



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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NOTICE OF PROPOSED RULEMAKING

Title 14 Natural Resources
Division 7 Department of Resources Recycling and Recovery
Chapter 3 Minimum Standards for Solid Waste Handling and Disposal
Article 5.6 Nonhazardous Petroleum Contaminated Soil Operations and Facilities
Regulatory Requirements
Section 17365

Title 14 Natural Resources
Division 7 Department of Resources Recycling and Recovery
Chapter 3 Minimum Standards for Solid Waste Handling and Disposal
Article 5.7 Hazardous Waste Disposal Facilities Disposing Nonhazardous,
Nonputrescible, Industrial Solid Waste Regulatory Requirements
Section 17370.2

Title 14 Natural Resources
Division 7 Department of Resources Recycling and Recovery
Chapter 3 Minimum Standards for Solid Waste Handling and Disposal
Article 5.8 Nonhazardous Ash Regulatory Tier Requirements
Section 17379.0

Title 14 Natural Resources
Division 7 Department of Resources Recycling and Recovery
Chapter 3 Minimum Standards for Solid Waste Handling and Disposal
Article 5.9 Construction and Demolition and Inert Debris Transfer/Processing
Regulatory Requirements
Sections 17383.3, 17383.4, 17383.5, 17383.6, 17383.7, and 17383.8

Title 14 Natural Resources
Division 7 Department of Resources Recycling and Recovery
Chapter 3 Minimum Standards for Solid Waste Handling and Disposal
Article 5.95 Construction and Demolition Waste and Inert Debris Disposal Regulatory
Requirements
Sections 17388.4, 17388.5, and 17389

Title 14 Natural Resources
Division 7 Department of Resources Recycling and Recovery
Chapter 3 Minimum Standards for Solid Waste Handling and Disposal
Article 6.3 Record Keeping Requirements
Section 17414

Title 14 Natural Resources
 Division 7 Department of Resources Recycling and Recovery
 Chapter 3.1 Composting operations Regulatory Requirements
 Article 8 Composting Operation and Facility Records
 Section 17869

Title 14 Natural Resources
 Division 7 Department of Resources Recycling and Recovery
 Chapter 3.2 In-Vessel Digestion Operations and Facilities Regulatory Requirements
 Article 4 Record Keeping Requirements
 Section 17896.45

Title 14 Natural Resources
 Division 7 Department of Resources Recycling and Recovery
 Chapter 9 Planning Guidelines and Procedures for Preparing and Revising
 Countywide and Regional Agency Integrated Waste Management Plans
 Article 9 Annual Report Regulations
 Sections 18794.0, 18794.1, and 18794.2

Title 14: Natural Resources
 Division 7: Department of Resources Recycling and Recovery
 Chapter 9. Planning Guidelines and Procedures for Preparing, Revising, and
 Amending Countywide or Regional Integrated Waste
 Management Plans
 Article 9.2. Disposal Reporting System
 Sections 18800-18814.11

Title 14 Natural Resources
 Division 7 Department of Resources Recycling and Recovery
 Chapter 9 Planning Guidelines and Procedures for Preparing, Revising, and
 Amending Countywide or Regional Integrated Waste
 Management Plans
 Article 9.25 Recycling and Disposal Reporting System
 Sections 18815.1-18815.13

Title 27 Environmental Protection
 Division 2 Solid Waste
 Chapter 3 Criteria for all Waste Management Units, Facilities, and Disposal Sites
 Subchapter 4 Criteria for Landfills and Disposal Sites
 Article 1 CIWMB—Operating Criteria
 Section 20510

Title 27 Environmental Protection
 Division 2 Solid Waste
 Chapter 3 Criteria for all Waste Management Units, Facilities, and Disposal Sites
 Subchapter 4 Criteria for Landfills and Disposal Sites
 Article 2 Alternative Daily Cover Material and Beneficial Reuse
 Sections 20686 and 20690

PROPOSED REGULATORY ACTION

The Department of Resources Recycling and Recovery (Department) proposes to replace Article 9.2 of Division 7, Chapter 9 of Title 14 of the California Code of Regulations with a new Article 9.25 in order to implement the new reporting requirements created by Assembly Bill 901 (Gordon, Chapter 746, Statutes of 2015) (AB 901). The Department also proposes to amend references in sections of Title 14 and 27 to Article 9.2 by replacing them with references to the new Article 9.25.

