

1 **MANDATORY COMMERCIAL RECYCLING**

2
3 **TITLE 14. NATURAL RESOURCES**

4 **DIVISION 7. CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD**

5 **CHAPTER 9.1. MANDATORY COMMERCIAL RECYCLING**

6
7 **§18835. Purpose.**

8 This Chapter implements Mandatory Commercial Recycling pursuant to §42649 of the
9 Public Resources Code. The purpose of the statute is to reduce greenhouse gas
10 emissions by diverting commercial solid waste to recycling efforts and to expand the
11 opportunity for additional recycling services and recycling manufacturing facilities in
12 California.

13 **Authority cited: Section 40502, Public Resources Code. Reference: Section 42649**

14 **§18836. Definitions.**

15 (a) The following definitions shall govern the provisions of this Chapter.

- 16
17 (1) "Business" means any commercial or public entity that generates four cubic
18 yards or more ~~more than four cubic yards~~ of commercial solid waste per
19 week, including, but not limited to, a firm, partnership, proprietorship, joint-
20 stock company, corporation, or association that is organized as a for-profit
21 or nonprofit entity, strip mall (e.g. property complex containing two or more
22 commercial entities), industrial facility, school, school district, California
23 State University, community college, University of California, special district
24 or a federal, state, local, or regional agency or facility. For purposes of this
25 Chapter, "business" also includes a multi-family residential dwelling of five
26 units or more, regardless of the amount of commercial solid waste
27 generated.
28
29 (2) "Commercial solid waste" means all types of solid waste, including
30 recyclable materials that are discarded from businesses as defined in
31 subdivision (1), but does not include waste from single family residences or
32 multifamily units of less than 5 units and does not include industrial waste.
33
34 (3) "Franchise" means any agreement between a jurisdiction and a hauler for
35 transporting commercial solid waste.
36

- 37 (4) "Hauler" means any person, commercial or public entity which collects,
38 hauls, or transports solid waste for a fee by use of any means, including but
39 not limited to, a dumpster truck, roll off truck, side-load, front-load, or
40 rear-load garbage truck, or a trailer.
41
- 42 (5) "Mixed Waste Processing" means processing solid waste that contains both
43 recyclable and/or compostable materials and trash.
44
- 45 (6) "Self hauler" or "self hauling" means a business that transports its own waste
46 and/or recyclables rather than contracting with a hauler for that service.
47
- 48 (7) "Source separating" or "source separation" means the process of removing
49 recyclable materials from solid waste at the place of generation, prior to
50 collection, and placing them into separate containers that are separately
51 designated for recyclables.
52

53 **Authority cited: Section 40502, Public Resources Code. Reference: Section 42649.1,**
54 **Public Resources Code.**
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56 **§18837. Mandatory recycling of commercial solid waste by businesses.**
57

- 58 (a) On and after July 1, 2012, a business shall take at least one of the following
59 actions in order to reuse, recycle, compost, or otherwise divert commercial solid
60 waste from disposal:
61
- 62 (1) Source separating recyclable and/or compostable materials from the solid
63 waste they are discarding and either self-hauling, subscribing to a hauler,
64 and/or otherwise arranging for the pick-up of the recyclable and/or
65 compostable materials separately from the solid waste to divert them from
66 disposal.
67
- 68 (2) Subscribing to a recycling service that may include mixed waste processing
69 that yields diversion results comparable to source separation.
70
- 71 (b) To comply with §18837(a), property owners of commercial or multi-family
72 complexes may require tenants to source separate their recyclable materials.
73 Tenants must source separate their recyclable materials if required to by property
74 owners of commercial or multi-family complexes.
75
- 76 (c) Each business shall be responsible for ensuring and demonstrating its
77 compliance with the requirements of this Section. The activities undertaken by
78 each business pursuant to §18837(a) shall be consistent with local requirements,

including, but not limited to, a local ordinance, policy, contract or agreement applicable to the collection, handling or recycling of solid waste.

(d) Except as expressly set forth in §18837(e)(3), this Chapter 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 must comply with any local requirements that have been enacted.

(e) This Chapter does not modify, limit, or abrogate in any manner any of the following:

(1) A franchise granted or extended by a city, county, city and county, or other local government agency;

(2) A contract, license, or permit to collect solid waste granted or extended by a city, county, or other local government agency as of the effective date of this regulation;

(3) The existing right of a business to sell or donate its recyclable materials; or

(4) The existing provisions of §41783 of the Public Resources Code related to transformation that allow jurisdictions to reduce their per-capita disposal rate by no more than 10 percent. Materials sent to transformation facilities must meet the requirements of §41783(a)(2) of the Public Resources Code regarding front-end methods or programs to remove all recyclable materials from the waste stream prior to transformation to the maximum extent feasible (i.e., businesses whose waste goes to a transformation facility still need to comply with the requirements in subsection 18837(a)).

Authority cited: Section 40502, Public Resources Code. Reference: Sections 41783, 42649.2, and 42649.5, Public Resources Code

§18838. Implementation of commercial recycling program by jurisdictions.

