

Waste Evaluation and Enforcement Branch Staff Report

Summary of the City of Oxnard's Compliance Review and

Consideration of the Issuance of Compliance Order CO 018-003

SUMMARY

The Department of Resources Recycling and Recovery (Department) conducted a review of the City of Oxnard's (City) implementation of, and compliance with, California's Recycling of Commercial Solid Waste Law, referred to as the Mandatory Commercial Recycling (MCR) law (California Public Resources Code (PRC) sections 42649-42649.7 and Title 14 California Code of Regulations (CCR) sections 18835-18839). PRC section 42649.3 requires the Department to review whether a jurisdiction has complied with, or made a good faith effort to comply with, the requirements of the MCR law. For purposes of this evaluation, "good faith effort" means all reasonable and feasible efforts by a jurisdiction to implement its MCR program. The evaluation of good faith includes, but is not limited to, the factors found in PRC section 42649.3 (i)((1)-(7)).

Based on the Jurisdiction Compliance Unit (JCU) staff's observations, the following key deficiencies, as well as other details described in the report demonstrate the City has not made a good faith effort to comply with the requirements of the MCR law:

- The City did not implement a commercial solid waste recycling program that was designed to divert commercial solid waste from businesses within the City, which are subject to PRC section 42649.2 and Title 14 CCR section 18837.
- The City did not provide documentation supporting the efforts it has taken to notify businesses and multi-family complexes of noncompliance with the MCR law (PRC section 42649.3 (d) and Title 14 CCR section 18838 (a)(2)).
- The City's Annual Reports for 2012, 2013, 2014, and 2015, 2016, and 2017 submitted on or before the August due date, were incomplete regarding implementation of the requirements of the MCR law (PRC section 42649.3 (g) and Title 14 CCR section 18838 (h)). Follow-up by Local Assistance and Market Development (LAMD) and JCU staff did result in some additional information, however, reporting was still incomplete and did not provide details to support that the City made all reasonable and feasible efforts to implement monitoring of MCR businesses.

Based on JCU staff's review and analysis, JCU staff recommends that a Compliance Order (CO) be issued. As part of the CO, the City would be directed to develop a Local Implementation Plan (LIP). The LIP will identify a strategy for program enhancements, and local actions necessary to enable the City to meet the requirements of the MCR law.

JURISDICTION COMPLIANCE HISTORY

The City does not have any prior CO's, nor has it filed for extensions to improve diversion programs to meet the diversion requirement of PRC 41780.

Based on historical records and previous findings, the City was included in the four-year Jurisdiction Review cycle.

BACKGROUND

Statutory Requirements for Department Review and Enforcement Action

PRC section 42649.3 requires that on and after July 1, 2012, each jurisdiction shall implement a commercial solid waste recycling program appropriate for that jurisdiction designed to divert commercial solid waste from businesses subject to PRC section 42649.2, whether or not the jurisdiction has met the requirements of PRC section 41780. Each jurisdiction is also required to report the progress achieved in implementing the MCR law, including identification, monitoring, education, outreach, and if applicable, enforcement efforts, by providing updates in the Annual Report required by PRC section 41821.

PRC section 42649.3 requires the Department to review whether a jurisdiction has complied with, or made a good faith effort to comply with, the requirements of the MCR law. For purposes of this evaluation, “good faith effort” means all reasonable and feasible efforts by a jurisdiction to implement its commercial recycling program in accordance with the MCR law (PRC section 42649.3 (i)).

Pursuant to PRC section 42649.3 (g), the Department is to review a jurisdiction’s compliance with the MCR law as part of the Jurisdiction Review required by PRC section 41825. The Department may also evaluate whether a jurisdiction is in compliance at any time that the Department receives information that the jurisdiction has not implemented, or is not making a good faith effort to implement its commercial recycling program (PRC section 42649.3 (h)).

In determining whether the jurisdiction has made a good faith effort to comply with the requirements of the MCR law, the Department’s evaluation may include, but is not limited to, the following factors:

- The extent to which businesses have arranged for recycling services in compliance with PRC Section 42649.2, including information on the amount of disposal that is being diverted from the businesses, if available, and on the number of businesses that are subscribing to recycling services;
- The recovery rate of the commercial waste from the material recovery facilities that are utilized by the businesses;
- The extent to which the jurisdiction is conducting education and outreach to businesses;
- The extent to which the jurisdiction is monitoring businesses, and notifying those businesses that are out of compliance;
- The availability of markets for collected recyclables;
- Budgetary constraints; and
- For rural jurisdictions, the effects of small geographic size, low population density or distance to markets.

