



# INSTITUTE FOR LOCAL GOVERNMENT

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## Sample Commercial Recycling Ordinance

### Overview

In early 2008, the California Integrated Waste Management Board (CIWMB) contracted with the Institute for Local Government<sup>1</sup> to prepare a voluntary, sample mandatory commercial recycling ordinance for those local agencies that want to adopt a mandatory commercial recycling ordinance. The objective of the project was to provide cities and counties with a template that could be adapted to local circumstances if the local agency wished to move to a mandatory commercial recycling system.

The sample ordinance will include commentary on selected provisions, options local agencies can choose to fit the ordinance to their individual circumstances, and a discussion of key issues to consider when developing a mandatory commercial recycling ordinance.

### Process to Develop the Sample Ordinance

As part of implementing the contract, the Institute's California Climate Action Network ([www.ca-ilg.org/climatechange](http://www.ca-ilg.org/climatechange)) reviewed a number of existing mandatory commercial recycling ordinances and established an Advisory Committee to help guide the development of the sample ordinance. Numerous city and county officials, as well as solid waste and recycling representatives offered input as well. A revised draft of the Sample Ordinance will be sent to a wide range of counties and cities later in August for additional comment and review prior to finalization in September.

### AB 32 Scoping Plan and Commercial Recycling

In November 2008, while the Institute's voluntary, sample ordinance was under development, the California Air Resources Board adopted the AB 32 Scoping Plan. It included a provision for mandatory commercial recycling. This set the stage for the CIWMB to undertake a process to develop regulations for mandatory commercial recycling. The Institute's sample ordinance will be available in September 2009, well before the Waste Board completes its rulemaking process.

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<sup>1</sup> **About the Institute for Local Government:** As the nonprofit research affiliate of the California State Association of Counties and the League of California Cities, the Institute provides information, skills and resources to the entire range of city and county officials. The Institute's key program areas are: climate change, civic engagement, intergovernmental conflict resolution, land use and environment, public service ethics, local government 101 and healthy communities.



# Commercial potential

Specifics are provided of mandatory commercial recycling ordinances being utilized in several leading West Coast communities.

*by Steven Sherman*



**W**hy is it that, for some individuals, recycling can be so commonplace in the home, but so non-existent in the workplace? For example, a recent Georgia Department of Community Affairs study revealed that, of the 42 percent of respondents who claimed to recycle at least some volume of commodities at home, only 16 percent of those same answerers stated they recycle at work. In another study performed by environmental advocacy organization Californians Against Waste, of the 62 percent who claimed they recycle at home, only 42 percent of that same grouping stated they recycle at work.

According to U.S. Environmental Protection Agency (EPA) figures, waste from commercial and institutional locations, schools, hospitals and businesses, amounts to 35 percent to 45 percent of the municipal solid waste generated each year. With that, the average worker generates two pounds of paper material, plus uses an average of three beverage containers, each day. Fortunately, workplaces have 80 percent to 90 percent recyclable material streams.

Even with some successful recycling programs already in place

(i.e., the EPA's 1,700-member-strong WasteWise program has diverted approximately 120 million tons of waste from landfill since 1994), a growing number of U.S. communities have, instead, chosen to endorse ordinances that make recycling mandatory for commercial establishments. These communities and regions include Central Vermont Solid Waste Management District; Gainesville, Florida; City and County of Honolulu; New York City; Passaic County, New Jersey; Philadelphia; Portland, Oregon; Sacramento (California) Regional Waste Management Authority; San Diego; San Francisco; and Seattle.

With that said, detailed information is presented below for some of the leading West Coast communities currently utilizing such an ordinance to increase material diversion from the commercial sector.

## Portland, Oregon

The City of Portland implemented its original mandatory commercial recycling program back in 1996, which required all

businesses and apartment properties to have a recycling system in place to recycle at least 50 percent of all material generated. Though the 50-percent mark would be achieved, the program's recycling rate eventually reached a plateau in 2004 – around the low 60-percent range. With that, the city went back to the drawing board and, in 2008, amended the system by adopting new program standards.

Under the Recycle at Work program, a joint partnership between the city's Bureau of Planning and Sustainability (BPS) and the Metro regional government, businesses must keep recyclable materials separate from their refuse, setting out for recycling a minimum of 75 percent of their potential waste. The ordinance requires that businesses recycle all paper and containers (glass must be source-separated from recyclable paper), as well as construction debris from projects valued at or above \$50,000. The program also requires businesses generating large amounts of food scraps to compost. Additionally, multi-family complexes must, too, recycle all materials accepted by the program.

Recycling specialists are employed to oversee the mandatory recycling system, as an add-on to the city's already existing technical assistance program. With the expansion, additional customer service staff were added, as was a code specialist for compliance and enforcement activities. Regarding enforcement, one of the guiding principles adopted by stakeholder groups – convened by the city for the program – included that enforcement would be a measure of last resort. Instead, the BPS employs a "light assistance" model, which emphasizes technical assistance and outreach over inspections and fines.

Outreach was important when it came to the planning and redevelopment of the program. Well-publicized in the local media, "the entire process included extensive opportunities for input from the public and major stakeholders," said Babe O'Sullivan, Portland's commercial recycling coordinator. And, while there was some initial concern about the rapidly, and severely, softening materials markets and the possibility that increased recycling diversion would lead to the landfilling of source-separated recyclable materials, it is not deterring the revamped program from meeting its spring 2009 launch. City officials will be asking businesses to meet the new requirements through the implementation of "Best Recycling Practices" and to report on their success.

Over the following six to nine months, the city will also evaluate the effectiveness of outreach strategies, tools and resources in achieving higher recycling levels.

Furthermore, the city does not regulate commercial collection service, except that all haulers are required to obtain permits. As part of the permit program, all haulers are required to cooperate with the BPS in identifying the origin of trash loads found to contain significant amount of recyclables during routine spot checks at the Metro transfer station. In regards to contamination, there is no established threshold for allowable contamination (trash in recycling containers or recyclables in trash). The contamination level is self-enforced by the haulers through their refusal to collect loads of recyclables that they deem to be overly contaminated and through the subsequent imposition of extra collection fees.

## Sacramento, California

The Sacramento Regional Solid Waste Authority (SRSWA) – a joint powers authority of Sacramento County and the City of Sacramento – passed its mandatory recycling ordinance in April 2007, requiring all businesses and non-residential properties that subscribe to a per-week waste collection service of four cubic yards or greater to have a recycling program in place. Multi-family complexes with five or more units are also required to participate in the recycling program.

Managed by the authority, with inspection and enforcement services performed by Sacramento County's Environmental Management Department (EMD), the ordinance requires that recycling programs incorporate an expansive list of materials, such as aluminum, steel, glass and plastic containers, paper, cardboard, scrap metal and wood pallets, with the materials being recovered depending on the business type. Under the program, businesses must place recycling containers in employee maintenance or work areas, where recyclable materials may be collected and/or stored. Labeled containers must also be provided in customer service areas, along with posted notices informing customers of the recyclables to be collected.

In the ordinance's inaugural year, the SRSWA reported a 21-percent increase in commercial recycling tonnage and a

38-percent increase in the number of commercial recycling accounts. Said Patrick Quinn, SRSWA program manager, "These increases result from the mandatory recycling requirement and the related outreach and technical assistance." Funding for the program, which came to \$370,000 for the 2007-2008 fiscal year, is provided through existing franchise fee revenues.

The authority has entered into a Memorandum of Understanding with the EMD to carry out the inspection and enforcement aspects of the mandatory recycling program. Three inspectors were hired to cover the additional workload of inspecting businesses that had not previously been subject to health and environmental inspection, which now includes compliance with the recycling ordinance. EMD enforcement is cost-effective, since existing health and environmental inspectors can also include recycling as part of their normal inspection routine.

Furthermore, there is currently no threshold for allowable contamination (trash in recycling containers or recyclables in trash) established by the SRSWA and enforced by the EMD. What is deemed by haulers to be "excessive" contamination is self-enforced through both their refusal to pick up contaminated loads of recyclables and their imposition of extra collection charges. Given the potential extra cost to customers, the contamination of recyclable loads has not been particularly prevalent, according to the haulers. EMD inspectors do, on the other hand, have the latitude to search for businesses not in compliance with the ordinance, especially if it appears that the business has a recycling service but is not using it correctly. For businesses in violation of the ordinance, fines are levied administratively by the EMD, and can reach \$1,000 for each day of non-compliance, after an initial 90-day notice period. To date, 30 to 40 "show cause" letters have been issued by the EMD. Of those, five facilities have had to pay fines under settlement agreements, averaging \$1,000, which was about 10 percent of their original fine.

The SRSWA and EMD, however, both emphasize outreach, education and technical assistance over enforcement and fines. The agencies give non-conforming businesses ample time to respond and apply for certain exemptions, receive recycling technical assistance, and comply with the ordinance. Exemptions are

typically granted by the authority for: Inadequate space for recycling bins; below threshold for trash generation; or no recyclables generated. However, according to Quinn, "Broad acceptance of the recycling mandates by the business community is leading to widespread compliance."

## San Diego, California

Approved in late 2007, the City of San Diego's mandatory recycling ordinance covers all sectors, including privately-serviced apartment and condominium complexes, businesses and special events. For commercial accounts and multi-family properties, such recyclables as mixed paper, newspaper, cardboard and metal, glass and plastic containers, must be separated for recycling. For commercial accounts, additional materials, such as scrap metal, wood pallets and landscape trimmings, must be recycled where markets exist, as determined by city staff.

Initially phased-in in February 2008, with the second phase of the order kicking in one year later, the ordinance requires all commercial businesses over 10,000 square feet to participate in a recycling program. By January 2010, the three-year phase-in of the program will cover all businesses with more than six cubic yards per week of combined service. Businesses with six cubic yards or less of combined trash and recycling service were exempted from the ordinance in order to minimize opposition from the small business community. However, the city is planning to reduce or eliminate the threshold service level over time to increase diversion and participation.

According to San Diego's waste reduction program manager, Stephen Grealy, planning and rollout of the program took several years, with the preliminary effort to establish such an ordinance being initiated in 2005. During the three-year span, stakeholder groups discussed issues and concerns, which led to the creation of five community meetings (open to the public and stakeholders) to resolve outstanding issues and concerns. The mandatory program was approved unanimously by city councilors in November 2007.

