

Explanation of Changes from Third Draft to Fourth Draft

CalRecycle's Director, Scott Smithline, approved the first RFA and the associated regulation text after CalRecycle's May 2017 monthly meeting. Subsequent to that approval, staff identified several areas that needed clarification.

To highlight the types of changes included in the revised September 2017 version of the regulations, this document shows all of the changes within the sections covering reporting requirements. The highlights shown below only include sections (or subsections) with changes; it is not a complete set of the regulations. For the clearest and easiest to read version, please use the complete regulations. While the minor changes are included for completeness (shown in red text without highlighting), this document does not discuss them further. Minor changes include:

- reordering or renumbering the sections and subsections to be in numerical order,
- correcting spelling and grammatical errors, and rewording awkward language for clarity,
- referring to the best sections/subsection for clarity,
- relabeling/adding organizational elements that do not affect the content of the requirements, &
- changing the name of the regulations from the "Diversion and Disposal Reporting System (DDRS)" to the "Recycling and Disposal Reporting System (DDRS)" to align with the state's 75% recycling goal.

Some of the clarifications were more extensive or require more explanation. In these cases, the changes are highlighted to correspond to the following descriptions/explanations of the changes:

- (1) The blue highlight in Section 18815.3 shows changes that clarify that the tonnage thresholds for registration and reporting refer to the aggregated tonnages of all activities on a site, not to each individual activity.
- (2) The yellow highlights in Section 18815.3 and 18815.6 show changes that clarify that all solid waste disposal facilities (landfills, EMSW and transformation facilities) must report. This is consistent with current requirements in DRS.
- (3) The green highlight in Section 18815.3 shows the addition of a tonnage for food waste (6000 pounds) to help entities that track by weight instead of volume.
- (4) The grey highlight in Section 18815.3 shows an addition clarifying that if an entity fails to register and the Department has reason to think it should have registered, then the entity must provide evidence on its decision.
- (5) The green highlight in Section 18815.6 shows changes that clarify that reporting entities must report on any waste derived beneficial reuse materials that are moved from one landfill to another landfill.
- (6) The blue highlight in Section 18815.8 shows the changes to simplify and clarify requirements for brokers and transporters.
- (7) The yellow highlights in Section 18815.9 show changes that clarify language on hauler requirements related to jurisdiction of origin and source sector to provide context from Section 18815.4.

Highlights of the Changes Made

Section 18815.1 Scope and Purpose.

- (c) The Department shall maintain the confidentiality of ~~recycling and composting~~ information in reports submitted to the Department as required by ~~sections 41821.5(b)(3) of the Public Resources Code~~ section 18815.12, the California Public Records Act (Chapter 3.5 (commencing with section 6250) of Division 7 of Title 1 of the Government Code), section 40062 of the Public Resources Code, and Title 14, California Code of Regulations, Division 7, Chapter 1, Article 4 (commencing with section 17041).

Section 18815.2 Definitions.

- (a) ~~(19) “Diversion and disposal reporting system number” or “DDRS number” means the number assigned to a reporting entity upon registration with the Department’s electronic diversion and disposal reporting system.~~
- (20) “End user” means a person who uses or manufactures with end products. End users are categorized within the following categories:
- (A) Manufacturing and Packaging. This includes, but is not limited to, an end user that takes ~~material~~ end products from a reporting entity and uses the material to produce consumer products, industrial products, pet or animal feed, or packaging. It also includes an end user that takes finished compost from a reporting entity and blends, packages, bags or distributes it to consumers.
- (40) “Recycling and disposal reporting system number” or “RDRS number” means the number assigned to a reporting entity upon registration with the Department’s electronic recycling and disposal reporting system.
- (47) “Resale for Reuse” ~~means using an~~ selling a used object or material again, to an end user who will use it either for its original purpose or for a similar ~~closely-related~~ purpose, not as a raw material, without significantly altering the physical form of the object or material.
- (52) “Textiles” means items made of natural and/or synthetic thread, yarn, fabric, or cloth, including clothing, fabric trimmings, and draperies, ~~not including carpet.~~

Section 18815.3 Registration, Reporting and Exemptions.

