



## DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • WWW.CALRECYCLE.CA.GOV • (916) 322-4027

P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

Confirmation Number 7014 3490 0001 0324 7021

March 17, 2015

Paul Paris, City Manager  
City of Wasco  
746 8<sup>th</sup> Street  
Wasco, CA 93280

Subject: City of Wasco AB 939 Compliance

Dear Mr. Paris:

This is in response to the letter and e-mail received on February 24, 2015 regarding the City of Wasco's (City) AB939 Compliance. Through the two communications, the City is reporting on the efforts taken to evaluate the City's waste diversion programs, and to seek clarification regarding the Department of Resources Recycling and Recovery's (CalRecycle) current independent review of the City's waste diversion programs.

CalRecycle is conducting an independent review of all of the City's waste diversion programs. In addition to evaluating the City's programs, CalRecycle is considering the City's per capita disposal rate. The per capita disposal rate is not determinative of the City's compliance. CalRecycle uses the per capita disposal as an indicator in evaluating program implementation and the City's performance.

CalRecycle has provided two written correspondents notifying the City of the independent review. The first is dated April 11, 2013 (Attachment 1). This letter provides Local Assistance and Market Development Branch's (LAMD) results of the 2007-2011 Jurisdiction Review:

"While the City is meeting its disposal rate target, CalRecycle management identified areas where programs may not be fully implemented and determined that an independent review is necessary. This independent review will be led by CalRecycle's Jurisdiction & Product Compliance Unit (JPCU)."

On April 15, 2013, CalRecycle sent a second letter, which initiated the 60-day conferring period required by PRC Section 41825(c) (Attachment 2). This letter clarifies the purpose of the 60-day conferring period stating:

"The 60-day conferring period allows both the City and JPCU an opportunity to discuss all waste diversion efforts taking place. Through the conferring period a review of all of the city's efforts to implement waste diversion programs in addition to a review of the materials being disposed will be conducted."



Since April 15, 2013, the City and CalRecycle have been working cooperatively. To ensure that CalRecycle's independent review includes all of the City's recycling and diversion efforts, we have been monitoring the City's development of a Request for Proposal (RFP) to enhance the residential and commercial recycling services since November 3, 2013. As of February 19, 2015, the City has reported that the awarding of the RFP will be delayed due to an impending legal matter. Based on this, and as was expressed by Andrew Parrish, of my staff, on January 26, 2015, CalRecycle is moving forward to finalize our independent review.

Throughout CalRecycle's independent review, we have been gathering information and data to fully understand the City's waste diversion programs. Recently, Andrew Parrish contacted the City requesting permission to speak with the City's haulers. Working with a jurisdiction's haulers and gathering data from them helps JPCU with its analysis. Prior to contacting a jurisdiction's hauler(s), we ask for permission to provide transparency of our review and to maintain any confidentiality agreements a jurisdiction may have with their hauler(s). As requested in the City's February 24, 2015 e-mail that transmitted your letter, the City has requested we provide the questions we are looking to have addressed by the City's haulers. In response to this request, the following is what we are seeking at this time:

- American Refuse:
  - What is the total number of commercial accounts serviced?
  - What services are offered?
    - Solid Waste Collection?
    - Recycling Service and type provided:
      - Commingled recycling?
      - Cardboard only?
    - Cost of the service(s)?
  - Route maps for waste and recycle collection.
  - What education and outreach do they do?
    - For commercial businesses?
    - For Mandatory Commercial Recycling?
  
- Sunset Waste:
  - What is the total number of commercial accounts serviced?
  - What services are offered?
    - Solid Waste Collection?
    - Recycling Service and type provided:
      - Commingled recycling?
      - Cardboard only?
    - Cost of the service(s)?
  - Route maps for waste and recycle collection.
  - What education and outreach do they do?
    - For commercial businesses?
    - For Mandatory Commercial Recycling?

