

# California Integrated Waste Management Board

## Board Meeting

December 7, 2006

### AGENDA ITEM 13 (Revision 3)

#### ITEM

Consideration Of Action For Noncompliance With Public Resources Code (PRC) Section 42921  
By: 21st District Agricultural Association; 36th District Agricultural Association; Central California's Women's Facility; Cuesta Community College; California State University, Dominguez Hills; Humboldt State University; Department Of Industrial Relations; Mesa College; California State University, Monterey Bay; California Institution For Men, Chino; Richard J. Donovan Correctional Facility; Riverside Community College District; California Science Center- Los Angeles; California State Prison- Sacramento; West Kern Community College District; California Veterans Home Of California- Chula Vista; College of The Siskiyous- Yreka; Compton Community College; Commission On Correctional Peace Officer Standards & Training; Kern Valley State Prison; Board of Prison Terms

#### I. ISSUE/PROBLEM STATEMENT

The California Integrated Waste Management Board's (Board), State Organization Facility Assistance Section (SOFA) has identified 406 reporting State agencies and large State facilities that are required to comply with the mandates of AB 75. Staff has identified ~~24~~ 16 out of the 406 reporting State agencies and large State facilities as being noncompliant. According to Public Resources Code (PRC) Section 42921 mandates that reporting State agencies and large State facilities must meet on and after January 1, 2004, shall divert at least 50 percent of all solid waste from landfills.

The 2005 annual report was due on April 1, 2006. Based on staff's analysis of the annual reports submitted by the State agencies and large State facilities identified in this agenda item, ~~17~~ 15 State agencies and large State facilities have not maintained the 50 percent waste diversion mandate. Additionally, ~~four (4)~~ one (1) ~~State agencies and large State facility ies have~~ has not submitted the required annual report for 2005.

#### II. ITEM HISTORY

AB 75 requires all State agencies and large State facilities to meet waste diversion goals of 25 percent by January 1, 2002 and 50 percent on and after January 1, 2004. To disclose how these goals are being attained, the law requires the submittal of an annual report each year by April 1<sup>st</sup> denoting the progress made toward achieving the goals. The CIWMB has heard, on two previous occasions, items addressing noncompliance. The first was at the April 13-14, 2004 Board Meeting addressing non-compliance with the 25 percent diversion mandate (Item #7) and the second action was taken at the February 14, 2006 Board Meeting addressing non-compliance with the 50% diversion mandate (Item #12). Additionally on November 15, 2006 the Board approved agenda item 7. This item adopted options for the Board to consider, on a case-by-case basis, regarding noncompliance and the "best means" to promote compliance with PRC Section 42921.

Board staff has contacted each of the identified State agencies and large State facilities recycling coordinator (RC) on numerous occasions offering assistance on completing the annual report and/or requirements. Although a majority of State agencies and facilities have been cooperative, staff has encountered some difficulties which included:

department being non-responsive, turnover of departmental staff, and departments not able to substantiate data due to lack of documentation.

At the December 5, 2006 Sustainability and Market Development Committee, staff was directed to modify the recommendations and bring a revised item to the Board.

### III. OPTIONS FOR THE BOARD

The Board may:

- ~~1. Direct Board staff to develop a letter to the legislature signed by the Board's Chair reporting the State agencies and facilities identified in this agenda item that are not in compliance with the 50 percent diversion mandate.~~
- ~~2. Direct Board staff to continue to assist the state agencies and facilities to help them achieve the 50% diversion mandate.~~
- ~~3. Direct Board staff to request each state agency or facility submit an explanation of how they plan to meet the 50% diversion mandate.~~
- ~~4. Take no action at this time and provide staff with further direction.~~

1. Place agency/facility on the non-compliance section of the CIWMB's website.
2. Direct Board leadership to meet with the leadership of the noncompliant State agency/facility (and if appropriate the Department Director) to discuss appropriate steps to take to achieve the mandated diversion. Upon completion of the leadership meeting, have program staff review the necessity of the agency/facility developing and submitting a modified Integrated Waste Management Plan.
3. Direct Board staff to develop a letter to the Legislature and Governor, signed by the Board's chair, reporting the noncompliance with the 50 percent diversion mandate.
4. If the State agency/facility does not achieve the diversion mandate in two or more consecutive years the Board may direct the Office of Public Affairs to notify the media, either regionally or statewide of the noncompliance by an agency or facility.
5. Take no action at this time and provide staff with further direction.

### IV. STAFF RECOMMENDATION

Staff recommends that the Board approve the options for each state agency or large state facility outlined in Attachment 1.5 following: Options 1, 2 and 3.

Options 1, 2, and 3 for the following agencies and facilities:

- ~~— 21<sup>st</sup> DAA~~
- ~~— 36<sup>th</sup> DAA~~
- ~~— California State University Dominguez Hills~~
- ~~— California State University Monterey Bay~~
- ~~— Humboldt State University~~
- ~~— College of the Siskiyous-Yreka~~
- ~~— Compton Community College~~
- ~~— Riverside Community College District~~
- ~~— Department of Industrial Relations~~
- ~~— California Science Center - Los Angeles~~
- ~~— California Veterans Home of California - Chula Vista~~

Options 1, 2, and 3 (including the Executive Director of the Department of Corrections) for the following facilities:

- Central California's Women Facility
- California Institution for Men, Chino
- California State Prison Sacramento

Options 1, 2, 3 (including the Executive Director of the Department of Corrections), and 4 (for not complying for a second year in a row) for the following facility:

- Richard J. Donovan Correctional Facility

Options 1, 2, 3, and 4 (for not complying for a second year in a row) for the following facility:

- Mesa College

## V. ANALYSIS

### A. Key Issues and Findings

#### Background

PRC Section 42921 (b) requires State agencies and large State facilities to meet the waste diversion mandate of 50 percent on and after January 1, 2004. Based on PRC Section 42921 the ~~24~~ 16 State agencies and large State facilities identified in this item are not in compliance with the 50 percent diversion mandate.

