REQUEST FOR APPROVAL

To: Howard Levenson
Deputy Director

From: Cara Morgan
Branch Chief

Request Date: September 9, 2013

Decision Subject: 2007-2011 Jurisdiction Review Findings For The Source Reduction And Recycle Element And Household Hazardous Waste Element For City of Cypress, Orange County

Action By: October 15, 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 a part of their Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE). This Request for Approval addresses the City of Cypress' Jurisdiction Review for 2007-2011. In 2012, Local Assistance and Market Development (LAMD) staff reviewed Cypress' diversion programs and found significant diversion program gaps in the areas of residential recycling, commercial recycling, construction and demolition, and recycled-content procurement efforts. As a result of this finding, in March 2013, LAMD staff informed the City of the program gaps, that it may be referred to the Jurisdiction and Product Compliance Unit (JPCU) for an independent review and that the City could avoid referral to JPCU and a Compliance Order if the program gaps were addressed in a timely manner. Upon being informed of the potential for a JPCU investigation, the City took action and as of July 2013 has addressed all of its program gaps by implementing new or expanded diversion programs.

Recommendation:
Because the City has addressed all of its diversion program gaps that were identified by LAMD staff and has committed to continuing with program implementation, staff has determined that the City of Cypress 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 and 41825, 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 for the City of Cypress.

Dated: 10/15/13

Howard Levenson

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 for the evaluation:

1a. Jurisdiction Disposal Rate Trend
1b. Jurisdiction Program Summary Report

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 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.

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 warranted, the JPCU 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 JPCU investigation, then they can be recommended as being in compliance and avoid being placed on a Compliance Order.

In 2012, Local Assistance and Market Development (LAMD) staff reviewed Cypress' diversion programs and found significant diversion program gaps in the areas of residential recycling, commercial recycling, construction and demolition, and recycled-content procurement efforts.

1. Residential: no green waste recovery and no monitoring of the overall residential recycling program to assess contamination, etc.
2. Commercial: information about source separated recycling was insufficient. Business waste assessments were not being conducted.
3. C&D: program was not being fully implemented, monitored and enforced.
4. Procurement: City did not have a recycled content procurement policy.

LAMD staff discussed these program gaps at length with the City and hauler. Per standard protocol, LAMD staff informed the City that if the diversion program gaps were not addressed in a timely manner that the City would be referred to JPCU for further review, and if warranted, a compliance order would be issued.

Subsequently, the City and its hauler developed a plan to expeditiously address the diversion program gaps and implement new or expanded programs. As of July 31, 2013, the City of Cypress and its hauler have made the following program enhancements:

1) **Residential:** Implemented a pilot weekly residential curbside green waste collection program. To expand the program citywide, the City will issue a request for proposals by July 2014 to contract for the permanent collection of residential green waste citywide. The City has agreed to provide CalRecycle with quarterly updates on program details, including the number of participants and estimated green waste tons collected.

2) **Commercial:** To capture information about the level of commercial recycling occurring in the City and to be able to target those customers that are not recycling, the City conducted a complete audit of all commercial and multi-family properties. The audit resulted in 26 new businesses joining in the recycling program. Also, the audit provided the needed information to determine the extent of commercial recycling that is occurring. As of July 2013, 67% of the commercial customers are recycling either via the hauler, back-hauling, or third-party recyclers. The City and its hauler have committed to continuing citywide education efforts, and will also contact the 96 business sites that are not recycling to begin working with them to implement recycling programs. 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.

3) **Construction and Demolition (C&D):** Implemented a web-based C&D monitoring and enforcement recycling program. Contractors are now required to complete an on-line debris questionnaire. The system now used creates a waste management plan as part of every building permit application. This plan requires that contractors provide the City with waste generation and

recycling data before the final project inspection can occur. The system also generates monitoring reports and overall waste diversion documentation.

4) **Recycled-Content Procurement:** Implemented an environmentally preferable procurement policy as of July 2013. The 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 regular access to the intranet document for reference when purchasing items. The City will continue to track recycled-content product purchasing.

The future of these programs should have significant impacts on the City's overall efforts to divert materials from disposal. To ensure that these programs, as well as all of the City's SRRE 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.