

**DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • WWW.CALRECYCLE.CA.GOV • (916) 322-4027

P.O. Box 4025 MS 9A, SACRAMENTO, CALIFORNIA 95812

March 22, 2017

Gina Nila, Deputy Director Public Works Operations
City of Commerce
2535 Commerce Way
Commerce CA 90040

Dear Ms. Nila,

We are writing regarding the status of CalRecycle's review of whether the City of Commerce is in compliance with meeting AB 939 requirements. Public Resources Code (PRC) Section 41825 specifies a schedule for this review and requires CalRecycle to make a finding of whether each jurisdiction was in compliance with PRC Section 41780 during the review period. Additionally, both AB 341 and AB 1826 specifically authorize CalRecycle to conduct reviews of mandatory commercial recycling programs (PRC Section 42649.3(h)) and/or mandatory commercial organics recycling programs (PRC Section 42649.82(g)(2)) at any time.

The 2012-2015 Jurisdiction Review, which is being finalized, is CalRecycle's independent evaluation of each jurisdiction's progress in implementing its Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE) programs, in meeting the AB 939 diversion requirement, and in implementing AB 341 and AB 1826. Pursuant to AB 341 and AB 1826 (PRC Section 42649), each Jurisdiction is required to implement a Mandatory Commercial Recycling and Organics Recycling program. These laws require that your Jurisdiction conducts education, outreach, and monitoring activities annually to covered businesses and multifamily dwellings and provides an update to CalRecycle each reporting year. AB 1826 also requires that each jurisdiction address other activities, such as infrastructure, etc., and report that annually to CalRecycle.

As a result of this review, CalRecycle may find that:

- 1) a jurisdiction is meeting the requirements of AB 939 because:
 - a. it has adequately implemented its diversion programs and has achieved the diversion requirement, including MCR; or
 - b. while it has not achieved the diversion requirement, it has made a good faith effort to implement diversion programs; or
- 2) a jurisdiction has failed to adequately implement its SRRE, including MCR, 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.

As a result of the review, management has determined that an independent review of the City of Commerce's programs is necessary. This review will be handled by the Jurisdiction Compliance Unit (JCU). As CalRecycle staff has previously discussed with you, the Mandatory Commercial



Recycling (MCR) program not been adequately implemented and has been identified for further review:

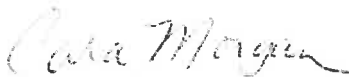
- The City has not adequately reported on monitoring activities during the review period. The City did not receive responses from all of its haulers to provide MCR numeric information, and information from those that did report was inconsistent. The City has been unable to confirm if annual direct contact is taking place by haulers operating in the City. The City has not asked the haulers to report on follow up efforts for those not recycling/follow up with those not recycling unknown. The City developed an agenda item for Council consideration for March 21, 2017, including a proposed recommendation to address requirements on haulers through either a non-exclusive franchise agreement, or, if continue with current open system, that additional requirements would need to be placed on the haulers. LAMD staff did not receive confirmation that the new requirements on haulers would be in place regardless of Council direction, and it is unknown what mechanisms would be used to ensure the haulers are reporting requested information on an annual basis.
- JCU will conduct an independent assessment and may determine that there are additional programs that need further evaluation. JCU will then determine whether to recommend that CalRecycle issue an Order of Compliance, as provided by PRC Section 41825. All SRRE and/or HHWE program findings will be presented for Jurisdiction compliance consideration subsequent to JCU's completed investigation.

Staff from JCU will be contacting you directly regarding their program review process. Please direct future communications and any questions or concerns regarding this letter or the JCU review to Ms. Kathleen Marsh, JCU Supervisor, at (916) 341-6475.

Sincerely,



Howard Levenson, Program Director, Materials Management and Local Assistance Division, CalRecycle



Cara Morgan, Chief, Local Assistance and Market Development Branch, CalRecycle



Jennifer Wallin, Section Manager, South Section, CalRecycle

cc: Kathy Marsh, Supervisor, CalRecycle
Primitivo Nuñez, Supervisor, CalRecycle
Megan Fisher, Environmental Scientist, CalRecycle