REQUEST FOR APPROVAL

To: Howard Levenson
Deputy Director

From: Cara Morgan
Branch Chief

Request Date: April 9, 2015

Decision Subject: Approval of 2007-11 and 2012-13 Jurisdiction Review Findings For The Source Reduction And Recycling Element And Household Hazardous Waste Element For Orange County: City of Cypress

Action By: May 19, 2015

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 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 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. Additionally, this is the first formal review for implementation of Mandatory Commercial Recycling (MCR) pursuant to Public Resources Code Section 42649.

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 the City of Cypress' (City) Jurisdiction Reviews for both 2007-11 and 2012-13. In 2011, Local Assistance and Market Development (LAMD) staff reviewed the City's programs and found significant gaps in a number of program areas. As a result of this finding, LAMD staff informed the City of its program gaps, that it was to be reviewed independently by the Jurisdiction Compliance Unit, and that the City could avoid a Compliance Order if the program gaps were addressed.

Through several meetings with LAMD staff, the City and its hauler took action to address the program gaps by implementing new or expanded diversion programs. These programs have been verified by LAMD staff over the course of the City's 2012-13 Review Cycle and are described herein in the Findings section below.

The City has also been reminded that as the economy rebounds, businesses will likely produce more, consumers will buy more, and construction could increase resulting in more solid waste generation and disposal. As a result, continuing the City's diversion programs is critical to ensuring continued compliance with AB 939, as well as implementing the requirements of the Mandatory Commercial Recycling and Mandatory Commercial Organics Recycling laws.

Subsequent to approval of this request, staff will continue (as mandated in SB 1016) to visit Cypress annually to ensure its programs are being fully implemented and to ensure there are not gaps preventing the jurisdiction from meeting its 50 percent equivalent per capita disposal target. Staff will also provide assistance, as needed.

Recommendation:
Because the City has addressed the diversion program gaps identified by LAMD staff and has committed to continued improvements to program implementation, staff has determined that the City of Cypress has made all reasonable and feasible efforts to implement diversion programs, and recommends that the City be found to be in compliance with AB939 requirements for implementation of its SRRE and HHWE programs, as required by Public Resources Code Sections 41780, 41825 and 42649, respectively.

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 the City of Cypress.

Dated: 5/20/15

Howard Levenson

Howard Levenson, Deputy Director
Materials Management and Local Assistance Division

Attachments: The attachments to this Request for Approval contain summaries of information used in the Jurisdiction's evaluation.

1. a. Jurisdiction Disposal Rate Trend -- provides a summary of each jurisdiction's 50% equivalent per capita disposal target and annual per capita rate.
   b. Diversion Programs Implementation Summary – 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 specifies that CalRecycle periodically and independently review each jurisdiction's progress in implementing its programs and in meeting the AB 939 diversion requirement and that CalRecycle make a finding of whether each jurisdiction was in compliance with PRC Section 41780 during the review period.

As a result of its review, CalRecycle may find that a jurisdiction:

1) Has adequately implemented its diversion programs and has achieved the diversion requirement;
2) Has not achieved the diversion requirement, but has made a good faith effort to implement diversion programs; or,
3) 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.

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 per capita disposal and goal measurement system also 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 and HHWE. 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.

If the Local Assistance and Market Development (LAMD) staff recommends a finding that a jurisdiction is not implementing its SRRE and/or HHWE programs, then that jurisdiction is referred to CalRecycle's JPCU for a second independent evaluation. If the jurisdiction addresses the program deficiencies during the JPCU investigation, then they can be recommended as being in compliance and avoid being placed on a Compliance Order. If warranted, the JPCU then submits a separate Request for Approval recommending that the jurisdiction be placed on a Compliance Order.

Analysis work includes reviewing documentation, such as annual reports, hauler data, outreach and education materials, etc. This analysis determines the extent to which a jurisdiction has tried to meet the

diversion requirements through its selected diversion programs. Based upon this comprehensive analysis, staff then proposes one of the three findings listed above. If the LAMD 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 Compliance Unit (JCU) for a second independent evaluation. If the jurisdiction addresses the program deficiencies during the JCU investigation, then they can be recommended as being in compliance and avoid being placed on a Compliance Order. If warranted, then JCU submits a separate Request for Approval recommending that the jurisdiction be placed on a Compliance Order.

