



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • WWW.CALRECYCLE.CA.GOV • (916) 322-4027
P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

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In light of recent changes to China's import policies, I'm writing to share an update on California's recycling markets, answer questions regarding jurisdiction compliance, emphasize the importance of health and safety at solid waste facilities, and discuss what lies ahead. On May 4th, China stopped accepting any imports of recyclable materials from the United States for one month. This decision follows China's implementation of its National Sword policy on March 1st, banning the imports of 24 categories of scrap materials including low grade plastics and unsorted mixed paper, and setting strict contamination standards for allowable bales of recyclable material. The exporting of recyclable commodities to China, primarily our traditional curbside materials, has historically been a key component of California's recycling infrastructure. Approximately two thirds of curbside collected material is exported to foreign markets. In 2016, 62 percent of the exported recyclable materials were sent to China. However, China's implementation of National Sword is a major disruption in recycling commodities markets, a signal that California can no longer be primarily reliant on exports to manage our recyclable materials.

These new policies provide California with an opportunity to take a couple of important steps: first, to reduce our waste, and second, to work together to build infrastructure and domestic markets to successfully and responsibly manage our recyclable materials. Each of these will take investment and collaboration across state and local governments, the solid waste industry, manufacturers, and rate-payers. These are critical steps to improve the environment and economy here in California and beyond, although they will take time.

We're already witnessing the effect of China's new policy. Material flow is significantly disrupted and the economics of recycling are unfavorable for many recyclable commodities, challenging what recycling means to Californians.

This letter is intended to address concerns I have been hearing from local governments and industry about the impacts of China's import policies. I would like to reassure local governments that we have existing statutory policies to address the impact of markets when determining whether or not a jurisdiction has made a good faith effort to implement its diversion programs for compliance with AB 939. I am aware that facilities are having a hard time moving recyclable materials and are keeping them on site in significant quantities. If facilities are temporarily storing materials for longer periods, public health and safety should be their number one priority. Finally, looking toward the long-term, we will need more domestic infrastructure to manufacture products using California's recycled content feedstock. This valuable infrastructure will not only support the domestic recyclable commodities market but also support SB 1383's goal to reduce disposal of organic waste by 75 percent.



Let me expand on these points.

Considering Market Factors When Evaluating Jurisdiction Performance

Given shifting markets for recyclable commodities, it is important to clarify that CalRecycle takes market conditions into consideration when evaluating a jurisdiction's compliance with the following state recycling laws; AB 939, mandatory commercial recycling, and mandatory organics recycling. I have heard many stakeholders express concerns that CalRecycle will not take market factors – e.g., the precipitous drop in ability to get collected materials to market at an adequate price or even at all – into consideration when we evaluate jurisdiction programs. Jurisdictions are concerned that this could lead to potential penalties for situations that jurisdictions cannot control. This is not what statute dictates. Specifically, under existing statute, regulations, and policy, CalRecycle already takes market conditions into consideration when determining “good faith effort” in evaluating each jurisdiction's program implementation. CalRecycle recognizes that over the short term, lack of markets is not indicative of a jurisdiction's efforts to implement its programs fully. Additionally, a jurisdiction's achievement of its 50 percent requirement is not determinative for assessing compliance. Instead, CalRecycle's jurisdictional review focuses on program implementation and includes the assessment of barriers a jurisdiction is facing, including a lack of markets.

The following is an overview of the applicable statutes, regulations, and policies utilized when evaluating a jurisdiction's performance. I am providing you with this level of detail because it is descriptive of how we have reviewed jurisdiction program implementation in the past and how we will continue to do so in light of National Sword.

