

State of California
Department of Resources Recycling and Recovery

**Public Hearing to Consider the Completion of
Compliance Order IWMA BR08-03 for the
City of Santa Paula, County of Ventura**

January 15, 2013
10 AM
Byron Sher Auditorium

I. ISSUE

The City of Santa Paula (City) has reported to the Department of Resources Recycling and Recovery (CalRecycle) its successful completion of all the requirements stipulated in Compliance Order IWMA BR08-03 (Compliance Order; Attachment 1). The City presented its progress through its 2011 annual report and its quarterly reports required by the Compliance Order. In addition, CalRecycle staff has conducted several site visits to the City to verify program implementation. Staff's most recent site visit was in March 2012 (see Attachment 2).

Public Resources Code (PRC) 41850 and the Compliance Order require CalRecycle to hold a public hearing to determine if the City has complied with all of the conditions and requirements of the Compliance Order.

II. ITEM HISTORY

On December 16, 2008, the California Integrated Waste Management Board (predecessor of the Department of Resources Recycling and Recovery – [CalRecycle]), issued Compliance Order IWMA BR08-03 (Compliance Order) to the City of Santa Paula. The issuance was based on the City's failure to adequately implement its diversion programs.

On July 25, 2011, CalRecycle extended the monitoring period to March 30, 2012. This extension was due to a change in the City's franchise haulers. It was determined that the extended monitoring period was necessary to verify all Local Implementation Plan (LIP) tasks and Source Reduction and Recycling Element (SRRE) selected programs continued to be fully implemented and the change in franchise haulers would not affect the City's overall diversion efforts.

III. OPTIONS FOR CONSIDERATION

1. Find that the City of Santa Paula has fully implemented the requirements of Compliance Order IWMA BR08-03.
2. Direct staff to modify Compliance Order IWMA BR08-03 to reflect additional

- programs that the City of Santa Paula would need to implement. Direct staff to work with the City to extend the overall timeframe of the Compliance Order.
3. Find that the City of Santa Paula is non-compliant for failing to meet the requirements of the Compliance Order. Direct staff to schedule a public hearing to consider fining the City for failing to comply with the Compliance Order.

IV. STAFF RECOMMENDATION

Staff recommends Option 1: Find that the City of Santa Paula has fully implemented the requirements of Compliance Order IWMA BR08-03.

Approving the completion of the City's Compliance Order will commence the transfer of the City from the Jurisdiction and Product Compliance Unit (JPCU) back to the Local Assistance and Market Development (LAMD) Branch. LAMD will review the City in the next two-year cycle, 2016, which commences with the submission of the 2014 and 2015 annual reports. LAMD will continue to monitor the City's program implementation.

This will provide the Department with the ability to monitor the City's overall efforts of continued program implementation. This does not impact the Department's ability to exercise its option to review the City's efforts at any time, should an independent compliance review by JPCU be warranted (PRC Section 41825(b)).

V. ANALYSIS

On December 16, 2008, CalRecycle issued Compliance Order IWMA BR08-03 to the City of Santa Paula due to the City's failure to adequately implement its diversion programs.

The Compliance Order [Section 3.1] required the City to submit a Local Implementation Plan (LIP) by March 16, 2009, and fully implement the LIP by June 16, 2010. The Compliance Order also included a one-year monitoring period scheduled to end June 16, 2011.

The City adopted and implemented its LIP (Attachment 3). During the one-year monitoring period a change in franchise haulers occurred. Due to this change, on July 25, 2011, CalRecycle extended the monitoring period to March 30, 2012. It was determined that the extended monitoring period was necessary to verify all LIP tasks and SRRE selected programs continued to be fully implemented and the change in franchise haulers would not affect the City's overall diversion efforts.

Existing Jurisdiction Conditions:

The City of Santa Paula was incorporated in 1902. The City of Santa Paula, California is located 65 miles northwest of Los Angeles and 14 miles east of Ventura and the coastline of the Pacific Ocean. Santa Paula is in the geographical center of Ventura County, situated in the rich agricultural Santa Clara River Valley. The City is surrounded by rolling hills and rugged mountain peaks in addition to orange, lemon and avocado groves. According to Department of Finance estimates, in 2010 the City had a population of 29,314. Santa Paula is an agricultural community with a significant migrant population.

Key Jurisdiction Conditions				
Calculated Disposal Rate (Lbs/person/day)		Waste Stream Data		
50% per Capita Disposal Target (2007)	2011	Population (2010)	Non-Residential Waste Stream Percentage(2004)	Residential Waste Stream Percentage(2004)
5.1	3.6	29,314	74	26

*City of Santa Paula - 2011 Annual Report (LAMD reviewed)

Staff's Assessment

After analyzing the City's reports and monitoring the City's program development, CalRecycle staff believes that the City fully implemented the LIP programs and made all reasonable and feasible efforts to fulfill the city's diversion requirements. The complete program listing (Attachment 4) reflects the 40 programs the City has in place. The City staff intends to continue to implement, monitor, and improve all programs as necessary.

