



Climate Change and Solid Waste Management Mandatory Commercial Recycling

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Background

The California Air Resources Board [Scoping Plan](#) for the California Global Warming Solutions Act of 2006 (AB 32, Núñez, Chapter 488, Statutes of 2006) was adopted with a [Mandatory Commercial Recycling measure](#) (Adobe PDF, 2.79 MB) designed to achieve a reduction in greenhouse gas emissions of 5 million metric tons of carbon dioxide (CO₂) equivalents.

Program News...

- [Draft regulatory language \(Word, 90 KB\) on the Mandatory Commercial Recycling Measure was presented \(Word, 74 KB\) and discussed at the December 2009 Strategic Policy Committee Meeting.](#)
- [A sample commercial recycling ordinance is now available at the Institute for Local Government.](#)

Increasing waste diversion from landfills beyond the 2007 rate of 58 percent (which exceeds the 50 percent mandate) provides additional recovery of recyclable materials that will directly reduce greenhouse gas emissions. Recycled materials can reduce the greenhouse gas emissions from multiple phases of product production including extraction of raw materials, preprocessing and manufacturing. A co-benefit of increased recycling is avoided methane emissions at landfills from the decomposition of organic materials. Use of composted organic materials also provides environmental benefits such as carbon storage in soils and reduced use of fertilizers, pesticides, and water.

According to 2008 [Statewide Waste Characterization data](#), the commercial sector generates more than half of the solid waste in California (approximately 68 percent of waste disposed). While significant commercial recycling already occurs, much of the commercial sector waste disposed in landfills is clean enough to be recycled. The commercial sector, however, is not directly subject to the requirements of the Integrated Waste Management Act of 1989, (AB 939, Sher, Chapter 1095, Statutes of 1989), to divert waste from landfills.

As a result, the mandatory commercial recycling measure focuses on increased commercial waste diversion as a method to reduce greenhouse gas emissions. To achieve the measure's objective, an additional 2 to 3 million tons of materials will need to be recycled from the commercial sector by the year 2020 and beyond.

The California Department of Resources Recycling and Recovery (CalRecycle) is engaged in an informal rulemaking process while developing the mandatory commercial recycling measure.

- [Informal stakeholder workshops](#) were held in July and August 2009.
- On Sept. 9, 2009, staff provided a [presentation](#) of the AB 32 Scoping Plan mandatory commercial recycling measure and requested direction regarding [draft regulatory conceptual provisions](#). Staff was directed to use the draft conceptual regulatory provisions as the basis for drafting regulatory language to be presented and discussed at the Strategic Policy Development Committee meeting in December 2009.
- In December 2009 staff presented [draft regulatory language](#) and a proposed rulemaking plan for discussion and direction. Staff was advised to proceed with rulemaking activity, using the draft regulatory language (see timeline below) for final adoption by ARB. Additionally, in response to public comment, staff will address specific issues raised in additional informal workshops to be held in spring 2010.

Project Timeline

CalRecycle and ARB staff have developed the following timeline for adoption, implementation and enforcement of the measure:

- **December 2009**--Presentation of draft regulatory language and regulatory approach.
- **Spring 2010**--Informal Stakeholder Feedback Workshop on the draft regulatory language on mandatory commercial recycling at the CalRecycle Materials Management and Local Assistance Program monthly public comment workshop on June 16, 2010.
- **Fall 2010**--ARB hearing to consider the adoption of the commercial recycling regulation.
- **January 1, 2012**--Effective date of the commercial recycling regulation.
- **July 1, 2012**--Effective date for jurisdictions and businesses to implement commercial recycling programs.
- **August 2014**--First review of jurisdictions' implementation of the regulation with reviews conducted every biennial or quadrennial review cycle thereafter.
- **2014 and 2019**--Staff conducts comprehensive waste characterization studies to measure the commercial recycling disposal and emission reductions at the statewide level.
- **2015**--Reports to the ARB on progress and evaluate effectiveness of regulation and potentially set additional goals.

ARB also maintains information about the [implementation process and timelines](#) for all of the AB 32 Scoping Plan measures.

