

Model Mandatory Commercial Recycling Program for Rural Counties

ESJPA Workshop

March 15, 2012

Recognizing the challenges that rural counties face the following information and materials have been developed in collaboration by CalRecycle and the ESJPA.

I. Overview of Model Program Requirements

This model program provides the minimum that you should be doing to meet the requirements of AB 341. The highlighted sections below are the minimum education/outreach/monitoring requirements. The model program consists of the following:

1. **Education/outreach** means informing businesses/public entities/multifamily complexes about the state law and how they can recycle in their community.
 - a. Education and outreach shall be done at a minimum annually and can be done by the County staff and/or hauler(s).
 - Note: It may be difficult or impossible in some rural counties to determine which businesses/multifamily complexes meet the threshold and in those instances the County would educate all businesses/multifamily complexes.
 - b. Education and outreach activities shall consist of the following:
 - i. **Print Materials:** Print materials are to be provided to businesses/multifamily complexes either through the County and/or hauler(s) that informs them about how to recycle in the County and about the state law.
 - Print materials will vary depending on the County: 1) Type, e.g., brochure, flyer; 2) How distributed, e.g., mailed to every business/multifamily complex, given out at events, hauler gives print materials to commercial customers as they meet with them, billing insert sent annually, etc.; 3) Frequency, e.g., annually, at individual events, etc.
 - ii. **Website:** The County and hauler (if the County has hauler(s)) shall place information on their websites about the state law and how businesses/multifamily complexes can recycle in the County.
 - Need to make sure that there is information on the County's and hauler's website about how to recycle in the County.

- iii. **Direct Contact:** The County and hauler (if the County has hauler(s)) shall inform commercial customers of the state law when making any direct contact. Also, at least annually, County staff and/or the hauler(s) shall make one presentation at a business and multifamily forum.
 - Business forums might include a Chamber of Commerce, a local business association, and any Apartment Association meetings, if there are any in the County.
2. **Monitoring** means identifying businesses that aren't recycling and informing them annually of the state law and how they can recycle in the County. While specific elements of a rural county's monitoring program will be unique, the following are examples of what rural counties could do annually to notify businesses that are out of compliance with the state requirement and how the businesses can comply.
 - a. The County and/or hauler(s) shall annually conduct monitoring activities.
 - b. Counties are encouraged to utilize existing programs to incorporate information about the new state requirement, such as letters that are sent to businesses, notifications sent electronically, on-site visits, phone calls from the hauler's sales representative, etc., to maximize resources.
 - c. The county, if it is a county run program, or the franchise hauler(s) would track businesses/multifamily complexes and report to the county on those businesses and multifamily complexes that are not recycling. For those businesses that are not complying, either the county or the hauler would send a notice to the business to inform them of the state requirement and how the business can recycle in the county.
 - An additional approach to monitoring that counties might choose is the following: Either the hauler or the county staff could follow-up in person or with a phone call with the businesses that are not in compliance with the state regulation. The purpose of this follow-up would be to assist the business with identifying how it can recycle in the local county.
 - d. For counties that do not have staff and/or a hauler to do (c) above and because it might be difficult for the county to ascertain which businesses are not recycling, then an annual letter would suffice. The letter could be sent electronically or hard copy depending upon the rural county's situation.
 - e. The counties might also choose to phase in monitoring depending on how many businesses/multifamily complexes are in the county, including phasing in monitoring to focus first on larger multifamily residences.

II. Model Program Materials

1. Commercial and Multifamily brochure templates

- a. We are providing you sample language to insert into an existing brochure if your County and/or hauler(s) already have a brochure that tells businesses/public entities/multifamily complexes how to recycle (see Attachment 1).
- b. Here is a link to the brochure templates that the Institute for Local Government developed for CalRecycle. This link includes instructions on how to customize the brochure: <http://www.ca-ilg.org/CommercialRecyclingFlyer>
- c. However, if you don't have the resources to customize it yourself, then ESJPA would customize it for you and provide it to you electronically so you could print copies in black and white (see examples in the packet).

2. Website Language

- a. We are providing you language that the County should have on its website (see Attachment 2). Note: County's should consider putting a short blurb on the home page to help direct folks to the commercial recycling information.
- b. The hauler(s) also should place this language on their website(s).

3. Monitoring Template Letter

- a. The attached monitoring template letter can be sent to those businesses/multifamily complexes that are choosing not to recycle (see Attachment 4). The letter can be customized to include specific county information.
- b. The letter could be sent by the County or hauler(s) to all businesses or to businesses that have been identified as not recycling.