The Department is also required to consider the enforcement criteria included in its enforcement policy that was amended and approved in June 2015 (PRC section 41825 (e)(3)).

If the Department determines that the jurisdiction did not comply with, or make a good faith effort to comply with the MCR law, the Department may issue a Compliance Order.

Prior to issuing a notice of intent to issue a Compliance Order, PRC section 41825 (c)(1) requires the Department to confer with the jurisdiction for at least 60 days regarding conditions relating to the proposed order of compliance.

If, after conferring with the jurisdiction, the Department makes a determination that a Compliance Order should be issued, PRC section 41825 (c)(2) requires the Department to issue a notice of intent to issue a Compliance Order not less than 30 days prior to conducting the hearing to consider issuing the Compliance Order. At any time prior to the hearing, at the hearing, or after the hearing the Department may decide not to commence compliance action if it finds that the jurisdiction has made a good faith effort to implement the MCR law.

Fines of up to \$10,000 per day may be imposed if the provisions of the Compliance Order and schedule are not met by the jurisdiction (PRC section 41850).

The Department's Review Process

At the Department's March 2017 public meeting, LAMD staff reported that the City's 2012-2015 Jurisdiction Review Cycle identified significant program gaps in the City's implementation of MCR. Prior to the meeting, LAMD provided the City with 30 days to demonstrate how they would address the gaps. LAMD received a plan from the City and determined that the plan was adequate in addressing the program gaps.

LAMD staff communicated with the City on numerous occasions, monitored, and reviewed the City's implementation of its MCR program following the submittal of the plan. As a result of LAMD's monitoring, it was determined that the City did not adequately implement the plan submitted to CalRecycle. On March 20, 2018, LAMD notified the City that an independent review of the City's MCR implementation was necessary (Attachment 1). On June 1, 2018, JCU staff initiated the 60-day conferring process required by PRC Section 41825 (Attachment 2).

JCU conducted an independent jurisdictional review, which extensively reviews and analyzes data and documentation to understand a jurisdiction's MCR implementation efforts. The review included, but was not limited to:

- Communications with the jurisdiction (phone calls, emails, and letters) to learn about the community and the MCR program offered.
- Requesting approval from the jurisdiction to communicate with any of the hauler(s) (whether under contract or not) on behalf of the jurisdiction to obtain records related to, but not limited to, the total number of accounts serviced, and the total tons of collected recyclables and waste from the jurisdiction.
- Commercial cart and bin field evaluations.
- Observing and evaluating a jurisdiction's recycling and waste loads at their hauler's transfer station.
- Tracking efforts to amend or award franchise agreements or other contracts that can have an impact on a jurisdiction's implementation of the MCR program.

In June 2018, JCU began its independent review of the City's MCR program implementation, using available information from the City's Annual Reports, Department databases, and communications between the Department and the City. This review

focused on the commercial waste generators (as defined by PRC 42649.1 (c)) and multi-family residential complexes of five units or more and included visits with City staff, the City's haulers, City's facilities, and a transfer station.

ANALYSIS

Overview of Jurisdiction Demographics and Infrastructure

Existing Jurisdiction Conditions

The City is located in Ventura County. According to the 2010 U.S. Census Bureau, the City encompasses approximately 39.21 square miles. The City has a population of 205,489

(Department of Finance, 2017). According to the jurisdiction's base year history (dated 1998), 63 percent of the City's total waste generation is from the non-residential waste stream.

Summary of City's Solid Waste Infrastructure and Materials Flow

The City is the hauler and provides waste and recycling services to all businesses and multi-family complexes. The City has a contract with E.J. Harrison & Sons to provide waste and recycling services for the schools within the City. Staff's analysis of the City's MCR program focuses on the services provided by the City.

