

MEMORANDUM

TO: Executive Board of Commissioners

FROM: Ethan Hausman, Compliance Specialist

DATE: November 7, 2024

RE: Champlain Valley Exposition Notice of Violation, Narrative

BACKGROUND

Prompted by a complaint forwarded by the Agency of Natural Resources' Department of Environmental Conservation (DEC), CSWD staff met with Tim Shea, Shawn Quinn, and Robert Jenkins of the Champlain Valley Exposition (CVE) in the Spring of 2023 to discuss waste management requirements at CVE-hosted events and the challenges specific to the Champlain Valley Fair.

CVE staff acknowledged the diversion outcomes for Fair-generated wastes had historically been poor due to cross-contamination of waste streams: the compost stream had typically been compromised with excessive trash, and thus landfilled, and the material collected as mixed recycling, with the exception of vendors' cardboard, had been routinely landfilled due to contamination.

In recognition of the waste management challenges inherent to such a high-traffic public setting as the Fair, CSWD allowed and encouraged CVE to 1) largely forgo deploying public-facing food waste containers in order to focus on the "cleaner" pre-consumer material from food concessions, and 2) specifically target the most prevalent mandatory recyclables generated by the public at the Fair – aluminum cans and plastic or glass bottles – for purposes of a simplified recycling message and enabling the use of collection containers with restricted openings.

Through multiple communications in May 2023, CSWD and CVE staff agreed on strategies to maximize landfill diversion via recycling and dedicated organics management. CVE was expected to take advantage of the narrowed recycling focus, the simplified "Bottles & Cans" recycling message, and the best practices employed at the point of collection as noted above to minimize contamination. CVE was also reminded to have clear procedures and safeguards in place to ensure that pre-consumer food waste and other "clean" streams be managed separately and not mixed with contaminated materials.

CSWD offered its inventory of printed materials and decals, as well as funding toward custom signage or labels through CSWD's Container Grants Program. Additionally, CSWD donated more than two dozen recycling containers with restricted-opening lids to CVE to increase their capacity to pair recycling containers with trash cans at the Fair.

While some implementation of those strategies was evident during the 2023 Fair, CSWD staff noted the following areas of noncompliance:

- 1) Standalone trash cans throughout the Midway, with few if any, recycling containers available/accessible to the public in that area of the Fairgrounds
- 2) Inadequate differentiation of material streams, with inconsistent and often poor labeling of recycling (and trash) receptacles
- 3) Inconsistent messaging to the public with old “mixed recycling” labels, faded or peeling “bottles & cans” labels, and various other outdated decals on many receptacles
- 4) Inconsistent utilization of restricted-opening lids on recycling containers
- 5) Commingling of pre-consumer food waste with more contaminated material from public-facing containers, rendering all the collected organics non-divertible (as confirmed by Casella, 9/1/23)

CSWD staff shared these findings with Tim Shea, Shawn Quinn, and Robert Jenkins in a meeting held on March 5, 2024, and then followed up with a detailed summary of expectations and required improvements for the 2024 Fair via email on March 8, 2024. The email explicitly outlined the expectations for Fair recycling containers at the point of collection, which included best practices and CSWD’s Solid Waste Management Ordinance (SWMO) requirements: 1) consistent bin pairing, 2) universal labeling specifying “bottles & cans” as the targeted items, and 3) comprehensive use of restricted-opening lids. The DEC subsequently developed custom “Empty Bottles & Cans” decals, with input from CSWD and CVE staff, that were provided to CVE at no charge.

These expectations were reiterated and detailed again in an email sent by CSWD staff on August 2, 2024, that also emphasized the importance of improving diversion outcomes.

Shawn Quinn responded via email on August 6, 2024, acknowledging the expectations and referencing CVE’s “plan in place” for improved materials management during the 2024 Fair. Further, Shawn indicated that a crew hired by one of their existing vendors would be managing the waste and recycling streams and that CVE staff would “meet with and brief them on how [Fair] recycling and composting programs will work and how they [would] handle each of these streams.” CSWD responded to remind CVE that Vermont and CSWD’s waste management requirements likely exceed those of most other jurisdictions where that vendor may operate, and that CVE staff should ensure the vendor’s staff understand their waste management obligations here in the District.