- (a) The following are not required to register or report under this article, for their activities as:
- (1) An end user,
 - (2) A generator who is not a food waste self-hauler,
 - (3) A person that generates, processes, and uses material all on the same site, and
 - (4) A ~~thrift store, auto dismantler, building supply reclaimer or reuser, and any other~~ person whose primary business is resale for reuse, ~~including but not limited to thrift stores, auto dismantlers, building supply reclaimers and reusers~~ of an object or material without significantly altering the physical form of the object or material that meets one of the following criteria:
 - (A) ~~Whose revenues~~ Revenues associated with resale for reuse exceeds revenues associated with recycling or composting activities, or
 - (B) ~~Whose tons~~ Tons associated with resale for reuse exceeds total tons associated with recycling or composting activities.
- (b) A reporting entity shall register and obtain at least one ~~DDRS~~ RDRS number per activity on each site they operate, if they meet both of the following criteria:

- (1) The person recycles, sells, transfers, processes, composts, or disposes any of the following materials, ~~or mixtures thereof~~, after the materials are discarded by a generator:
- (A) Carpet
 - (B) Construction and demolition/inert debris
 - (C) Furniture excluding mattresses
 - (D) Glass excluding cathode ray tube glass
 - (E) Metal
 - (F) Organics
 - (G) Paper
 - (H) Plastic
 - (I) Solid waste
 - (J) Textiles
 - (K) Tire-derived rubber or fuels
 - (L) White goods
- (2) The person recycles, sells, transfers, chips and grinds, processes, ~~and/or disposes an average of 100 tons or more per quarter (in of any calendar year) combination of recyclable material, organics, and/or solid waste in a quarter, for all activities on the same site~~, or is one of the following:
- (A) An active permitted disposal facility.
 - ~~(A)(B)~~ A food waste self-hauler who hauls 12 or more cubic yards, ~~or 6,000 lbs~~ of food waste per quarter.
 - ~~(B)(C)~~ A person who delivers organics for direct land application in excess of 50 tons per quarter in accordance with section 17852(a)(24.5).
 - ~~(C)(D)~~ A person who exclusively processes CDI in excess of 2,500 tons per quarter.
 - ~~(D)(E)~~ A person who composts any amount of organics and ~~are~~is not excluded per section 17855 for composting operations or section 17896.6 for in-vessel digestion operations.
 - ~~(E)(F)~~ A wastewater treatment plant.
- (c) For a facility engaged in multiple activities, regardless of ownership, on the same site:
- (1) Each disposal facility and transfer/processor on the site shall register for a separate ~~DDRSRDRS~~ number and file a separate report that provides information specific to each facility.
 - (2) All recycling and composting facilities or operations at the same site may register for a single ~~DDRSRDRS~~ number and file a single report that aggregates information on materials sent from all recycling and composting activities.
 - (3) Each disposal facility or transfer/processor co-located with recycling/composting activities above the reporting ~~threshold~~thresholds described in section 18815.3(b)(2) of this article shall register for a separate ~~DDRSRDRS~~ number and file a separate report.
 - (4) For determining registration status or reporting status for an individual reporting period, a reporting entity must account for all cumulative tons across all activities conducted at the site, pursuant to section 18815.3(b)(2) of this article. If any single activity is subject to reporting, or the cumulative tonnages of multiple activities exceed the tonnages in section 18815.3(b)(2), the reporting entity must report all activities conducted at the site.
 - (5) Reporting entities engaged in multiple activities at the same site must inform the Department in their report of all reportable activities occurring at the site.
- (d) A reporting entity operating on November 1, 2018 shall register by November 30, 2018.
- (e) A reporting entity that begins operation after November 1, 2018 shall register within 30 days of being subject to these reporting requirements.