The City has reported that they are providing a commingled recycling program that targets paper, cardboard, glass, plastic, metals, bottles and cans. Businesses and multi-family complexes are offered waste and commingled recycle bins ranging from two (2) to four (4) cubic yards. In addition to offering bin service, the City also provides 96 gallon recycling cart service. Waste and recycling collection varies depending on an account's needs.

Commercial waste and recycling is taken to Del Norte Regional Recycling and Transfer Station in Oxnard for processing. Recyclables are processed on-site. Waste loads are loaded in transfer trailers and hauled to either Simi Valley Landfill and Recycling Center in Simi Valley, or Toland Road Landfill in Santa Paula for disposal.

Findings and Observations of the Jurisdiction's Mandatory Commercial Recycling Program

Below is a detailed analysis of the City's program, and the City's efforts to implement the program, the law and reporting requirements. The analysis includes a program evaluation, which lead to a determination of good faith effort or lack thereof.

Commercial businesses that generate four (4) cubic yards or more of waste per week, and multi-family complexes of five (5) or more units must comply with the MCR law. Described below are staff's findings of what was found at both commercial businesses, multi-family complexes, and at the solid waste and recycling facilities accepting the materials produced by the jurisdiction.

A field visit was conducted as part of the review in September 2018. JCU staff's field visit photo report (Attachment 3) contains visual documentation of many of the observations detailed below.

Commercial Business Diversion

About the Program and Efforts:

On-Site Collection: Participation in the City's commercial recycling program is voluntary. Depending on an account's needs the City provides two (2) or four (4) cubic yard commingled recycle bins. Service frequency varies depending on account needs. Materials accepted for recycling include paper, cardboard, glass, plastic, metals, bottles and cans.

Self-Haul: As of the preparation of this report, the City has reported initial development of the program, but has not provided details or a timeline regarding the efforts the City will undertake to fully implement their self-haul program.

Recent Efforts by the City: The City is currently in the process of implementing operational changes. This includes the purchasing of recycle bins for distribution to all businesses that are required to participate in MCR. In addition, those businesses that choose to "opt-out" of the City's recycle program will be required to complete a third party recycling form that verifies and substantiates that they are self-hauling and complying with MCR. The City has developed and submitted a schedule and implementation map. The City anticipates full implementation of the operational changes by September 2019.

Facts and Observations Related to On-Site Commercial Business Recycling Efforts:

- The City reported that 979 businesses meet the MCR definition of a business and are required to recycle under the MCR law. Of the 979 accounts that are required to recycle, 325 are subscribed to recycling services. This is a participation rate of 33.2 percent.
- The City reported that they are not currently collecting data on businesses that self-haul or have a third party recyclers.
- On JCU's field visit in September 2018, approximately 145 businesses were evaluated. In total, 122 trash bins and 56 recycle bins were observed (Attachment 4).
 - o Recycle bins observed contained approximately five (5) percent contamination.
 - o During the field visit:
 - Baled cardboard was observed being stored on premises for either back hauling or pickup by a recycling service at seven (7) locations.

Facts and Observations Related to On-Site Commercial Business Waste Collection:

- On JCU's field visit in September 2018, JCU observed mostly four (4) cubic yard waste bins at businesses throughout the City. JCU observed the waste bins contained approximately 20 percent divertible materials (recyclables and green waste).

Multi-Family Complex Diversion

About the Program and Efforts:

On-Site Collection: Participation in the City's commercial recycling program (for multi-family complexes serviced on commercial routes) is voluntary. Depending on an account's needs, the City provides two (2) or four (4) cubic yard

commingled recycle bins. Service frequency varies depending on account needs. Materials accepted for recycling include paper, cardboard, glass, plastic, metals, bottles and cans.

Self-Haul: As of the preparation of this report, the City has reported initial development of the program, but has not provided details or a timeline regarding the efforts the City will undertake to fully implement their self-haul program.

Recent Efforts by the City: The City is currently in the process of implementing operational changes. This includes the purchasing of recycle bins for distribution to all multi-family complexes that are required to participate in MCR. In addition, those multi-family complexes that choose to “opt-out” of the City’s recycle program will be required to complete a third party recycling form that verifies and substantiates that they are self-hauling and complying with MCR. The City has developed and submitted a schedule and implementation map. The City anticipates full implementation of the operational changes by September 2019.