California Public Resources Code [41825\(e\)\(3\)](#) establishes that CalRecycle must consider the enforcement criteria included in its enforcement policy, known as the Countywide Integrated Waste Management Plan (CIWMP) Enforcement Policy Part II. This is the guiding process for determining compliance for a number of programs. CalRecycle periodically revises this policy to incorporate the goals of new statutes, as it did for [AB 341](#) and [AB 1826](#). Staff uses the criteria delineated in the policy to determine the extent to which a jurisdiction has implemented, or shown a good faith effort to implement, its selected diversion programs. Staff also uses the identified criteria to assist local jurisdictions who may need help in identifying why implementation of diversion programs is failing to achieve the results expected, or is failing to meet the diversion requirements. We want jurisdictions to be successful in implementing diversion programs.

The [CIWMP Enforcement Policy Part II](#) specifically includes consideration of markets for [AB 939 Source Reduction and Recycling Element \(SRRE\)](#), [Mandatory Commercial Recycling](#) (AB 341) and [Mandatory Commercial Organics Recycling](#) (AB 1826) compliance review. The following are some of our current review processes and the factors we consider when determining if a jurisdiction has met their diversion goals.

AB 939 review: As part of the review process, CalRecycle investigates the extent to which a jurisdiction has tried to meet the diversion requirements through its selected diversion programs, and the reasons it has failed to implement some or all of those diversion programs. Staff uses the criteria in the Enforcement Policy to assess the specific conditions that may have prevented a jurisdiction from meeting its 50 percent equivalent per capita disposal target, and whether a good faith effort was made by the jurisdiction to meet the requirements. The analysis for a jurisdiction that is not meeting its 50 percent target includes considering availability of markets and specific criteria can be found here: [CIWMP Enforcement Policy Part II, pages 4 and 11](#).

Mandatory Commercial Recycling (MCR) and Mandatory Commercial Organics Recycling (MORe) review: CalRecycle also reviews jurisdictions' implementation of their MCR and MORe

programs. If a jurisdiction has not been able to implement a commercial recycling program that is appropriate for the jurisdiction and meets the needs of its businesses, CalRecycle looks at a number of factors in assessing whether the jurisdiction has made a good faith effort to implement these programs. These factors include the impact of markets and the efforts the jurisdiction has made to investigate local and regional marketing options and recycling opportunities with the private sector. More specifics can be found in the [CIWMP Enforcement Policy Part II, page 22 re: MCR and 28-29 re: MORE](#), and [PRC 42649.3\(i\)\(5\)](#) and [42649.82\(h\)\(6\)](#) and 14 California Code of Regulations §18839.

Health and Safety Considerations Associated with Storage

We understand that National Sword is causing back-ups and longer storage times of processed recycled materials at solid waste facilities and recycling centers. Solid waste facility operators can [discuss potential permitting options](#) or request a Solid Waste Local Enforcement Agency to grant a temporary waiver of storage restrictions. The waiver would allow additional amounts of recyclables and longer timeframes to store recyclables at the solid waste site as long as the additional storage does not create public health and safety or environmental issues. The [process for requesting and processing a temporary waiver](#) is found in state solid waste regulations. In addition, public health and safety is a priority at solid waste facilities and recycling centers. Several industry sources have published best management practices for the storage of baled recyclable materials. We've provided a synopsis of these practices below:

Have a Storage Management Operations Plan describing procedures for receiving, storing, and shipping baled recyclables.

- Unload baled recyclables by forklift and stack in a specific storage area in a configuration that provides for long-term stability. If applicable, stacked bales may be overlapped or staggered to improve the stability of the stacks. Height of the bales should be no greater than four bales high.
- The bale storage area should allow forklift operators to safely move materials and allow for the safe loading of trailers that are picking up bales of materials.

To prevent contact with storm water, and to control vectors and nuisance, the following may be employed:

- Limit bale contact with the ground (e.g., on pallets and/or tarps)
- Maintain facility cleaning, housekeeping and litter control
- Remove putrescible material, if observed
- Maintain heavy equipment to ensure no oil or fuel leakage occurs; clean up spills or leaks immediately
- Establish a first in/first out material handling process
- Where necessary, place berms or other structures to divert storm water from coming into contact with bales

Fire Hazard Mitigations:

- Consult with your local fire district to employ fire hazard mitigations
- Keep adequate heavy equipment available on-site: (e.g., front loaders, bulldozers, water trucks, bobcats), fire hoses, dedicated fire pump and water tanks, and fire extinguishers.
- Identify a maximum size of the storage area including length/width/height.
- Maintain appropriate spacing between piles and the perimeter, maintain fire lanes
- Inspect piles daily for potential fire hazards
- Monitor pile temperatures at least once a week

Coordinate with the Local Enforcement Agency and any local or state authorities responsible for the regulatory oversight of the facility.

