



February 24, 2017

Mr. Robert Carlson
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Subject: Comments on CalRecycle's Third Draft of Reporting Regulations for Disposal, Diversion & Enforcement (AB 901 Regulation Development)

Dear Mr. Carlson,

On behalf of the California Chapters of the Solid Waste Association of North America (SWANA) Legislative Task Force (LTF), thank you for the opportunity to provide comments on the February 10, 2017 Third Draft of Reporting Regulations for Disposal, Diversion & Enforcement (AB 901 Regulation Development). SWANA represents much of the publicly-owned and –operated solid waste management infrastructure in the state and the local governments responsible for implementing waste diversion and recycling programs. The LTF represents the California Chapters on legislative and regulatory issues.

SWANA appreciates CalRecycle staff's efforts to meet with stakeholders and consider comments on these complex proposed regulations. The current version is much improved and addresses many of the concerns SWANA raised to date (e.g. reduced number of source sectors, increased reporting timeframes, and time to remedy issues before a violation is issued). Given the significant number of changes since the last version, especially to the fundamental definitions, there has not been sufficient time to compile our member's comments. A number of our members will be submitting individual letters. Some of the concerns include:

- Many of the definitions were revised to refer to the same definition as other requirements. Some of the proposed definitions are different than the terms used in other existing regulations and statutes. This could be a source of confusion during implementation. For example, the proposed definition of "organics" in the AB 901 regulations (Section 18815.2 (a)(35)) is different than the "organics waste" used in the Mandatory Commercial Organics Recycling statutes in PRC 42649.8 (c), which states that "organic waste" means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste." The proposed AB 901 regulations' organics definition is "organics" means compostable materials like food, green waste, landscape and pruning waste, nonhazardous lumber and dimensional wood, food-soiled paper or other compostable paper; by-products like digestates, biosolids and biogenic sludges; and bioproducts like compost, wood chips, biofuels and biogas." We encourage CalRecycle to utilize consistent definitions.
- The definition of "Recyclable material" means a material that has the potential to be recycled, and that is managed through recycling facilities and operations, and includes intermediate recycled materials" (Section

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18815.2 (a)(40)). Everything has a "potential" to be recycled, so this definition may require a facility to count a material as "recyclable" even if it is too contaminated to be marketable.

- The definition of "Recyclable material" in Section 18815.2 (a)(40)) also uses the term "intermediate recycled materials," but there is no definition of that term.
- Section 18815.3 (c) requires a composting or recycling facility, or operation at the same facility as a transfer or disposal facility or operation, to get separate DDRS numbers and report separately. This is extra effort for those facilities with multiple activities.
- The Reasonable Methods (Section 18815.9) for reporting does not include a process for Reporting Entities to apply for alternative methods of reporting other than for estimating source sector.
- Currently, transfer stations (18809.2) and landfills (18810.2) are required to have weigh scales if the facility or operation accepts more than 100 tons per day of solid waste (a facility or operation in a rural city or county has a 200 ton per day limit). Volumetric conversion can be used for all received. The proposed regulations (Section 18815.9 (d)) would reduce that exemption limit to 4,000 tons per year (333 tons per month) from "contract haulers" (Page 15, Section 18815.09(d)(2)(C)). This new limit is for all material and not just solid waste received. This further increases difference between the old and new limits. "Contract-hauled" means material hauled by any person paid to collect and transport material from a Generator, including franchised Haulers and private contract Haulers. The revision limiting the exemption to contract haulers is a significant benefit but the change from 200 tons per day of solid waste to 333 tons per month of all materials is significant for those facilities and operations that do not have scales but would be required to purchase them. Since scales costs can range from \$60,000 to \$100,000 to install, the financial impact of this provision is significant. CalRecycle should determine the number of facilities and operations that would be impacted by this requirement.
- Regarding civil penalties in Section 18815.10, when a "person" has multiple occurrences of the same violation in the same time period, it is not clear whether that counts as a first offense or multiple offenses. Also, the penalties are assessed per "person" and not per facility, so if an organization has multiple problems over many facilities and even many counties it could be interpreted as one penalty.

Thank you again for the improvements in this draft of the regulations, and for your consideration of the additional comments expressed above.

Sincerely,



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