- (f) A reporting entity that becomes inactive, closes, or no longer meets the reporting requirements outlined in section 18815.3(b) shall notify the Department within 30 days.
- (g) A reporting entity that is registered but has ~~no reportable~~ tonnages ~~below reporting thresholds~~ for a reporting period shall notify the Department it has nothing to report for the reporting period.
- (h) In its report, a reporting entity shall provide information, as set forth in sections 18815.4- through 18815.8, on all materials composted, recycled, beneficially reused at a landfill, disposed or sent to end user.
- (i) A reporting entity that transfers, sells or sends end products to an end user shall report on the tons of material aggregated by end user category for each region as set forth in this subsection. End uses which are located on the same site as the reporting entity are reportable.
 - (1) Regions shall be reported as follows:
 - (A) End users located within California shall be reported by county.
 - (B) End users located in the United States, but outside California, shall be reported by state.
 - (C) End users located outside the United States shall be reported by country.
 - (2) Reporting entities shall report end user categories as defined in 18815.2(a)(~~2120~~),
 - (3) In those instances where persons acquire end products directly at the reporting entity's site, the reporting entity shall report them as end users in the county where the site is located.
- (j) A reporting entity that transfers, sells, or sends materials to another reporting entity shall provide information for each individual reporting entity, including ~~DDRSRDRS~~ number, contact information, materials and tonnages. Reporting entities that send material to transfer/processors, recyclers, composters, brokers, or disposal facilities outside the state of California, shall provide information for each individual recipient, including contact information, ~~materials~~ and ~~material~~ tonnages.
- (k) If a person receiving material does not have a ~~DDRSRDRS~~ number, and the reporting entity cannot determine that the person is an end user, the reporting entity shall:
 - (1) Report the individual tonnages and materials as if the receiver is a reporting entity, and
 - (2) Supply the Department with contact information for that person in their report.
- (l) A registered reporting entity shall file a report for each reporting period using the Department's electronic reporting system, and ensure that the information they generate and are responsible for providing is accurate, complete, and entered electronically.
 - (1) A reporting entity shall use information available at the time the report is due. If the reporting entity has not received required information from a person, either directly or through ~~DDRSRDRS~~, the reporting entity shall submit all available information in its report to the Department and identify the reporting entities who have not provided them with the required information.
 - (2) If a reporting entity identifies an error in a previously submitted report, they shall notify the Department within 10 days.
 - (3) Each report to the Department shall include:
 - (A) The contact information and ~~DDRSRDRS~~ number of the person submitting the report;
 - (B) The contact information and ~~DDRSRDRS~~ number, if applicable, of each person or reporting entity receiving materials from the reporting entity, with the exception of material sent to end users that may be aggregated by category and region as specified in subdivision (i) of this subsection;
 - (C) The information required by sections 18815.4-18815.9 of this Article, as applicable.
- (m) A reporting entity shall designate a person who has signature authority to submit the report.

(n) If the Department has information that a person does not meet the requirements to not register or report set forth in subsection (a) of this section, the burden of proof shall be on that person to demonstrate otherwise, through documentation such as business records, receipts, invoices, or similar records. At the time that the Department requires a person to provide evidence that it is not required to register or report, the Department shall provide a written description of the information that has caused the Department to believe that the person is required to register and report. Nothing in this requirement is intended to require the Department to identify the name or other identifying information regarding any individual(s) who have complained about the person. Nothing in this section precludes the Department from the following: inspecting a business to verify that it is conducted in a manner that meets the provisions of this subsection; or, from taking any appropriate enforcement action pursuant to this Article.

Section 18815.4 Reporting Requirements for Haulers.

(d) For the purposes of ~~DDRS~~ reporting, the Department shall not require a hauler to submit information on specific collection locations or customers when providing jurisdiction of origin, material type or source sector information to other reporting entities or to the Department as part of a quarterly report.

Section 18815.5 Reporting Requirements for Transfer/Processors.

- (a) In its report to the Department, a transfer/processor shall provide the following information, using the reasonable methods in section 18815.9 of this Article:
- (1) For all tons accepted:
 - (A) From another transfer/processor or disposal facility, report the tons of material accepted from each facility and the delivering facility's contact information and ~~DDRS~~ number if the facility has one
 - (B) From all haulers collectively (including those bringing waste from recyclers, composters, and brokers or transporters), report the total aggregated tons accepted.
 - (C) As specified in section 18815.9, Transfer/processors may request periodic reports from haulers, which provide jurisdiction of origin and source sector for the materials they deliver.
 - (2) For all tons sent for recycling or composting, inside or outside of California:
 - (A) To a recycling or composting operation, or to a broker or transporter, report the tons by material type, pursuant to section 18815.9(a) of this article, sent to each person and their contact information, and ~~DDRS~~ number if the facility or person has one.
 - (B) To an end user, report the tons of each material type, pursuant to section 18815.9(a) of this article, sent to each end user category by region pursuant to section 18815.3(i) of this Article.
 - (3) For solid waste, mixed materials, ~~comingled~~ comingled recyclables and/or residuals, sent to each transfer/processor, broker or transporter, or disposal facility, inside or outside of California:
 - (A) Report the total tons sent to each person, and their contact information and ~~DDRS~~ number, if applicable.
 - (B) Report the percentage of materials sent which originated from each sending facility; and the total percentage of materials sent which originated from all haulers collectively.