4. Sample Board Staff Report

A sample Board staff report for a study session on the County's Mandatory Commercial Recycling education/outreach/monitoring program. Note: The staff report can also be tweaked to be for a Board hearing and adoption of the commercial education/outreach/monitoring program.

5. PowerPoint Presentation for Businesses or County Board of Supervisors

We are providing you a PowerPoint presentation that could be used for presenting to businesses and/or Board of Supervisors.

III. Additional Materials

The following are supplementary materials that may be helpful.

1. Mandatory Commercial Recycling (MCR) **Frequently Asked Questions (FAQs)** (www.calrecycle.ca.gov/Climate/Recycling/FAQ.htm). A comprehensive list of MCR questions and answers developed in response to stakeholder inquiries.
2. Mandatory Commercial Recycling (MCR) **Regulatory Documents** (www.calrecycle.ca.gov/Climate/Recycling/Workshops/default.htm#Docs). MCR regulations adopted by CalRecycle—pending Office of Administrative Law approval—and reference documents: Initial Statement of Reasons and Summary of Comments.
3. The [Commercial Climate Calculator](#) (Excel 2010, 593KB) was developed as part of the [Cost Study on Commercial Recycling](#). This calculator is designed for virtually any California business or multifamily complex to assess the financial, climate change, and waste reduction/environmental benefits of reducing and recycling their discarded materials. In doing so, businesses can reduce greenhouse gas emissions, keep reusable and recyclable material out of landfills, and save money by reducing trash disposal costs. This planning tool also provides users with the flexibility to customize disposal and recycling scenarios if they have more specific information available.
4. **MCR Sample Outreach and Education Materials** (www.ca-ilg.org/node/2069). Sample commercial recycling outreach and education materials garnered from local jurisdictions statewide.
5. **California Air Resources Board's (ARB) Small Business Toolkit** (www.CoolCalifornia.org). Low or no cost business practices that lower energy and water consumption; cut transportation, purchasing, and building costs; and reduce waste. Toolkit also includes a Small Business Carbon Footprint Calculator, case studies, and information on businesses financial resources and the ARB small business awards program.
6. The **California Green Business Program** (www.dtsc.ca.gov/PollutionPrevention/p2gbbp.cfm). Local governments work with the State Department of Toxic Substance Control (DTSC) to encourage green business practices. Businesses can earn a local Seal of Certification by implementing practices listed in the online searchable database.

Attachment 1: Sample Language to insert into a County's Brochure

If you already have a County brochure that is used to inform businesses/public entities/multifamily complexes about how to recycle in the County, then the following is sample language that you could include in your brochure to inform businesses/public entities/multifamily complexes of the new law:

Sample Language

New Mandatory Commercial Recycling Regulation

AB 341 (Chesbro) requires businesses and public entities that generate four or more cubic yards of commercial solid waste per week or multifamily residential dwellings of five units or more to arrange for recycling services by **July 1, 2012**.

What Your Business Must Do by July 1, 2012

Commercial waste generators must take at least one, or any combination, of the following actions:

1. Separate recyclable materials from solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements for the pickup of the recyclable materials.
2. Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation.

Optional Note: A property owner of a commercial or a multifamily complex may require tenants to source separate their recyclable materials to aid in compliance with AB 341.

Attachment 2: Website Language

Sample Language

The following could be placed on the County's home page under "What's News" to help businesses/multifamily property owners get to the webpage easily.

Note: If the County does not have information about how businesses/multifamily complexes can recycle in the County, then that information would need to be added to the website.

What's News?

New Mandatory Commercial Recycling law takes effect July 1, 2012.

(then include link to the County or hauler's commercial recycling webpage)

New Mandatory Commercial Recycling Regulation

AB 341 (Chesbro) requires businesses and public entities that generate four or more cubic yards of commercial solid waste per week or multifamily residential dwellings of five units or more to arrange for recycling services by **July 1, 2012**.

What Your Business Must Do by July 1, 2012

Commercial waste generators must take at least one, or any combination, of the following actions:

1. Separate recyclable materials from solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements for the pickup of the recyclable materials.
2. Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation.

Optional Note: A property owner of a commercial or a multifamily complex may require tenants to source separate their recyclable materials to aid in compliance with AB 341.

Attachment 3: Sample Monitoring Letter to Businesses/Multifamily Complexes

Sample Monitoring Letter to businesses/multifamily complexes to inform them of the State Law if they are not recycling.