According to coordinators, staffing for the commercial recycling program in 2008 was approximately 1.5 employees. However, as of the January 2010 full rollout, city officials anticipate needing two

recycling specialists, one code enforcement officer and one part-time program administrator. Enforcement of the mandatory recycling ordinance is carried out by nine city code enforcement officers.

Regarding enforcement of the program, new business owners are informed of the ordinance through the licensing and permitting process, and by their contracted hauler. There is a \$1,000 fine for non-compliance, but no fines have been issued yet. So far, businesses have responded well to the offer of free technical assistance and training, and have generally complied with the terms of the ordinance. According to program managers, this is quite possibly the result of the way the program was planned and rolled out, with the city securing buy-in from the business community through extensive outreach and stakeholder involvement and by including all sectors.

## San Francisco, California

Approximately two-thirds of what San Francisco sends to landfill is either compostable (36 percent) or recyclable (31 percent), based on sorting of waste samples and data analysis conducted by Cascadia Consulting Group, Inc. This breakdown essentially applies to all sectors (residential, commercial and city government). Hence, a large amount of recyclable or compostable material is still disposed, yet potentially recoverable, despite years of voluntary, convenient, award-winning programs and outreach, recycling equipment grants and rate incentives.

The City and County of San Francisco maintains that "continued voluntary diversion participation alone will not likely enable the city to meet its 75-percent diversion goal by 2010." Officials are preparing a mandatory recycling ordinance, and, unlike some other jurisdictions with mandatory recycling ordinances, both recyclable and compostable materials are covered. In addition, the draft ordinance includes greater flexibility in narrowing or expanding the list of covered materials, by focusing on "any material that ... [is] accepted in San Francisco's recycling [or compostables] collection program."

All businesses, institutions, multi-family dwellings and residents would be covered by the ordinance, with each participating property being required to source-separate refuse into recyclables,

compostables and trash (a thorough description of San Francisco's present Fantastic Three program can be found under the article "Food for Thought," in the April '09 issue of *Resource Recycling*). Owners or managers of multi-family and commercial properties would be required to provide source-separated collection of recyclables, compostables and trash to their tenants, employees, contractors and customers of the properties. They would need to supply containers of appropriate number and size, with clear signage, in appropriate locations, to make source separation convenient. In addition, they would be required, according to the draft ordinance, to "provide information and/or training for new tenants, employees and contractors, including custodians, on how to source separate recyclables, compostables and trash, and [to] re-educate existing tenants, employees and contractors at least once a year."

As an initial step, haulers must leave a tag on a misused collection container to identify the incorrectly-placed materials, and would need to report this information to the city. The city's Director of Public Works would then be allowed to issue administrative citations for violations of the ordinance, or for any rule or regulation adopted pursuant to the ordinance. Exemptions may be granted by the San Francisco Department of the Environment in cases in which the property does not have adequate storage space for containers for recyclables, compostables and trash. Restrictions would be placed on the self-haul of recyclables or compostables, including those mixed with trash, to a landfill or transfer station for the purpose of having those materials landfilled. Stipulations would also be placed upon the self-haul of materials to a so-called "dirty MRF" or other materials processing facilities.

Addressing contamination, no allowable threshold for contamination (materials not in correct container) is established by the draft ordinance. The city, however, does reserve the right to loosen or tighten the informal (in-practice) level of acceptable contamination, as processing and end-product market conditions warrant, and in accordance with its overall objectives of maximizing diversion. The proposed ordinance also allows the city's Department of Environment, after public notice and a public hearing, to adopt changes or additions to regulations to implement the

ordinance.

City and county officials have stated that outreach, education and technical assistance will initially be emphasized over enforcement and fines. According to staff, the city will use the specter of fines to encourage participation and diversion, and will use the working assumption that it is the prospect of being fined rather than the amount of the fine that will help to deliver the desired results. Says Jack Macy, San Francisco's commercial recycling coordinator, "Mandatory source separation is an important, and useful, tool in our outreach strategy."

## Seattle, Washington

Passed unanimously by city councilors in 2003, the Emerald City's mandatory commercial recycling ordinance took effect in 2005, with the penalty phase of the program commencing one year later. Known as the Resource Venture program, the ordinance bans from commercial trash "significant amounts" of recyclable paper, recyclable corrugated cardboard and yard trimmings, with "significant amounts" being defined by the ordinance as "more than 10 percent by volume based on visual inspection." The program is managed by Cascadia Consulting Group, Inc., which, in turn, provides free waste reduction and recycling technical assistance to Seattle businesses. However, it should be noted that Seattle already had an extensive education, outreach and technical assistance program in place prior to the implementation of the mandatory recycling ordinance.

In the three years since the ordinance was enacted, Seattle's diversion rate has increased from 38 percent to 48 percent, according to Seattle Public Utilities (SPU) Recycling Manager George Sidles. Though there was some initial tentativeness about the ordinance coming from small business owners and the hospitality industry, Sidles says that, today, "No major adverse reaction by the business community to the

ordinance has been observed." In fact, it has been reported that 80 percent of area businesses support the mandatory recycling ordinance. One new full-time commercial business inspector has since been added by the SPU to help implement the ordinance.

When it comes to enforcing and addressing non-compliance, SPU inspectors and contractors, in addition to transfer station workers, perform visual inspections of refuse containers and self-hauled loads to determine whether they have a significant amount of recyclables. After one year of notification of non-compliance, more assertive enforcement is established. During an educational "tagging" phase, notices are placed on refuse containers and given to self-haulers who dispose of "significant amounts" of designated recyclables. With business and apartment owners and managers, two warning notices are mailed by city inspectors prior to the imposition of a \$50 surcharge for each set-out that is in violation of the ordinance. The surcharge is added to the garbage bill. According to officials, the city reserves the option of not collecting refuse from a business that has been fined for non-compliance with the ordinance.

As of 2006, approximately 300 warning tags had been issued to multi-family buildings, including 29 second warnings. In addition, approximately 30 second warnings were issued to businesses. As of the end of 2007, 18 fines for multi-family buildings were reported. No fines were reported for businesses. Exemptions to the ordinance include commercial and multi-family customers that lack adequate space for recycling, an exemption which is determined through an SPU-conducted inspection process. In addition, the ordinance also includes an administrative rule, which specifies that "a hotel, inn or similar facility will not be held responsible for recyclables deposited in individual room garbage containers, by its guests, if the facility has a method and system for

guests to recycle paper and cardboard." The city is not, for instance, expecting hotel staff to separate recyclables that tenants or guests throw away. Program officials do, however, expect businesses to provide tenants, employees and/or guests with recycling containers, and to educate them about how to recycle.

## A commercial success?

With these West Coast cities establishing, or in the process of implementing, mandatory recycling ordinances, what was nearly unthinkable a decade ago has now become a reality. Even more astonishingly, regulations associated with climate change are likely to make such ordinances commonplace. One example is the State of California's landmark greenhouse gas law (Assembly Bill 32 – The Global Warming Solutions Act of 2006), under which the California Integrated Waste Management Board will develop regulations or rules in the next few years to require all local governments to mandate commercial sector recycling.

The mandatory recycling ordinances described here are triggered by the level of trash service, specific local government recycling goals, targeted recyclables, or by the ratio of recyclables to trash disposed. These basic triggers have allowed cities to design and execute the ordinances differently. One key common element, however, is the choice that cities have made to use outreach, education, and technical assistance, over enforcement and fines, in order to raise compliance. ♻️

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NOTE: Information condensed from original CIWMB handout

## **Mandatory Commercial Recycling Workshop**

**For Use at Stakeholder Workshops:**

**July 20, 2009 (Sacramento)**

**August 6, 2009 (Diamond Bar)**

**Capture small group break out session discussions on  
Conceptual Regulatory Options**

- 1. Materials and Target Sectors**
- 2. Thresholds for Businesses**
- 3. Thresholds for Multifamily**
- 4. Thresholds for Mobile Home Parks**
- 5. Thresholds for Construction and Demolition**
- 6. Thresholds for Self-Haul**
- 7. Recycling Definition**
- 8. Enforcement**

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### **1. Materials and Target Sectors**

**Option 1:** All businesses must participate in the locally available commercial recycling program by placing all 'covered' materials in the appropriate receptacle for collection and recycling.

**Option 2:** All businesses must participate in the locally available commercial recycling program by placing the following materials, at a minimum, in the appropriate receptacle for collection and recycling: cardboard, lumber, metals, paper, glass and plastic.

**Option 3:** All businesses must recycle the following materials at a minimum: cardboard, lumber, metals, paper, glass, plastic and food waste.

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## 2. Thresholds for Businesses

**Option 1:** All businesses shall participate fully in the commercial recycling program available through the service provider or by self-hauling the material to available recycling facilities.

**Option 2:** Businesses with over 100 employees shall participate fully in the commercial recycling program available to them through the service provider or by self-hauling the material to available recycling facilities.

**Option 3:** Businesses generating over 4 cubic yards of material per week shall be required to fully participate in the locally available commercial recycling program or by self-hauling the material to available recycling facilities.

**Option 4:** Businesses that generate over six cubic yards of material per week shall be required to fully participate in the locally available commercial recycling program or by self-hauling the material to available recycling facilities.

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## 3. Thresholds for Multifamily

**Option 1:** All multi-family units must participate in the locally available recycling program, either through residential or commercial type service.

**Option 2:** Multi-family units of three or more dwellings must participate in the commercial recycling program.

**Option 3:** Multi-family units of four or more dwellings must participate in the commercial recycling program.

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## 4. Thresholds for Mobile Home Parks

**Option 1:** Residents of mobile home parks shall fully participate in the locally available recycling program.

**Option 2:** Residents of mobile home parks, 4 or more units in size, must fully participate in the locally available recycling program.

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## 5. Thresholds for Construction and Demolition

**Option 1:** All commercially generated recyclable materials including construction and demolition waste materials must be processed for recycling to the extent this service is available.

**Option 2:** Businesses generating construction and demolition materials must comply with the locally adopted construction and demolition materials ordinance and/or program.



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## 6. Thresholds for Self-Haul

**Option 1:** All generators of commercial waste including those businesses that self-haul materials must participate in the local program to divert all recyclable materials.