- (i) The percentage which originated from all haulers shall be further divided into the jurisdictions of origin of the materials.
- (ii) The percentage which originated from all haulers shall be divided into source sectors, using methods described in section 18815.9(c) of this Article. Source sector shall be reported to the department as a facility-wide estimate.
- (4) For disaster debris sent for disposal inside or outside of California, report the total tons sent to each facility by jurisdiction of origin, and the facility's contact information, and ~~DDRSRDRS~~ number if the facility has one.
- (5) For designated waste sent for disposal inside or outside of California, report the total tons sent to each facility by jurisdiction of origin, and the facility's contact information, and ~~DDRSRDRS~~ number if the facility has one.
- (6) For material sent for beneficial reuse to a landfill or other transfer/processor inside or outside of California, report the tons sent to each facility by material type pursuant to section 18815.6(c)(4) of this Article. Green waste material sent for beneficial reuse at a landfill shall be reported in tons by jurisdiction of origin.
- (b) A transfer/processor shall observe the following due dates for each reporting period:
 - (1) Reporting period 1 due May 31
 - (2) Reporting period 2 due August 31
 - (3) Reporting period 3 due November 30
 - (4) Reporting period 4 due February 28
- (c) For the purposes of ~~DDRSRDRS~~ reporting, the Department shall not require a transfer/processor to submit information on the identities of individual haulers (except for haulers who fail to provide required information), or end users when providing jurisdiction of origin, material type, or source sector information to the Department as part of its Report.
 - (1) A jurisdiction is not precluded from requiring this information through franchise agreements, contracts, local ordinances, section 41821.5(g) of the Public Resources Code, or other authority it may have.
 - (2) The Department may request this information in lieu of an audit, or as part of an audit.

Section 18815.6 Reporting Requirements for Disposal Facilities.

- (a) All active permitted disposal facilities must report each quarter to the Department. In its report to the Department, a disposal facility shall provide the following information for all tons disposed, using the reasonable methods in section 18815.9 of this Article:
 - (1) For solid waste received for disposal from a transfer/processor, report the tons of material disposed from each transfer/processor, and their contact information, and ~~DDRSRDRS~~ number if the facility has one.
 - (2) For solid waste received for disposal directly from all haulers collectively (including those bringing waste from recyclers, composters, and brokers or transporters):
 - (A) Report the total tons disposed from each jurisdiction of origin, and
 - (B) Report an estimate of the aggregated tons, or overall percentage, from each source sector, using methods described in section 18815.9(c).
 - (C) As specified in section 18815.9, Disposal facilities may request periodic reports from haulers, which provide jurisdiction of origin and source sector for the materials they deliver
 - (3) For disaster debris not commingled with other solid waste, report the total tons disposed from each jurisdiction of origin.

- (4) For designated waste not commingled with other solid waste, report the total tons disposed from each jurisdiction of origin.
- (b) In its report to the Department, a disposal facility shall provide the following information for all tons sent off-site, using the reasonable methods in section 18815.9:
- (1) For materials generated on-site (such as ash) sent to another disposal facility, broker, or transporter inside or outside of California, report the total tons sent to each facility and the facility's contact information, and ~~DDRSRDRS~~ number if the facility has one.
 - (2) If recycling and composting activities on site do not surpass the reporting thresholds set forth in section 18815.3(b)(2), report the tons sent for recycling or composting inside or outside of California by material type, pursuant to section 18815.9(a), sent to each person and their contact information, and ~~DDRSRDRS~~ number if the facility has one.
 - (3) If production of end products on site does not surpass the reporting thresholds set forth in section 18815.3(b)(2), report the tons of end products sent to each end user category by region, pursuant to section 18815.3(i) by material type pursuant to section 18815.9(a).
 - (4) If a disposal facility sorts, recycles or composts material above the reporting thresholds set forth in section 18815.3(b)(2), the recycling and composting activities shall be reported pursuant to the Recycling and Composting Operations requirements set forth in section 18815.7, under a separate ~~DDRSRDRS~~ number.
 - (5) If a disposal facility receives material that it cannot or chooses not to dispose, and sends that material to another person inside or outside of California, that disposal facility shall report on that material according to the requirements for transfer/processors in section 18815.5.
- (c) In its report to the Department, a disposal facility shall provide the following information for all tons accepted for beneficial reuse, using the reasonable methods in section 18815.9:
- (1) For waste-derived material accepted for beneficial reuse from a transfer/processor **or another disposal facility**, report the tons of each material used from each transfer/processor **or disposal facility**, and their contact information, and ~~DDRSRDRS~~ number if the facility has one.
 - (2) For green waste material accepted for beneficial reuse from all haulers collectively (including those bringing waste from recyclers, composters, and brokers or transporters):
 - (A) Report the total tons by jurisdiction of origin of each material type accepted for use as ADC,
 - (B) Report the total tons by jurisdiction of origin of each material type accepted for use as AIC,
 - (C) Report the total tons by jurisdiction of origin of each material type used for construction, which includes final cover, foundation layer, liner operations layer, leachate and landfill gas collection systems, fill, road base, wet weather operations pads, and access roads.
 - (D) Report the total tons by jurisdiction of origin of each material type used for landscaping and erosion control, which includes soil amendments for erosion control, dust suppression, and landscaping.
 - (3) For waste-derived material, other than green waste, accepted for beneficial reuse from all haulers collectively (including those bringing waste from recyclers, composters, and brokers or transporters):
 - (A) Report the total tons of each material type accepted for use as ADC,
 - (B) Report the total tons of each material type accepted for use as AIC,
 - (C) Report the total tons of each material type used for construction, which includes final cover, foundation layer, liner operations layer, leachate and landfill gas collection systems, fill, road base, wet weather operations pads, and access roads.

