868.5, Subsection (a) (1) – It is next to impossible to visually measure the level of physical contaminant to 1.0 percent or less by weight. It is recommended that (1) a minimum of 5% of daily incoming feedstock, (b) a percentage established based on a 90% confidence level of the incoming feedstock, or (c) at least one truck load, whichever is the greatest, shall be tested. Each sample shall first be weighed followed by collecting and weighing the physical contaminants. The percentage of physical contaminants shall be

determined. The load shall be rejected if physical contaminants are greater than 1.0 percent of total weight or if the load contains materials that do not meet the definitions of green material in Section 17852(a)(21) or vegetative food materials in Section 17852(a)(20)(A).

11. Section 17896.1 (c) - It has been stated that digestion of organic materials (both “compostable” such as green materials and “non-compostable” such as landfill plastic liners) can occur naturally. Please refer to the General Comment #1 and Section 17896.2(a)(7), and verify the accuracy of the said statement.
12. Section 17896.1, Subsection (d) – In part, this Subsection states “....However, no city or county may promulgate or enforce laws which otherwise conflict with the provisions of this Chapter (emphasis added).” Such an authority is far reaching and it is limited to the State Legislative body and not the State Administrative body because the proposal would negatively impact a local jurisdiction’s land use decision. As such, the term “conflict” needs to be defined or the statement should be revised to read “....However, no city, county, or special district may promulgate or enforce laws which are less restrictive than the provision of this Chapter.”
13. Section 17896.2, Subsection (a), Definitions – Please expand this Subsection to provide definition for the processed mammalian tissue, flesh, organs, hide, blood, bones and marrow.
14. Section 17896.2, Subsection (a) (18) – Nuisance. Please refer to the Specific Comment #2 for concerns and recommendations.
15. Section 17896.21, Drainage and Spill Control. – The proposed requirements need to be expanded to prohibit any off-site drainage without a NPDES Permit.
16. Section 17896.30, Odor Best Management Practice Feasibility Report – Pursuant to Sections 17856 (a) (27.5) and 17896.2 (a) (18), please identify/describe the boundaries of the community that may potentially be affected.
17. Section 17896.45, Record Keeping Requirements – Please expand to require each operator to record the quantities/tonnages of incoming waste received and outgoing residual waste, by jurisdiction of origin, and submit the data to the appropriate jurisdictions on a calendar quarterly basis.”
18. Section 18302, Subsection (c), Written Complaints of Alleged Violations – Please revise this Subsection to require the EA investigate any odor complaint by the next business day instead of the stated 15 days.

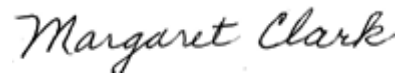
19. Section 18302, Subsection (d). – Please expand Line # 1 to insert the phrase “but not later than one business day” after “...as soon as practical,”
20. Section 18302, Subsection (d) (2). - Please expand the Paragraph to require the EA to also collect weather related data for the time that the odor complaint was received.
21. Section 18302, Subsection (e) – Please expand to require the EA to justify, in writing, in the event the EA declines to investigate a complaint, and forward a copy of this justification to the complainer by U.S. mail, if the address is known.
22. Instructions for Completing the Application for Solid Waste Facility Permit And Waste Discharge Requirements.
 - Part 2. Item E.12, MSW- Please expand to define the term “commercial sources” to be consistent with the definition provided by AB 341 (2011), as amended.
 - Part 3. Facility Information, Item A.1.a. – Please expand Line 49 by inserting “compost” after “recycle.”
 - Part 3. Item A.2 – Please see comments on Item A.1.a. and expand the requirement to also include “compost.”
 - Part 3. Items A.4. “I” and “J” – Please expand to describe the disposal footprint by latitude and longitude and expressed in degrees, minutes, and seconds, or decimal degrees identifying the boundaries of the waste footprint for existing and/or proposed new areas.
 - Part 5 – Please see Specific Comment #2

Pursuant to the California Integrated Waste Management Act of 1989 (Assembly Bill 939 [AB 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, 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.

Mr. Ken Decio
October 10, 2013
Page 7 of 7

We appreciate your consideration of our comments and look forward to working with you in developing effective regulations for composting facilities. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at MikeMohajer@yahoo.com or (909) 592-1147.

Sincerely,



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

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Enc.

cc: CalEPA (Matt Rodriguez)
CalRecycle (Caroll Mortensen, Ken DaRosa, Mark De Bie, Howard Levenson,
Brenda Smyth, Robert Holmes, and Georgjan Turner)
California Air Resources Board (Mary Nichols)
California Department of Food and Agriculture (Annette Whitford)
State Water Resources Control Board (Charles Hoppin, Thomas Howard, Leslie Graves,
Scott Couch and Roger Mitchell)
Each Member of the Los Angeles County Integrated Waste Management Task Force



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www.lacountyiswmtf.org

March 28, 2013

Mr. Ken Decio
Senior Integrated Waste Management Specialist
Department of Resources Recycling and Recovery
1001 I Street
Sacramento, CA 95812-4025

Dear Mr. Decio:

CALRECYCLE'S CONSOLIDATED DRAFT REGULATORY REVISIONS TO TITLE 14 AND 27 DATED FEBRUARY 28, 2013 - MANAGEMENT OF COMPOSTABLE WASTE AND PROCESSING FACILITIES

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) appreciates the opportunity to comment on CalRecycle's regulatory revisions to Title 14 and 27 of the California Code of Regulations, which among other things, addresses the management of compostable wastes and processing facilities. The Task Force recognizes and appreciates CalRecycle's efforts to revise and adopt new regulations in order to manage compostable wastes within the State in a manner that protects the public's health and safety. The Task Force strongly believes that an integrated approach is necessary to reduce our dependence on landfilling while considering the health and safety of the public and environment. In order to facilitate an integrated approach, the proposed regulations regarding composting waste handling operations must be applied uniformly to all technologies. This would help create a level playing field for all landfill diversion technologies to be successful in the future and help compliance with AB 341. Based on CalRecycle's consolidated draft regulation text dated February 28, 2013, and informal workshop of March 18, 2013, we would like to offer the following comments:

General Comment:

As previously indicated by the Task Force on several occasions starting with our letter of August 13, 2008 (copy enclosed), there is a clear need for CalRecycle to define the terms "organics," "compostable organics," "non-compostable organics." and "inorganics." These terms are being used by CalRecycle throughout the regulatory revisions to Titles 14 and 27 without having defined these terminologies. The Task Force respectfully requests CalRecycle to either define these terms through the regulatory process or avoid further use of these undefined terminologies. Failure to do

so would further create confusion among stakeholders and elected officials while furthering the local governments' cost in their attempt to comply with CalRecycle regulations.

Comments:

- Section 17852, Subsection (a)(26), "Mixed Solid Waste." – The existing definition refers to "non-organics" and "plastic." These terms need to be clearly defined. Also, see the "General Comment."
- Section 17852, Subsection (a)(32), "Physical Contamination" or "Contaminants" – Clearly define the terms of "hard plastic" and "film plastic" in concert with the "General Comment."
- Section 17856 — Agricultural Material Composting Operations. To assist local governments with the effectiveness of their diversion programs, this Section needs to be expanded to include the following new subsection:
 - "Subsection (e) — These sites shall record the quantities of agricultural and green materials received, by jurisdiction of origin, and submit the data to the appropriate jurisdictions on a calendar quarterly basis."
- Section 17857.1 — Green Material Composting Operations and Facilities. To assist local governments with the effectiveness of their diversion programs, this Section needs to be expanded to include the following new subsection:
 - "Subsection (d) — These sites shall record the quantities of agricultural and green materials received, by jurisdiction of origin, and submit the data to the appropriate jurisdictions on a calendar quarterly basis."
- Section 17863.4 Subsection (f) – Odor Impact Minimization Plan. We strongly recommend specifying a timeframe by which the EA is to direct the operator to prepare and implement a Best Management Practice Feasibility Report (Report) as specified in Section 17863.4.1. We also strongly recommend specifying a timeframe (possibly a week) for the EA to consider the results of the Report in order to reduce and eliminate the time the public is exposed to the odor nuisance. If the foregoing measures are ineffective in addressing the elimination of the odor nuisance, then consideration needs to be provided to move the operation to the inside of a structure that operates under negative pressure. As an alternative, the facility's daily waste intake can be gradually reduced until the nuisance is eliminated or reduced to a level that is of no further hazard to the public's health and safety. Needless to say, exposure to odor nuisance is

hazardous to human health and safety as well as having significant adverse impacts on human breathing. Therefore, it is imperative that mitigating measures are implemented in a steadfast and efficient manner.

- Sections 17896.1 and 17896.2 – Numerous references have been made to the term “organic material.” Please see “General Comment” and define the term “organic material.”
- Section 17896.1, Subsection (d) – In part, this Subsection states “.....However, no city or county may promulgate or enforce laws which otherwise conflict with the provisions of this Chapter,” (emphasis added). Such an authority is far reaching and may negatively impact a local jurisdiction’s land use decision. As such the term “conflict” needs to be defined OR the statement should be revised to read “....However, no city or county may promulgate or enforce laws which are less restrictive than the provision of this Chapter.”
- Section 17896.5, “Excluded Activities” – Please provide a distinction between anaerobically digestible materials and anaerobically digestible waste (emphasis added).
- Section 17896.18, “Drainage and Spill Control” – The proposed requirements should be expanded to prohibit any off-site drainage without a NPDES Permit.

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, 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.

Ken Decio
March 28, 2013
Page 4

We appreciate you considering our comments and look forward to working with you in developing an effective statewide order for composting facilities. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at MikeMohajer@yahoo.com or at (909) 592-1147.