While developing the LIP, the City identified a specific task they felt would enhance their efforts to achieve the diversion requirements. The City determined that a complete diversion inventory would help the City go beyond the targets identified within the Compliance Order. The diversion inventory accounted for tonnage associated with existing diversion efforts and other data sources not previously captured. The City completed the diversion inventory and found that the City had diversion programs in place, but needed to improve oversight of the existing programs.

On March 4, 2012, staff conducted a site visit to evaluate the City's diversion programs. The following table summarizes the City's implementation progress for each LIP programs.

Program	Status
<i>Commercial Diversion Program</i>	<p><i>Implemented</i></p> <p>The City has a mandatory commercial recycling ordinance. All businesses are supplied with either bins or carts. There are 385 commercial businesses. Of these, 187 use bins and 165 use carts. The City reports that 33 commercial accounts do not participate in the recycling program as they generate less than 4 cubic yards of mixed waste per month and are not required to participate in the City's Mandatory Commercial Recycling Plan.</p> <p>Staff observed minimal contamination of recyclables. This was verified by observing several recycling loads being unloaded at the MRF owned by the franchise hauler. Staff did observe some recyclables in the waste stream but the level of contamination was not significant.</p> <p>The City mandates its franchise hauler to properly label (bi-lingual in English and Spanish) all recycling, greenwaste,</p>

	<p>and waste bins that are 1-cubic yard or greater. The label identifies what items are allowable in the bins. The franchise hauler also educates the commercial clients on the proper use of the bins.</p> <p>Staff's assessment is that this program is effective and the 33 commercial businesses that are not required to have recycling service do not have a significant negative impact on the City's diversion efforts.</p>
<p><i>Residential Recycling Program</i></p>	<p><i>Implemented</i></p> <p>There are 5,198 residential accounts in the City. In general, staff's observation is that residents are effectively diverting recyclables by participating in curbside recycling. The set out rate is 95 percent or better on most streets and the recycling containers are generally contamination free. There are a few instances of non-recyclables in the containers.</p> <p>Trash containers tend to be full of trash and food waste. Staff did observe a few trash containers that had recyclables in them. This is mostly due to the recycling container being full resulting in residents placing spillovers in trash containers. At the landfill, staff observed residential waste loads with less than 10% recyclables.</p> <p>Staff's assessment is that this program is effective.</p>
<p><i>Self-Haul Program</i></p>	<p><i>Implemented</i></p> <p>The City mandates that anyone taking material to the landfill via self-haul must obtain a permit. The number of self-haul permits issued has declined as self-haulers take their material to the City yard for recycling prior to taking the remaining waste material to the landfill. Staff observed a few self-haul loads at the landfill. There were minimal high-value recyclables in the material being disposed. Most of the disposed material consisted of post-recycling C&D residuals.</p> <p>The City's franchise hauler has installed and continues to install locks on commercial recycling, greenwaste and waste bins to prevent illegal disposal. Staff did observe some bins that were locked.</p> <p>Staff's assessment is that this program is effective.</p>

<p><i>Multi-Family Program</i></p>	<p><i>Implemented</i></p> <p>There are 175 multi-family accounts. All accounts have waste and recycling service. In general, multi-family recycling programs tend to be less successful due to:</p> <ul style="list-style-type: none">• Short-term occupancy;• Difficulty in providing outreach and education;• The transient nature of seasonal workers. <p>During site visits, staff observed empty recycling bins next to waste bins that were full of high value recyclables. This was not typical of all multi-family sites and is most likely do the transient nature of the occupants.</p> <p>Staff's assessment is that this program is working but needs ongoing outreach and education.</p>
<p><i>Construction and Demolition Ordinance</i></p>	<p><i>Implemented</i></p> <p>The City has adopted a C&D ordinance (Section 50.140). Some of the diversion requirements specified in the ordinance includes:</p> <ul style="list-style-type: none">• 50% diversion of concrete and asphalt• 50% diversion of roofing materials• 50% diversion of construction and remodeling waste <p>For C&D activity, an applicant is required to submit a Recycling and Waste Reduction Form to the City to obtain a building or demolition permit and the applicant must provide an estimate of the debris that will result from the building and demolition activity. A cash deposit is required from the applicant before a building or demolition permit is issued for waste that will be delivered to the landfill. Once the applicant provides proof that the minimum diversion requirements were met, the City refunds the applicant's full deposit. If less than the minimum diversion is met, the City refunds a proportionate amount. The entire deposit is forfeited if there is a failure to comply with the requirements.</p> <p>Staff's assessment is that this program is effective. The City has a good mechanism for continued tracking.</p>