To disclose how this mandate is being met, the law requires State agencies and large State facilities to submit an Integrated Waste Management Annual Report to the Board by April 1<sup>st</sup> of each year beginning 2002.

To assist State agencies and large State facilities in submitting the annual reports in 2002 the SOFA section developed an electronic reporting system called the State Organization and Agency Recycling Database (SOARD) system. This system allows all reporting State agencies and large State facilities to streamline the process by submitting an electronic annual report quickly and easily. Prior to the 2005 annual reporting cycle, 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 programs range from source reduction, recycling, composting, special waste, facility recovery and transformation. The SOARD system automatically calculates the overall waste diversion percentage once the diversion programs, tons associated with the diversion programs, and total tons disposed are entered into the system by the State agency or large State facility.

#### Basis for staff's analysis

Staff has been in contact with the State agencies and large State facilities as to why they have not met the 50 percent waste diversion mandate. Some of the statements given to staff by the State agencies and large State facilities include: documentation not available; turnover of departmental staff; cannot substantiate data due to lack of documentation and diversion programs not implemented fully.

Staff has been unable to contact State agencies and large State facilities that reported they were in compliance to verify information. Several of these reported the same diversion and disposal tonnages as in their 2004 annual report. Staff has also used all available means to obtain a 2005 annual report from the one (1) ~~four (4)~~ non-submitters. To date all efforts to obtain the ~~four (4)~~ one (1) reports have been fruitless.

#### Findings

Board staff has determined that the 16 State agencies and large State facilities have not met the necessary requirements to be in compliance with the AB 75 waste diversion mandate of 50 percent.

The findings were based on staff's analysis of the annual report, site visits conducted by staff, and statements received from the State agencies and large State facilities.

#### Did Not Show Achievement of 50% Waste Diversion Mandate for 2005

1. 21st District Agricultural Association (Big Fresno Fair, Fresno)
2. 36th District Agricultural Association (Dixon May Fair, Dixon)
3. Central California's Women's Facility
4. California State University, Dominguez Hills
5. Humboldt State University
6. Department of Industrial Relations
7. Mesa College\*
8. California State University, Monterey Bay
9. California Institution For Men, Chino
10. Richard J. Donovan Correctional Facility \*
11. Riverside Community College District
12. California Science Center - Los Angeles\*
13. California State Prison – Sacramento
14. California Veterans Home of California – Chula Vista
15. College of the Siskiyous – Yreka

#### ~~Staff Unable to Verify Diversion Rates Higher Than 50 Percent~~

- ~~16. Cuesta Community College – San Luis Obispo~~
- ~~17. West Kern Community College District~~

#### Non-Submittal of Annual Report

18. Compton Community College
- ~~19. Commission on Correctional Peace Officer Standards & Training~~
- ~~20. Kern Valley State Prison~~
- ~~21. Board of Prison Terms~~

(\* indicates second year the State agency or large State facility reports achieving a diversion rate less than the mandatory 50 percent.)

Additional details regarding each of the State agencies and large State facilities situation is reflected in Attachment 1. Attachment 1 contains such information as the 2005 overall diversion rate, 2004 Overall diversion rate, total generation for 2005, total tons diverted in 2005, total tons Disposed in 2005, and a condensed statement

from the State agencies and large State facilities about why they did not meet the 50 percent waste 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 facilities and not submit the required annual reports and documentation in the future.

**D. Stakeholder Impacts**

The specific impacts of this agenda item on the State agencies and 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 Board results from this item.

**F. Legal Issues**

This item represents the process for reporting achievement with the requirements of Public Resources Code (PRC) Section 42921. The current statute does not provide any clear direction as to the Legislature's intent should an agency or facility not comply with the mandate. Additionally, the PRC is silent on the Board's authority for enforcement action against any agency or facility that is not compliant or has misreported to the Board.

**G. Environmental Justice**

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

**H. 2001 Strategic Plan**

This item supports Strategic Plan Goal 2, Objective 3- Support local jurisdictions' ability to reach and maintain California's waste diversion mandates.

Strategy C- Facilitate cooperation efforts among State, local and private entities to lower cost of diversion and increase benefit to local jurisdictions.

**VI. FUNDING INFORMATION**

This item does not require any Board fiscal action.

**VII. ATTACHMENTS**

1. Additional Analysis of State Agencies Noncompliance with PRC Section 42921  
1.5. Staff Recommendations Table
2. Resolution Number 2006-226

**VIII. STAFF RESPONSIBLE FOR ITEM PREPARATION**

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**IX. WRITTEN SUPPORT AND/OR OPPOSITION**

**A. Support**

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

**B. Opposition**

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