**Option 2:** Those businesses that choose to self-haul materials and haul a specified amount of materials (such as one cubic yard per load) must take their materials to a recycling facility.

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## 7. Recycling Definition

**Option 1:** Only materials that are processed through a 'clean' MRF or commingled recyclables processing facility or a generator separated program, are considered to be compliant with the mandate to recycle.

**Option 2:** Materials that are processed through a 'clean' MRF or commingled recyclables processing facility or a 'dirty' MRF or a generator separated program, are considered to be compliant with the mandate to recycle.

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## 8. Enforcement

**Option 1:** To the extent commercial recycling opportunities exist a business must fully participate in the program or become subject to fines of up to \$[to be determined] per day.

**Option 2:** To the extent commercial recycling opportunities exist, a business must fully participate in the program. The jurisdiction within which the business resides shall monitor and enforce the requirement to recycle. The CIWMB will audit all reports and conduct spot checks as necessary to ensure compliance with this requirement.

**Option 3:** To the extent commercial recycling opportunities exist, a business must fully participate in the program. The franchise hauler is responsible for enforcing the ordinance. The franchise hauler would report cases to the jurisdiction. The jurisdiction will conduct spot checks as necessary to ensure compliance with this requirement.

**Option 4:** To the extent commercial recycling opportunities exist, a business must fully participate in the program. The jurisdiction is responsible for enforcing the ordinance.

**Option 5:** To the extent commercial recycling opportunities exist, a business must fully participate in the program. The State is responsible for enforcing the ordinance.



# **Mandatory Commercial Recycling Workshop**

## **White Paper**

**Issued by CIWMB Staff**

**July 10, 2009**

**For Use At Stakeholder Workshops:**

**July 20, 2009 (Sacramento)**

**August 6, 2009 (Diamond Bar)**

**The material contained in this paper has not been reviewed or approved by the CIWMB's Board. Statements in the paper do not necessarily reflect any policy direction, opinion, or determination by the Board. This paper is intended solely to provide background information for and stimulate discussion at the July 20 and August 6, 2009, stakeholder workshops.**

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## **I. INTRODUCTION**

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Under the AB 32 Global Warming Solutions Act Scoping Plan, adopted by the California Air Resources Board in December 2008, the California Integrated Waste Management Board (CIWMB) is charged with developing regulations to implement a mandatory commercial recycling measure. The measure must achieve emissions reductions of at least 5 million metric tons of carbon dioxide equivalents. The Board is holding two public workshops on July 20 and August 6, 2009, to solicit stakeholder input on a number of issues that will need to be addressed in the formal rulemaking for this measure, which is slated to begin late in 2009. To facilitate the discussion at these workshops, this white paper covers:

- Overview of Existing Mandatory Commercial Recycling Programs,
- Policy Issues
  - Materials to be covered by the measure
  - Thresholds: What Types and Sizes of Businesses Should be Required to Recycle?
  - Definition of Recycling
  - Enforcement
  - Miscellaneous Implementation Issues
- Conceptual Regulatory Options

### **AB 32 Background**

California produces roughly 1.4 percent of the world's, and 6.2 percent of the total U.S., greenhouse gases. The landmark California Global Warming Solutions Act of 2006, also known as AB 32, established the first-in-the-world comprehensive program of regulatory and market mechanisms to achieve real, quantifiable, cost-effective reductions of greenhouse gasses.

The AB 32 Scoping Plan contains a number of "Recycling and Waste Management" measures including Mandatory Commercial Recycling. California already has a long track record of reducing greenhouse gas emissions by turning waste into resources, exemplified by the estimated 2007 statewide waste diversion rate from landfills of 58 percent (which exceeds the current 50 percent mandate). This has a significant greenhouse gas impact because traditional recyclable materials have significant intrinsic energy value that displaces fossil fuel energy requirements when these materials are introduced back into the manufacturing cycle. This in turn reduces energy use and greenhouse gas emissions from multiple phases of product production, including extraction of raw materials, preprocessing, and manufacturing.

Most of the focus of recycling programs implemented by California jurisdictions over the last two decades has been on the residential sector, with only a few local mandatory commercial recycling programs (Appendix 1). The commercial recycling measure in the AB 32 Scoping Plan focuses on increased commercial waste diversion. There are over 2 million commercial businesses in California, and they generate over half of all solid waste.

To illustrate how the commercial sector could achieve the AB 32 Scoping Plan target of 5 million metric tons of carbon dioxide equivalent emissions reductions (MMTCO<sub>2</sub>e) for commercial recycling, consider the following example. In 2006, the amount of potentially recyclable materials from businesses with 100 or more employees (i.e., about 24,000 out of the 2,000,000 commercial businesses), combined with multi-family complexes consisting of more than five units and mobile home parks, totaled over 10 million tons. Of this amount, cardboard, lumber, glass, plastic, paper and metals constituted approximately 5.5 million tons. If these selected businesses and multi-family complexes were able to divert half of these waste materials (i.e., 2.7 million tons), this would realize estimated GHG emissions reductions of over 5 MMTCO<sub>2</sub>e per year.

### **Authority Issue**

In initial drafts of the Scoping Plan, the commercial recycling measure focused on a voluntary approach. However, after significant stakeholder feedback regarding concerns that allowing businesses to voluntarily implement programs might not result in the needed greenhouse gas emission reductions, the CIWMB worked with the Air Resources Board to modify the measure to a mandatory commercial recycling approach, which the Air Resources Board ultimately adopted in the AB 32 Scoping Plan.

Under the Scoping Plan, the Air Resources Board considers the CIWMB as the lead agency responsible for developing regulations to implement the mandatory commercial recycling measure due to the CIWMB's existing mandates and programs to divert waste from landfills. Even so, some stakeholders have questioned whether the CIWMB has statutory authority to do so. The CIWMB and Air Resources Board are working collaboratively on this issue. Several pieces of pending legislation (see next section) currently have language that would provide the CIWMB authority to adopt these and other Scoping Plan regulations. However, should these bills not pass this year, the CIWMB and Air Resources Board will partner to adopt a regulation package. In either case, pursuant to the AB 32 Scoping Plan, the regulations would be adopted by January 1, 2011.

### **Past and Pending Legislation**

Currently there are several pending legislative bills related to commercial recycling:

- AB 479 (Chesbro) would require businesses who generate more than 4 cubic yards of waste and recyclables per week to participate in the locally available

recycling program. It would also require local governments in counties over 200,000 population to adopt a commercial recycling ordinance.

- SB 25 (Padilla) also includes a provision for commercial recycling requiring local governments to implement a commercial recycling ordinance as well as requiring businesses to recycle.
- AB 478 (Chesbro) includes a provision that the Air Resources Board work with the CIWMB in developing regulations to include rules for the reduction of greenhouse gas emissions from solid waste reduction and recycling.
- AB 473 (Blumenfeld) requires the owner of a multifamily dwelling, consisting of 5 or more units, to arrange for recycling services.

Passage of these bills may or may not impact how the measure is developed and implemented. The informal stakeholder process will proceed on schedule with the development of the mandatory commercial recycling measure. If any of these bills are enacted, the CIWMB will modify this process appropriately.

During several past legislative sessions several bills addressing the commercial waste sector have been introduced. Appendix 2 contains a listing of these bills, a summary of the provisions and, if applicable, the veto message.

## **II. OVERVIEW OF EXISTING MANDATORY COMMERCIAL RECYCLING PROGRAMS**

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A few California cities and counties have already implemented mandatory commercial recycling programs that target the commercial or business sector as the largest untapped waste stream for recovery. However, with respect to overall policy and program design, they vary in a number of fundamental factors. For example, who is affected by the ordinance? What constitutes compliance? Are specific materials targeted for recycling? What are the roles of the local government, businesses, haulers/service providers, etc? A summary of example ordinances from ten California jurisdictions and 5 other U.S. cities and counties is provided in Appendix 1. The following summarizes some of the commonalities and differences among these ordinances:

### ***Requirements***

- Typically, the generators are required to subscribe to specific services provided by a jurisdiction's franchise hauler or permitted hauler.
- Most of the ordinances place the requirements on the generators; however, one ordinance places the requirement on the permitted haulers within the jurisdiction.



### ***Target Sectors***

- Most of the ordinances target all commercial/businesses including multi-family generators unless multi-family accounts are included in a residential collection.
- One ordinance establishes different requirements for different business types (bars/restaurants vs. offices)

### ***Thresholds***

- Some ordinances do not have any threshold and others have a threshold by volume generated (4 or 6 cubic yards), square footage of the property, numbers of the units in multi-family complex (4 or 5 units), or percentage of waste generation.

### ***Exemptions***

- All of the ordinances listed in Attachment 1 have some kind of exemption for the target generators.
- Examples of the exemptions are self hauling, subscribing to a recycling service from a third party recycler, space limitation (or violating another municipal code if a generator tries to comply with the requirements), vacant property, no generation of recyclable materials, and/or if the cost of recycling is more than the cost of disposal.

### ***Target Materials***

- Some ordinances allow certain target generators (such as offices) to recycle only specific recyclable materials; however, typically there is no difference in required recyclable materials for any target generators in most of the ordinances.
- Some ordinances do not mention construction and demolition (C&D) waste recycling if a jurisdiction already adopted a separate C&D ordinance. However, some ordinances include C&D debris in the list of recyclable materials even if there is a separate C&D ordinance (sometimes a commercial recycling ordinance will refer to the existing C&D ordinance). In that case, the threshold may be different for a non-C&D generator.
- Most of the ordinances do not include food waste or organics in the list of required recyclable materials collection. However; some jurisdictions included food waste if a generator generates enough material to collect.

### ***Performance Metrics***

- Reporting and performance requirements vary widely. Some ordinances have no quantitative measure of effectiveness or success. Others have specified metrics,

such as number of commercial recycling subscriptions, diversion tonnage or rates, disposal data and technical assistance provided. Some ordinances require the generators to submit a recycling plan. Most jurisdictions require a regular report (quarterly, semi-annually or annually) from the service providers in their jurisdiction to monitor and evaluate the implementation of the ordinance.