(a) Effective July 1, 2012, whether or not the jurisdiction has met the requirements of Section 41780, each jurisdiction shall implement a commercial recycling program appropriate for that jurisdiction which is designed to divert commercial solid waste generated by businesses and that consists of the following components:

(1) The commercial recycling program shall include education and outreach to businesses. The jurisdiction shall determine the types of educational and

120 outreach programs to ensure that the program targets the components of
121 the jurisdiction's commercial waste stream.
122

- 123 (2) The commercial recycling program shall include identification and
124 monitoring of businesses to assess if they are complying with §18837(a). If
125 any businesses subject to these regulations are not in compliance with
126 these provisions, the jurisdiction shall, at a minimum, notify those
127 businesses that they are out of compliance.
128

- 129 (b) The commercial recycling program adopted pursuant to Subdivision (a) may
130 include, but is not limited to, implementing a commercial recycling policy or
131 ordinance requiring businesses to recycle, requiring a mandatory commercial
132 recycling program through a franchise agreement or contract, or requiring that
133 commercial solid waste from businesses go through either a source separated or
134 mixed waste processing system that diverts material from disposal.
135

- 136 (c) When adopting its commercial recycling ordinance, policy, or program, a
137 jurisdiction may also, but is not required to, consider the following:
138

- 139 (1) Enforcement consistent with a jurisdiction's authority, including, but not
140 limited to, a penalty or fine structure that incorporates warning notices, civil
141 injunctions, financial penalties, or criminal prosecution.
142

- 143 (2) Building design standards that specify space requirements for storage of
144 recyclables or other purposes that may assist the compliance of businesses
145 with the program.
146

- 147 (3) Exemptions deemed appropriate by the jurisdiction for reasons such as, but
148 not limited to, zoning requirements, lack of sufficient space in multi-family
149 complexes to provide additional recycling bins, lack of markets,
150 non-generation of recyclable materials, or current implementation by a
151 business of actions that result in recycling of a significant portion of its
152 commercial waste.
153

- 154 (4) Certification requirements for self-haulers which may include, but are not
155 limited to, requiring businesses to maintain written records demonstrating
156 that all self-hauling activities have been completed in accordance with the
157 standards imposed by the jurisdiction's commercial recycling program.
158

- 159 (d) The commercial recycling program shall apply to businesses, but may also apply
160 to any other commercial entity identified by the jurisdiction as being a source of
161 commercial solid waste.
162

- (e) A jurisdiction may determine the specific material types included in its commercial recycling program, which could include, but are not limited to, paper (including cardboard), plastics, glass, metals, organics, food waste, and non-hazardous construction and demolition.
- (f) If, prior to July 1, 2012, a jurisdiction has implemented a commercial recycling program that meets all requirements of this Chapter, as determined by CalRecycle pursuant to §18839, the jurisdiction will not be required to implement a new or expanded program.
- (g) If, in order to satisfy the requirements of this Chapter, a jurisdiction must 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.
- (h) The jurisdiction shall include the addition or expansion of a commercial recycling program in its Annual Report required by §41821, et seq. of the Public Resources Code. Each jurisdiction shall report the progress achieved in implementing its commercial recycling program, including education, outreach, identification and monitoring, and, if applicable, enforcement efforts, and the rationale for allowing exemptions, by providing updates in its Annual Report.

Authority cited: Section 40502, Public Resources Code. Reference: Sections 41780, 41821, 42649.3 and 42649.4, Public Resources Code

§18839. CalRecycle Review

- (a) Commencing August 1, 2013, CalRecycle shall review a jurisdiction's compliance with §18838 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) During its review pursuant to this Section, CalRecycle 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, CalRecycle 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 have complied with §18837(a), including information on the amount of solid waste that is being diverted from

disposal by the businesses, if available, and on the number of businesses that are subscribing to service;

(2) The recovery rate of the commercial waste from each material recovery facility that is utilized by the businesses, the role of that facility in the jurisdiction's overall waste diversion and recycling system, and all information, methods, and calculations, and any additional performance data, as requested and collected by CalRecycle from the material recovery facility operators pursuant to 14 California Code of Regulations §18809.4;

(3) The extent to which the jurisdiction is conducting education and outreach to businesses;

(4) The extent to which the jurisdiction is monitoring businesses and notifying those businesses that are out of compliance;

(5) The availability of markets for collected recyclables;

(6) Budgetary constraints; and

(7) In the case of a rural jurisdiction, the small geographic size, low population density or distance to markets.

(c) If, after a public hearing on the matter, CalRecycle finds that a jurisdiction has failed to make a good faith effort to implement a commercial recycling program and meet the requirements of §18838, CalRecycle shall issue a compliance order with a specific schedule for achieving those requirements. CalRecycle shall issue the compliance order within 30 days after making its finding of non-compliance.

(d) 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. CalRecycle shall also set a date by which the jurisdiction shall meet the requirements of the compliance order.

Authority Cited: Section 40502, Public Resources Code. Reference: Sections 41825, 42649.3, 42649.4 and 42649.5, Public Resources Code.