For further information on best practices for storing materials, here are some additional resources from [Waste 360](#) and [Environmental Protection Authority, Victoria](#).

Reducing Waste and Increasing Domestic Infrastructure

Reducing the generation of waste before it enters the waste stream reduces costs and conserves resources. Manufacturers, consumers, and governments all have a role to play in reducing waste. For example, manufacturers can reduce unnecessary packaging on products, consumers can choose to use reusable instead of single use, disposable products, and local government can procure products with recycled content. Waste prevention has the potential to reduce reliance on foreign markets, as there is no need to export what California has not generated. We will continue to work with you and all stakeholders to develop waste prevention opportunities and policies. With that said, we will continue to generate a significant amount of materials in California. Upstream solutions will need to be paired with the development of domestic processing and manufacturing for us to successfully manage our recyclables.

Building infrastructure to handle the materials we collect now, and the even greater amounts we will need to collect when SB 1383 goes into effect, is a daunting long-term task that will take years to achieve. Given the unpredictability of the marketplace, it's even more important that state and local governments and the private sector begin making siting and investment decisions now to develop more domestic (California and the U.S.) infrastructure for manufacturers using recycled content feedstock.

As CalRecycle communicated in January, we are committed to using our [available resources](#) to help build a more robust materials processing infrastructure in California. CalRecycle currently provides funding through its greenhouse gas (GHG) grant and loan programs and Recycling Market Development Zone program (RMDZ), and we work closely with the Governor's Office of Business and Economic Development (GO-Biz) to assist manufacturers that want to site or expand their operations in the state. Over the past four years, the GHG grant program has provided \$86 million in funding to 31 recycling projects and the GHG loan program has provided \$1.5 million in funding for two projects for construction, renovation, and expansion of new in-state capacity. The RMDZ loan program has provided \$145 million in funding to 192 recycling manufacturers in the state, since inception of the RMDZ loan program in FY 1993-94. There is increasing enthusiasm from companies interested in utilizing California's waste stream to make new products such as compost, biofuels, fibers and plastics. I urge you to take advantage of these.

Another opportunity to support manufacturers using recycled content feedstock is for jurisdictions to ensure their General Plan includes these types of facilities in their land use element. Just last year the California Governor's Office of Planning and Research (OPR) completed the first comprehensive update to the General Plan Guidelines (GPG) since 2003 ([General Plan Guidelines Update, Completed August 2, 2017](#)). One of the major changes includes an expanded section addressing the need for additional recycling, anaerobic digestion, composting, and manufacturing facilities in the land use element. This new guidance provides examples for local jurisdictions to use when updating their General Plans. Additional information is on the [OPR General Plan Guidelines website](#). You can stay informed about GPG-related information by [signing up for the GPG email list](#).

Next Steps

CalRecycle will host a workshop in Sacramento in early June to encourage dialogue and share information about the impacts of China's import policies. Workshop details will be posted on our [National Sword website](#). We will use this convening as an opportunity to discuss changing market dynamics, impacts on facilities, domestic capacity for processing and manufacturing using recycled content, and to identify other short and long-term solutions to the current recycling challenges. This is not the first time the international recycling commodities market has faced a major disruption and it won't be the last. California must capitalize on these disruptions and turn them into an opportunity to strengthen our environmental resilience and our economy. This will require us to reassess product design, materials collection, and processing systems. I look forward to working with you to build a more sustainable recycling infrastructure in California.



Scott Smithline
Director