Findings

CalRecycle's Local Assistance and Market Development (LAMD) staff extensively reviewed the City in this review cycle by conducting on-site visits to verify program implementation of its SRRE and HHWE programs. As a result of the 2007-11 review, Local Assistance and Market Development (LAMD) staff found significant gaps. As a result of this finding, LAMD staff informed the City of its program gaps, that it was to be reviewed independently by the Jurisdiction Compliance Unit, and that the City could avoid a Compliance Order if the program gaps were addressed. Through several meetings with LAMD staff, the City and its hauler took action to address program gaps by implementing new or expanded diversion programs. These new and expanded programs have been verified by LAMD staff over the course of the City's 2012-13 review cycle. Further program enhancements are taking place now and beyond July 1, 2015, when a new franchise contract will begin. The following is an overview of the City's diversion and recycled content procurement programs, including future enhancements:

Residential:

- The most significant residential program enhancement included the implementation of a pilot curbside greenwaste program, as no green waste options were in place for residents. The City's hauler implemented a voluntary residential curbside greenwaste program with 300 out of 11,966 residents participating in weekly pick up The City will have the residential program in place citywide, including weekly collection of recycling, greenwaste and trash, no later than July 31, 2015. The City will also look to include a greenwaste program for multifamily complexes in the new contract. The City needs to assess how many complexes are utilizing a landscaping service and thus do not need on-site greenwaste collection service. The City and hauler will be educating residents and businesses about the transition during May/June of 2015. Residents will be on a 3-cart system with weekly collection, which is updated from the current 2-cart (trash and recycling) bi-weekly recycling collection.

  In addition to receiving information about the new program, residents will have the opportunity to choose their cart sizes, but the resident's first refuse container will be provided at the same monthly rate no matter which size is chosen. The differing cart sizes are intended to address space constraints, or to provide smaller containers for residents who would have a difficult time maneuvering a larger container. To encourage less disposal, however, the City will charge residents to have additional refuse carts. If a resident opts to have two garbage carts, for example, they will be charged a much higher fee for the second cart than under the previous agreement. With the expanded service, i.e. the inclusion of green waste collection and weekly collection of recyclables, the City anticipates less need for multiple trash carts. Residents can

receive 6 recycling carts (a carryover from current agreement) and 2 greenwaste carts at no extra cost. Additionally, the City and its hauler will focus on multifamily complexes to ensure that they are provided recycling services. To achieve increased recycling, the hauler will directly contact property management, attend homeowner association meetings and work with the City to identify additional means of communication. The City uses a variety of media and approaches to provide education and outreach to residents that are working well, including websites, print materials, such as brochures, newsletters and mailers, and participating in community events. To address quality control if the driver notices contamination during collection, the driver will tag the cart with an instruction card and the customer is notified. For repeat offenders service is halted until the problem is resolved. The new contract will also include reporting of tagged carts to the City on a monthly basis.

Commercial:

- The hauler solicited 26 new businesses to participate in source separated recycling in 2013 and identified 143 businesses that were using 3rd party recycling and/or the business itself self-hauls/back-hauls its material. As of July 2013, 67% of the commercial customers are recycling either via the hauler, back-hauling, or third-party recyclers. The City and hauler will continue citywide education efforts, and will also be working with sites that are not recycling with the franchised hauler to determine the best way to implement recycling at these sites. Currently, there is no onsite greenwaste collection program for the commercial sector; however, the city plans that greenwaste collection will be provided to commercial sites if requested. LAMD will assess in 2015 how this option will be promoted, especially in light of AB 1826. Also, LAMD will address the City's plans for foodwaste diversion programs, including assessing what businesses are currently generating foodwaste are doing, e.g., backhauling, etc. To educate businesses, the City also distributes information to businesses via the City's cable station, website, flyers, brochures, and at events. A program enhancement that will result from the new contract is that the hauler will use a combination of source separated collection of recycling and mixed waste processing of targeted businesses. The targeted businesses will be those that currently do not have recycling through the franchised hauler, yet have recyclables in their waste stream. Essentially, the hauler will evaluate at the beginning of the contract period (July 1, 2015) which accounts have or are willing to implement free source separated recycling. If the business indicates unwillingness to implement recycling using a separate container, they would be a candidate for mixed waste processing.