With regards to the City's review of the Source Reduction and Recycling Element (SRRE) and the Electronic Annual Report (EAR), the City has presented several concerns regarding what has

been submitted within the City's SRRE, the EAR, and what is represented within CalRecycle's records. The City is reporting the following are in the SRRE, however, they are not presented within the EAR:

- Technical Assistance and Resource Center-TARC
- Legislative Review Board
- Source Reduction Curricula for Business

Additionally, the City has stated that there are programs that have been reported in the EAR, but were not selected in the approved SRRE, including:

- Special Waste Component of the EAR
  - Scrap Metal
  - Wood Waste
  - Concrete/Asphalt/Rubble

The City expressed that the "inconsistency is likely due to the fact that the SRRE is over 25 years old and many of the programs selected were attempted at one point and later dropped or new programs were implemented but the SRRE was not updated. In any case, the City has been reporting progress for all programs identified in the 2013 EAR."

The City has also expressed a concern that the EAR does not have the appropriate categories to report status of programs the City is implementing, including Mandatory Commercial Recycling. The City should report on its implementation of Mandatory Commercial Recycling in the 2030 program code. This guidance has been provided to all jurisdictions in previous EAR release letters. If there are any other questions about which codes to use for program reporting, please contact Melissa Vargas, LAMD Supervisor, to further discuss your concerns with the use of the EAR and to obtain guidance as to how to use the EAR system to report all of the City's efforts. Melissa Vargas can be reached at (916) 341-6271 or via e-mail at [Melissa.Vargas@CalRecycle.ca.gov](mailto:Melissa.Vargas@CalRecycle.ca.gov).

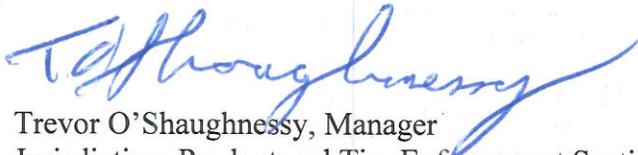
With regards to the 2013 EAR, the City has claimed that some of the responses were prepared and submitted by CalRecycle staff, possibly without the authorization or knowledge of the City. This is a serious accusation. LAMD has reviewed the annual reporting system to identify the notes that were added by LAMD staff. LAMD staff has determined that there were not any inappropriate additions to the notes or program status made. It should be noted that the annual reporting system is designed with two portals for inputting information. One portal is the EAR that jurisdictions use to input program status, notes, etc. The other portal is the Diversion Program System database. This is the portal that LAMD staff use to input program status, notes, etc., into the reporting system. The jurisdiction is able to view information that LAMD staff input regarding updates to program status and program notes, and it is clearly delineated in the annual reporting system as to which notes are from LAMD staff and which are from the City. When LAMD staff add program notes to reflect the current status of program implementation they communicate that to the jurisdiction around the time that the EAR is released.

Finally, we would like to address the City's determination that it is necessary to amend the SRRE to more accurately reflect the City's waste diversion programs. The SRRE programs can be updated via the EAR. A jurisdiction can update the program status in the EAR, including adding new programs, noting programs that have been dropped and/or programs that have been

expanded. Updating your programs through the EAR is designed to save the jurisdiction resources by not having to go through the formal SRRE amendment process. If there are programs that are not accurately reflected in the EAR, we encourage you to make those updates in the upcoming 2014 EAR. Or if you prefer Melissa Vargas can input any of those changes into the annual reporting system prior to June 2015 when the EAR is released for the next reporting cycle. If the City prefers to update the SRRE, Melissa Vargas will be able to provide guidance as to how this could be completed.

In closing, as CalRecycle moves forward to finalize our independent review of the City's waste diversion programs, we would like to continue to work cooperatively and provide transparency of our review to ensure our analysis fully represents the City of Wasco's efforts. With this in mind, please do not hesitate to contact me directly at (916) 341-6203 or via email at Trevor.OS@calrecycle.ca.gov.