- (D) Report the total tons of each material type used for landscaping and erosion control, which includes soil amendments for erosion control, dust suppression, and landscaping.
- (4) Disposal facilities shall report beneficial reuse material types as approved by the enforcement agency, which include, but are not limited to:
 - (A) Processed green material,
 - (B) Sludge and sludge-derived materials,
 - (C) Ash and cement kiln dust materials,
 - (D) Contaminated sediment, dredge spoils, foundry sands, energy resource exploration, and production wastes,
 - (E) Compost materials,
 - (F) Processed construction and demolition wastes and materials,
 - (G) Treated auto shredder waste, and
 - (H) Other material types approved for beneficial reuse by the enforcement agency.
- (d) A disposal facility shall observe the following due dates for each reporting period:
 - (1) Reporting period 1 due June 30
 - (2) Reporting period 2 due September 30
 - (3) Reporting period 3 due December 31
 - (4) Reporting period 4 due March 31
- (e) For the purposes of ~~DDRS~~ reporting, the Department shall not require a disposal facility to submit information on the identities of individual haulers (except for haulers who fail to provide required information) when providing jurisdiction of origin, material type, or source sector information to the Department as part of a quarterly report.
 - (1) A jurisdiction is not precluded from requiring this information through franchise agreements, contracts, local ordinances, section 41821.5(g) of the Public Resources Code, or other authority it may have.
 - (2) The Department may request this information in lieu of an audit, or as part of an audit.

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

- (a) In its report to the Department, a recycling or composting facility or operation shall provide the following information for all tons handled, using the reasonable methods described in section 18815.9 of this Article:
 - (1) For materials sent for disposal or beneficial reuse to a transfer/processor, broker, transporter, or disposal facility inside or outside of California, report the total tons of each material type, pursuant to section 18815.9(a) of this Article, sent to each person and their contact information, and ~~DDRS~~ number if the person or facility has one.
 - (2) For materials sent for recycling or composting to recycler, composter, broker, or transporter inside or outside of California, report the tons of each material type, pursuant to section 18815.9(a), sent to each person and their contact information, and ~~DDRS~~ number if the person or facility has one.
 - (3) For end products sent to end users inside or outside of California, report the tons of each material type, pursuant to section 18815.9(a) of this Article, sent to each end user category by region pursuant to section 18815.3(i) of this Article.
- (b) A recycling or composting facility or operation shall observe the following due dates for each reporting period:
 - (1) Reporting period 1 due May 31
 - (2) Reporting period 2 due August 31
 - (3) Reporting period 3 due November 30

- (4) Reporting period 4 due February 28
- (c) For the purposes of ~~DDRS~~ reporting, the Department shall not require a recycling and composting facility or operation to submit information on the identities of individual end users, suppliers, or customers (with the exception of other reporting entities) when providing material type information to the Department as part of a quarterly report.
- (1) A jurisdiction is not precluded from requiring this information through franchise agreements, contracts, local ordinances, section 41821.5(g) of the Public Resources Code, or other authority it may have.
- (2) The Department may request this information in lieu of an audit, or as part of an audit.

Section 18815.8 Reporting Requirements for Transporters and Brokers.

