REQUEST FOR APPROVAL

To: Howard Levenson, Deputy Director
Materials Management and Local Assistance Division

From: Cara Morgan, Branch Chief
Local Assistance and Market Development

Request Date: March 11, 2013

Decision Subject: Approval Of 2007-2011 Jurisdiction Review Findings For The Source Reduction And Recycling Element, Household Hazardous Waste Element, And Approval Of Transformation Claims And/Or Construction and Demolition Deductions For Those Jurisdictions Listed in Attachment 1

Action Date: April 16, 2013

Summary of Request:

A key component in maintaining the success of AB 939, the Integrated Waste Management Act of 1989, is CalRecycle's role in overseeing how well cities and counties are implementing the diversion programs that they each have selected as part of their Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE). This emphasis on program implementation was further codified by SB 1016 (Chapter 343, Statutes of 2008). Public Resources Code (PRC) Section 41825 requires CalRecycle to review each City, County, and Regional Agency SRRE and HHWE at least once every four years, and in some cases once every two years. (For ease of writing and reading, staff uses the term "jurisdiction" in the remainder of this item to refer to cities, counties, and Regional Agencies.) The 2007-2011 Jurisdiction Review is CalRecycle's independent evaluation of each jurisdiction's progress in implementing its SRRE and HHWE programs and in meeting the AB 939 diversion requirement.

As a result of the two- and four-year Reviews, CalRecycle may find that: 1) a jurisdiction has adequately implemented its diversion programs and has achieved the 50 percent equivalent per-capita disposal requirement; 2) a jurisdiction has made a good faith effort to implement diversion programs, but has not achieved the 50 percent equivalent per-capita disposal requirement; or 3) a jurisdiction has failed to adequately implement its SRRE and the process to consider issuance of a compliance order should commence. Jurisdictions that fail to satisfy the conditions of a subsequent compliance order may be subject to a fine of up to $10,000 per day.

This Request for Approval addresses those jurisdictions that met the requirements of AB939; i.e., CalRecycle staff has determined that each jurisdiction listed in Attachment 1 has adequately implemented its diversion programs and has achieved the 50 percent equivalent per-capita disposal requirement. As such, Local Assistance and Market Development Branch staff has determined that each of these jurisdictions is in compliance with the AB 939 diversion requirement.

In addition to meeting the per-capita disposal requirement and having adequate program implementation, some of these jurisdictions had Rural Reduction/Reduced Diversion Requirements, Transformation Diversion Claims and/or Construction/Demolition Deduction Claims as is indicated in Attachments 2, 3, and 4.

Recommendation: Acceptance of staff's 2007-2011 Jurisdiction Review findings that these jurisdictions are adequately implementing their SRRE and HHWE and are meeting the 50 percent (or approved reduced) diversion requirement and have met the conditions for claiming transformation credit and/or a C&D deduction.

Deputy Director Action:

On the basis of the information and analysis in this Request for Action and the findings set out above, I hereby approve the Jurisdiction Review findings for 2007-2011 for the jurisdictions noted through the title above.

Dated: 4/17/13

Howard Levenson

Howard Levenson, Deputy Director
Materials Management and Local Assistance

Attachments: The attachments to this Request for Approval contain supporting information to support this recommendation as required by Public Resources Code.

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1. A listing of all Jurisdictions adequately implementing their SRRE and HHWE and are meeting the 50 percent (or approved reduced) diversion requirement and have met the conditions for claiming transformation credit and/or C&D deduction.
2. Construction and Demolition Waste Deduction Claims
3. Transformation Diversion Claims
4. Jurisdictions with a Reduced Diversion Requirement
5. Jurisdiction Disposal Rate Trend (alphabetized by City name) -- provides a summary of each jurisdiction's 50% equivalent per capita disposal target and annual per capita rate.
6. Jurisdiction Program Summary Report (alphabetized by City name) -- contains a SRRE and HHWE diversion program listing for each jurisdiction.

Background Information:

A key component in maintaining the success of AB 939, the Integrated Waste Management Act of 1989, is CalRecycle's role in overseeing how well cities and counties are implementing the diversion programs that they each have selected as part of their Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE). Public Resources Code (PRC) Section 41825 requires CalRecycle to review each City, County, and Regional Agency SRRE and HHWE at least once every four years, and in some cases once every two years. (For ease of writing and reading, staff uses the term "jurisdiction" in the remainder of this item to refer to cities, counties, and Regional Agencies.) The 2007-2011 Jurisdiction Review is CalRecycle's independent evaluation of each jurisdiction's progress in implementing its SRRE and HHWE programs and in meeting the AB 939 diversion requirement.

As a result of this review, CalRecycle may find that: 1) a jurisdiction has adequately implemented its diversion programs and has achieved the diversion requirement; 2) a jurisdiction has made a good faith effort to implement diversion programs, but has not achieved the diversion requirement; or 3) a jurisdiction has failed to adequately implement its SRRE and the process to consider issuance of a compliance order should commence. Jurisdictions that fail to satisfy the conditions of a subsequent compliance order may be subject to a fine of up to $10,000 per day.

Senate Bill 1016 (Statutes of 2008, Chapter 343) amended the PRC Sections 41825 and 41850. As a result of this legislation, the 50 percent diversion requirement is now measured in terms of per-capita disposal expressed as pounds per person per day. SB 1016's new per capita disposal and goal measurement system codified how the previous California Integrated Waste Management Board and now CalRecycle utilize the number as an indicator of program performance along with its evaluation of program implementation, instead of using estimated diversion rates or per capita disposal as the determinative factor for compliance.

Staff's analysis of program implementation is based upon the Countywide Integrated Waste Management Plan Enforcement Policy Part II, originally adopted (by CalRecycle's predecessor, the California Integrated Waste Management Board) in August 2001 and revised, pursuant to SB 1016, in June 2010. Staff utilizes the criteria delineated in the Enforcement Policy to determine the extent to which a jurisdiction has implemented, or has shown a good faith effort to implement, its selected diversion programs. For those jurisdictions that did not meet their per-capita disposal requirement, staff evaluates their program implementation to determine if they have made a good faith effort to implement the programs selected in their SRRE. The scenarios in the Enforcement Policy Part II provide illustrative criteria to serve as examples of the issues that staff utilizes in examining local jurisdiction program implementation.

CalRecycle's Local Assistance and Market Development Division staff extensively reviewed each jurisdiction in this review cycle by conducting on-site visits to verify program implementation and by reviewing documentation, including annual reports, hauler data, outreach and education materials, etc. This investigation determines the extent to which a jurisdiction has tried to meet the diversion requirements through its selected diversion programs. Based upon this comprehensive investigation, staff then proposes one of the three findings listed above. If the Local Assistance and Market Development Division staff recommends a finding that a jurisdiction is not implementing its SRRE and/or HHWE programs, then that jurisdiction is referred to CalRecycle's Jurisdiction and Product Compliance unit for a second independent evaluation. If warranted, the Jurisdiction and

Product Compliance unit then submits a separate Request for Approval recommending that the jurisdiction be placed on a compliance order.

Findings

Based on comprehensive analysis of the 382 jurisdictions that are the subject of this Request for Approval (listed in Attachment 1), Local Assistance and Market Development Branch staff finds that these jurisdictions are adequately implementing their SRRE and HHWE, are meeting the 50 percent (or approved reduced) 50 percent per-capita requirement, and have met the conditions for claiming transformation credit and/or a C&D deduction.