

MANDATORY COMMERCIAL RECYCLING REGULATIONS

HF&H has summarized in the table below the CIWMB Staff Recommendations from the September 15, 2009 Board Meeting. We will be updating this table in December based on CIWMB Staff revised recommendations from the December 8, 2009 Board Meeting. If you have any questions, please do not hesitate to contact Debbie Morris at (949) 251-1106 or via email at dmorris@hfh-consultants.com.

CIWMB Staff Recommendations from September 15, 2009 Board Meeting

Enforcement, Implementation, and Roles and Responsibilities

Enforcement

- Local jurisdictions be given the authority to implement and enforce mandatory commercial recycling via multiple methods of their choice (e.g., ordinance, policy via their franchise haulers, etc.)
- Local jurisdictions be given the flexibility to develop a program that best suits local circumstances and needs, including the option to determine the type of enforcement, the number businesses to enforce, whether to assess fees/fines, whether to include incentives (e.g., landfill tipping fees), etc.

Funding

- Local jurisdictions have the authority to impose fees if they choose to support local government outreach, education, administration, etc.

Education/Outreach

- The State provide models, tools and technical assistance regarding outreach and education.

Fines/Penalties

- Jurisdictions that fail to implement a commercial recycling program could be at risk of being considered out of AB 939 compliance.

Reporting

- The State would evaluate local programs as part of its review of all local diversion programs.
- Jurisdictions would report enforcement and monitoring methods, barriers to implementation, and program progress via their Annual Reports.
- CIWMB will review jurisdictions to evaluate if they have an adequate mandatory commercial recycling program during the biennial or quadrennial review cycles.
- Greenhouse gas emission reductions associated with commercial recycling pursuant to this regulation will be evaluated on a statewide basis rather than at the jurisdiction level.

Exemptions

- Local jurisdictions have the flexibility to provide exemptions based on criteria such as lack of storage space, lack of markets, already diverting materials to the maximum extent feasible, not generating recyclable materials, etc.

Incentives

- Allow the flexibility for jurisdictions to include incentives that they may not already have (e.g., variable rates).

Materials

Infrastructure

- Jurisdictions have the flexibility to determine the specific material types to be included in their mandatory commercial recycling program.
- The local government has the flexibility to implement a program for mixed waste processing. The

conceptual provisions do not include specific performance measures for mixed waste recovery facilities.

- Allow flexibility for conversion and other new technologies.

GHG emission reduction potential

- Jurisdictions have the flexibility to determine the specific material types to be included in the mandatory commercial recycling program.

Existing Programs

- Jurisdictions that have an existing commercial recycling program that addresses education/outreach, etc., shall not be required to implement a new or expanded program.

Thresholds

Businesses

- All businesses that generate more than four cubic yards of total solid waste and recyclable materials per week to comply with the regulation. This does not prohibit jurisdictions from including a more stringent threshold.

Multi-Family and Mobile Home Parks

- Include multifamily residential dwellings of five units or more.
- Do not include mobile home parks because they are difficult to define and generate much less than multifamily units and businesses.
- The local government would have the flexibility of including a more stringent threshold if desired (e.g., fewer cubic yards or all multifamily residential dwellings).

Construction and Demolition

- C&D materials would not be mandated but would be among the materials that could be considered.
- Staff is not recommending that jurisdictions be required to develop a C&D ordinance.

Self-Haul

- The regulation provides flexibility to jurisdictions to determine how self-haulers should be included in their local programs.