

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: January 11, 2015

Decision Subject: Approval of 2007-2011 and 2012-13 Jurisdiction Review Findings For The Source Reduction And Recycling Element And Household Hazardous Waste Element For City of Kingsburg

Action By: February 16, 2016

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 a 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.) This Request for Approval addresses the City of Kingsburg's Jurisdiction Review for 2007-2011 and 2012-2013. 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.

Local Assistance and Market Development (LAMD) staff reviewed the City of Kingsburg's programs and found significant diversion program gaps. As a result of these findings, in 2013, the City was forwarded to CalRecycle's Jurisdiction Compliance Unit (JCU) for further investigation. LAMD staff informed the City of the program gaps, that it was to be reviewed independently by JCU, and that the City could avoid a Compliance Order if the program gaps were addressed. During the time of JCU's review, the City demonstrated that it was able to address the program gaps by expanding and implementing new diversion programs.

Recommendation:

Because the City has addressed its diversion program gaps, staff has determined that the City of Kingsburg has made all reasonable and feasible efforts to implement diversion programs, and recommends approval of its compliance with AB 939 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 2007-2011 and 2012-2013 for the City of Kingsburg.

Dated: _____

Howard Levenson, Deputy Director
Materials Management and Local Assistance Division

Attachments: The attachments to this Request for Approval contain summaries of the information that staff used in the Jurisdiction’s evaluation:

- 1a. Jurisdiction Disposal Rate Trend -- provides a five year trend of the 50% equivalent per capita disposal target and annual per capita rate.
- 1b. Jurisdiction Program Summary Report -- contains a SRRE and HHWE diversion program listing.

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 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 and revised again in July 2015 pursuant to AB 341, AB 1826, and AB 1594.

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.

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 Jurisdiction Compliance Unit (JCU) for a second independent evaluation. If warranted, the JCU then submits a separate Request for Approval recommending that the jurisdiction be placed on a compliance order. If the jurisdiction addresses the program deficiencies during the JCU evaluation, then they can be recommended as being in compliance and avoid being placed on a Compliance Order.

In the case of the City of Kingsburg, LAMD staff referred the jurisdiction to JCU on April 3, 2013. The City was also informed of the specific gaps. The reasons for referral to JCU were:

- Residential, Multi-family and Commercial: It was unknown if the programs needed increased targeted education.
- Mandatory Commercial Recycling Program: The City had only recently been starting to provide information about Mandatory Commercial Recycling.
- Government Sector Programs: The City did not have a procurement policy and was not purchasing recycled-content material.
- Construction and Demolition: The City was lacking a C&D program. At a minimum, the City should have been implementing the CalGreen requirements.

JCU staff conducted a compliance investigation that involved a review of data from the City and the City's franchise haulers, and site visits to verify the City's diversion efforts. Field work took place on May 3, 2013; September 8-13, 2013; January 26-29, 2014; July 20-24, 2014; and March 23-25, 2015.

During the time of JCU's review, the City negotiated a new franchise agreement with a new hauler that became effective July 1, 2014. With the assistance of the new franchise hauler, the City demonstrated that it was able to address many of the program gaps. The following is a summary of the improvements that were made during the time of JCU's review:

- **Residential Recycling Program:** All single family and multifamily residents now have mandatory weekly curbside recycling and green waste/organic recycling services. JCU staff has noted this to be an effective program, including that contamination is low for both recycling and organics. The residential program was expanded to include food waste collection with the green waste service. JCU staff determined that through education and outreach, significant improvements have been made to increase diversion. The targeted education includes extensive website information, bi-monthly print advertisement, bi-lingual print materials, and participation in community events. Also, for multifamily units, the hauler conducts site visits to provide

technical assistance. Additionally, when contamination is identified by the driver, there is follow-up to the resident.