<i>City Monitoring</i>	<i>Implemented</i> Starting September 1, 2009, the City implemented a bin tagging program to identify commercial accounts that had contaminated recycling, greenwaste and/or waste bins. This is an on-going activity. The City also monitored the landfill on a monthly basis to make sure that none of the recycling and greenwaste trucks were delivering materials to the landfill. Staff's assessment is that this program is effective.
<i>Outreach and Education Program</i>	<i>Implemented</i> The City distributes via bill inserts, customer service counters and the City's website a bi-lingual brochure describing the system. The brochure provides information as to what is acceptable and in which bins they need to be placed. The brochure also provides service dates. This brochure is used for both commercial and residential accounts. To further educate residents, the City has placed bi-lingual labels on recycling, greenwaste and waste bins. These labels include the type of materials accepted within each bin. The City audits bins to ensure that the correct labels are affixed. The City also uses its website and the local cable channel to announce drop-off events, the locations of recycling centers (including used oil and household hazardous waste), and the requirement for mandatory commercial recycling for businesses. Staff's assessment is that this program is effective.
<i>Quarterly and Annual Reporting</i>	<i>Implemented</i> The City maintained its Compliance Documentation Binder and submitted all required quarterly and annual reports on time.
<i>Additional Efforts Implemented by the City Outside of the Compliance Order</i>	
<i>Food Waste Program</i>	The City has implemented a food waste diversion program for restaurants. The program has expanded to about 200 participating establishments that separate food waste from the waste stream. The food waste is picked up by the franchise hauler and delivered to a facility in Sun Valley for processing in preparation for composting. The success of this program, in part, is due to the partnership the City has with their franchise hauler. The franchise hauler

	<p>visits each establishment to provide the necessary training to ensure the material is processed properly for pick up.</p> <p>Staff's assessment is that this program is effective.</p>
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Overview of the Options CalRecycle has Regarding Compliance Orders

Determination of Completion

Once a jurisdiction has reported full implementation of all of the conditions and terms of a Compliance Order, CalRecycle has the following general responsibilities regarding the consideration of the completion of the Compliance Order:

CalRecycle shall hold a public hearing to determine whether or not the jurisdiction has fully implemented the Compliance Order (PRC Section 41850(a)). This includes, but is not limited to, determining if the jurisdiction has done the following:

- Made a good faith effort to fully implement all of its Local Implementation Plan and Source Reduction and Recycling Element selected programs (PRC Section 41850(b)); and
- Met the diversion requirements of PRC Section 41780 (PRC Section 41850(b)).

Penalty Structure

CalRecycle may impose fines only after a jurisdiction fails to adhere to the Compliance Order and/or schedule requirements. Fines may be levied according to the cause of failure to adequately implement a Source Reduction and Recycling Element and/or Household Hazardous Waste Element; staff would recommend to CalRecycle an appropriate level of penalty based on the criteria listed below.

1. "Serious" failure includes a jurisdiction that fails to implement its Source Reduction and Recycling Element or Household Hazardous Waste Element without reason or justification. The fine recommended for this type of violation would be no less than \$5,000 and up to the maximum \$10,000 per day.
2. "Moderate" failure includes a jurisdiction that fails to implement its Source Reduction and Recycling Element or Household Hazardous Waste Element due to mitigating circumstances that have no bearing on natural disasters, budgetary constraints and work stoppages. Mitigating circumstances would be determined on a case-by-case basis by CalRecycle. The fine recommended for this type of violation would be \$1,000 to \$5,000 per day.
3. "Minor" failure includes a jurisdiction that has implemented some or all programs, but has failed to meet the diversion requirements to some extent. Fines will be based on information provided by the jurisdiction and on statutory relief considerations. Fines, if determined to be appropriate, will be decided by CalRecycle on a case-by-case basis, and would range from \$1 per day up to \$1,000 per day.

A jurisdiction may only be fined after failing to adhere to the Compliance Order and

schedule. Fines will continue until a jurisdiction has implemented the programs as outlined in the Compliance Order.

Notwithstanding the above penalty structure, if CalRecycle determines, on a case-by-case basis, that a jurisdiction demonstrates that it has made a good faith effort to implement its Source Reduction and Recycling Element and/or Household Hazardous Waste Element, including achieving the diversion requirements, CalRecycle shall not impose penalties.

VII. ATTACHMENTS

1. Compliance Order IWMA BR08-03
2. Site Visit Photo Report
3. Local Implementation Plan
4. City of Santa Paula Waste Diversion Program and Diversion Rate Summary
5. Request for Action for the Removal of Compliance Order IWMA BR08-03

VIII. STAFF RESPONSIBLE FOR ITEM PREPARATION

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