

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

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

52 **Authority cited: Section 40502, Public Resources Code. Reference: Section 42649.1,**  
53 **Public Resources Code.**

54  
55 **§18837. Mandatory recycling of commercial solid waste by businesses.**  
56

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

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

80  
81 (d) Except as expressly set forth in §18837(e)(3), this Chapter does not limit the  
82 authority of a jurisdiction to adopt, implement, or enforce a recycling program that  
83 is more stringent or comprehensive than the requirements of this Section.  
84 Businesses located in such a jurisdiction must comply with any local  
85 requirements that have been enacted.

86  
87 (e) This Chapter does not modify, limit, or abrogate in any manner any of the  
88 following:

89  
90 (1) A franchise granted or extended by a city, county, city and county, or other  
91 local government agency;

92  
93 (2) A contract, license, or permit to collect solid waste granted or extended by a  
94 city, county, or other local government agency as of the effective date of this  
95 regulation;

96  
97 (3) The existing right of a business to sell or donate its recyclable materials; or

98  
99 (4) The existing provisions of §41783 of the Public Resources Code related to  
100 transformation that allow jurisdictions to reduce their per-capita disposal rate  
101 by no more than 10 percent. Materials sent to transformation facilities must  
102 meet the requirements of §41783(a)(2) of the Public Resources Code  
103 regarding front-end methods or programs to remove all recyclable materials  
104 from the waste stream prior to transformation to the maximum extent  
105 feasible (i.e., businesses whose waste goes to a transformation facility still  
106 need to comply with the requirements in subsection 18837(a)).

107  
108 **Authority cited: Section 40502, Public Resources Code. Reference: Sections 41783,**  
109 **42649.2, and 42649.5, Public Resources Code**

110  
111 **§18838. Implementation of commercial recycling program by jurisdictions.**

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

116  
117 (1) The commercial recycling program shall include education and outreach to  
118 businesses. The jurisdiction shall determine the types of educational and

- 119                    outreach programs to ensure that the program targets the components of  
120                    the jurisdiction's commercial waste stream.  
121
- 122                    (2) The commercial recycling program shall include identification and  
123                    monitoring of businesses to assess if they are complying with §18837(a). If  
124                    any businesses subject to these regulations are not in compliance with  
125                    these provisions, the jurisdiction shall, at a minimum, notify those  
126                    businesses that they are out of compliance.  
127
- 128                    (b) The commercial recycling program adopted pursuant to Subdivision (a) may  
129                    include, but is not limited to, implementing a commercial recycling policy or  
130                    ordinance requiring businesses to recycle, requiring a mandatory commercial  
131                    recycling program through a franchise agreement or contract, or requiring that  
132                    commercial solid waste from businesses go through either a source separated or  
133                    mixed waste processing system that diverts material from disposal.  
134
- 135                    (c) When adopting its commercial recycling ordinance, policy, or program, a  
136                    jurisdiction may also, but is not required to, consider the following:  
137
- 138                    (1) Enforcement consistent with a jurisdiction's authority, including, but not  
139                    limited to, a penalty or fine structure that incorporates warning notices, civil  
140                    injunctions, financial penalties, or criminal prosecution.  
141
- 142                    (2) Building design standards that specify space requirements for storage of  
143                    recyclables or other purposes that may assist the compliance of businesses  
144                    with the program.  
145
- 146                    (3) Exemptions deemed appropriate by the jurisdiction for reasons such as, but  
147                    not limited to, zoning requirements, lack of sufficient space in multi-family  
148                    complexes to provide additional recycling bins, lack of markets,  
149                    non-generation of recyclable materials, or current implementation by a  
150                    business of actions that result in recycling of a significant portion of its  
151                    commercial waste.  
152
- 153                    (4) Certification requirements for self-haulers which may include, but are not  
154                    limited to, requiring businesses to maintain written records demonstrating  
155                    that all self-hauling activities have been completed in accordance with the  
156                    standards imposed by the jurisdiction's commercial recycling program.  
157
- 158                    (d) The commercial recycling program shall apply to businesses, but may also apply  
159                    to any other commercial entity identified by the jurisdiction as being a source of  
160                    commercial solid waste.  
161