The shortcomings in materials management that CSWD staff noted during the 2024 Fair, most of which parallel issues CSWD brought to CVE’s attention regarding the 2023 Fair, are described in the Notice of Violation (NOV) and appendices that were issued to CVE on October 25, 2024.

STAFF RECOMMENDATIONS

CSWD's primary goal with this enforcement action is holding CVE responsible for the corrective measures required to come into compliance with the SWMO and improve waste diversion outcomes at future CVE events. Accordingly, CSWD staff recommend that the Executive Board afford CVE the opportunity to submit a Corrective Action Plan (CAP) to CSWD's Executive Director for review and approval, with strategies and tactics to be implemented in 2025 and commencing not later than March 1, 2025. Because CVE did not meet the expectations and requirements previously agreed upon with CSWD for the Fair in 2023 and 2024, approved CAP measures must be fully implemented and verified by CSWD staff and must result in compliance with the SWMO in order for the plan to be deemed successful. Additionally, staff recommend that fines associated with point-of-collection deficiencies be held in abeyance until such time as the CAP is deemed successful by CSWD staff, but not later than October 15, 2025. By October 15, 2025, staff will report to the Executive Board on the status of the CAP and provide further recommendations regarding the fines previously held in abeyance.

The 2025 Fair and other public events will serve as opportunities for CVE to demonstrate that CAP measures are in place and showcase CVE's compliance with the SWMO. CSWD staff will make their assessments before, during, and immediately following 2025 public events hosted by CVE prior to the Fair as well as assessing the 2025 Champlain Valley Fair itself. Confirmation that the CAP's conditions have been met at all 2025 public events subject to the SWMO will be reported to the Executive Board. The Executive Board will have an opportunity to review and consider the staff report and will reconsider the abeyance of the fines. Should CSWD staff find ongoing compliance issues or that any elements of the CAP have not been effectively carried out at CVE-hosted events in 2025, the report to the Executive Board will reflect those findings.

Staff recommend granting CVE 30 days to develop and submit a CAP that meets CSWD approval. CVE would be strongly encouraged to present the plan well in advance of the 30-day deadline in order for CSWD staff to request any revisions or additions in time for CAP resubmission before the deadline. The 30-day window would be concurrent with a 90-day timeline granted to CVE for full execution of an approved CAP. After 90 days, any public events hosted by CVE would be required to adhere to and demonstrate compliance with the CAP and SWMO – and be subject to unannounced compliance checks by CSWD staff. If CVE fails to get a CAP approved within 30 days or is found to be out of compliance during any event after 90 days, the Executive Board would immediately reconsider issuing a Proposed Order of Violation and assessment of the fines outlined in the NOV without offering CVE additional opportunities to mitigate those penalties with corrective actions.

Many of the deficiencies CSWD documented at the 2024 Fair were ongoing issues that, due to the inadequate implementation of the prior year's action plan, CVE had no way to resolve for the full duration of the Fair because the deficiencies were identified after the Fair was underway. CSWD's priority is ensuring compliance with the SWMO. Upgrades to recycling container infrastructure and improved collection practices will maximize material capture and waste diversion at future events. CVE's failure to empty already-collected recyclables out of bags should have been identified by CVE staff after the first incident and could have been resolved at any time prior to when the loads were delivered to the Materials Recycling Facility on Sept 5, 2024. CSWD staff brought this issue to CVE's

attention during the Fair, when CVE had the opportunity to address it immediately. CVE also could have unbagged recyclables after the Fair ended and before they were picked up by their hauler, without the time and logistical constraints faced during the intensity of the Fair.

SUMMATION

Fair-goers who made the effort to find a clearly labeled recycling container for their bottles and cans did so in the belief that it would result in those items being recycled. Thus, the landfilling of everything collected from the public as mixed recycling at the Fair represents not only an irrevocable loss of those material resources, but perhaps more importantly, an infringement on the public's trust and faith in recycling and recycling systems. Consequently, CSWD staff note a strong distinction to be made between the noted violations at the point-of-collection and the failure to properly manage already-collected recyclables. Accordingly, CSWD staff recommend that the Executive Board immediately assess an \$800 fine for the violation of SWMO section 3.9 for the two loads of bagged recyclables that were rejected by the Materials Recycling Facility, without offering CVE recourse through corrective actions. This is the only exception to the staff recommendations outlined above regarding offering CVE an alternative to financial penalties.