Facts and Observations Related to On-Site Multi-Family Complex Recycling Efforts:

- The City reported having 409 multi-family complexes that meet the MCR definition and are required to recycle under the MCR law. Of the 409 multi-family complexes that are required to recycle, 68 are subscribed to recycling services. This is a participation rate of 16.6 percent.
- The City reported that they are not currently collecting data on multi-family complexes that self-haul or have a third party recycler.
- On JCU’s field visit in September 2018, 19 multi-family complexes were visited. In total, 130 trash bins and 34 recycle bins were observed (Attachment 4).
 - Recycle bins observed contained approximately 15 percent contamination.

Facts and Observations Related to On-Site Multi-Family Complex Waste Collection:

- On JCU’s field visit in September 2018, JCU observed two (2) to four (4) cubic yard waste bins at 19 multi-family complexes throughout the City. JCU observed the waste bins contained approximately 25 percent divertible materials (recyclables and green waste).

Jurisdiction Compliance with the Notification Requirement of Noncompliant Commercial Businesses and Multi-Family Complexes

As outlined in PRC section 42649.3(d) a jurisdiction’s solid waste recycling program shall include education, outreach to, and monitoring of businesses. A jurisdiction is also required to notify those businesses and multi-family complexes that are not in compliance with PRC section 42649.2. Below outlines the City’s efforts to regarding the notification aspect of the MCR law.

Facts and Observations:

- In 2012, 2013, 2014, 2015, 2016, or 2017, the City did not report in its Electronic Annual Report (EAR) on notifying businesses or multi-family complexes that were not in compliance with MCR. Additionally, after follow-up by LAMD staff, the City did not report any additional information regarding the notification efforts made.

- In 2018, when JCU inquired what the City's efforts are to notify businesses and multi-family complexes, the City responded that noncompliance notices have not yet been delivered, but has reported that this will be completed by May 2019.

Solid Waste and Recycling Facility Facts and Observations

Commercial businesses and multi-family complexes are not serviced through separate routes, in other words one truck picks up from both locations commingling the materials. This makes it difficult for JCU staff to discern the source of specific materials/contamination within the loads observed at the facility.

- JCU staff observed four (4) commingled recycle loads from the City at the transfer station with low contamination, approximately 10 percent.
- JCU staff observed eight (8) waste loads at the transfer station containing approximately 25 percent recyclables.

Conclusions:

The City reported a participation rate of 33.2 percent for businesses and 16.6 percent for multi-family complexes subscribing to recycling services through the City. The City has reported that self-haul is part of their MCR program, however the City is not currently collecting self-haul or third party recycling data. The City has stated they are working to implement operational changes, however full implementation is not anticipated until September 2019. Furthermore, based on the facts and observations above, the City is noncompliant with the notification requirements. Based on this and the above analysis, the City has not demonstrated that it has made all reasonable and feasible efforts to implement a program designed to recycle commercial waste from businesses, or from multi-family complexes subject to the MCR law.

Jurisdiction Compliance with the Annual Reporting Requirement

Pursuant to PRC section 42649.3 (g) and Title 14 CCR section 18838 (h) each jurisdiction is required to report the progress achieved in implementing the MCR law, including identification, monitoring, education, outreach, and if applicable, enforcement efforts. PRC section 42649.3 (g) requires the jurisdiction to include its progress in the Annual Report required by PRC section 41821. Below is a detailed analysis of the City's reporting efforts that includes information used to determine good faith effort or lack thereof.

Summary: JCU conducted an analysis of the City's 2012, 2013, 2014, 2015, 2016, and 2017 Annual Reports and prepared a table of its findings, regarding the information reported in the City's Annual Reports for the years covered by and during this review.

| MCR Program | Review Period | | | | | | Addition al Data |
|-------------------------|----------------------|-------------------------|-------------|-------------|-------------|--------------|-----------------------------|
| | 2012 | 2013 | 2014 | 2015 | 2016 | 2017* | 2018** |
| Total Businesses | 3,473 | <i>not reported</i> | 1,344 | 1,433 | 1,433 | 979 | 979 |

| | | | | | | | |
|-----------------------------------|-------|---------------------|-------|-------|-------|-----|-----|
| Businesses Recycling*** | 484 | <i>not reported</i> | 291 | 220 | 220 | 325 | 325 |
| Businesses Not Recycling | 2,989 | <i>not reported</i> | 1,053 | 1,213 | 1,213 | 654 | 654 |
| Total Multi-Family | 358 | <i>not reported</i> | 566 | 685 | 685 | 409 | 409 |
| Multi-Family Recycling*** | 34 | <i>not reported</i> | -100 | 57 | 57 | 68 | 68 |
| Multi-Family Not Recycling | 324 | <i>not reported</i> | 666 | 628 | 628 | 341 | 341 |