Related Projects

| Title | Description |
|------------------------------------|--|
| Implementation | <p>In an effort to encourage expansion in commercial recycling programs and in partnership with CalRecycle, the Institute for Local Government has developed:</p> <ul style="list-style-type: none"> → A sample ordinance local jurisdictions may utilize when implementing mandatory commercial recycling (based on inventory and analysis of existing programs, stakeholder feedback, and case study). → Case studies of jurisdictions that have successfully developed and/or implemented climate change action plans. → A tiered recognition program for jurisdictions that have achieved actual emission reductions through implementation of a variety of actions, including solid waste management programs. <p>These tools and resources are offered to facilitate the implementation of mandatory commercial recycling programs by local jurisdictions. For more information, contact Kaoru Cruz, contract manager.</p> |
| Cost Study on Commercial Recycling | <p>An important consideration in implementing commercial recycling is the cost of such programs. CalRecycle's Cost Study on Commercial Recycling will result in two tools to help address this issue.</p> <ol style="list-style-type: none"> 1. Cost Assessment Tool--Provides an estimated range of the costs, savings and net costs related to developing or expanding selected commercial recycling programs. 2. Commercial Diversion Tool--For individual businesses making decisions regarding how to reduce, recycle or dispose of materials and the estimated costs and potential greenhouse gas reductions associated with that decision. CalRecycle staff, local jurisdictions, and others will also be able to use this tool to help businesses explore commercial diversion options and provide technical assistance. <p>For more information, you can view the related agenda item and attachments (item 17) approving the scope of work for this project. You can also contact Janelle Auyeung, contract manager.</p> |
| Recycling and Waste Management | <p>When implementing any diversion program, a critical consideration is the impact on the existing solid waste management and recycling infrastructure. CalRecycle's Recycling and Waste Management Infrastructure Project is aimed at providing a centralized source of</p> |

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| Infrastructure | information on California waste management and recycling facilities. This tool will be helpful in determining if future material generation amounts or programs under consideration for implementation or expansion could be supported within the existing regional processing facility capacity limits and/or require the need for expansion of the infrastructure. |
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Related Links

- [CalMAX](#), a free service sponsored by CalRecycle, is designed to help businesses find markets for previously discarded materials. Services include: an electronic database, web site management, quarterly publication, annual awards, business promotions, partnership opportunities and KidMAX donations.
- The [Waste Reduction Awards Program \(WRAP\)](#) is administered by CalRecycle and provides an opportunity for California businesses and nonprofit organizations to gain public recognition for their outstanding waste reduction efforts and lets the community know your business takes waste reduction seriously. WRAP also provides businesses with [examples of successful waste reduction techniques](#) which they may adopt as their own.
- Other [Resources for Business and Industry](#). CalRecycle interacts with California's business community on several fronts, with programs and services geared toward a variety of business groups. This page is continuously updated with resources to help businesses in California to make waste management and purchasing choices that minimize waste, maximize the purchase of recycled content products, increase the use of recycled content materials in manufacturing, and reduce environmental impacts of doing business.
- [Small Business Toolkit](#). A "one-stop-shop" of guidance and resources to help small businesses reduce greenhouse gas emissions and save money. This is just one of the many tools provided at www.coolcalifornia.org to provide all Californians with the tools they need to voluntarily reduce global warming pollution.

Check back in the future for more information about activities related to the development of this measure.

Last updated: April 13, 2010

Climate Change: http://www.calrecycle.ca.gov/Climate_Change/

Contact: climatechange@calrecycle.ca.gov

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DRAFT PROPOSED REGULATORY TEXT

MANDATORY COMMERCIAL RECYCLING

TITLE 17: PUBLIC HEALTH
DIVISION 3. AIR RESOURCES
CHAPTER 1. AIR RESOURCES BOARD
ARTICLE X. MANDATORY COMMERCIAL RECYCLING

§9XXX0. Purpose.

The purpose of this Article is to implement the Mandatory Commercial Recycling Measure (RW-3) provisions of the Scoping Plan adopted by the State Air Resources Board pursuant to Assembly Bill 32, (Nunez, 2006) §38500, et seq., of the Health and Safety Code.

§9XXX1. Definitions.

- (a) For the purposes of this Article the following definitions shall apply:
- (1) "Annual Report" means the electronic report, submitted annually by a jurisdiction, summarizing its progress in reducing solid waste, as required by §41821 of the Public Resources Code and 14 California Code of Regulations §§18794-18794.6.
 - (2) "DRRR" means the Department of Resources, Recycling and Recovery.
 - (3) "Jurisdiction" means a city, county, city and county, or a regional agency that is approved by the DRRR pursuant to §40975 of the Public Resources Code.
 - (4) "Business" means any commercial entity, including, but not limited to, a firm, partnership, proprietorship, joint-stock company, corporation, or association that is organized as a for-profit or nonprofit entity, that generates four cubic yards or more of commercial solid waste and recyclables per week. For purposes of this Article, "business" also includes a multifamily residential dwelling of five units or more that generates four cubic yards or more of commercial solid waste and recyclables per week.
 - (5) "Commercial solid waste" means all types of solid waste, including recyclable materials that are generated from businesses as defined in subdivision (4) but does not include waste from single family residences.
 - (6) "Diversion" or "divert" means activities which reduce or eliminate the amount of solid waste from disposal, as defined in Public Resources Code §40124, but for the purposes of this Articles does not include transformation, as defined in Public Resources Code §40201.
 - (7) "Disposal" means the final disposition of solid waste at a permitted landfill.
 - (8) "Franchise" means any contract, license or agreement between a jurisdiction and a hauler for transporting solid waste.
 - (9) "Hauler" means any person or commercial entity which collects, hauls, or transports solid waste for a fee by use of any means, including but not limited to, a dumpster truck, roll off truck, side-load, front-load, or rear-load garbage truck, or a trailer.