Sincerely,



Trevor O'Shaughnessy, Manager  
Jurisdiction, Product and Tire Enforcement Section  
CalRecycle

Attachments:

1. April 11, 2013 Notification that an Independent Review of the City of Wasco's Waste Management Programs was Necessary
2. April 15, 2013 Notification Initiating the 60-Day Conferring Process Required by PRC Section 41825(c)

cc: Melissa Vargas, LAMD, CalRecycle  
Andrew Parrish, JPCU, CalRecycle  
Kathy Marsh, Supervisor, JPCU, CalRecycle  
Tamar Dyson, CalRecycle Legal Office  
Program File

# Attachment 1



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P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

April 11, 2013

Paul Paris  
Public Works Director  
764 E. Street  
Wasco, CA 93280

Dear Mr. Paris:

We are writing regarding the status of the Department of Resources Recycling and Recovery's (CalRecycle) review of whether the City of Wasco (City) is in compliance with meeting the California Integrated Waste Management Act of 1989 (AB 939, Sher) requirements. Public Resources Code (PRC) Section 41825 specifies a schedule for this review and requires CalRecycle to make a finding of whether each jurisdiction was in compliance with PRC Section 41780 during the review period. The 2007-2011 Jurisdiction Review, which is being finalized, is CalRecycle's independent evaluation of each jurisdiction's progress in implementing its Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE) programs and in meeting the AB 939 diversion requirement. As a result of this review, CalRecycle may find that:

- 1) A jurisdiction is meeting the requirements of AB 939 because:
  - a. It has adequately implemented its diversion programs and has achieved the diversion requirement; or
  - b. While it has not achieved the diversion requirement, it has made a good faith effort to implement diversion programs; or
- 2) A jurisdiction has failed to adequately implement its SRRE and/or HHWE and the process should commence to consider whether issuance of a compliance order would be appropriate. Jurisdictions that fail to satisfy the conditions of a compliance order may be subject to a fine of up to \$10,000 per day.

As a result of the 2007-2011 Jurisdiction Review, CalRecycle management has determined that an independent review of the City's programs is necessary. While the City is meeting its disposal rate target, CalRecycle management identified areas where programs may not be fully implemented and determined that an independent review is necessary. This independent review will be led by CalRecycle's Jurisdiction & Product Compliance Unit (JPCU). As identified in the Jurisdiction Review and most recent site visit (August 1, 2012), the following programs have been identified for further review:

- **Residential Curbside (recycling):** The City's voluntary residential curbside recycling rate is approximately 1 percent whereas typical mandatory residential recycling programs can yield



The City of Wasco

upwards of 95 percent. Also, currently residents have no incentives to participate in the City's recycling programs.

- **Commercial On-Site Pickup (recycling):** The City's commercial participation rate is only at 5 percent whereas typical mandatory commercial recycling programs can yield upwards of 95 percent. Also, businesses have no incentives to participate in the City's recycling programs. Furthermore, the existing commercial recycling program and existing franchise agreement relies upon voluntary participation and appears to be resulting in the very low participation rate.
- **Residential Curbside and Commercial On-Site Greenwaste Collection:** The material is currently being landfilled instead of diverted. This program has been specifically identified in the City's Source Reduction Recycling Element and the City's Electronic Annual Report as "ongoing and selected", which is not accurate.
- **Construction & Demolition Program (C & D):** The City does not appear to have a C&D program, e.g., it does not have a C & D Policy and is not promoting CALGreen.
- **Procurement:** There does not appear to be a program to purchase recycled-content products, e.g., there is no procurement policy that promotes the purchase of recycled-content products.
- **Mandatory Commercial Recycling Program (MCR):** Although the City has posted its MCR plan on its website, there is little evidence of any other types of education and outreach. Also, it is unclear how many multi-family complexes with five (5) or more units have recycling programs or what the City is doing to inform them of the law and how to recycle or the number of businesses which are required to have recycling bins as per MCR and out of those businesses which ones are complying.
- **Education and Outreach:** There is a lack of evidence that the City is providing information to residents and business owners on proper recycling, collecting green waste, and implementing C&D and CALGreen programs.

