



June 7, 2013

Assembly Member Jim Frazier, Chair and members of
Assembly Accountability and Administrative Review Committee
California State Assembly
1020 N St, Room 357
Sacramento CA 95814
via facsimile to (916) 319-3650 (2 pages)

**SUBJECT: COMMENTS TO HEARING ON "RECYCLED AND ENVIRONMENTALLY
PREFERRED PRODUCTS"**

Dear Committee:

We applaud your oversight effort regarding compliance with Public Contract Code sections that require state agencies to purchase recycled and environmentally preferred products and to determine if opportunities exist within the procurement process to increase the state's purchasing of these materials. We would like to offer insight that may assist in the Committee's assessments, in particular regarding the State Agency Buy Recycled Campaign (SABRC) administered by California's Department of Resources Recycling and Recovery (CalRecycle).

Consideration of CalRecycle's administration of the SABRC must be viewed as the product of many overlapping areas of purview, and the agency's efficacy in any one element is crucial to the overall success of direction regarding guidance for purchase of recycled products. First it is important to define terms. As per Public Resources Code:

PRC §40180. "Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. "Recycling" does not include transformation, as defined in Section 40201.

CalRecycle is currently developing plans for implementation of Assembly Bill 341, requisite for instituting Mandatory Commercial Recycling as one of the measures adopted in Assembly Bill 32's Scoping Plan as a method to reduce greenhouse gas (GHG) emissions. The SABRC provides a key element of "market draw" facilitating AB 341 in particular for commercial parties selling recycled goods to the state. CalRecycle's administration must ensure that the state procurement actually results in receipt of goods that can be confirmed to have been Recycled in accordance with the legal definition. Recyclates segregated from the municipal waste stream must have indeed completed this encoded process; further, since this is a measure specific to GHG reduction, the agency's assurance must be based on the methods necessary for GHG tracking.

At present, there is no legal requirement that an unbroken chain of custody be maintained on recyclates moving through the process. Recyclates are indeed collected and sorted, and often cleaned. The next step finds these critical materials brokered to parties most often located out of

state, or out of country and California has no means to determine that pathway or its GHG implications. The State in most cases simply cannot prove that materials segregated from the waste stream have legally become "Recycled" goods.

This letter's intent is to illuminate the Circular Economy relationship promulgated by PRC §40180 and the latent opportunity for our state to optimize in-state benefits from the administration of the SABRC and implementation of AB 341. We ask that the Assembly Committee encourage CalRecycle to incorporate requirements for a full chain of custody within its implementation program of AB 341, thus establishing the data control necessary both for Life Cycle Assessment of the GHG impacts of recycling, and indeed for proof that Recycling per code has actually occurred. What isn't measured can't be managed.

California's worthy policy goals of 75% recycling as mandated by AB 341 can be significantly enhanced by better agency oversight of the SABRC program, yet only to the degree that the process can stand legal scrutiny. This letter is sent to urge the Assembly Committee to carefully question CalRecycle's oversight of Recycling as this impinges upon state procurement of goods. The validity of claims as to the "recycled" nature of materials remains in question.

I am available at the Committee's convenience; please contact me at (530) 613-1712 or mtheroux@jdmtd.net if you have any questions.

Sincerely,

JDMT, Inc



Michael Theroux
Vice President

cc: Caroll Mortensen, Director, via CalRecycle Office of Public Affairs, opa@calrecycle.ca.gov
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