


REQUEST FOR ACTION

To: Mark De Bie, Deputy Director
Waste Permitting, Compliance and Mitigation Division
Department of Resources Recycling and Recovery

From: 
Georgianne Turner, Branch Chief
Waste Evaluation and Enforcement Branch
Department of Resources Recycling and Recovery

Hearing Date: November 16, 2017

Decision Subject: Consideration of the Issuance of Compliance Order CO 017-003 to the City of Commerce, County of Los Angeles

Action By: December 31, 2017

Summary of Request:

The Department of Resources Recycling and Recovery (Department) conducted a review of the City of Commerce's (City) implementation of, and compliance with, California's Recycling of Commercial Solid Waste, referred to as the Mandatory Commercial Recycling (MCR) law (California Public Resources Code (PRC) sections 42649-42649.7 and California Codes 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 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 (i)(4) and CCR section 18838 (a)(2)).
- The City's Annual Reports for 2012, 2013, 2014, and 2015, 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 CCR section 18838 (h)). Follow-up by Local

Assistance and Market Development 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 the following components of their program:

- Identification
- Monitoring
- Enforcement

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.

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).

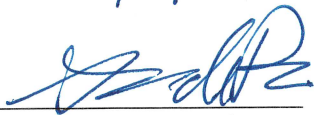
Recommendation:

Based on Department staff's review of the City's MCR efforts, staff recommends finding that the City is not complying with the MCR law and the approval of Compliance Order CO 017-003 as written. This recommendation is based on the information, analysis, and findings presented in both the Public Hearing and the Public Hearing package which support that the City of Commerce has not complied with, or made a good faith effort to comply with, the MCR law.

Deputy Director Action:

On the basis of the information, analysis, and findings presented in both the Public Hearing and the Public Hearing package, I hereby find that the City of Commerce, County of Los Angeles is not adequately implementing its MCR program, and approve Compliance Order CO 017-003 as changed.

Dated: 12/28/17



Mark De Bie, Deputy Director

Waste Permitting, Compliance and Mitigation Division
Department of Resources Recycling and Recovery