Sincerely,



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

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Enc:

cc: Mr. Matt Rodriguez, Secretary, CalEPA
Mr. Charles Hoppin, Chair, State Water Resources Control Board
State Water Resources Control Board (Thomas Howard, Lisa Babcock, Scott Couch,
Brianna Bergen)
CalRecycle (Caroll Mortensen, Ken DaRosa, Mark De Bie, Robert Holmes,
Georgjan Turner)
California Air Resources Board (Mary Nichols)
California Department of Food and Agriculture (Annette Jones)
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DEAN D. EFSTATHIOU
CHAIRMAN

August 13, 2008

Ms. Margo Reid Brown, Chair
California Integrated Waste Management Board
1001 I Street
Sacramento, CA 95812-2815

Dear Ms. Brown:

**DISCUSSION OF POTENTIAL OPTIONS FOR THE ORGANIC DIVERSION FACILITIES
SITING PROJECT (STRATEGIC DIRECTIVE 6.1)**

On behalf of the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force, I would like to commend the California Integrated Waste Management Board (Waste Board) for its efforts in promoting environmentally beneficial alternatives to reduce the disposal of organics. However, as listed below, we have a number of concerns regarding the Waste Board's Directive 6.1 and its staff report for Item 11 of the June 17, 2008, Waste Board meeting. On June 10, 2008, this item was considered by the Waste Board's Strategic Policy Development Committee without addressing concerns expressed by stakeholders.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (AB 939, as amended), 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 within 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, the County of Los Angeles Board of Supervisors, the City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

We would like to offer the following comments/concerns regarding your staff report on options for siting of organic diversion facilities as well as the Waste Board Strategic Directive 6.1.

1. The Waste Board needs to define the terms "Organic" and "Compostable Organic"

The term "organic" is not defined by statute or regulation. Webster's Dictionary defines the term "organic" as: *"of, relating to, or derived from living organisms"* and *"of, relating to, or containing carbon compounds."* As such, based on the Statewide Waste Characterization Study released by the Waste Board in December 2004, the "organic" fraction of solid waste disposed in California landfills ranges between 70 and 80 percent.

The June 17, 2008, Waste Board staff report states that *"Organic materials comprise over 30 percent of the waste stream disposed in California landfills."* This statement is inconsistent with the Waste Board's 2004 Statewide Waste Characterization Study as well as the staff report that was presented to the Waste Board on December 11, 2007. In that report, staff indicated that *"Compostable organic materials comprises approximately 25 percent, or about 10 million tons, of what is disposed in landfills annually, and paper and woody portion of Construction & Demolition debris constitute another 13 or so million tons."* Thus, it appears that Waste Board staff made a distinction between the terms "organic" and "compostable organic," but did not make an attempt to define the terms.

The terms "organic" and "compostable organic" materials need to be clearly defined to avoid confusion among the legislature and regulatory bodies, regulated communities, and local governments that ultimately have to bear the cost. Furthermore, there is a need for the Waste Board to reexamine its Strategic Directive 6.1, which calls for 50 percent reduction in the amount of "organics" being disposed in landfills by 2020. Based on the December 11, 2007, Agenda Item 15, it appears that the goal is focused on the composting/diverting of source separated streams, such as green waste, food waste, manure, etc., and not the total "organics" currently being disposed in landfills. If the latter is true, jurisdictions in California may be faced with achieving a mandatory diversion rate of approximately 85 percent by 2020.

2. The Waste Board needs to consider the findings of State and local efforts with regards to conversion technology

The June 17, 2008, Waste Board staff report indicates *"Organic diversion facilities include compost, conversion technology, chipping and grinding, and transfer stations."* The Task Force commends the Waste Board for its recognition and inclusion of conversion technology into the organic diversion facilities category. However, we are disappointed with the Waste Board's staff report and recommendations which fail to recognize the findings of (a) the Waste Board's own three-year study on conversion technologies conducted pursuant to AB 2770, Chapter 740 of the 2002 State Statutes;

Ms. Margo Reid Brown
August 13, 2008
Page 3

(b) the conversion technology efforts by the County of Los Angeles; (c) the State Bioenergy Action Plan; and (d) the State Interagency Bioenergy Working Group. Unfortunately, these findings were not considered by the Strategic Policy Development Committee on June 10, 2008. We strongly believe that the Waste Board needs to consider these studies and efforts prior to any further action. This reevaluation will further substantiate that the Waste Board must place a greater reliance on the development and siting of conversion technology facilities rather than focusing on "soft" solutions such as forming more committees and conducting unnecessary duplicative studies.

We would appreciate your written response which would be of great interest to jurisdictions in Los Angeles County as well as those throughout the State. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147.

Sincerely,



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

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cc: Governor Arnold Schwarzenegger
Cal EPA Secretary, Linda Adams
Each Member of the California Integrated Waste Management Board
California Integrated Waste Management Board (Mark Leary, Ted Rauh,
Bobbie Garcia)
California State Association of Counties
The League of California Cities
The League of California Cities, Los Angeles County Division
Each Member of the County of Los Angeles' Board of Supervisors
Each City Mayor in Los Angeles County
South Bay Cities Counsel of Governments
San Gabriel Valley Counsel of Governments
Gateway Cities Counsel of Governments
Southern California Association of Governments
Each City Recycling Coordinator in Los Angeles County
Each Member of the Los Angeles County Integrated Waste Management Task Force