**2017 was not part of the referral period, but was submitted during the course of the review and is included for reference.*

***2018 data reflects the data provided by the City in response to JCU's inquiry.*

**** Calculated by the Department using the data reported by the City.*

- **Identification**

A jurisdiction is required to identify businesses that dispose of four (4) or more cubic yards of commercial solid waste per week and multi-family residential complexes of five (5) units or more (Title 14 CCR section 18838 (a)(2)). The jurisdiction must report its progress in identifying these businesses in its Annual Report. As indicated by the table above:

- In 2012, 2014, 2015, 2016, and 2017, the City identified the total number of commercial businesses and multi-family complexes subject to the MCR law.
- In 2013, the City did not identify the total number of commercial businesses and multi-family complexes subject to the MCR law.
- As part of JCU's request for data on the City's 2018 MCR program efforts, the City provided documentation for identification of 979 businesses and 409 multi-family complexes, which is consistent with what was reported in the 2017 EAR that was submitted concurrently during the course of JCU's review.
 - When JCU inquired on the reasoning for a drop in numbers reported from 2016 to 2017 and 2018, the City reported performing a comprehensive analysis of business and multi-family complex locations paired with service levels. The analysis provided the City more accurate data in comparison to previous reporting years.

- **Monitoring**

A jurisdiction is also required to monitor businesses and multi-family complexes subject to the MCR law to determine whether they are recycling (Title 14 CCR section 18838 (a)(2)) and report on those efforts in the Annual Report.

- In 2012, 2014, 2015, and 2016, for monitoring, the City reported fluctuating data ranging from 1,344 to 3,473 for businesses, and 358 to 685 for multi-family complexes that required MCR participation.

- In 2014, the City reported 566 multi-family complexes that required MCR participation, and 666 multi-family complexes out of compliance. This data conflicts with what the City reports as the number of complexes out of compliance exceeding the total number of reported multi-family complexes. Additionally, after follow-up by LAMD staff, the City did not provide further clarification on the misreporting.
- In 2013 for monitoring, the City did not report the number of business and multi-family complexes that are required to recycle per the law.
- In 2017, for monitoring, the City reported 979 businesses and 409 multi-family complexes that required MCR participation. Out of those required to recycle, 654 businesses and 341 multi-family complexes were out of compliance with the MCR law. Additionally, in 2017, the City reported that the number of businesses and multi-family complexes that require MCR participation is the most accurate it has been compared with previous reporting years. This was due to the City performing a comprehensive analysis of business and multi-family complex locations paired with service levels.
- In 2018, JCU inquired about the City's monitoring efforts. The City reported that outside of businesses and multi-family complexes that are subscribed to recycling services, there is no monitoring of those that self-haul or have third parties take recyclables. The City has reported development of an effort to enhance the City's tracking and monitoring of third party recyclers and self-haulers, however, as of the date this report was prepared, the City has yet to implement this program.
- **Education and Outreach**

About the Efforts:

 - In 2012, the City reported posting MCR information on its website, direct mail to MCR accounts, press release, social media posting, articles on MCR in local newspaper, and commercials about MCR on the Government TV Channel.
 - In 2013, the City reported MCR information posted on website and Government TV Channel, and information distributed at Earth Day.
 - In 2014, the City reported a direct mail MCR brochure, education on MCR on local media outlets (newspaper, newsletter, local TV channel), and distribution of information on MCR through Neighborhood Packets and public information racks.
 - In 2015, the City reported education and outreach being posted on City website, Citywatch TV. Additionally, the City distributes information on MCR through mail and has handouts available at the City's service center rack.
 - In 2016, the City reported education and outreach being posted on City website, Citywatch TV, Chamber of Commerce website, Chamber of Commerce Annual Directory/Guide, and at community events (Earth Day and America Recycles Day).
 - In 2017, the City reported education and outreach MCR information on the City's website, Citywatch TV, Chamber of Commerce website, Chamber of

Commerce Annual Directory/Guide, and through community events (Earth Day, Coastal Cleanup Day, America Recycles Day, Strawberry Festival, Dallas Cowboy Training Camp, Santa to the Sea Marathon, Salsa Festival, and Tamale Festival). Additionally, MCR information is mailed citywide and fliers are available at City facilities.

