



October 16, 2018

Steven Sander
Project Lead, AB 901: Disposal and Recycling Facility Reporting Program
Department of Resources Recycling and Recovery
801 K St., MS 17-01
Sacramento, CA 95814
Via AB901.Reporting@CalRecycle.ca.gov

RE: Comments on CalRecycle's Seventh Draft of Reporting Regulations for Disposal, Diversion & Enforcement, Dated October 2018 (AB 901 Regulation Development)

Dear Mr. Sander:

On behalf of the California Chapters of the Solid Waste Association of North America's (SWANA) Legislative Task Force (LTF), I write to convey our feedback regarding the October 2018 Seventh Draft of Reporting Regulations for Recycling, Disposal & Enforcement (AB 901 Regulation Development). Thank you for the opportunity to provide comments.

SWANA is the world's largest association of solid waste professionals (10,000 members). SWANA's three California chapters represent more than 900 of those members. 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 is responsible for representing the California Chapters on legislative and regulatory issues. SWANA is committed to advancing the practice of environmentally- and economically-sound management of municipal solid waste.

First, we want to thank CalRecycle for your efforts to meet with stakeholders and consider comments on these complex proposed regulations. The current version of the draft regulations is much improved from earlier versions of the informal regulations and addresses many of the concerns SWANA raised, including: reduced number of source sectors, increased reporting timeframes, time to remedy issues before a violation is issued, allowance for records to be retained at an alternative location, ability to apply for alternative methods of reporting other than estimating source sector, etc. However, some of our concerns and recommendations remain, as outlined below.

Section 18801: Definitions:

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)(39)) 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 of "organics" means compostable materials like food, agricultural by-products, green waste, landscape and pruning waste, nonhazardous lumber and dimensional wood, manure, compostable paper, digestate, biosolids, and biogenic sludges; and any product manufactured or refined therefrom, including compost, wood chips, biofuels, and biogas. We encourage CalRecycle to utilize consistent definitions.

LEGISLATIVE ADVOCATES

Jason Schmelzer and Melissa Immel

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We are also recommending that Section 18815.2(a)(58) be expanded to include the term “disaster debris” as a fourth definition of source sector. Utilizing disaster debris as a source sector will be helpful in quantifying and planning efforts during an emergency/disaster situations and cleanup activities. There was clarification that this material is part of the self-hauled source sector, but this does not address our concern. We would like to see it be a separate source sector.

The definition of “recyclables material” has been removed so we no longer take issue with that definition.

Section 18815.4: Requirements for Self-Haulers:

We appreciate the clarification that self-haulers, other than food-waste self-haulers, do not report to the Department. We believe this change addresses our previous concerns.

Additionally, we previously expressed concerns and asked for clarification regarding confusing definitions of “Generator,” “Hauler,” and “Reporting entity,” and related exemptions for those that are not food-waste self-haulers. The confusing language was removed, and we appreciate the revised version of the language.

Section 18815.4: Reporting Requirements for Haulers:

Haulers, including self-haulers, will continue to report jurisdiction of origin and source sector (self-hauled). It would be helpful to clarify the exemptions related to self-hauled reporting. In Section 18815.4, the following change is proposed:

(d) A contract hauler who takes material directly from a generator and hauls it to land application or to a person outside of the state shall report to the Department. In their report to the Department, a contract hauler shall provide the following information for tons hauled, using the methods described in Section 18815.9 of this Article, [unless exempted from reporting per Section 18815.3](#):

Section 18815.7: Reporting Requirements for Recycling and Composting Facilities and Operations:

As indicated in comments for Section 18815.5, the final fate of materials is not always known upon delivery. The following changes are proposed:

- (1) For materials sent ~~for disposal or potential beneficial reuse~~ to a transfer/processor, or disposal facility with a different RDRS number inside or outside of California, report the total tons of each material type, pursuant to section 18815.9(a) of this article, and their contact information, and RDRS number, if applicable.

However, we do appreciate the inclusion of the word “potential” regarding beneficial reuse. Additionally, we appreciate the removal of “for potential recycling or composting” from the following:

- (2) For materials sent to each recycling or composting facility or operation with a different RDRS number, or for recycling at each transfer/processor with a different RDRS number inside California, report the tons of each material type, pursuant to section 18815.9(a) of this article, and their contact information and RDRS number, if applicable.

Section 18815.10: Civil Penalties:

The use of “person” has been changed to “reporting entity,” which addresses our previous concerns that penalties would be assessed per person rather than per facility. We thank CalRecycle for this change.

Cost Impacts on Facilities:

The Notice of Proposed Rulemaking’s section on “Cost Impacts on Representative Person or Business” indicates that “CalRecycle staff estimate the average cost per facility in the first 12 months, due to the proposed regulations, will be approximately \$2,150.” There is no supporting documentation of this estimate and it seems significantly lower than expected.



During the various workshops, some stakeholders have indicated that the costs to modify their scale software will likely be more than \$10,000. Assuming a labor rate of \$30 per hour for a scalemaster and five minutes per hour to input data, the cost of a five day per week operation would be \$5,200 annually.

Additionally, the Initial Statement of Reasons dated January 2018 states that AB 901 will dramatically improve local jurisdiction's ability to achieve and measure legislatively mandated goals by expanding reporting to include data on recycling and composting. It also states that additional tools will enhance and expand the ability of local jurisdictions to verify the accuracy of reported information. Further, AB 901 amended Section 41821.5 (b)(3) of the Public Resources Code to state that CalRecycle may provide reported information to jurisdictions. However, it is unclear in the Regulations as to how local jurisdictions will reap the benefits of a more comprehensive and robust data collection by CalRecycle. The regulations should incorporate provisions describing the information and tools that will be made available, as well as the parties responsible for making such information and tools available, so that local jurisdictions may have the ability to measure and achieve the State-mandated goals.

Previously, we voiced concern regarding the cost of weigh scales. With the current version of the language, we believe that no site that does not have a scale will be required to obtain one, so we no longer maintain our prior concerns.

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

Sincerely,



Melissa Immel
Legislative Advocate
Shaw / Yoder / Antwih, Inc.