MCR:

- For education during the review cycle, the City and hauler used electronic media, including websites and the cable channel, and print material in the form of direct mailers and newsletters. The City and hauler also attended Chamber of Commerce events, and performed waste assessments. The hauler completed an audit of all commercial and multi-family subject to AB 341 in 2013. The hauler identified 294 businesses subject to AB 341 requirements in Cypress. As of July 2013, it was determined that of this number, 143 recycle using 3rd party recycling, and a total of 55 accounts recycle through the franchised hauler. Of the accounts that recycle with the hauler, 29 sites recycle exclusively with the hauler, and there were 26 newly added accounts in 2013. Additional information will be needed to determine if these are businesses that were not

previously recycling at all, or if they were part of the 143 businesses found to be using 3rd party recycling as of 2013. There are 105 multi-family properties subject to AB 341 requirements in Cypress. 25 of the complexes currently have source separated recycling through the franchised hauler. MCR monitoring will be an area of focus in relation to the new franchise agreement. The City will be increasing its oversight to ensure that strong education, outreach, and monitoring is being done by the hauler on an annual basis.

Construction and Demolition (C&D):

- Overall, the City has a comprehensive C&D ordinance, which requires 50% diversion and an effective way to track diversion efforts, which were at 63% diversion for 2013. LAMD staff will be doing further work with the City to ensure the CALGreen requirements are being fully addressed related to C&D recycling. The use of the franchised hauler is required unless the applicant is self-hauling the material. All projects must log all disposal and diversion data into an online system. Self-haulers need to meet the 50% requirement. The City has implemented a web-based C&D monitoring and enforcement recycling program. Contractors are now required to complete a C&D debris materials questionnaire online or by phone. The system now used creates a waste management plan as part of every building permit application. City staff stated that no waste management plans have been disapproved to date, but gave two examples when revisions were requested when the program was first implemented. Since then there have not been any further problems, disapprovals, or requested revisions. City staff verifies that weight ticket images are uploaded and that tonnages are manually keyed in by the contractor to match the online system. City staff and building inspectors know that final inspection can only be done once all necessary information, such as weight tickets and receipts, have been uploaded into the online system. There have been no instances where the 50% diversion requirement has not been met.

Government:

- The City implements source reduction activities, such as reusing surplus supplies, implementing measures to reduce paper use such as setting printers to default to duplex siding, and the City's print shop takes creates memo pads using reused paper. The City also implements a recycling program in which City employees each have a recycling bin at their work station, making recycling convenient. Greenwaste is minimized through grasscycling and chipping of wood waste at all City facilities. The City has implemented an environmentally preferable procurement policy as of July 2013. This policy was promoted to all City staff via an all-users distribution list e-mail blast, as well as being posted on the City's intranet. All purchasing officers have access to the intranet document for reference when purchasing items. The City will continue to track recycled-content product purchasing. Recycled content products purchased by the City are copier paper, toner cartridges, and bottle pens on a regular basis. The City's Parks and Recreation District purchased recycled content benches made from recycled plastic and playground equipment made from used tires. The City has purchased recycled content plastic chairs for use at their event facilities and Public Works also purchases rubber asphalt hot mix, which uses about 300 tons of tires. These materials and practices were verified during the 2014 site visit.

These program improvements should have significant impacts on the City's overall diversion of materials from disposal. To ensure that these programs, as well as all of the City's SRRE and HHWE programs (including mandatory commercial recycling outreach and education), continue to be implemented, LAMD staff will review the status reports provided by the City and will continue to conduct annual site visits.