- 162 (e) A jurisdiction may determine the specific material types included in its  
163 commercial recycling program, which could include, but are not limited to, paper  
164 (including cardboard), plastics, glass, metals, organics, food waste, and non-  
165 hazardous construction and demolition.  
166
- 167 (f) If, prior to July 1, 2012, a jurisdiction has implemented a commercial recycling  
168 program that meets all requirements of this Chapter, as determined by  
169 CalRecycle pursuant to §18839, the jurisdiction will not be required to implement  
170 a new or expanded program.  
171
- 172 (g) If, in order to satisfy the requirements of this Chapter, a jurisdiction must  
173 implement a new, or expand an existing, commercial recycling program, it shall  
174 not be required to revise its source reduction and recycling element nor comply  
175 with the requirements of Public Resources Code §41800 et seq.  
176
- 177 (h) The jurisdiction shall include the addition or expansion of a commercial recycling  
178 program in its Annual Report required by §41821, et seq. of the Public  
179 Resources Code. Each jurisdiction shall report the progress achieved in  
180 implementing its commercial recycling program, including education, outreach,  
181 identification and monitoring, and, if applicable, enforcement efforts, and the  
182 rationale for allowing exemptions, by providing updates in its Annual Report.  
183

184 **Authority cited: Section 40502, Public Resources Code. Reference: Sections 41780,**  
185 **41821, 42649.3 and 42649.4, Public Resources Code**

186

187 **§18839. CalRecycle Review**

- 188 (a) Commencing August 1, 2013, CalRecycle shall review a jurisdiction’s compliance  
189 with §18838 as part of its review of the jurisdiction’s source reduction and  
190 recycling element and household hazardous waste element programs, pursuant  
191 to 14 California Code of Regulations §18772 and §41825 of the Public  
192 Resources Code.  
193
- 194 (b) During its review pursuant to this Section, CalRecycle shall determine whether  
195 each jurisdiction has made a good faith effort to implement its selected  
196 commercial recycling program. For this purpose, “good faith effort” means all  
197 reasonable and feasible efforts by a jurisdiction to implement its commercial  
198 recycling program. During its review, CalRecycle may include, but is not limited  
199 to, the following factors in its evaluation of a jurisdiction’s “good faith effort”:  
200
- 201 (1) The extent to which the businesses have complied with §18837(a), including  
202 information on the amount of solid waste that is being diverted from

203 disposal by the businesses, if available, and on the number of businesses  
204 that are subscribing to service;  
205

206 (2) The recovery rate of the commercial waste from each material recovery  
207 facility that is utilized by the businesses, the role of that facility in the  
208 jurisdiction's overall waste diversion and recycling system, and all  
209 information, methods, and calculations, and any additional performance  
210 data, as requested and collected by CalRecycle from the material recovery  
211 facility operators pursuant to 14 California Code of Regulations §18809.4;  
212

213 (3) The extent to which the jurisdiction is conducting education and outreach to  
214 businesses;  
215

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

218 (5) The availability of markets for collected recyclables;  
219

220 (6) Budgetary constraints; and  
221

222 (7) In the case of a rural jurisdiction, the small geographic size, low population  
223 density or distance to markets.  
224

225 (c) If, after a public hearing on the matter, CalRecycle finds that a jurisdiction has  
226 failed to make a good faith effort to implement a commercial recycling program  
227 and meet the requirements of §18838, CalRecycle shall issue a compliance  
228 order with a specific schedule for achieving those requirements. CalRecycle  
229 shall issue the compliance order within 30 days after making its finding of  
230 non-compliance.  
231

232 (d) The compliance order shall identify the portions of the commercial recycling  
233 program which are not being implemented or attained by the jurisdiction, or  
234 identify areas of the commercial recycling program which need revision.  
235 CalRecycle shall also set a date by which the jurisdiction shall meet the  
236 requirements of the compliance order.  
237

238 **Authority Cited: Section 40502, Public Resources Code. Reference: Sections**  
239 **41825, 42649.3, 42649.4 and 42649.5, Public Resources Code.**