- In 2018, when JCU inquired on education and outreach efforts, the City reported distributing and provided documentation of direct mail outreach, public notices and brochures, as well as, distributing education and outreach on MCR electronically.
- **Enforcement (Optional)**
In the City's 2012, 2013, 2014, 2015, 2016, and 2017 Annual Reports, the City reported it did not elect to include enforcement as part of their implementation of the MCR law. As part of JCU's 2018 inquiry the City informed JCU that they do not have a MCR ordinance. The City also reiterated that they have not elected to implement enforcement of the MCR law at this time. Accordingly, JCU has not considered enforcement in its analysis.

Conclusions:

Based upon the facts and observations above, the City has not made all reasonable and feasible efforts to monitor, and did not report complete and accurate information on an annual basis regarding the businesses and multi-family complexes that are subject to the MCR law.

The City did implement education and outreach to the businesses and multi-family complexes that are subject to the MCR law. Based on the facts and observations noted above, the City has complied with the education and outreach reporting requirements for reporting years 2012, 2013, 2014, 2015, 2016, and 2017.

In addition to the observations and conclusions described above, the Department also evaluated the factors in PRC section 42649.3 (i)(1)-(7)¹. The following is a summary of staff's analysis of the factors, and the City's efforts:

¹ In determining whether the City made a good faith effort to implement its selected commercial recycling program, the Department may consider, but is not limited to, the factors presented in PRC section 42649.3 (i)(1)-(7).)

| PRC section 42649.3 (i)(1)-(7) Factor | Staff's Consideration | Staff's Finding |
|--|---|--|
| (1) Extent to which businesses have complied with PRC section 42649.2, including information on amount of disposal being diverted (if available) and the number of businesses that are subscribing to service. | <p>For 2018, the data provided by the City for businesses and multi-family participation is incomplete, the City does not have participation rates for MCR accounts that choose to self-haul or utilize a third party recycler.</p> <p>Based on the data provided by the City, the City's MCR participation rate is 33.2 percent for businesses and 16.6 percent for multi-family complexes. JCU staff's field visit substantiated the reported level of participation.</p> | Does not demonstrate good faith effort. |
| (2) The recovery rate from the material recovery facilities that are utilized by the businesses. | In response to JCU's request for information regarding the recovery rate from the MRF utilized by the City, the City reported that it does not have current recovery rates available for MCR accounts. | Is not a consideration. |
| (3) The extent to which the jurisdiction is conducting education and outreach. | The City has provided adequate documentation supporting its efforts to provide education and outreach to covered businesses. | Supports a demonstration of good faith effort. |
| (4) The extent to which the jurisdiction is monitoring businesses, and notifying those businesses that are out of compliance. | <p>The City has reported to JCU that they are not monitoring businesses and multi-family complexes that self-haul or utilize third party. The City is currently in the process of implementing operational changes to include enhancements of the monitoring program, and anticipates full implementation by September 2019.</p> <p>Additionally, the City has reported to JCU they have not notified businesses who are out of compliance. The City has</p> | Does not demonstrate good faith effort. |

| PRC section 42649.3 (i)(1)-(7) Factor | Staff's Consideration | Staff's Finding |
|---|---|--|
| | reported that notifications will be completed by May 2019. | |
| (5) The availability of markets for collected recyclables. | The City is located in a metropolitan area and is not limited by geography or infrastructure to markets any more than other jurisdictions in the State. | Markets are available; therefore, this factor is not applicable. |
| (6) Budgetary constraints <i>(Note: PRC section 42649.6 allows a jurisdiction to charge and collect a fee from a commercial waste generator in order to recover the jurisdiction's cost incurred in complying with MCR).</i> | The City has not indicated that budgetary constraints were a factor in its failure to comply with the MCR law. | Does not apply. |
| (7) In the case of a rural jurisdiction, the effects of small geographic size, low population density, or distance to markets. | The City is not a rural community. | Does not apply. |

Communications and Notification History

March 20, 2018, LAMD notified the City that an independent review of the City's waste management programs was necessary (Attachment 1).

