

California Integrated Waste Management Board

Board Meeting

October 16, 2007

AGENDA ITEM 3 (Revised)

ITEM

Consideration Of Action For Noncompliance With The 50 Percent Diversion Mandate By: 20th District Agricultural Association; 7th District Agricultural Association; Calipatria State Prison; San Quentin State Prison; Compton Community College; 21st District Agricultural Association; California Institution For Men, Chino; And Richard J. Donovan Correctional Facility

I. ISSUE/PROBLEM STATEMENT

The California Integrated Waste Management Board (CIWMB)'s Jurisdiction Compliance and Audit Section has identified 396 reporting State agencies and large State facilities that are required to comply with the mandates of Public Resources Code (PRC) 42921 (b). PRC Section 42921 (b) mandates that each reporting State agency and large State facility on and after January 1, 2004, shall divert at least 50 percent of all solid waste from landfill disposal. Staff has identified 8 of the 396 reporting State agencies and large State facilities as being noncompliant with PRC Section 42921 (b).

II. ITEM HISTORY

The Board has heard items addressing noncompliance of State Agencies and large State facilities on four previous occasions. At the December 7, 2006, Board Meeting (Item 13), the Board found that 16 State agencies and large State facilities were in noncompliance with the 50% diversion mandate and/or had not submitted the required annual report. At the December 7, 2006, meeting, the following agencies and facilities were found noncompliant for two or more consecutive years: Compton Community College; 21st District Agricultural Association; California Institution for Men, Chino; and the Richard J. Donovan Correctional Facility.

III. OPTIONS FOR THE BOARD

1. Place each State agency/facility on the noncompliance section of the CIWMB's website;
2. Direct the Board leadership to meet with the leaders of the noncompliant State agency or facility to discuss compliance. Additionally, direct staff to request each agency/facility to submit an explanation of how they plan to meet the 50 percent diversion mandate. Staff should use this explanation to assist the State agency/facility in achieving the 50 percent diversion mandate;
3. Direct CIWMB staff to develop a letter signed by the Board's Chair reporting the noncompliance with PRC Section 42921 (b) to the Legislature and the Governor noting that the 50 percent diversion mandate was not met;
4. The Board may direct the Office of Public Affairs to notify the media of the noncompliance of a State agency/facility that does not achieve full compliance in two or more consecutive years; and/or
5. Take no action at this time and provide staff with further direction.
6. Find that San Quentin State Prison and the 20th District Agricultural Association are in compliance with PRC Section 42921 (b).

IV. STAFF RECOMMENDATION

Staff recommends that the Board approve options 1, 2, and 3 for each State agency and large State facility included in Attachment 1. Staff also recommends that the Board adopt option 6 for San Quentin State Prison and the 20th District Agricultural Association.

V. ANALYSIS

A. Key Issues and Findings

Background

PRC Section 42921 (b) requires State agencies and large State facilities to meet the mandate of 50 percent waste diversion on and after January 1, 2004. Based on PRC Section 42921 (b), the 8 State agencies and large State facilities identified in this item are not in compliance with the diversion mandate.

To assist State agencies and large State facilities with submitting the annual reports, CIWMB developed an electronic reporting system called the State Organization and Agency Recycling Database (SOARD) system in 2002. This system allows all reporting State agencies and large State facilities to streamline the process by submitting an electronic annual report quickly and easily. All State agencies and large State facilities have successfully used the electronic reporting system to comply with the requirements of the PRC Section 42926.

The SOARD system tracks diversion within six (6) major diversion program categories. The diversion program categories are as follows: source reduction, recycling, composting, special waste, facility recovery and transformation. The SOARD system automatically calculates the overall waste diversion percentage once the State agency or large State facility enters the diversion programs, the tons associated with the diversion programs, and total tons disposed.

Basis for staff's analysis

Local Assistance and Market Development (LAMD) Division staff received each agency/facility's annual report. LAMD has been in contact with the Recycling Coordinator (RC) of each identified State agency and large State facility to make an initial determination regarding achievement of the diversion mandate. LAMD identified all diversion achieved and also provided assistance in completing and submitting annual reports. Upon conclusion of LAMD's analysis, all noncompliant agencies and facilities were transmitted to the Jurisdiction Compliance and Audit (JCA) section for further review and a final recommendation. JCA staff completed a thorough analysis of all available information included in the submitted annual reports. JCA's investigation included consulting LAMD staff and the State agency or facility's Recycling Coordinator (RC) through phone interviews and site visits as necessary. As part of JCA's analysis, the State agencies and large State facilities were asked to identify circumstances that prevented diversion of materials. Some of the explanations given to staff included: unavailability of documentation, turnover of departmental staff, and inability to substantiate data due to lack of documentation. All State agencies and large State facilities have been responsive. However, in some cases, adequate supporting documentation has not been provided.

Findings

CIWMB staff have determined that the identified State agencies and large State facilities have not met the necessary requirements to be in compliance with PRC Section 42921 (b), 50 percent diversion of all solid waste from landfills. Additional details regarding the situations of each of the State agencies and facilities are reflected in Attachment 1. Attachment 1 contains such information as the 2006 overall diversion rate, the 2005 overall diversion rate, total generation for 2006, total tons diverted for 2006, total tons disposed in 2006, and a condensed statement from the State agency or facility disclosing why they did not meet the 50 percent waste diversion mandate.

Following the submittal of this agenda item, staff received additional diversion tonnage documentation from San Quentin State Prison and the 20th District Agricultural Association for consideration in their 2006 State Agency Waste Management Annual Report. Upon staff analysis of the additional diversion information, staff has determined that the supporting documentation supports achievement of the diversion mandate. San Quentin State Prison submitted documentation to support the addition of 131 tons of diversion to their diversion rate calculation, bringing the diversion rate to 51 percent for 2006. The 20th District Agricultural Association submitted documentation to support the addition of 24 tons of diversion to their diversion rate calculation, bringing the diversion rate to 55 percent for 2006. Because the rates for both San Quentin State Prison and the 20th District Agricultural Association are over 50 percent, staff is recommending that they be found to be in compliance with the State diversion mandate.

B. Environmental Issues

Based on available information, staff is not aware of any environmental issues related to this item.

C. Program/Long Term Impacts

If clear direction or action is not taken, additional agencies and facilities may follow the example set by these noncompliant State agencies and large State facilities and may fail to implement programs that will help them to meet and maintain the State diversion mandate of 50 percent of all solid waste from landfill disposal.

D. Stakeholder Impacts

The specific impacts of this agenda item on the State agencies and large State facilities identified in this agenda item are not known at this time. It will be dependent on the actions of the Board and the Legislature.

E. Fiscal Impacts

No fiscal impact to the CIWMB results from this item.

F. Legal Issues

The PRC is silent on the Board's authority for enforcement action against any State agency or large State facility that is not compliant or that has misreported to the Board.

G. Environmental Justice

Staff is not aware of any environmental justice issue related to this item.

VI. FUNDING INFORMATION

No fiscal impact to the CIWMB results from this item.

VII. ATTACHMENTS

1. Additional Analysis of State agencies and large State facilities Noncompliance with PRC Section 42921 (b).
2. Staff Recommendations Table
3. Resolution Number 2007-212

VIII. STAFF RESPONSIBLE FOR ITEM PREPARATION

- | | |
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IX. WRITTEN SUPPORT AND/OR OPPOSITION

A. Support

CIWMB staff received no written support at the time this agenda item was prepared.

B. Opposition

CIWMB staff received no written opposition at the time this agenda item was prepared.