### ***Implementation***

- Some jurisdictions have exclusive franchise haulers and yet allow generators to use a third-party recycler as long as the service is free. Some jurisdictions have non-exclusive franchise haulers or licensed haulers.
- Most of the ordinances allow businesses to self-haul their recyclables and include a clause regarding the “Rancho Mirage case” to allow generators to donate or sell the recyclables.
- Many of the jurisdictions utilize staff, enforcement officers, etc. to go out to the generators to educate them on the program and ensure that generators are participating.
- Funding sources for implementation vary from hauler fees, AB939 fee, general fund, or direct fee to the generators.
- All of the jurisdictions in Attachment 1 have extensive outreach efforts as a part of implementation of the ordinance.
  - Some ordinances require an owner and/or generator to provide containers, signage and written recycling requirements on site.
  - Some jurisdictions require their haulers to provide outreach to the target generators and conduct a waste assessment if necessary.
  - Most of the jurisdictions use a web page as a tool for outreach along with direct mail, brochures, booklets etc.
  - Keys to successful implementation of mandatory commercial recycling appear to include on-going outreach to the target generators and the amount of resources and time that a jurisdiction can dedicate.

### ***Enforcement***

- In one jurisdiction, the licensed haulers are responsible for ensuring that the target generators comply with the requirements.
- However, most of the jurisdictions use their own code inspectors or recycling coordinators to conduct an on-site inspection.
- Usually, the jurisdictions take a technical assistance approach for compliance rather than issuing a fine or violation notice immediately.
  - Some jurisdictions wait a year or so before starting to enforce the requirements.
  - There are some jurisdictions that require commercial generators to submit a recycling plan or self-haul certification form.

- For a violation of the requirements, the amount of fines varies from jurisdiction to jurisdiction.
- Another approach to issuing penalties that one jurisdiction uses involves the suspension or revocation of business licenses and/or the issuance of a nuisance abatement assessment lien on a violator.

### **III. POLICY ISSUES**

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In developing this regulation, Board staff is seeking feedback regarding what level of specificity the regulation should have in prescribing programs, how it can provide flexibility for jurisdictions and businesses to determine the most cost-effective approaches for their geographic and business conditions, and how to provide for enforcement and for measuring achievement of the greenhouse gas emission and disposal reductions. For example, the regulation could allow for local flexibility but require that businesses of a certain size need to obtain recycling services and that local jurisdictions must develop, implement and enforce an ordinance that mandates commercial recycling. Or the regulation might require that the Board would review local jurisdiction's implementation of their ordinance during the Board review of their AB 939 programs.

This section describes the following outstanding policy issues:

- Materials
- Target Sectors
- Thresholds
- What Constitutes Participation and Recycling
- Enforcement
- Miscellaneous and Implementation Issues

Section IV provides conceptual regulatory options to address these issues, along with an initial listing of associated pros and cons.

#### **Materials**

The mandatory commercial recycling measure in the AB 32 Scoping Plan identifies six material types to be targeted and diverted in sufficient quantities to achieve the approximately 5 MMTCO<sub>2</sub>e in emissions reductions. These material types include:

- Cardboard
- Lumber
- Metals
- Paper
- Glass, and
- Plastic

According to the CIWMB's 2004 Waste Characterization Study, materials that are commonly recycled and/or compostable but that continue to be disposed in landfills comprise roughly 60% of the waste stream. These material types include the six material types listed above, as well as food, yard trimmings, and construction and demolition debris such as concrete. Disposal of the six material types totaled 5.5 million tons for businesses of greater than 100 employees, multi-family complexes, and mobile home parks. If one half of this material were recycled, it would equate to 2.7 million tons of recyclable material, which results in about 5.5 MMTCO<sub>2e</sub> reduction of greenhouse gas.

One approach to the issue of what materials should be specified in the regulation is to require that all programs to address these six material types. Another option is to make the regulation general by not specifying materials and simply require that businesses must comply with their local recycling program. In this way, jurisdictions and service providers might have a freer hand in determining the most cost-effective program while still achieving the disposal reductions necessary to reduce statewide emissions by 5 MMTCO<sub>2e</sub>.

If materials are specified in the regulation, then an additional point of discussion is whether or not to specify food waste. Over 3.5 million tons of food waste are disposed annually by the commercial sector. If food waste was added to the materials list to be diverted by mandatory commercial recycling programs, and one half of this material was recycled, this would equal 1.75 million tons of food waste or about 1-2 MMTCO<sub>2e</sub> greenhouse gas emission reductions. At this time, there is not sufficient infrastructure to handle the quantity of food waste, if all commercial recycling programs targeted food waste for diversion (the current organics management infrastructure handles an estimated 4.5 million tons annually, so adding 1.75 million tons of food waste would represent about a 40 percent increase). However, there are specific areas of the state that do have successful commercial food waste diversion programs, such as San Francisco and Stockton. A more flexible approach regarding material types is to allow food waste diversion to be considered as complying with the commercial recycling measure. This could be accomplished by specifying food waste as an "eligible" material.

## **Target Sectors**

Some approaches to mandatory commercial recycling include specific types of businesses and exclude certain types of businesses. Other approaches dictate that all businesses, regardless of the amount of materials either generated or disposed or number of employees, need to fully participate in a recycling program. The following are some options to consider for commercial businesses, multi-family units and mobile home parks.

### ***Commercial Business***

For the general curbside business customer, the County of Sacramento and other jurisdictions utilize four cubic yards of waste generation as a threshold for requiring businesses to recycle. The City of Rancho Cordova estimates that approximately seventy percent of generators in the business sector are required to recycle using a four cubic yard threshold. The County of San Diego utilizes a 6 cubic yard waste generation threshold. San Francisco, on the other hand, requires each person and business within the City and County limits to participate fully in the recycling program.

Self-haul businesses would necessarily complicate the approach to mandatory commercial recycling when utilizing a specific threshold to determine who is required to participate in the program. To deal with this, some jurisdictions have policies that involve requiring self-haul commercial sector customers to utilize drop off materials at other recycling facilities, and in some cases they support this policy with enforcement at the landfill (see "Enforcement" below).

### ***Multi-Family***

The intent of mandatory commercial recycling programs encompassing the multi-family sector is to provide recycling services where they may not already be in existence. Jurisdictions with ordinances encompassing the multi-family sector have utilized various thresholds. In general, the threshold ranges from three to five units, above which the multi-family units would be required to participate in the mandatory commercial recycling program. Below that threshold, the presumption is that the residential recycling service would already have been fully implemented. However, this may vary depending on the type of service that the multi-family sector has experienced prior to the implementation of a mandatory program.

### ***Mobile Home Parks***

The way in which mobile home parks are treated in solid waste programs differs from one jurisdiction to the next and sometimes within the same jurisdiction. Mobile home parks in one jurisdiction are treated as residential areas. In another jurisdiction, a similar mobile home park may be treated as one large business. Without acknowledging the variety of ways that mobile home residents are treated, the regulation may have unforeseen results. How to enforce mandatory recycling in mobile home parks may be a challenge due to the variety of ways in which mobile home parks are treated.

### ***Construction and Demolition Materials Generators***

Some jurisdictions with mandatory commercial recycling ordinances do not mention construction and demolition (C&D) waste recycling if they already have an adopted, separate C&D ordinance. However, some jurisdictions do include C&D on the list of covered recyclable materials, even if they already have an ordinance and corresponding special program targeting C&D generators. Sometimes the threshold may be different

for a C&D generator versus other segments of the targeted business sectors, e.g., general, multi-family, mobile home, etc.

C&D waste materials are usually handled quite differently from general waste and recyclables. The generator is typically not at a permanent location, the waste materials tend to be heavier and bulky, the collection infrastructure includes larger bins and vehicles, and the processing is done separate from other recyclables. While these materials account for a large percentage of waste generation, they are generally – but not totally -- inert and thus do not contribute to greenhouse gas emissions. One exception is lumber that is often mixed in with the C&D materials but is one of the targeted material types, which if recycled would provide significant greenhouse gas emission reductions. The question remains, should lumber be included as one of the material types in this regulation, and if so, how.

### ***Self-Haul***

Some businesses choose not to subscribe to commercial waste or recycling collection programs when they are given the option and instead “self-haul” materials to a landfill or recycling facility. It may be that in the business location curbside services are not available. It may also be that in their jurisdiction there is an option to self-haul versus pay for the collection services, even if those services are available. Many of the ordinances require that self-haulers participate in the mandatory recycling program.

### **Thresholds**

Some approaches to mandatory commercial recycling include a specific quantitative threshold of waste generation or waste disposal, over which businesses need to comply with the program. Waste generation includes garbage as well as recyclable materials, while waste disposed only includes material that is disposed, not recycled. For example, many of the ordinances specify that commercial businesses (including multifamily and mobile home parks that are collected on the commercial route) that generate more than 4 cubic yards are required to participate. Another approach could focus on setting the threshold based upon the number of employees. Other approaches dictate that all businesses, regardless of the amount of materials either generated or disposed or number of employees, need to fully participate in a recycling program.

### **What Constitutes Participation and Recycling**

In many areas of the state, commercial recycling services have long been available, but many businesses have not chosen to avail themselves of these services. As a result, some approaches to mandatory commercial recycling simply involve requiring

businesses to participate or take advantage of the recycling services that are available in their city or county. Other approaches include mandatory recycling of certain material types or set diversion goals. In addition, recycling itself can be accomplished in many ways, including separating recyclable materials for collection, commingling them together but separate from non-recyclables, or mixing recyclables and non-recyclables together for collection. Consequently, there are several ways to design an overall regulation and/or local ordinances to address requirements regarding participation and recycling services.

### ***Requirements Placed on Businesses to Participate***

***Approach 1:*** Some programs require that the business actively conduct some separation of recyclable materials from the general waste or garbage. The program may target a specific material type such as paper or cardboard or the program may dictate that all recyclables are to be commingled into a separate container from the garbage. The business is required to contact the local service provider and arrange for recycling service. The business is required to follow the recycling program guidelines by depositing recyclable materials into the correct containers. The host jurisdiction or service provider of this program would most likely implement an extensive education and outreach program to ensure the proper source segregation of the materials.

***Approach 2:*** Other programs may not require any specific materials separation. Instead they may establish diversion goals for businesses or set disposal bans for targeted material types and require the businesses to participate in recycling services that help to meet these mandates.