- (10) "Landfill" means a permitted disposal site which accepts solid waste.
- (11) "Mixed Waste" means solid waste that contains both recyclable materials and trash.
- (12) "Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place, as defined in Public Resources Code §40180. Recycling does not include transformation as defined in Public Resources Code §40201.
- (13) "Recycling services" means services consistent with state or local laws or requirements, including a local ordinance or agreement, which provide for the collection and handling of recyclables.
- (14) "Recycling facility" means a recycling, composting, materials recovery or re-use facility that is fully licensed, certified and eligible under federal, state and local laws and regulations and includes those facilities that receive, process, compost, and transfer to market recyclable and/or compostable materials that have been separated from the solid waste stream. The recycling facility may be located at a landfill operation site. Recycling facility includes a mixed waste processing facility.
- (15) "Recyclables" and "recyclable materials" means materials that have been separated from the solid waste stream prior to disposal and returned for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place and that are not land-filled. Recyclable materials can include, but are not limited to paper, plastics, glass, metals, cardboard, organics, food waste, and construction and demolition materials.
- (16) "Self hauler" or "self hauling" means a business that transports its own waste and/or recyclables rather than contracting with a hauler for that service.
- (17) "Source separating" or "source separation" means the process of removing recyclable materials from solid waste at the place of generation, prior to collection, and placing them into separate containers that are separately designated for recyclables.
- (18) "Solid waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes as described in §40191 of the Public Resources Code.

§9XXX2.Mandatory commercial recycling by businesses.

- (a) On or before July 1, 2012, the owner or operator of a business, as defined in §9XXX1(4), shall, consistent with local requirements, recycle its commercial solid waste by taking one of the following actions:

- (1) Source separating recyclable materials from the solid waste they are discarding and either self-hauling, or subscribing to a service that hauls, the recyclable materials separately from the solid waste to divert them from disposal; or
 - (2) Subscribing to an alternative type of recycling service that includes mixed waste processing that diverts recyclable materials from disposal.
- (b) Each business shall be responsible for ensuring and demonstrating its compliance with the requirements of this Section.
- (c) This Section does not limit the authority of a jurisdiction to adopt, implement, or enforce a recycling program that is more stringent or comprehensive than the requirements of this Section. Businesses located in such a jurisdiction are required to comply with any local requirements that have been enacted.
- (d) This Section does not modify or abrogate in any manner any of the following:
- (1) A franchise granted or extended by a city, county, or other local government agency;
 - (2) A contract, license, or permit to collect solid waste previously granted or extended by a city, county, or other local government agency; or
 - (3) The existing right of a business to sell or exchange its recyclable materials at fair market value, for reuse or recycling, or to donate its recyclable materials to another entity for reuse or recycling.

§9XXX3.Implementation of commercial recycling program by jurisdictions.

- (a) Effective July 1, 2012, each jurisdiction shall implement a commercial recycling program which diverts solid waste generated by businesses, as defined in §9XXX1(4), by targeting the jurisdiction's commercial waste stream.
- (b) A jurisdiction shall determine the specific material types targeted by its commercial recycling program, which could include, but are not limited to, paper, plastics, glass, metals, organics, food waste, construction and demolition and cardboard.
- (c) If, prior July 1, 2012, a jurisdiction has implemented a commercial recycling program that meets the requirements of this Article, the jurisdiction will not be required to implement a new or expanded program.
- (d) If, in order to satisfy the requirements of this Article, a jurisdiction has to implement a new, or expand an existing, commercial recycling program, it shall not be required to revise its source reduction and recycling element nor comply with the requirements of Public Resources Code §41800 et seq. The jurisdiction shall include the addition or expansion of a commercial recycling program in its electronic annual report.
- (e) The recycling program adopted pursuant to Subdivision (a) may include, but is not limited to, implementing a commercial recycling policy or ordinance requiring businesses, as defined in §9XXX1(4), to recycle, requiring a mandatory commercial recycling program, as defined in §9XXX1(4), through a franchise agreement or contract, or requiring that commercial solid waste from businesses, as defined in §9XXX1(4), be sent to a mixed waste processing facility.
- (f) The commercial recycling program shall apply to businesses, as defined in §9XXX1(4), but may also apply to any other commercial entity identified by the jurisdiction as being a source of recyclable materials.