- **Commercial Recycling Program:** JCU determined that the program is effective. The City has implemented mandatory commercial waste and recycling services. There are plans to implement a commercial organics recycling program by the new franchise hauler. The new hauler has actively been conducting site visits/waste assessments of the commercial accounts. Through this effort the hauler has assessed correct bin sizes and identified businesses that are back-hauling recyclables. Education has significantly improved, including increased print materials, electronic information, and personal visits, and the information is now tracked and monitored by the hauler.
- **Mandatory Commercial Recycling (MCR) Program:** The hauler along with the City has implemented a plan to identify businesses that falls under the MCR program. The education activities that have been completed have met or exceeded the initial plans. Through its education and outreach efforts, of the 83 businesses subject to MCR, only 8 business have not subscribed to recycling. The hauler has contacted these businesses to inform them of the law and how to recycle and continues to monitor and track the businesses closely. Of the 35 multifamily complexes that are subject to MCR, all are recycling.
- **Government Sector Diversion Programs:** The City has increased the number of governmental sites that participate in the recycling program, including the police station and fire house. The City also practices source reduction activities, such as reusing old asphalt and concrete for resurfacing streets and alleyways, reprinting on used paper, sending and storing information electronically, and using reusable cups and mugs. The City adequately manages its greenwaste. While it has not implemented a procurement policy, it attempts to purchase recycled-content products when feasible. Recycled content products purchased include paper, printer cartridges, and mulch.
- **Construction and Demolition (C&D) Program:** The City adopted a C&D ordinance with measures put in place to ensure the diversion of C&D materials. The City has contacted the haulers operating within the City that they are to submit monthly weight tickets for C&D projects. The City's Building Department has implemented an education program that includes providing a packet to permit applicants that includes information on C&D collection services, the Debris Recycling application, and a CalGreen Checklist. C&D information is also on the City's website along with information about the permit application and guidelines for contractors and property owners.

Based on these improvements, JCU staff concluded that the City is undertaking all reasonable and feasible efforts to comply with state diversion mandates and has addressed the aforementioned program gaps.

Additionally, LAMD and JCU staff have recommended to the City that the following programs continue to be monitored and enhancements be made, as needed:

- 1) **Residential Recycling Program:** Continued education and outreach is needed to maintain the existing residential recycling program. Also, the City should assess how education and outreach can be further enhanced, such as updating website links to provide City specific HHW information. CalRecycle staff will continue to monitor the residential program, including

identifying the number of households recycling, number of exemptions, if any, and the types of education/outreach provided to residents.

- a. Prior to the new residential program commencing, the City had a drop-off program available for residents that could not fit their recyclables in their recycling carts. JCU learned that the City is proposing an evaluation of its drop-off recycling program to determine the effectiveness of the program given the new hauler's curbside program. Upon conclusion of the City's evaluation, the City is to provide the results of the assessment to LAMD staff.
- 2) **Commercial Recycling Program:** One of the services provided by the new hauler is providing waste audits for businesses. This is an opportunity to provide education and outreach to existing businesses. The City should continue to report the results of the waste audits to CalRecycle. Also, with future plans to implement an organics recycling collection program, CalRecycle staff will monitor its implementation and effectiveness. Finally, the City should assess its website education information to ensure that information for businesses is easily accessible, such as creating a business specific page.
- 3) **Mandatory Commercial Recycling (MCR) Program:** The City should continue to provide the information on how they are monitoring and tracking the regulated businesses and multifamily complexes.
- 4) **Government Sector Diversion Program:** CalRecycle staff has suggested adopting a formal policy to provide guidance to City staff. Also, the City should assess its internal employee education programs to determine if enhancements are needed. CalRecycle staff will continue to monitor its progress.
- 5) **Construction and Demolition Program:** Given no new construction projects were available to review, CalRecycle was not able to determine the effectiveness of this program. LAMD staff will continue to monitor the program when construction projects take place to include ensuring that education for residents and contractors is still occurring, that monitoring projects for compliance with the requirements is being performed, and that tracking the C&D disposal and diversion tonnage data is being done.

The City was informed that the future of these programs can have significant impacts on the City's efforts to divert materials from disposal. To ensure that these programs, as well as all of the City's SRRE programs, are continuing to be implemented, LAMD staff will conduct the required annual site visit.

Based on comprehensive analysis of the City of Kingsburg's diversion programs that is the subject of this Request for Approval, Local Assistance and Market Development Branch staff finds that this jurisdiction is in compliance with PRC Section 41780, 41825 and 42649.