Insert Local Agency Letterhead

Proposed Text for Sample Monitoring Letter

To: Businesses Operating in insert name of city/county

From: Insert name of agency contact (plus phone number-email if appropriate)

Re: State Recycling Requirements for Businesses and Multi-Family Communities

As of July 1, 2012, State [and local] law require[s] the following businesses to arrange for recycling services:

- Any business that generates 4 cubic yards or more of waste per week [modify to include local agency requirements if different]; and
- Multi-family communities with five or more units. [modify to include local agency requirements if different] Note: State law requires apartment owners to offer recycling services and residents to recycle. Apartment owners may require tenants to recycle.

How to Arrange for Recycling Services

[Option A: For counties with exclusive franchise or agency provided recycling services]

- Businesses that meet the threshold must place source-separated recyclable materials in the bins or containers provided by insert county's name exclusive waste and recycling service provider.
- Business may also donate, sell and/or make other arrangements for pick up and recycling of the materials. This includes self-hauling the materials to recycling facilities.

[Option B: For counties with open competition]

- Businesses that meet the threshold must arrange for recycling services by one of the companies authorized to provide such service in insert name of county.

- Business may also donate, sell and/or make other arrangements for pick up and recycling of the materials. This includes self-hauling the materials to recycling facilities.

[Option C: For counties served by mixed-waste material recovery facilities]

- Waste and recyclable materials collected in county name are processed at a mixed waste materials recovery facility.
- Insert optional language regarding any source separation requirements for specified materials.
- Business may also donate, sell and/or make other arrangements for pick up and recycling of the materials. This includes self-hauling the materials to recycling facilities.

Opportunities to Save Money by Recycling

In county name, you can save money by recycling more and disposing less. This is because recycling fees are less than waste disposal fees.

Opportunities to Save Resources and Help the Environment

Recycling conserves resources and reduces greenhouse gas emissions. It extends the life of our landfills and helps create a healthy environment for our community and future generations.

Be Sure to Educate Your Employees

Employees are key to a successful business recycling program. Please make sure your employees know which materials can be recycled and where to place the recyclable materials for temporary storage and ultimate collection.

Where to Go for More Information

- Information about local commercial recycling is available at: insert county and/or hauler information.
- Information about California's business recycling requirements is available from the California Department of Resources Recycling and Recovery (CalRecycle) at www.calrecycle.ca.gov/climate/Recycling/default.htm.
- Information about business recycling is available from the California Department of Resources Recycling and Recovery (CalRecycle) at www.calrecycle.ca.gov/Business/.

Attachment 4: Sample Board Staff Report

Mandatory Commercial Recycling Requirements

PURPOSE/SUMMARY:

The purpose of this study session is to introduce the Board/Authority to the proposed Mandatory Commercial Recycling Program for XXXX County prior to bringing the item back for Board consideration and adoption.

BACKGROUND:

As part of the statewide plan to reduce California's greenhouse gas (GHG) emissions, the California Global Warming Solutions Act of 2006 (AB 32) Scoping Plan included a Greenhouse Gas (GHG) Reduction Measure that directed the California Air Resources Board (ARB) and Department of Resources Recycling and Recovery (CalRecycle) to develop a mandatory commercial recycling regulation. This measure focuses on increased commercial waste diversion as a method to reduce GHG emissions and was designed to achieve a reduction in GHG emissions of 5 million metric tons of carbon dioxide (CO₂) equivalents. The commercial sector generates nearly three fourths of the solid waste in California, according to 2008 statewide waste characterization data, or 22.8 million tons of the 2010 statewide disposal data. To achieve the measure's objective, an additional 2 to 3 million tons of materials annually will need to be recycled from the commercial sector by the year 2020 and beyond.

The Department of Resources Recycling and Recovery (CalRecycle) was engaged in the regulatory process of developing a draft regulation for adoption by the ARB since July 2009. With the passage of Assemblyman Wes Chesbro's (D – Eureka) Assembly Bill 341 in 2011, a statewide 75% solid waste diversion goal and mandatory commercial recycling bill, the formal regulatory processing of the ARB AB 32 mandatory commercial recycling regulations was shifted to CalRecycle. Since AB 341 provided authority to CalRecycle to implement the mandatory commercial recycling program, CalRecycle commenced its own rulemaking to implement the statute. The mandatory commercial recycling regulation was adopted at CalRecycle's January 17, 2012 public meeting and is attached.

The regulations require a business or public entity, including schools and nonprofits, that generates four cubic yards or more of solid waste per week or multifamily units of 5 or more to arrange for recycling services by July 1, 2012. Businesses can self-haul, subscribe to a hauler(s), arrange for the pickup of recyclable materials, or subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation. Property owners may require their tenants to source separate their recyclable materials to aid in compliance with this regulation.

