

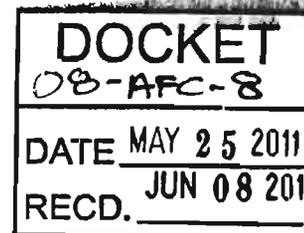


DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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May 25, 2011

Ms. Ellie Townsend-Hough
California Energy Commission
1516 Ninth Street, MS 46
Sacramento 95814



Dear Ms. Townsend-Hough,

I am responding to your request for information relating to Kern County's proposed mitigation measure regarding residual waste in connection with the Hydrogen Energy International (HEI) project. This information provides an overview of CalRecycle's Disposal Modification Request process for Class II waste and the AB 939 Jurisdiction Review process.

1. Disposal Modification Process

Jurisdictions report annually to CalRecycle on the tons of solid waste disposed and on AB 939 program implementation. This annual report is submitted on August 1 annually and is nine months after the reporting period (i.e., it covers the prior calendar year). Solid waste disposal includes nonhazardous designated waste (i.e., Class II waste). In some cases Class II waste can be diverted and in other situations this type of waste may be required by a local, state or federal control agency to be disposed of in a landfill that accepts Class II waste. For those jurisdictions that are prohibited by a control agency from diverting this material, CalRecycle allows jurisdictions to submit a Disposal Modification Request with the annual report. The request describes the waste material types that cannot be diverted, why those materials are prohibited from diversion by a control agency, and how the jurisdiction made efforts to divert the material. After the request is submitted, CalRecycle determines whether the Class II waste should or should not be counted as part of the jurisdiction's disposal tonnage for that reporting year. This consideration includes CalRecycle assessing the jurisdiction's efforts to divert the material from disposal, the availability of markets for the material, and if there are any control agency requirements that prohibited diversion of the material. If CalRecycle concurs with the request, then the jurisdiction's disposal is modified to remove the tonnage amount from the reporting year.

2. Jurisdiction Review Process

Every two or four years depending on if a jurisdiction has met its 50% equivalent disposal target, CalRecycle reviews the jurisdiction's compliance with Public Resources Code 41780 to determine if the jurisdiction is implementing its diversion programs. The 50% equivalent disposal target and annual disposal data is used as an indicator to assess the jurisdiction's program performance. If a jurisdiction is found not to be meeting its 50% equivalent disposal target, but is making a good faith effort to implement its diversion programs, then the jurisdiction is found to be in compliance with the AB 939 requirements, and is reviewed in the next two year cycle.

For jurisdictions that are on a four-year cycle, if the jurisdiction's disposal tonnage is over its target in the first two or three years of the cycle, but falls below the target in the fourth year of the review cycle, the jurisdiction will still remain on the four-year review cycle. This four-year review allows jurisdiction's disposal to increase for a short period of time and for the jurisdiction to still remain on a four-year review cycle if they meet the disposal target in the fourth year, e.g., a temporary two-year increase in disposal due to a start-up project like HEI.

I hope this clarifies Cal Recycle's annual reporting disposal modification request and review process. If I can be of any further assistance, please contact me at (916) 341-6525.

Sincerely,



A handwritten signature in black ink, appearing to read "Jill Lamer". The signature is written in a cursive style with a large initial "J".

Jill Lamer

Cc: Nancy Ewert, Kern County Waste Management Department