JPCU will conduct an independent assessment and may determine that there are additional programs that need further evaluation. JPCU will then determine whether to recommend that CalRecycle issue the City an Order of Compliance, as provided by PRC Section 41825.

Staff from JPCU will be contacting you directly regarding their program review process. Please direct future communications and any questions or concerns regarding this letter or the JPCU review to Ms. Kathleen Marsh, JPCU Supervisor, at (916) 341-6475 or [Kathy.marsh@calrecycle.ca.gov](mailto:Kathy.marsh@calrecycle.ca.gov).

Sincerely,

*Howard Levenson*

The City of Wasco

Deputy Director



Branch Chief



Supervising Integrated Waste Management Specialist II

cc: Kathleen Marsh, Supervisor, Jurisdiction and Product Compliance Unit  
Dan Allen, City Manager  
Bob Wren, Deputy Director of Public Works

# Attachment 2

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P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

April 15, 2013

Confirmation Number 7012 2920 0000 1719 5228

The Honorable Fred West, Jr.  
Mayor  
City of Wasco  
746 8<sup>th</sup> Street  
Wasco, CA 93280

Subject: City of Wasco's Notice of 60-Day Conferring Period for Potential Compliance Enforcement

Dear Mayor West:

On April 11, 2013, the Department of Resources Recycling and Recovery (CalRecycle) sent a letter (see attached) to the Public Works Director, Paul Paris, stating that the 2007-2011 Jurisdiction Review had determined that an independent review of the waste diversion programs of the City of Wasco (City) is necessary. This letter listed specific areas of concern relating to the waste diversion programs of the City. The letter also explained that this independent review will be conducted by CalRecycle's Jurisdiction and Product Compliance Unit (JPCU) in the Waste Permitting, Compliance & Mitigation Division.

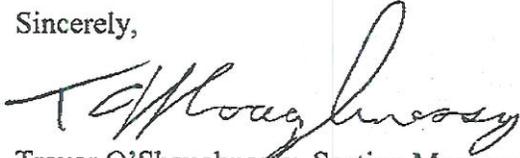
The purpose of JPCU's independent review is to determine whether the City has complied with the diversion requirements of Public Resources Code (PRC) Section 41780. If JPCU finds that the City has not satisfied these requirements, CalRecycle will begin the process of considering whether issuance of a compliance order would be appropriate. Jurisdictions that fail to satisfy the conditions of a compliance order could be subject to a fine of up to \$10,000 per day.

This letter initiates the 60-day conferring period required by PRC Section 41825(c). The 60-day conferring period allows both the City and JPCU an opportunity to discuss all waste diversion efforts taking place. Through the conferring period a review of all of the City's efforts to implement waste diversion programs in addition to a review of the materials being disposed will be conducted. This review will include field evaluations of all diversion programs and the facilities processing both recyclables and disposed waste. The conferring period may last longer than 60 days; however, it must be completed prior to beginning the process to consider the issuance of a compliance order.

Mayor West  
City of Wasco  
60-Day Conferring Letter

A member of JPCU will be contacting Mr. Paris, to arrange for an initial meeting. If you have any questions, please do not hesitate to contact Kathleen Marsh, JPCU Supervisor, at (916) 341-6475.

Sincerely,



Trevor O'Shaughnessy, Section Manager  
Jurisdiction, Product and Tire Enforcement Section  
Department of Resources Recycling and Recovery

Attachment: April 11, 2013, letter to Mr. Paul Paris

cc: Paul Paris, Public Works Director



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The City of Wasco

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Sincerely,

*Howard Levenson*

The City of Wasco

Deputy Director



Branch Chief



Supervising Integrated Waste Management Specialist II

cc: Kathleen Marsh, Supervisor, Jurisdiction and Product Compliance Unit

Dan Allen, City Manager

Bob Wren, Deputy Director of Public Works