

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: Mendocino County: Point Arena

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 diversion programs 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 every two years for jurisdictions not meeting their disposal reduction target during the previous review cycle. (The term "jurisdiction" in the remainder of this item refers 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 Point Arena's Jurisdiction Review for both 2007-11 and 2012-13. In 2011, Local Assistance and Market Development (LAMD) staff reviewed the City's programs and found significant program gaps.

As a result of this finding, the City was forwarded to CalRecycle's Jurisdiction and Compliance Unit (JCU) for further investigation. LAMD staff informed the City of its program gaps, that it was to be

reviewed independently by JCU, and the City could avoid a Compliance Order if the program gaps were addressed.

After a thorough JCU compliance investigation, the City has taken action to address above program gaps by implementing new or expanded diversion programs. These programs have been verified by staff over the course of the City's 2012-13 review cycle and are described herein.

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 Point Arena annually to ensure its programs are being fully implemented and 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 is addressing the diversion program gaps identified by CalRecycle's Jurisdiction Compliance Unit (JCU) and LAMD staff, and has committed to continue improvements to program implementation, staff has determined the City of Point Arena has made all reasonable and feasible efforts to implement diversion programs, and recommends this jurisdiction be found to have made a good faith effort to implement its SRRE and HHWE programs as required by PRC 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 these Jurisdiction Review findings for the City of Point Arena.

Dated: 5/20/15



Howard Levenson, Deputy Director
Materials Management and Local Assistance Division

Attachments: The attachments to this Request for Approval contain summaries of the information used in this 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). PRC Section 41825 specifies 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 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.

Analysis work included 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. The City's 2007-2011 review cycle resulted in a referral to CalRecycle's JCU for an independent evaluation for these reasons:

1. The City did not develop a Mandatory Commercial Recycling (MCR) strategy for MCR education, outreach and monitoring activities. Note: The City did not demonstrate implementation of MCR during 2012-13.
2. Residential curbside service appeared to be decreasing in participation, it was not clear if economic incentives were being implemented, and there appeared to be a lack of education by the City promoting this service.
3. The City did not promote the use of the South Coast Transfer Station (TS) for both residential and commercial self-haulers and did not promote the use of the South Coast Buy Back Center (Gualala Buy Back Center).
4. It was not evident the City was providing outreach and education to residents to source separate C&D materials or providing permit applicants information about the CALGreen requirements.

These programs were evaluated and JCU completed its Waste Diversion Program Review and Analysis report on July 9, 2014, finding that the City is "undertaking all reasonable and feasible efforts to comply with state diversion mandates." However, the JCU noted these four areas of concern:

1. Communication inconsistent between the City and its hauler, Pacific Coast Disposal (PCD) and CalRecycle.
2. Potential misallocation of disposal to Point Arena from surrounding areas due to South Coast Transfer Station (South Coast TS) operator error (which is operated by Solid Waste of Willits and owned by Mendocino County).
3. Point Arena Village Apartments (26 units) are not recycling as required by state MCR regulations.
4. Building permit applicants are not informed about CalGreen requirements by City staff.

As a result, LAMD staff held a conference call with the City's Interim Manager followed by an on-site meeting with the City's franchise hauler to discuss strategies and assist in addressing these areas of concern. The hauler committed to provide more accurate recycling and disposal data through developing a better understanding of their waste disposal database system. Misallocation issues were noted to the City and new City staff will be meeting with CalRecycle staff and the hauler to address these concerns. LAMD staff also held a conference call with the new City Manager to review Point Arena's waste diversion program status and discuss needed improvements. Many solutions were discussed and resource suggestions were provided by CalRecycle staff ranging from coordination of efforts between the City and their hauler, improved communication between the City and other waste diversion partners, and the need for additional outreach to the City's residents/businesses about current recycling

opportunities and regulatory requirements related to both CalGreen and MCR. Additionally, due to the size of the City and available staffing resources the City is making reasonable efforts to implement the following recycling programs:

Residential:

- Participation in the residential curbside program has been relatively stable from 2012-2014. The City's hauler does implement a Pay As You Throw system of billing so there are economic incentives available to encourage recycling. Recycling service is provided at no additional cost. However, while the City and hauler have both improved their websites, neither are providing messaging to encourage use of the City's Pay As You Throw (PAYT) system. LAMD staff will continue to provide assistance related to information that should be included on their websites. As noted in the August 2014 conference call with the City and the September 2014 site visit with the hauler, CalRecycle staff encouraged the City to work and coordinate outreach to encourage more subscriptions to the hauler's service. Additionally, LAMD staff will work with the City to continue to promote the use of the drop off and buy back centers. The hauler provides new customers with a "Welcome Letter" explaining its services. The City also has a booth at the annual Flower Power Festival and Daffodil Explosion to stress the importance of recycling and has activities and rewards for children who bring recyclables to the booth.

Commercial:

- The hauler provides weekly single stream recycling on site pick up service. Recycling is provided at no additional cost. The City and hauler include information about commercial recycling on their websites. Information about recycling services is provided to new accounts.

MCR:

- Subsequent to this review cycle, in March 2014, the City passed its Mandatory Commercial Recycling (MCR) plan and is in the process of implementing it, including assistance from its hauler. In 2014, the City identified that there are four commercial accounts that meet the required threshold of MCR. Implementation efforts in 2015 will include the 26 unit apartment complex, which is currently not recycling. The City and hauler's web sites were updated to present recycling options. The City is currently reconstructing its webpage and LAMD staff has provided suggested webpage updates to the City to help with these efforts. LAMD staff will follow-up with the City and hauler to ensure that education/outreach/monitoring continue to be provided to the four commercial accounts.

C&D:

- The City is using the County's building department staff to provide permit services, which includes implementation of CALGreen. The County provides a packet of information to all building permit applicants, including Point Arena applicants, which includes information about CALGreen. The hauler will provide C&D recycling collection and provide recycling receipts at their sorting facility. According to the hauler, this sorting facility on average achieves an 80 percent recycling rate. LAMD staff will continue to work with the City to help determine if more City efforts are needed to gain support for C&D recycling within City limits. A LAMD staff site visit with the new City Manager and its franchise hauler is scheduled for 2015 to discuss joint efforts in moving forward.

Government:

- Recycling carts are placed throughout the City Community Center, library, and City Hall (all located with the one City building). The City staff also practice source reduction activities, including producing very little paper documents and reusing paper. The City composts any highway shrub trimmings, park cuttings and weeds. While the City does not have a formal procurement policy the City strives to use recycled or reused items as much as possible. LAMD staff will continue to assess opportunities for the City's internal programs.

To ensure these programs, as well as all of the City's SRRE and HHWE programs (including mandatory commercial recycling, outreach and education) are implemented, LAMD staff will continue working with the City to address challenges and seek solutions to ensure improved diversion programs implementation. LAMD staff will also review the status reports provided by the City and will continue to conduct annual site visits.