- (g) The commercial recycling program shall include education and outreach to businesses, as defined in §9XXX1(4). The jurisdiction shall determine the types of educational and outreach programs to insure that the program targets the components of the jurisdiction's commercial waste stream.
- (h) The commercial recycling program shall include identification and monitoring of businesses, as defined in §9XXX1(4), to assess if businesses are subscribing to recycling services and participating in recycling services. If any businesses subject to these regulations are not in compliance with these provisions, the jurisdiction shall, at a minimum, notify those businesses that they are out of compliance.
- (i) The recycling program may also include:
 - (1) Enforcement, including, but not limited to, a penalty or fine structure that, consistent with a jurisdiction's authority, incorporates warning notices, civil injunctions, financial penalties, or criminal prosecution. Any fees or penalties generated by the enforcement program shall be used to pay the costs of operation, outreach, education, and other associated program costs;
 - (2) Building design standards that specify space requirements for storage of recyclables or other purposes that may assist the compliance of businesses, as defined in §9XXX1(4), with the program;
 - (3) Exemptions deemed appropriate by the jurisdiction such as, but not limited to, zoning requirements, lack of storage space, lack of markets, non-generation of recyclable materials, or current implementation by a business of actions that result in recycling of a significant portion of its commercial waste; or
 - (4) Certification requirements for self-haulers which may include, but are not limited to, requiring businesses, as defined in §9XXX1(4), to maintain written records demonstrating that all self-hauling activities have been completed in accordance with the standards imposed by the jurisdiction's commercial recycling program.
- (j) Each jurisdiction shall report the progress achieved in implementing its commercial recycling program, including education, outreach, identification and monitoring, and enforcement efforts, by providing updates in its electronic annual report.
- (k) The recycling program implemented by the jurisdiction does not limit the existing right of any business to sell or exchange its recyclable materials at fair market value, for reuse or recycling, or to donate its recyclable materials to another entity for reuse or recycling.

§9XXX4. DRRR Review

- (a) Commencing August 1, 2013, the DRRR shall review a jurisdiction's compliance with §9XXX3 as part of its review of the jurisdiction's source reduction and recycling element and household hazardous waste element programs, pursuant to 14 California Code of Regulations §18772 and §41825 of the Public Resources Code.
- (b) The DRRR may also review whether a jurisdiction is in compliance with §9XXX3 at any time that the DRRR receives information that a jurisdiction has not implemented, or is not making a good faith effort to implement, its commercial recycling program.
- (c) During its review pursuant to this Section, the DRRR shall determine whether each jurisdiction has made a good faith effort to implement its selected commercial recycling program. For this purpose, "good faith effort" means all reasonable and feasible efforts by

a jurisdiction to implement its commercial recycling program. During its review, the DRRR may include, but is not limited to, the following factors in its evaluation of a jurisdiction's "good faith effort":

- (1) the extent to which the businesses, as defined in §9XXX1(4), have subscribed to recycling services, including information on the amount of disposal that is being diverted from the businesses and on the number of businesses, as defined in §9XXX1(4), that are subscribing to service;
- (2) the extent to which the jurisdiction is conducting education and outreach to businesses, as defined in §9XXX1(4);
- (3) the extent to which the jurisdiction is monitoring businesses, as defined in §9XXX1(4), and notifying those businesses that are out of compliance; and
- (4) the availability of markets for collected recyclables.

A jurisdiction's failure to implement its commercial recycling plan may be a sufficient basis for issuance of a compliance order pursuant to Public Resources Code §41825, even if the jurisdiction has met its 50% per capita equivalent disposal target.

- (d) If, after a public hearing on the matter, the DRRR finds that a jurisdiction has failed to make a good faith effort to implement a commercial recycling program and meet the requirements of §9XXX3, the DRRR shall issue a compliance order with a specific schedule for achieving those requirements. The DRRR shall issue the compliance order within 30 days after making its finding of non-compliance.
- (e) The compliance order shall identify the portions of the commercial recycling program which are not being implemented or attained by the jurisdiction, or identify areas of the commercial recycling program which need revision. The DRRR shall also set a date by which the jurisdiction shall meet the requirements of the compliance order.
- (f) Pursuant to Public Resources Code §41850, the DRRR shall hold a hearing to determine whether the jurisdiction has complied with the terms of the compliance order. If the DRRR determines that the jurisdiction has failed to make a good faith effort to implement its commercial recycling program and meet the requirements of §9XXX3, the DRRR may impose administrative civil penalties upon the jurisdiction of up to ten thousand dollars (\$10,000.00) per day until the jurisdiction implements the program.