June 1, 2018, JCU staff initiated the 60-day conferring process required by PRC Section 41825 (Attachment 2).

November 15, 2018, the Department mailed the 30-Day Notice of Intent to Issue the City of Oxnard a Compliance Order for Failure to Implement the Mandatory Commercial Recycling (MCR) law (Attachment 5).

Findings

Based on a review of the City's MCR program and reporting, JCU staff finds that the City has not demonstrated that it has made all reasonable and feasible efforts to comply with the requirements of the MCR law (PRC 42649, et al.). In summary:

- The City did not implement a commercial solid waste recycling program designed to divert commercial solid waste from businesses subject to PRC section 42649.2. Staff found a lack of recycling bins present at MCR businesses and multi-family complexes and a lack of documentation to support other efforts as

discussed within this analysis.

- The City did not provide documentation to support they notified businesses and multi-family complexes of their noncompliance with the MCR law.
- The City's Annual Reports for 2012, 2013, 2014, 2015, 2016, and 2017 submitted on or before the August due date, were incomplete and inaccurate regarding implementation of the requirements of the MCR law. Follow-up inquiries by LAMD and JCU staff did result in acquiring some additional information; however, reporting was still incomplete and did not provide details to support that the City made all reasonable and feasible efforts to implement monitoring of MCR businesses.

Options for Consideration

1. Find that the City is not complying with the MCR law as noted above and,
 - a. Approve the attached Compliance Order as written, or
 - b. Approve the attached Compliance Order with alternate or additional language or conditions.
2. Find that the City has achieved a Good Faith Effort and is adequately complying with the MCR law and not issue the attached Compliance Order.
3. Find that the City is in compliance with the MCR law and not issue the attached Compliance Order.

Staff Recommendation

Department staff recommends Option 1: Find that the City is not complying with the MCR law and approve the attached Compliance Order as written. This recommendation is based on the findings presented within this report, which support that the City of Oxnard has not complied with, or made a good faith effort to comply with, the MCR law.

The proposed Compliance Order CO (018-003) (Attachment 6) includes the following conditions and implementation schedule:

- The City shall work with Department staff to determine the MCR gaps and develop a Local Implementation Plan (LIP) to improve, expand, or implement new MCR programs and/or efforts.
- The City shall develop and submit to the Department a fully executed LIP by February 28, 2019.
- The City will fully implement the programs and/or efforts in the LIP by August 31, 2019.
- A monitoring/"oversight" period from September 1, 2019 through February 29, 2020. The Department uses this time to ensure the City has continued implementation of the programs identified in the LIP.
- The City will submit quarterly status reports based on the calendar year. These status reports shall use the Department's electronic reporting format. The City will also attach any required documentation necessary to support their efforts to implement the LIP and Compliance Order.

The Compliance Order requires the Department to hold a public hearing following the term of the compliance schedule to determine whether the City has complied with all of the conditions of the Compliance Order.

The Compliance Order specifies that, at any time, any failure of the City of Oxnard to comply with any part of the Compliance Order may result in an earlier public hearing and fines of up to \$10,000 per day. Likewise, a public hearing could be scheduled earlier if the City complies with the Compliance Order ahead of schedule.

ATTACHMENTS

1. March 20, 2018, LAMD's Request for Approval Referring the City to JCU
2. June 1, 2018, City of Oxnard's Notice of 60-Day Conferring Period for Potential Compliance Enforcement
3. Photo Report for the City of Oxnard
4. City of Oxnard Field Visit September 2018 Data Map
5. November 15, 2018, 30-Day Notice of Intent to Issue the City of Oxnard a Compliance Order for Failure to Adequately Implement and meet the Requirements of the Mandatory Commercial Recycling Law
6. Proposed Compliance Order No. CO 018-003
7. Request for Action for Consideration of the Issuance of Compliance Order No. CO 018-003 to the City of Oxnard

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