In addition, local jurisdictions are required to implement a commercial recycling *program* (does not have to be an ordinance) by July 1, 2012, that provides outreach, education, identification, and monitoring of businesses and multifamily complexes. The law and regulation require that local jurisdictions conduct education and outreach to inform businesses, public entities, and multifamily complexes that meet the threshold about the new law to recycle and how they can recycle in the jurisdiction. Local jurisdictions are also required to monitor businesses and multifamily complexes and identify ones that are not recycling and inform them of the state law and how they can recycle in the jurisdiction. (See attached brochure that describes the business/multifamily, jurisdiction, and CalRecycle requirements. Local jurisdictions can, but are *not* required to enforce the regulation on businesses and multifamily complexes. Local jurisdictions are not required to provide commercial collection for recycling.

Issue

Throughout the informal regulatory process the Rural Counties' Environmental Services Joint Powers Authority (ESJPA), of which our county is a member, worked with CalRecycle staff to ensure the regulation addressed the challenges facing rural areas, and to clarify and refine the regulatory language. As a result, language that provides additional flexibility for rural counties was included. CalRecycle made this proposal as flexible as possible within the AB 32 framework limitations. This allows jurisdictions to implement programs that meet local needs and work within existing infrastructures and resources.

As an example, rural jurisdictions currently have the assistance of CalRecycle's "good faith effort" provisions in the existing source reduction and recycling element jurisdiction reporting and review Statute and regulations. In the mandatory commercial recycling regulation, two new factors will also be considered: "budgetary constraints" and, "in the case of a rural city or rural county as defined in Sec 956211(b)(14) the small geographic size, low population density, or distance to markets." CalRecycle staff will review a jurisdiction's "good faith effort" in implementing this regulation during the standard AB 939 compliance reviews by looking at the jurisdiction's public education and outreach, and the extent and results of monitoring the businesses and multifamily complexes.

As you know, if CalRecycle finds us not meeting the requirements, we are placed on a compliance order, and if we do not meet the requirements of the compliance ordinance, we can be fined. The ESJPA worked with CalRecycle staff on a model rural commercial recycling program that will satisfy the minimum requirements for consideration of a rural jurisdiction's good faith efforts. The intent is to have a program that works within our county's programs and limited infrastructure and resources, while knowing that it meets the expectations of CalRecycle. The attached is the model rural commercial recycling program prepared by the ESJPA and CalRecycle.

Staff has tailored the program to our specific infrastructure and resources and recommends adopting the following program:

Mandatory Commercial Recycling Program

(Make the appropriate changes for your jurisdiction)

Purpose

The purpose of this program is to meet the requirements of AB 341 (Chesbro), the Mandatory Commercial Recycling law, and to promote the recycling and diversion of solid waste and establish the requirements for recycling of materials generated by the commercial sector.

Definition

The definition of “commercial” means any business or public entity, including schools and non profits, that generates four cubic yards or more of commercial solid waste per week, or a multi-family residential dwelling of five units or more, regardless of the amount of commercial solid waste generated.

Requirements

The model program consists of the following:

1. **Education/outreach** means informing businesses/public entities/multifamily complexes about the state law and how they can recycle in their community.
 - a. Education and outreach shall be done at a minimum annually and will be done by the County staff and/or hauler(s).
 - b. Education and outreach activities shall consist of the following:
 - i. **Print Materials:**
 1. Print materials are to be provided to businesses/ multifamily complexes either through the County and/or hauler(s) that informs them about the state law and how businesses/multifamily complexes can recycle in the County.
 2. Distribution of print materials shall consist of the following: **(fill in type, how distributed and frequency)**
 - ii. **Website:** The County and hauler (if the County has hauler(s)) shall place information on their website(s) about the state law and how businesses/ multifamily complexes can recycle in the County.
 - iii. **Direct Contact:** The County and hauler (if the County has hauler(s)) shall inform commercial customers of the state law when making any direct contact. Annually, County staff and/or the hauler(s) shall make the following present(at least one presentation at both a business forum and an apartment association forum: **(list associations)**
2. **Monitoring** means identifying businesses that aren't recycling and informing them annually of the state law and how they can recycle in the County.

- a. The county and/or hauler(s) shall annually conduct monitoring activities.
- b. Monitoring activities shall consist of the following: (fill in)
- c. If applicable, monitoring activities will be phased as follows: (fill in)
- d. If exemptions or enforcement activities will be implemented please describe:

RECOMMENDATION

Discuss the mandatory commercial recycling program and direct staff to set it for Board consideration and adoption.