### ***Recycling Using Processing Infrastructure***

***Approach 3:*** Some programs set up processing infrastructure that works in tandem with business participation described in Approach 1. For example, targeted material types or commingled materials that businesses have segregated from their garbage are collected by the hauler and taken to a “clean” materials recycling facility (MRF) for processing. A “clean” MRF involves processing, mechanically or by hand, the recyclable materials to segregate them into the various commodities. Segregated commodities may go directly to a secondary materials broker.

***Approach 4:*** Some programs do not rely on business participation because they do not require businesses to sort material at all. Instead, the hauler collects material which is then processed to sort out the recyclable materials from the mixed waste stream. These programs use a “dirty” MRF for processing. A “dirty” MRF segregates those materials which are recyclable out of the mixed waste stream. There is usually less outreach and educational aspects to the program, as compared with business participation approaches described above.

**Approach 5:** Some jurisdictions are now considering a 'wet/dry' stream process where there are two containers available, one container for wet waste and one for dry waste.

A statewide regulation that allows for such disparate views of what constitutes participation and recycling may need to be flexible and focus on the end result, e.g. the quantities and qualities of secondary materials that are produced from each system. If a "dirty" MRF commercial recycling program diverts comparable quantities and qualities of secondary materials as a source separated program that requires business participation, then the performance of the "dirty" MRF program may be considered comparable to the source separated program.

## **Enforcement**

Enforcement is one of the most difficult and controversial issues to address in developing a mandatory commercial recycling regulation. What type of enforcement, if any, should be included in a mandatory commercial recycling regulation? There are various approaches to the enforcement process and assessing penalties for failure to comply with any applicable mandatory commercial recycling program requirements. Major questions include whether the statewide regulation should require local jurisdictions of a specified size to adopt and implement an ordinance, but leave the details regarding enforcement and penalties to the local ordinances? In this case, should the role of the state be to ensure that the local jurisdiction has implemented its ordinance? Or should the state have a more direct role in enforcement and in setting penalty levels? Or should the regulation rely on self-regulation by participating businesses?

There are numerous variations on how enforcement might be performed at the local level. In some cases, the local government participates with the hauler(s) by accompanying them on the collection route. The local government representative may conduct visual inspections of the bins to determine if there are certain levels of contaminants, such as recyclables in the garbage or garbage in the recyclables. If certain levels, as specified in the applicable ordinance, are detected then enforcement may be initiated immediately. In other cases, the local government may take a more measured approach by first sending representatives out to businesses to encourage recycling and provide technical assistance. If the business participates in the recycling program, no further interaction with the local government representative is necessary. In either of these situations, the jurisdiction might allow a substantial grace period during which staff engages the business community to inform them about the need to recycle. The jurisdiction then would monitor performance and engage in some type of progressive enforcement (e.g., warnings, formal communications, and formal enforcement and penalties/fines). One reason to take this approach in which fines are used as a last resort is that compliance with the recycling program is the desired outcome, not the collection of fines. A third variation on enforcement of a mandatory



commercial recycling program could place responsibility for compliance upon the hauler(s). In this circumstance the hauler(s) could be required to develop a recycling plan showing how the recyclables will be diverted and how the material will be tracked to demonstrate compliance. In those circumstances, the hauler may be provided a financial incentive to recycle as opposed to dispose materials. If specific performance measurements are not achieved, the jurisdiction may utilize its authority to levy fines against the hauler or withhold payments designed to reward high levels of recycling.

At the other end of the spectrum, enforcement could rely on business/generator self-regulation or generator self-regulation coupled with a state or local jurisdiction audit function. In the case of self-regulation, a jurisdiction may pass an ordinance that requires the generators to segregate the recyclables from general refuse and provide reports (quarterly, biannually, annually) on the quantities of materials recycled. Or the jurisdiction might require the hauler to provide a report instead of the individual businesses. An additional aspect to self-regulation by businesses could be to provide an audit role for state or local government, such as reviewing reports and conducting random site visits to audit for compliance.

In contrast to local enforcement or business/generator self-regulation, another approach would involve a more direct enforcement role for the state. The state also could be charged with assisting local jurisdictions in their enforcement efforts, or even with auditing the performance of local enforcement programs. Finally, the state may assess local implementation of mandatory commercial recycling ordinances as part of the AB 939 review process.

Regarding state level enforcement and as discussed earlier in this paper, if legislation is not enacted that provides the CIWMB with explicit authority to implement the regulation, then the CIWMB and Air Resources Board will work together to pass the regulation. If the Air Resources Board is required to adopt the regulation per its authority under AB 32, then the Air Resources Board would likely also enforce the regulation. Under the Air Resources Board the enforcement could be more severe and penalties could be higher and more aggressive.

## **Miscellaneous Implementation Issues**

### ***Outreach and Education***

One common theme in existing program implementation (Appendix 1) is reliance on outreach and education to inform businesses about the need to recycle. Many programs also include hands-on technical assistance, through a visit from local jurisdiction staff or a consultant, to show specifically how recycling can be accomplished at a particular business. The amount of time and resources to implement such a program varies greatly. In some cases businesses are required to provide education, signage and training to their employees. In other cases the hauler may have that responsibility. All of the jurisdictions listed in Appendix 1 implement extensive outreach

efforts to support a mandatory commercial recycling ordinance and program. Keys to successful implementation of mandatory commercial recycling appear to include on-going outreach to the target generators and the amount of resources and time that a jurisdiction can dedicate to enforcement.

### ***Funding***

As always, funding activities related to mandatory commercial recycling are an issue. The funding necessary to implement a mandatory commercial recycling program largely depends upon who the mandate is on, generator or hauler, as well as how many businesses are located within the jurisdiction. In some cases, several jurisdiction staff may be involved in providing technical assistance, while in others the hauler is providing that function. In some jurisdictions the hauler pays a fee for the jurisdiction to implement the program, while in others the hauler conducts those activities related to implementation such as site visits, technical assistance, and outreach. The general fund or franchise fees may supply the funds for implementation in other jurisdictions. Another funding option would be a direct fee on the generators of the materials.

### ***Measuring the Overall Effectiveness of the Regulation***

As the mandatory commercial recycling measure must achieve reductions of 5 MMTCO<sub>2</sub>e, how should this be measured? Options to consider in determining how to measure this include:

- The CIWMB uses tools such as waste characterization studies of key material types, the US EPA “WARM” model, the AB 32 “Community Protocol” (still under development), or other models and tools to periodically assess changes in generation, disposal, and associated emissions.
- Requiring local jurisdictions to use the same or related tools to measure emissions changes associated with program implementation and report results to the CIWMB.

## **IV. CONCEPTUAL REGULATORY LANGUAGE**

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This section attempts to take the discussion in Section III and translate those issues into more specific “conceptual regulatory language” and an initial listing of associated pros and cons, for the purpose of stimulating focused discussion at the workshops. CIWMB staff recognizes that there may be some overlap among these options and will continue to refine them, and that there some obvious options may not be included. Therefore CIWMB staff is soliciting feedback on these options and their pros and cons and whether additional concepts should be included. This feedback will be summarized and reported to the Board in September. Actual draft regulatory language will be developed and brought to the Board in approximately the December timeframe for consideration of initiating the formal rulemaking.

## Materials and Target Sectors

**Option 1:** All businesses must participate in the locally available commercial recycling program by placing all 'covered' materials in the appropriate receptacle for collection and recycling.

- **Pros:**
  - Flexible. While it requires businesses to fully participate in the program offered by their local commercial recycling service provider, it does not specify which materials must be recycled. This leaves the decision on what must be recycled to the local jurisdiction and service provider.
  - May be more effective than prescribing specific material types for diversion, because the jurisdiction and/or service provider are in a position to know which materials are generated locally and what markets are demanding locally for secondary materials.
  - Provides stronger authority for locals by requiring this at the state level.
- **Cons:**
  - If the regulation does not specify the material types that need to be targeted, then there could be less assurance of achieving the reductions in the six material types that have been targeted in the Commercial Recycling Measure in the Scoping Plan.

**Option 2:** All businesses must participate in the locally available commercial recycling program by placing the following materials, at a minimum, in the appropriate receptacle for collection and recycling: cardboard, lumber, metals, paper, glass and plastic.

- **Pros:**
  - By being more prescriptive, the quantity of materials being recycled under this option may be more readily estimable.
  - Places focus on these six material types and that keeping them out of landfills can help to significantly reduce GHG emissions.
- **Cons:**
  - Local conditions may not be considered. There may be other material types that are more readily generated and recyclable than the six material types originally anticipated as part of the program. This may have a limiting effect on the total quantity of materials that may be recycled.
  - Does not recognize the wide variety of the types of businesses and types of materials generated that exist in jurisdictions.
  - Local efforts to divert the prescribed materials may not be as effective in overall diversion as if the material list were left to the host jurisdiction and service provider.

**Option 3:** All businesses must recycle the following materials at a minimum: cardboard, lumber, metals, paper, glass, plastic and food waste.

- **Pros:** This option is more prescriptive than option 1 or 2 in that a specific list of material types to be recycled also includes food waste, which should result in more material being recycled than option 2. It would recognize the existence of commercial food waste recycling programs, thus allowing jurisdictions to receive credit for their food waste recycling programs. By recognizing and including food waste in the list of materials to be recycled, this may also encourage more commercial food waste programs to be implemented.
- **Cons:** Insufficient processing capability exists to handle all commercial generated food waste at this time. Therefore, the inclusion of this material type to be recycled may not recognize this and, in a worst case scenario, may lead to material collected at the curb for food waste recycling that is instead disposed.

## Thresholds for Businesses

**Option 1:** All businesses shall participate fully in the commercial recycling program available through the service provider or by self-hauling the material to available recycling facilities.

- **Pros:**
  - Simple to interpret as each and every business in the state would be required to fully participate in whatever program is available, as in the case of San Francisco's program.
  - Simpler to estimate the tons of materials that could be diverted.
  - Although the recycling infrastructure may be insufficient to handle such a substantial increase in diverted recyclable material, this scenario could provide regulatory certainty sufficient to motivate an infusion of capital to provide infrastructure to handle the processing of this material.
- **Cons:**
  - Insufficient infrastructure may be an issue at this time to handle the increase in volume of materials for recycling. It is unclear if the commodities markets would be capable of handling the increase of secondary materials that would be diverted under this scenario.
  - It would be detrimental to the statewide commercial recycling program if material collected for recycling were to be disposed of in landfills due to an oversupply and insufficient storage capacity for recyclables.

