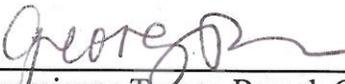


REQUEST FOR ACTION

To: Mark De Bie, Deputy Director
Waste Permitting, Compliance and Mitigation Division
Department of Resources Recycling and Recovery

From: 

Georgianne Turner, Branch Chief
Waste Evaluation and Enforcement Branch
Department of Resources Recycling and Recovery

Hearing Date: November 9, 2016

Decision Subject: Consideration of the Issuance of Compliance Order CO 016-001 for the City of Wasco, County of Kern

Action By: November 14, 2016

Summary of Request:

The Department of Resources Recycling and Recovery (Department) staff conducted a 2007-2011 Jurisdiction Review of the City of Wasco (City) implementation of its Source Reduction and Recycling Element (SRRE) programs. Department staff also reviewed the City's implementation of California's Recycling of Commercial Solid Waste, referred to as the Mandatory Commercial Recycling (MCR) law, which became effective on July 1, 2012. The public hearing considered the issuance of a Compliance Order that was completed on November 9, 2016.

Department staff presented its findings that the City has not made all reasonable and feasible efforts to implement key diversion programs or satisfied the statutory requirements of the MCR law. The City's SRRE-selected programs have not been fully implemented, which impacts several of its key diversion programs that, in turn, prevents the City from achieving the diversion requirements of Public Resources Code (PRC) Section 41780.

In regards to the City's diversion program implementation, the information and observations Department staff collected demonstrate gaps or weaknesses in the City's diversion programs, including, but not limited to:

- Residential Diversion program
- Commercial Diversion program (including the multi-family diversion efforts)
- Mandatory Commercial Recycling
- Education and Outreach efforts related to these and other City programs and efforts
- Government Procurement

In addition to evaluating the City's programs, Department staff considered the per capita disposal rate for the City. The City's per capita disposal or disposal target is 4.8 pounds per person per day. From 2007 to 2014, the City's per capita disposal ranged from 3.6 pounds per person per day to 4.2 pounds per person per day. During the review period, the City achieved its per capita disposal; however, per capita disposal is only a factor to be considered in evaluating program implementation and the City's performance. It is not determinative of compliance with the diversion requirement of PRC section 41780.

PRC section 41780 requires the City to satisfy the diversion requirement through the implementation of its SRRE programs. Therefore, Department staff recommends that CalRecycle consider issuing the City a Compliance Order that will require the City to work directly with Department staff to develop a Local Implementation Plan (LIP). This LIP will identify a strategy for program enhancements and local actions necessary to enable the City to achieve the diversion requirements of PRC section 41780 and meet the requirements of the MCR law, PRC section 42649, et seq.

PRC section 41825 requires CalRecycle to hold a public hearing to determine if the City is adequately implementing its SRRE and the MCR law, before issuing a Compliance Order. CalRecycle considered all of the testimony of witnesses, all documents and other matters related to the November 9, 2016 public hearing when making the determination as to whether to issue a Compliance Order.

Options for Consideration

1. Find that the City is not adequately implementing its SRRE and not complying with the MCR law and,
 - a. Approve the attached Compliance Order as written, or
 - b. Approve the attached Compliance Order with alternate or additional language or conditions.
2. Find that the City is not adequately implementing its SRRE but is adequately complying with the MCR law. Direct staff to amend the attached Compliance Order to address only SRRE program implementation, and /or incorporating alternate or additional conditions.
3. Find that the City is adequately implementing its SRRE and not complying with the MCR law. Direct staff to amend the attached Compliance Order to address only MCR program implementation and/or incorporating alternate or additional conditions.
4. Find that the City is adequately implementing its SRRE and is in compliance with the MCR law and not issue the attached Compliance Order.

Recommendation:

Department staff recommends Option 1: Find that the City is not adequately implementing its SRRE and is not complying with the MCR law. Department staff further recommends approval of the attached Compliance Order as written.

Deputy Director Action:

On the basis of the information, analysis, and findings presented in both the Public Hearing and the Public Hearing package, I hereby find that the City of Wasco, County of Kern is not adequately implementing its SRRE and is not complying with the MCR law. Based on this I approve Compliance Order CO 016-001 as written.

Dated:

Mark De Bie, Deputy Director
Waste Permitting, Compliance and Mitigation Division
Department of Resources Recycling and Recovery