- (a) A person who does not take legal ownership of materials and does not decide the destination for the material, but merely facilitates a sale or transfer, is not required to report the transaction to the Department.
- (b) In its report to the Department, a transporter or broker shall provide the following information for all tons of material for which they took legal possession they legally possess, using the reasonable methods described in section 18815.9 of this Article:
- (1) For solid waste received from a transfer/processor or materials sent for disposal facility within California and sent or beneficial reuse to a transfer/processor, broker, transporter, or disposal facility inside or outside of California, report the total tons by jurisdiction of origin for all of each material type, pursuant to section 18815.9(a) of this Article, sent to each facility, the facility's person and their contact information, and ~~DDRS~~ number if the person or facility has one, and an estimate of the overall source sector percentages for waste sent to each facility.
- ~~(1) For materials received from a transfer/processor, sent for recycling or composting or recycling operation within California and sent to:~~
- (2) A person other than an end user, to recycler, composter, broker, or transporter inside or outside of California, report the tons of each material type, pursuant to section 18815.9(a) of this article, sent to each person and their contact information, and ~~DDRS~~ number if the person or facility has one.
- ~~(A) (3) An end user products sent to end users inside or outside of California, report the tons of each material type, pursuant to section 18815.9(a) of this Article, sent to each end user category by region pursuant to section 18815.3(i).~~
- A person that does not take legal possession of a material and is arranging or facilitating the sale or transfer of materials on behalf of a reporting entity, shall inform the receiving reporting entity of the identity of the sending reporting entity at the time of delivery, and shall not report those transactions to the Department. this Article.
- (c) A transporter or broker shall observe the following due dates for each reporting period:
- (1) Reporting period 1 due May 31
- (2) Reporting period 2 due August 31
- (3) Reporting period 3 due November 30
- (4) Reporting period 4 due February 28
- (d) For the purposes of ~~DDRS~~ reporting, the Department shall not require a transporter or broker to submit information on the identities of customers (with the exception of other reporting entities), or end users when providing jurisdiction of origin, material type or source sector information to the Department as part of a quarterly report.

- (1) A jurisdiction is not precluded from requiring this information through franchise agreements, contracts, local ordinances, section 41821.5(g) of the Public Resources Code, or other authority it may have.
- (2) The Department may request this information in lieu of an audit, or as part of an audit.

Section 18815.9 Reasonable Methods.

- (a) When required by this Article, a reporting entity shall use the following methods to report material types:
 - (1) A reporting entity shall report all material sent for disposal, including residuals, as solid waste. A reporting entity is not required to further sort or characterize this material.
 - (2) A reporting entity shall report recyclable materials, organics, and end products at the level of segregation of the material at the time it was sold or transferred, as follows:
 - (A) A reporting entity shall report a homogeneous material or individual grade of material as that individual material type, for example: HDPE, aluminum, concrete, or mulch.
 - (B) A reporting entity shall report combinations of various materials within a single material category based on industry standards, for example: ferrous metals, mixed glass, mixed paper, or rigid plastics. A reporting entity is not required to further sort or characterize this material.
 - (C) A reporting entity shall report mixed materials from several categories as mixed materials or ~~comingled~~ ~~commingled~~ recyclables. A reporting entity is not required to further sort or characterize this material.
- (b) When required by this Article, a reporting entity shall use the following methods to determine jurisdiction of origin for material sent to disposal:
 - (1) A hauler may generate a periodic report using A hauler shall provide the jurisdiction or origin information at the time of delivery, unless both the hauler and receiving facility have agreed to periodic reports in lieu of providing information at the time of delivery. The hauler shall provide the periodic report to the receiving reporting entity within 30 days of the end of the reporting period. The hauler shall use any of the following sources of information to estimate the percentage of solid waste from each jurisdiction:
 - (A) Actual tons collected from each jurisdiction,
 - (B) Total volume of bins emptied from each jurisdiction,
 - (C) Billing records for customers in each jurisdiction, or
 - (D) Company dispatcher records of hauling routes and generator locations.
- (d) When required by this Article if asked for information on source sector, a hauler shall provide the information at the time of delivery, unless both the hauler and if requested by a transfer/processor or a disposal/receiving facility have agreed to period reports in lieu of providing information at the time of delivery. In these cases, a hauler shall provide the periodic report to the receiving reporting entity within 30 days of the end of the reporting period. When providing source sector information, a ~~contract~~ hauler shall use any of the following methods to ~~generate a periodic report showing an estimate of~~ the overall tonnages or percentages of disposal from each source sector sent to the ~~requesting~~ receiving facility for the reporting period:
 - (1) Assigning source sector by truck type as follows:
 - (A) Side loaders as "contract-hauled single-family residential."
 - (B) Front loaders and rear loaders as "contract-hauled commercial/multi-family."
 - (2) Assigning source sector by using billing records as follows:

- (A) Accounts with jurisdictions for residential routes as “contract-hauled single-family residential.”
- (B) Accounts with jurisdictions for commercial routes as “contract-hauled commercial/multi-family.”
- (C) Accounts with businesses and apartments as “contract-hauled commercial/multi-family.”
- (3) Assigning source sector by using dispatcher records of hauling routes, total bin volumes from each source sector, or total weights from each source sector.