**Option 2:** Businesses with over 100 employees shall participate fully in the commercial recycling program available to them through the service provider or by self-hauling the material to available recycling facilities.

- **Pros:**

- This option would result in over 24,000 businesses being required to participate in the commercial recycling program. It would focus the efforts on businesses with significant quantities of materials to warrant the investment of resources to divert the materials.

- **Cons:**

- This regulatory option would not provide flexibility for the local program to target specific businesses that may not have 100 employees but which may generate substantial quantities of recyclable material.

**Option 3:** Businesses generating over 4 cubic yards of material per week shall be required to fully participate in the locally available commercial recycling program or by self-hauling the material to available recycling facilities.

- **Pros:**

- This option has been implemented by jurisdictions such as the City of Rancho Cordova, and it appears to target approximately seventy percent of businesses which presumably generate a majority of the materials. Some jurisdictions have determined a four cubic yard waste generated rate to be the level that warrants the resources devoted to diverting materials.
- Excluding businesses that generate less than four cubic yards of material weekly may allow jurisdictions and service providers to focus on the businesses that generate the most material.

- **Cons:**

- By utilizing a waste generation rate as opposed to a waste disposed rate, some businesses may not understand that the threshold applies to not only the level of garbage service to which they subscribe, but also the amount of recyclables generated.
- This provision would allow many businesses who generated less than four cubic yards to continue disposing recyclable materials, thus not achieving the highest GHG emission reductions possible.
- Also, businesses may find it confusing to hear messages about the need to recycle to reduce GHG emissions, yet only some businesses, not all, would be required to recycle.

**Option 4:** Businesses that generate over six cubic yards of material per week shall be required to fully participate in the locally available commercial recycling program or by self-hauling the material to available recycling facilities.

- **Pros:**

- Jurisdictions that are financially challenged would be able to deploy resources to the highest volume generators.

- **Cons:**
  - Presumably the higher the volume generation threshold for requiring businesses to recycle, the number of businesses that will have to recycle will be lower. This will result in less material being recycled and consequently less GHG emission reductions.

## **Thresholds for Multifamily**

**Option 1:** All multi-family units must participate in the locally available recycling program, either through residential or commercial type service.

- **Pros:**
  - The local service provider and host jurisdiction determines, given local conditions, whether a multi-family complex should be provided residential, or cart, type recycling services or commercial, or bin, type recycling services. This would allow for jurisdictions in consultation with their service provider to determine the best way to meet the local challenges.
- **Cons:**
  - It can be confusing as to what recycling services are available to multi-family housing units. This concept would not clarify what number of units that would place the multi-family sector to within the commercial type program. Instead, it would be left to local interpretation, which may lead to confusion when neighboring jurisdictions have differing thresholds. This could lead to confusion on the part of multi-family tenants and owners.

**Option 2:** Multi-family units of three or more dwellings must participate in the commercial recycling program.

- **Pros:**
  - Setting a statewide standard for multi-family housing thresholds would provide consistency across the state, thereby alleviating confusion as to which multi-family dwellings are required to recycle.
- **Cons:**
  - Some jurisdictions may choose to require each dwelling, no matter the size, to recycle, such as in San Francisco. Providing a higher threshold may result in less material being recycled than no threshold at all, thereby reducing the amount of GHG emission reductions.

**Option 3:** Multi-family units of four or more dwellings must participate in the commercial recycling program.

- **Pros:**
  - Setting a statewide standard for multi-family housing thresholds would provide consistency across the state, thereby alleviating confusion as to which multi-family dwellings are or are not required to recycle.
- **Cons:**
  - Some jurisdictions may choose to require each dwelling, no matter the size, to recycle, such as San Francisco. Providing a higher threshold may result in less material being recycled than no threshold at all, thereby reducing the amount of GHG emission reductions.

## Thresholds for Mobile Home Parks

**Option 1:** Residents of mobile home parks shall fully participate in the locally available recycling program.

- **Pros:**
  - Without a specific threshold, all residents would be required to recycle. This would eliminate some confusion since it would be a statewide standard.
- **Cons:**
  - If there is no existing recycling program, this option would not increase the level of recycling.

**Option 2:** Residents of mobile home parks, 4 or more units in size, must fully participate in the locally available recycling program.

- **Pros:**
  - This concept would set a statewide standard, requiring a consistent interpretation of how the regulation applies to mobile home parks. In that way all mobile home parks (whether previously seen as residential and provided service, treated as commercial with or without recycling, or self-hauled by the mobile home park owner or manager) would all be required to provide consistent opportunities for their residents to recycle.
- **Cons:**
  - Mobile home parks are treated differently throughout the state and sometimes within the same jurisdiction. This regulatory approach would

not recognize this difference in approaches. Some mobile home park residents are already provided a high level of residential type curbside recycling service. Under this regulatory option, an unintended result may be that some residents recycling service would be reduced, such as replacing the residential curbside cart service with the requirement for the resident to take the recyclable materials themselves to a centrally located commercial bin. This could result in fewer recyclables being collected.

## **Thresholds for Construction and Demolition**

**Option 1:** All commercially generated recyclable materials including construction and demolition waste materials must be processed for recycling to the extent this service is available.

- **Pros:**
  - Consistent with the statewide trend to require even more generators of construction and demolition materials to recycle. This concept would support and complement any jurisdiction adopted construction and demolition materials ordinance.
  
- **Cons:**
  - There may be insufficient infrastructure capacity to process all of the materials that could be collected through this provision. That circumstance could result in an increased risk that some materials collected for recycling may eventually be disposed.
  - Also, some jurisdiction programs require a lesser amount of material to be targeted for recycling. This regulatory concept would not allow for differing levels of recycling.

**Option 2:** Businesses generating construction and demolition materials must comply with the locally adopted construction and demolition materials ordinance and/or program.

- **Pros:**
  - This concept would support and complement any jurisdiction adopted construction and demolition materials ordinance and program.
  
- **Cons:**



- If there were no existing construction and demolition recycling program, this regulatory concept would not require anything more than the status quo.

## Thresholds for Self-Haul

**Option 1:** All generators of commercial waste including those businesses that self-haul materials must participate in the local program to divert all recyclable materials.

- **Pros:**
  - Very simple approach.
- **Cons:**
  - Businesses that currently self-haul materials may do so for a variety of reasons this simple approach would ignore. It may be that recycling opportunities are minimal or non-existent.

**Option 2:** Those businesses that choose to self-haul materials and haul a specified amount of materials (such as one cubic yard per load) must take their materials to a recycling facility.

- **Pros:**
  - Very simple approach.
- **Cons:**
  - This approach would be harder to enforce.

## Recycling Definition

**Option 1:** Only materials that are processed through a 'clean' MRF or commingled recyclables processing facility or a generator separated program, are considered to be compliant with the mandate to recycle.

- **Pros:**
  - This regulatory approach would require materials be handled in a way that reduces contamination and therefore may result in a higher percentage of materials being recycled as compared with 'dirty' MRF processing.
- **Cons:**
  - This approach would not allow programs that involve 'dirty' MRF processing to be considered as compliant with the regulation. This would

fail to account for facilities representing large capital investments to be included in the compliant system or the materials that are recycled.

**Option 2:** Materials that are processed through a 'clean' MRF or commingled recyclables processing facility or a 'dirty' MRF or a generator separated program, are considered to be compliant with the mandate to recycle.

- **Pros:**
  - This regulatory approach would provide flexibility based upon the local infrastructure.
- **Cons:**
  - This approach could increase contamination of the materials if single stream and 'dirty' MRFin are allowed.

## **Enforcement**

**Option 1:** To the extent commercial recycling opportunities exist a business must fully participate in the program or become subject to fines of up to \$[to be determined] per day.

- **Pros:**
  - A fine will garner attention and may motivate businesses that would otherwise not recycle.
  - This would allow fines to be levied by either the state or local jurisdiction.
- **Cons:**
  - Implementation of an enforcement system that levies fines can involve a significant amount of time and resources that could otherwise be spent conducting outreach and technical assistance.
  - Because this is not specific as to whether the fines would be levied at the local or state level, confusion and duplicity could occur.

**Option 2:** To the extent commercial recycling opportunities exist, a business must fully participate in the program. The jurisdiction within which the business resides shall monitor and enforce the requirement to recycle. The CIWMB will audit all reports and conduct spot checks as necessary to ensure compliance with this requirement.

- **Pros:**
  - Places responsibility to recycle on the generator and the responsibility to ensure businesses are participating on the local jurisdiction, with the state acting as a backstop to the regulation.
- **Cons:**
  - This provision could require resources at the local and state level to fully implement this requirement.

**Option 3:** To the extent commercial recycling opportunities exist, a business must fully participate in the program. The franchise hauler is responsible for enforcing the ordinance. The franchise hauler would report cases to the jurisdiction. The jurisdiction will conduct spot checks as necessary to ensure compliance with this requirement.

- **Pros:**
  - Places responsibility to recycle on the generator, the responsibility to ensure businesses are participating on the hauler, and the jurisdiction assesses penalties as needed.
  - Allows flexibility at the local level to design and implement the ordinance.
- **Cons:**
  - This provision could require resources at the local level to fully implement this requirement.
  - This requirement might not work in jurisdictions that do not have a franchise or permitted hauler.

**Option 4:** To the extent commercial recycling opportunities exist, a business must fully participate in the program. The jurisdiction is responsible for enforcing the ordinance.

- **Pros:**
  - This option is similar to Option 2 but does not have an oversight role for the state. It places responsibility to recycle on the generator, the responsibility to ensure businesses are participating on the jurisdiction and provides flexibility at the local level to design and implement the ordinance.
- **Cons:**
  - This provision could require resources at the local level to fully implement this requirement.

**Option 5:** To the extent commercial recycling opportunities exist, a business must fully participate in the program. The State is responsible for enforcing the ordinance.

- **Pros:**
  - Places responsibility to recycle on the generator and the responsibility to ensure businesses are participating on the state.
- **Cons:**
  - This provision could require resources at the state level to fully implement this requirement.

## APPENDIX 1: SUMMARY OF EXISTING ORDINANCES

Jurisdiction	"Recycling" Definition: MRF, Dirty MRF, other	Materials Covered	Thresholds: Business/Multi-family/Mobile	Enforcement /exemption	Performance Metric (goal, reporting)	Funding	Type of Franchise	Outreach
CA:								
Arcadia	Do Not do dirty MRF.  Def. of "Recycling" does not specify any source separation requirement.	Glass bottles and jars, any food or beverage container, aluminum cans, foil pie tins, steel or bi metal cans plastic, newspaper, cardboard, office paper, mixed paper, wood waste	All commercial accounts included. Multi-family complexes with commercial service is included under definition of commercial business.	The haulers are responsible for compliance. For businesses that are in compliance, the City can consider suspending or revoking the applicable business license and or put a nuisance abatement assessment lien. Exemption: Businesses can subscribe other (non-City hauler's) recycling services.	The haulers report to the City on the diversion data.  Any recycling company or waste hauler (non-City hauler) also report as well as a strategy and methodology for increasing diversion and recycling to the City.	Hauler fees	Four licensed haulers provide commercial collection services.	Any recycling company or waste hauler in the City to recycle and educate customers about the need to recycle.
Chula Vista	Def. of "Recycling" does not specify any source separation requirement.	Designated recyclables or materials designated by the City Manager for recovery and reuse.	All generators (small and large) must separate all designated recyclables from refuse and participate in recycling as described	If a business is not recycling or refuses recycling services from our franchise hauler, City Recycling Specialists go to the business and explain the ordinance, what materials they have that can be recycled and usually get them set up with a recycling bin - adjusting their trash service accordingly.  Exemption:	No goals, but recycling specialists go out and make sure the business is maximizing recycling.  Annual reporting requirement only if commercial or industrial hauling is performed by a third party.	AB 939 fee on solid waste services.	Exclusive franchise hauler.	Recycling specialists go out and make sure the business is maximizing recycling. Employee training can be done. A voluntary clean business program is now offered, with 5 verified businesses now participating.

Jurisdiction	"Recycling" Definition: MRF, Dirty MRF, other	Materials Covered	Thresholds: Business/Multi-family/Mobile	Enforcement /exemption	Performance Metric (goal, reporting)	Funding	Type of Franchise	Outreach
				vacant property and self-haul.				
Fresno	Def. of "Recycling" does not specify any source separation requirement.	Paper, OCC, plastic, glass, metal, appliances	Every business and multi-family complex, there is no threshold.	The City has four code enforcement officers to enforce the mandatory commercial program.	Subscription to a recycling collection service.	The hauler performs audits twice a year to all commercial account. Contamination is reviewed and container sizes are evaluated	Four haulers (non-exclusive franchise)	City staff guide and educate businesses toward zero waste strategies, providing 1,207 personalized waste audits in 2007. The City has 5 staff that provide outreach materials and free business audits.
Pleasant Hill	Does not use a dirty MRF	For multifamily complexes, cardboard recycling only.  For business generators, plastic, paper, glass.	All commercial generators and multifamily complexes	The hauler's recycling coordinator contacts every commercial generator. In case of non-compliance, the City is notified and the City staff contacts the generator. Exemption for self hauler as well as no generation of recyclables.	No goal. The franchise hauler has to provide a recycling coordinator for the City to implement the commercial recycling program.	Franchise fee	Exclusive Franchise hauler	The hauler's recycling coordinator performs waste audits (over 50 audits in 2007), sends letter, calls & meets with businesses, schools & multi-family complexes
Poway	No definition of "Recycling"	debris box materials; commercial cardboard; bar and restaurant glass; complete commercial green waste; office paper and other business recycling	All commercial generators, no threshold. Multifamily is included.	Currently no enforcement of the program. Exemption: generators must prove that they are recycling materials via some other ways.	No specific performance metric	The program cost is included in the rate structure, which is a tiered structure with significant incentive to recycle.	shall use the services of the franchisee having the exclusive franchise for collecting solid waste, recyclables, yard waste and other compostables	The franchise hauler is required to conduct outreach, perform onsite waste audits, and assist business with setting up recycling options, as a part of their franchise agreement.
Sacramento	Def. of "Recycling" does not specify any source separation requirement.	All food or beverage service establishments: aluminum and steel containers, glass bottles and containers, plastics, cardboard and	Applies to all business and non-residential properties that subscribe 4 cubic yard or greater per week garbage service. Multi-family with five or more unit per	Hazardous material and food inspectors check for compliance. Exemption: A self-hauling form is filled out that certifies that	Businesses have to submit a detailed plan about on-site recycling. Haulers report quarterly on recycling tonnages and the destination of the	Franchise hauler fees (\$500 per truck annually)	City haulers, non-exclusive franchise haulers, authorized recycling collectors, or self haul	Each owner and/or generator at each business has to provide containers for recycling, signage(s), and written recycling requirements

Jurisdiction	"Recycling" Definition: MRF, Dirty MRF, other	Materials Covered	Thresholds: Business/Multi-family/Mobile	Enforcement /exemption	Performance Metric (goal, reporting)	Funding	Type of Franchise	Outreach
		boxes. All other businesses: paper, plastic, aluminum cans, scrap metal, wood pallets.	parcel has to comply with the requirements.	all self-hauling activities. Exempt if space limitation on site is an issue or if the compliance with the ordinance will result in a violation of a zoning code. Up to \$1000 /day fine for incompliance.	recyclables. Waste haulers required to submit Recycling Plans; city staff review quarterly hauler reports, conduct on-site inspections and can audit hauler records			on site. SWA provides a handbook, sample signage, and other information. Over 10,000 DM were mailed out.
San Diego	Def. of "Recycling" does not specify any source separation requirement.	All papers, cardboard, plastic and glass bottles and jars, metal cans, and also other materials for which markets exist. Businesses that collect enough materials such as scrap metal, pallets, or food waste may be encouraged to recycle those materials.	Effective date for all City-serviced residential and multifamily customers: Jan 1, 2008;  Phase approach for commercial customers, by size: 20,000 square feet or more, 10,000 square feet or more on and for all businesses.  For multifamily 100 units or more, for 50 or more, for all complexes unless they have an exemption.	Solid waste code enforcement officers work in concert with recycling staff. 6 cubic yards per week or less of generation of recyclables and refuse, then it is exempt. A business may also apply for an exemption if they lack space to recycle, or if they generate no recyclables.	Haulers must provide an annual report. Staff targets those with low service levels of recycling, and informs them of the ordinance and offers assistance. If service levels don't increase, staff can take enforcement actions.	the recycling enterprise fund, an AB 939 fee A direct fee for multifamily complexes	Non-exclusive franchise system. The City also provides collection service in certain areas.	The party who sets up the recycling program is also responsible for educating tenants or occupants annually, upon occupancy, or when changes to the program occur. Technical assistance to businesses, events and venues is also provided by City staff. There are guidelines for appropriate containers and signage.
Rancho Cordova	Def. of "Recycling" does not specify any source separation requirement.	Paper, cardboard, chip board, metal cans, plastics #1-7, glass, aseptic packaging, small scrap metal	All businesses and multi-family complexes (with 5 or more units) that generate equal to more than 4 yards/week of solid waste	No penalties on non-participating generators until 01/01/10. Fines after that. Penalties on non-participating franchised waste haulers as of 4/1/09	Commercial generators must submit a Recycling Plan to the City and enter into Recycling Service Agreement with a franchised hauler/ authorized recycler or complete a Self-Haul Certification Form and self haul to an appropriate	General Fund	3 Non Exclusive franchise haulers and 11 authorized recyclers.	City letter to all Covered Generators City web-site information Compliance/information booklet Business Waste Audit Program

Jurisdiction	"Recycling" Definition: MRF, Dirty MRF, other	Materials Covered	Thresholds: Business/Multi-family/Mobile	Enforcement /exemption	Performance Metric (goal, reporting)	Funding	Type of Franchise	Outreach
City and County of San Francisco	The ordinance was adopted on June 16, 2009 and is not available online yet.	Almost all recyclables (ex. paper, bottles, cans and plastic, etc.) and compostables.	All--applicable to everyone. No threshold.  Multi-family is included; there is no threshold.	Drivers will leave tags when they see the wrong material in trash, recycling or composting containers. Other Recology employees may look as can SFE, DPW and DPH City staff.  Exemptions include a space waiver and small generator fines are capped at \$100. Mixing of materials at multi-tenant buildings will not be enforced until July 1, 2011.	facility. Required quarterly reporting by haulers.  100% compliance is the goal.  On-site inspection for reviewing compliance.	Existing funding will be used, in addition to fines and fees that will provide funding.	Permit system for haulers.	SFE will do broad outreach on the ordinance in an effort to make every person in SF aware of it. The City will send letters to businesses and apartment owners. Recology will include info in bills and send letters to small property owners and hang flyers on containers as they re-label them.
Alameda Unincorporated county	No mandatory commercial recycling  <b>Landfill ban of plant debris</b> Approved: 1/2//09. Effective: 3/1/09 Warnings issued:10/1/09 Citations issued:1/2010	Plant Debris Landfill Ban	Commercial Landscapers, Gardeners and Self-Haulers and Property /Facility Managers	Keeping plant debris separate from other materials or placement in separate bins/boxes at generation point. A citation will be issued to the business owner if the load is contaminated.	Compliance plans by solid waste and facility operators and solid waste collectors.	Measure D: for Funding, outreach and promotion. AB939 for Enforcement.	Franchise hauler (WMAC)	Positive outreach and education promotion to commercial landscaper, gardeners and property managers.
Cambridge, MA	Definition is not specified in the ordinance.	Office paper, aluminum, waste oil, newspaper, glass containers, storage batteries, magazines,	All commercial establishments (all non-residential building) have to recycle more than 5% of waste generated on-site.	Exempt if there is storage space limitation, provided all other options have been exhausted and	Each commercial establishment and each landlord must submit a Recycling Plan that includes a waste audit,	General Fund	All commercial establishments are required to inform to their employees and customers about the recycling requirements.	Mostly website info, flyers sent upon request or dropped off by inspectors, some community presentations