Section 18815.10 Procedure for Imposing Civil Liabilities.

- (a) The Department shall impose administrative civil penalties authorized by sections 41821.5 through 41821.8 of the Public Resources Code in accordance with the procedures set forth in this section.
- (b) Prior to initiating any enforcement proceeding, the Department shall notify a reporting entity in writing of any potential failure to comply with this Article and its implementing statute. The notification will include all of the following:
 - (1) A description and dates of the potential compliance failures;
 - (2) A compliance deadline that allows for reasonable time to remedy; and
 - (3) Any potential penalties that may be assessed if the compliance deadline is not met.
 - (4) If the alleged violation or compliance failure is corrected by the deadline, no further enforcement will be pursued by the Department.
 - (5) If there are extenuating circumstances the Department can extend the compliance deadline.
- (c) Civil penalties may be imposed as set forth in Penalty Table I as follows:
 - (1) The number of violations shall be multiplied by the number of days the business was in violation. The number of days the violation occurred will begin one day after the compliance deadline the Department issued in its written notification of a potential failure to comply to the reporting entity. If the infraction is not corrected per subsection (b) then the following table applies.

Penalty Table I. All fines are per day the person is in violation.

| <u>Authority</u> | <u>Description of Violation</u> | <u>1st Offense</u> | <u>2nd Offense</u> | <u>3rd and subsequent Offense</u> |
|--|--|-------------------------------|-------------------------------|--|
| <u>Public Resources Code 41821.5 (d)</u> | <u>Any person who fails to submit information as required by this Article on time.</u> | <u>\$500</u> | <u>\$1,000</u> | <u>\$5,000</u> |
| <u>Public Resources Code 41821.5 (d)</u> | <u>Any person who refuses to submit information required by this Article.</u> | <u>\$1,000 – \$5,000</u> | <u>\$1,000 - \$5,000</u> | <u>\$5,000</u> |
| <u>Public Resources Code 41821.5 (e)</u> | <u>Any person who knowingly or willfully files a false report or any person who alters, cancels, or obliterates entries in the</u> | <u>\$500 - \$10,000</u> | <u>\$2,500 - \$10,000</u> | <u>\$5,000- \$10,000</u> |

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|--|--|----------------------|------------------------|--------------------------|
| | <u>records for the purpose of falsifying the records as required by this Article.</u> | | | |
| <u>Public Resources Code 41821.5 (e)</u> | <u>Any person who refuses to allow the Department or any of its representatives to inspect or examine records as required by this Article.</u> | <u>\$500-\$2,500</u> | <u>\$2,500-\$5,000</u> | <u>\$5,000</u> |
| <u>Public Resources Code 41821.5 (e)</u> | <u>Any person who fails to keep any records for inspection as required by this Article.</u> | <u>\$500</u> | <u>\$500 - \$2500</u> | <u>\$1,000 - \$5,000</u> |

- (d) Once a potential penalty range from Penalty Table I is determined, the Department shall ~~may~~ take the following factors into consideration in determining the total penalty amount to be requested in an Administrative Accusation:
- (1) Whether the violation(s) were intentional.
 - (2) Whether the violation(s) demonstrate a chronic pattern of noncompliance with the regulations set forth in this Article.
 - (3) Whether the violation(s) were due to circumstances beyond the reasonable control of the person or were unavoidable under the circumstances.
 - (4) Whether the person acted in good faith to comply, including correcting the violations in a timely fashion.
 - (5) Whether the violation(s) were voluntarily and promptly reported to appropriate authorities prior to the commencement of an investigation by the enforcement agency.
 - (6) The circumstances, extent, and gravity of any violation(s).
- (e) The Administrative Accusation may be served on the respondent by the following means:
- (1) Personal service.
 - (2) Substitute service by using the same service procedures as described in section 415.20 of the Code of Civil Procedure.
 - (3) Certified Mail: For respondents who are registered with the Department’s electronic ~~DDRSRDRS~~ system, the mailing address(es) provided at the time of registration will be used. Proof of service of the Administrative Accusation shall be the certified mail receipts or registered mail receipts proving the accusation and accompanying materials were sent to respondent by certified mail or registered mail. For other respondents that have not provided addresses to the Department, certified mail or registered mail pursuant to the procedures indicated in the Administrative Procedure Act at section 11505(c) of the Government Code applies.
- (f) In any case in which it is determined that more than one reporting entity is responsible and liable for a violation, each such reporting entity may be held jointly and severally liable for an administrative civil penalty.
- (g) Reports regarding jurisdiction of origin shall be based on the information provided to a reporting entity at the time the report is due. The Department shall not hold reporting entities liable for incomplete or inaccurate reports regarding jurisdiction of origin information provided by a hauler, if the reporting entity identifies the hauler that failed to provide data or provided incorrect data, as required by section 18815.3(l) of this Article.