Jurisdiction	"Recycling" Definition: MRF, Dirty MRF, other	Materials Covered	Thresholds: Business/Multi-family/Mobile	Enforcement/Exemption	Performance Metric (goal, reporting)	Funding	Type of Franchise	Outreach
		plastic containers, scrap metal, corrugated cardboard, leaves and yard waste, wood waste, ferrous cans	Multifamily complexes are included in residential curbside recycling service.	documented. If failed to comply with the requirements, administrative penalties could be assessed.	description of recycling process on-site, process of how recyclables are collected and transport to the market, and education plan for the tenants/employees.			
Chicago, Ill	Dirty MRF (post-collection) is allowed if the generator has a space limitation for setting more than two containers. However, the hauler has to use a facility with min. of 60% recovery rate of uncontaminated paper	Paper, cardboard, aluminum, steel, wood, plastic	Offices, commercial establishments, high density residential buildings and apartments with more than 4 units.	Inspection by site visit, for a violation, the inspector will be back within 30 days to follow up. Up to \$100/day fine (it will be revised to \$1000/day)  Allowable waiver: economic hardship, space limitation, or generating only one Recyclable Material.	25% recycling goal for haulers and recycling service providers.  The haulers and recyclers have to develop a program to notify their customer(s) of contamination problems.  A semi-annual report from the haulers and recyclers is required.	General fund	Permitted by City and State	Dept of Environment prepares and provides a public education and technical assistance program.
Honolulu, HI	No definition of "Recycling"	Newspaper, cardboard, office paper, aluminum, glass, and plastics (slightly different depending on the type of generators)	Bars and restaurants are required to recycle glass containers; office buildings (including government offices) are required to recycle paper; and businesses that generate large amounts of food waste, are required to recycle that waste. Multifamily units are not included.  Disposal bans and restrictions on high volume recyclable materials, including green waste, cardboard, tires,	Monitor by inspection of banned and restricted waste at the disposal sites. If found, the hauler is banned from using the site for two weeks.  Exemption: if the cost of recycling is more than the disposal, the generator could be exempt from the requirements.	For businesses that are affected by office paper recycling, food waste recycling and glass recycling, a compliance form is sent to be filled out and randomly inspected.	Surcharge on the tipping fee (12%)		The City staff provide technical assistance to the businesses. Also there is the Partnership for the Environment is a coalition of businesses coordinated by the City & County of Honolulu which offers technical assistance and peer consulting.



Jurisdiction	"Recycling" Definition: MRF, Dirty MRF, other	Materials Covered	Thresholds: Business/Multi-family/Mobile	Enforcement /exemption	Performance Metric (goal, reporting)	Funding	Type of Franchise	Outreach
			auto batteries, white goods and scrap metals, are enforced at the City's disposal sites					
Portland, OR		Cardboard, glass bottles and jars, newspapers and magazines, mixed paper, plastic bottles and tubs, scrap metal, tin and aluminum cans, yard trimmings  Glass must be separated from all recyclable paper materials  For food-generating businesses, food scraps and soiled paper need to be separated for composting.	All businesses are required to recycle; also food generating businesses would be responsible for separating food scraps and paper for composting. Multifamily also recycle all materials accepted by the program.		Businesses must recycle at least 50% of their waste. The commercial recycling goal is 75% (currently it's at 63%).		No franchise hauler, haulers operate by a permit	The program has been promoted through local media.
Seattle, WA	No mandatory commercial recycling  Landfill ban of significant amount of paper, cardboard, yard trimmings.	The following materials are prohibited from commercial trash: significant amount of paper, cardboard, yard trimmings.	The ordinance (this is not a mandatory recycling ordinance) is applicable to residential, multifamily, commercial and self haul customers. Free recycling for multifamily customers. Some flexibility for hotels.	The penalty phase started one year after the implementation of the program. Incompliance would be more than 10% of such material in trash by visual inspection. Two warnings, then \$50 surcharge to haul the material away. So far, 18 fines were collected. Exemption: space limitation for containers.	60% diversion goal.	One full time commercial business inspector has been hired. Funded through solid waste rates		The City contracts with Resource Venture, a program of the Greater Seattle Chamber of Commerce, to provide free waste reduction and recycling technical assistance to Seattle businesses.



## **ATTACHMENT 2: LEGISLATION**

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**2009**

**AB 473 (Blumenfeld)**

**Solid Waste: Multifamily Dwellings**

**Sponsor: Author**

**Status: Senate Floor**

This bill would require an owner of a multifamily dwelling, defined as a residential facility that consists of 5 or more living units, on and after July 1, 2010, to arrange for recycling services that are appropriate for the multifamily dwelling, consistent with state or local laws or requirements, including a local ordinance or agreement, applicable to the collection, handling, or recycling of solid waste.

**AB 478 (Chesbro)**

**Solid Waste: Recycling**

**Sponsor: Author**

**Status: Senate Appropriations**

This bill includes a provision that the Air Resources Board work with the CIWMB in developing regulations to include rules for the reduction of greenhouse gas emissions from solid waste reduction and recycling.

**AB 479 (Chesbro)**

**Solid Waste: Diversion**

**Sponsor: CAW**

**Status: Senate Environmental Quality**

This bill would require owners or operators of businesses that contract for solid waste services and generate more than four cubic yards of solid waste and recyclable materials per week to arrange for recycling services consistent with local and state requirements and to the extent that the service is "reasonably available."

On or before January 1, 2011, this bill would require each city, county, solid waste authority, or joint powers authority located within a county with a population of 200,000 or more to adopt a commercial recycling ordinance. In addition, specifies that the bill would not limit the authority of a local agency to adopt, implement, or enforce a local commercial recycling ordinance that is more stringent or limit the authority of a local agency in a county of less than 200,000.

**SB 25 (Padilla)**

**Solid Waste: Diversion**

**Sponsor: Author**

**Status: Assembly Natural Resources**

Requires the owner or operator of a business that contracts for waste services and generates more than four cubic yards of total waste and recyclable materials per week, shall arrange for recycling services applicable to the extent that these services are offered and reasonably available from a local service provider.

Establishes commercial recycling requirements that:

- A. Require, by January 1, 2012, each city, county, solid waste authority, or other joint powers authority located within a county with a population of greater than 200,000 or more shall adopt a commercial recycling ordinance. The ordinance, at a minimum, must include:
  - (1) Requirements that ensure a business provides for recycling of its waste.
  - (2) Educational, implementation, and enforcement provisions.
  - (3) The existing right of a business to sell or donate its recyclable materials.
- B. Define a "business" as a commercial entity operated by a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized for profit or nonprofit, and multifamily housing.
- C. Specify that this bill does not limit the authority of a local agency to adopt, implement, or enforce a local commercial recycling ordinance that is more stringent or comprehensive than the requirements of this section or limit the authority of a local agency in a county with a population of less than 200,000 to require commercial recycling.
- D. Specify that this bill does not affect in any manner a franchise granted or extended by a city, county, or other local government agency or contract, license, or permit to collect solid waste previously granted or extended by a city, county, or other local government agency in effect immediately preceding January 1, 2011.

**2008**

**AB 548 (Levine)**

**Solid Waste: Multifamily Dwellings**

**Sponsor: Californians Against Waste**

**Status: Vetoed**

This bill would have required owners of multifamily dwellings, defined as residential facilities consisting of five or more units, to arrange for recycling services for residents,

as appropriate and as consistent with state and local laws or requirements, by July 1, 2008.

**AB 548 Veto Message:**

To the Members of the California State Assembly:

I am returning Assembly Bill 548 without my signature.

This bill would require owners of multifamily dwellings to arrange for recycling services for residents consistent with state and local laws.

This is the third time I have vetoed legislation on this topic. I support efforts to reduce the amount of solid waste going to the state's landfills, but this bill places requirements directly on the owner/operators of multifamily dwellings causing significant cost for the private owners of these properties. Additionally, local governments already have the authority to mandate the action envisioned by this bill. I encourage the Integrated Waste Management Board to continue in its efforts to provide adequate tools and resources to local jurisdictions in order to make available increased recycling opportunities for multifamily dwelling residents.

**2006**

**AB 2206 (Montañez)**

**Recycling: Multifamily Dwellings**

**Sponsor: Author**

**Status: Vetoed**

This bill would have required CIWMB to develop a model ordinance relating to multifamily waste diversion, suitable for local agency modification and adoption, and a model notification document that owners of multifamily dwellings could modify and provide to tenants to fulfill an obligation to provide tenants with specified information on solid waste diversion and recycling. Furthermore, this bill would have required local jurisdictions to report to CIWMB on the progress of solid waste diversion programs at multifamily dwellings and allow CIWMB to consider these multifamily recycling programs when evaluating a jurisdiction's overall progress towards its solid waste diversion goals.

**Veto Message:**

To the Members of the California State Assembly:

I am returning without my signature.

The goal of this bill is to increase waste reduction and recycling at multifamily dwellings in California, as multifamily residents are underserved compared to single family residents in regards to recycling opportunities

While I support efforts to reduce the amount of solid waste going to our landfills, the mandates in this measure are overly prescriptive and create significant state, local and private compliance costs. While I cannot sign this bill, I encourage the Integrated Waste Management Board to continue in its efforts provide adequate tools and resources to local jurisdictions in order to make available increased recycling opportunities for multifamily dwelling residents.

For this reason, I am unable to support this measure.

**2005**

**AB 399 (Montañez)**

**Recycling**

**Sponsor: Author**

**Status: Vetoed**

This bill would have established requirements for recycling programs at multifamily dwellings in the state. This bill would have required CIWMB, the solid waste and recycling industry, local governments, and property owners and managers to take specified actions to encourage recycling at multifamily properties.

**AB 399 Veto Message:**

To the Members of the California State Assembly:

I am returning Assembly Bill 399 without my signature.

While the goals of this bill are laudable, the mandates in the measure are overly prescriptive and create significant state, local and private compliance costs. Additionally, this bill is inconsistent with the Integrated Waste Management Act, which expressly grants local governments discretion over what types of programs are used to achieve the state's diversion goals.

While I cannot sign this bill, I encourage the Integrated Waste Management Board to provide adequate tools and resources to local jurisdictions to implement multifamily recycling programs.