Authority cited: Sections 40502, and 41821.5(c), Public Resources Code, Reference: Sections 41821.5, 41821.6, 41821.7, 41821.8, 41821.9, Public Resources Code.

Section 18815.11 Record Retention Requirements for a Reporting Entity.

- (a) A reporting entity shall retain a copy of all reports and supporting records that were used in creating those reports at its place of business for five (5) years.
- (b) Records to be retained include, but are not limited to:
 - (1) The specific generator locations of a load of solid waste to verify the jurisdiction of origin for disposed waste.
 - (2) Bills of lading, receipts, ~~and~~ monthly billing statements to any person transferring material, and contact information for those entities.
 - (3) Daily log entries prepared by the reporting entity detailing the acceptance, transport, or delivery of material, the associated amounts, sources, material types, jurisdictions of origin, and the associated dates.
 - (4) Weight tags for individual haulers, transfer or other loads that identify the hauler, vehicle, vehicle type, quantity and unit of measure, date, waste type, and jurisdiction of origin of material delivered, transported, or received.
 - (5) All base data, methods and calculations used to derive information in a report.
- (c) A reporting entity shall maintain the documentation described in this section in a usable format, either electronically or on paper.

Section 18815.12 Confidentiality of Reports and Records and Record Review Requirements for a Reporting Entity.

- (a) A reporting entity shall provide access to the records required by this Article to any authorized representative of the Department upon request.
- (b) If the Department requests copies of specific records either prior to, in lieu of, or after inspection, a reporting entity shall provide the copies within ten business days, unless additional time is necessary to search for, collect, and examine records to respond to the request. In no case shall the copies be delayed more than an additional 14 days, unless agreed to by the Department.
- (c) A reporting entity shall provide records to the Department electronically, and in a format that will allow effective review, such as portable document format (PDF), spreadsheet, or other searchable format.
- (d) Pursuant to section 41821.5(g)(7) of the Public Resources Code, a reporting entity may redact the records subject to inspection or copying by the Department before inspection or submittal, to exclude confidential pricing information contained in the records, such as contract terms and conditions, including information on pricing, credit terms, volume discounts, and other proprietary business terms.
- (e) Pursuant to section 41821.5(g)(1) of the Public Resources Code, the records maintained by a reporting entity to support a Report shall be confidential and shall not be subject to disclosure by the Department under the California Public Records Act (Chapter 3.5 (commencing with section 6250) of Division 7 of Title 1 of the Government Code).

- (f) Pursuant to section 41821.5(i) of the Public Resources Code, the records provided to the Department in accordance with this section may be exempt from disclosure as provided in Public Resources Code section 40062 and implementing regulations.
- (g) For purposes of this Article, whether retained by a reporting entity or submitted to the Department as part of a report required by this Article or as part of an audit or in lieu of an audit, the following types of records shall be deemed to be confidential and not subject to disclosure, whether or not the record is identified as such by the person furnishing the information to the ~~department~~Department, without the need to follow the procedure set forth in section 17046(c):
- (1) Weight tickets
 - (2) Customer lists
 - (3) Pricing or similar financial data
 - (4) Any other information, from which the identity of any account, customer, vendor, buyer, supplier, end user, or other source or transferee of recyclable material may be reasonably ascertained, such as name, address, or other identifying information.
- (h) Pursuant to section 41821.6 of the Public Resources Code, in order to ensure that records required pursuant to this Article are accurate and properly maintained, in addition to inspecting all relevant records, the Department may conduct audits, perform site inspections, observe facility operations, and otherwise investigate the recordkeeping and reporting of persons subject to the requirements of this Article. Any records, reports, notes, studies, drawings, schematics, photographs, or trade secrets, as defined in section 3426.1 of the Civil Code, obtained, produced, or created by the Department in connection with or arising from such audits, inspections, or observations are confidential and shall not be subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with section 6250) of Division 7 of Title 1 of the Government Code) and shall also be deemed confidential and not subject to disclosure according to subsection (g).
- (i) Government entity requests for inspections or records shall be subject to the provisions of Public Resources Code section 41821.5(g) and shall not be subject to the Department's compliance procedures outlined in 18815.10, 18815.11 and 18815.12 of this Article.