PUBLIC HEARING

A public hearing to receive public comments has been scheduled for March 14, 2018. The hearing will be held at the:

Joe Serna Jr., Cal EPA Building
Coastal Hearing Room
1001 I Street, 2nd Floor
Sacramento, CA 95814

The hearing will begin at **2:00 p.m. on March 14, 2018**, and will conclude after all testimony is given. The Department requests that persons making oral comments also submit a written copy of their testimony at the hearing. The hearing room is wheel chair accessible. If you have any questions, please contact AB901.Reporting@calrecycle.ca.gov.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulations to the Department. **The written comment period for this closes at 11:59 p.m. on March 14 2018.** The Department will also accept written comments during the public hearing, described above. Please submit your written comments to:

Jane Mantey, Ph.D.
801 K Street, 17th Floor
Sacramento, CA 95814
FAX: (916) 319-7482
EMAIL: AB901.Reporting@CalRecycle.ca.gov

AUTHORITY AND REFERENCES

Public Resources Code sections 40502 and 41821(c) provide authority for this regulation. The following is a list of references cited in this proposed regulation: Public Resources Code: 41821.5, 41821.6, 41821.7, 41821.8, and 41821.9.

INFORMATIVE DIGEST

The California Department of Resources Recycling and Recovery (the Department) currently tracks the amount of waste disposed per jurisdiction to help determine compliance with the 50 percent diversion mandate established by Assembly Bill 939 (Sher, Chapter 1095, Statutes of 1989). The Department developed the Disposal Reporting System (DRS) as the tool to track disposal.

Since the passage of AB 939, California has moved away from its disposal-dominated approach to waste management and developed an infrastructure for collecting, sorting, and processing recyclable materials. With this foundation in place, California has enacted a number of new statewide waste management and recycling goals. These include 75 percent recycling and mandatory commercial recycling (AB 341, Chesbro, Chapter 476, Statutes of 2011), mandatory commercial organics recycling (AB 1826, Chesbro, Chapter 727, Statutes of 2014), and short-lived climate pollutants reductions from landfills (SB 1383, Lara, Chapter 395, Statutes of 2016). It has been challenging to measure statewide compliance with these laws using DRS, due to the lack of a formal reporting system on recycling, complete and timely data on disposal, and enforcement tools.

The State Legislature passed AB 901 in order to address these issues. AB 901, Recycling And Disposal Reporting System (RDRS), dramatically improves the Department's and local jurisdictions' ability to achieve and measure legislatively mandated goals and programs by expanding reporting to include data on recycling and composting, and creating an enforcement mechanism. The proposed regulations implement the mandates of AB 901 in order to accomplish three important goals.

First, the proposed regulations improve the Department's understanding of material flows within the State's recycling infrastructure. The data collected enables the Department to estimate total recycling and composting, and track progress towards statewide solid waste and recycling goals and programs.

Second, the data collected under the proposed regulations will augment the Department's ability to respond to changes in the recycling marketplace and more sensibly manage discards to create new jobs and products. Analysis of the data will increase the Department's ability to improve operational efficiencies and target state resources to enhance the recycling infrastructure.

Third, the proposed regulations improve the Department's enforcement procedures to require accurate and timely reporting. Additional tools will enhance and expand the ability of local jurisdictions and the Department to verify the accuracy of reported information regarding the State's recycling infrastructure.

POLICY STATEMENT OVERVIEW

AB 901 was signed by Governor Brown in 2015 and became effective on January 1, 2016. AB 901 was codified in Public Resources Code sections 41821.5-41821.8. AB

901 changes how disposal and recycling is reported to the Department. Waste, recycling, and compost facilities, as well as exporters, brokers, and transporters of recyclables or compost will be required to submit information directly to the Department on the types, quantities, and destinations of materials that are disposed of, sold, or transferred inside or outside of the state. The Department also gains enforcement authority to collect this information.

The data acquired by AB 901 the proposed regulations will inform the Department's understanding of material flows within the state's recycling infrastructure; allow the Department to better estimate total recycling and composting; and assist the Department to track progress towards several state goals and programs, including the 75% recycling goal, mandatory commercial recycling, and organics diversion programs. This information will allow the Department to implement various improvements in areas such as increased responsiveness to changes in the recycling landscape, operational efficiencies, and targeting of state resources to recycling infrastructure.

PLAIN ENGLISH REQUIREMENTS

Department staff prepared the proposed regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code sections 11342.580 and 11346.2(a)(1). These proposed regulations are considered non-technical and are written to be easily understood by those parties that will use them.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

CONSISTENCY WITH STATE REGULATIONS

After conducting an evaluation of any regulations relating to this area, the Department has found that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The proposed regulations amend all instances where existing regulations would be made inconsistent with the new diversion and disposal reporting regulations by updating current references to disposal reporting system that the proposed regulations will replace.

MANDATE ON STATE AGENCIES, LOCAL AGENCIES, OR SCHOOL DISTRICTS

The Department has determined that the proposed regulations do not impose a mandate on state agencies, local agencies, or school districts.

The Department has further determined that the proposed regulations do not impact: 1) any costs to local government, which must be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of the Government Code; 2) any savings or other impacts such as revenue changes to other state agencies; and 3) any additional federal funding or reduction in federal funding to the state. The proposed regulations may result in a cost savings to local governments because counties will no longer be required to collect disposal

information from facilities and report that information to the Department. However, there may be a cost to locally owned waste, recycling, and compost facilities due to the reporting requirements under the AB 901 and the proposed regulations.

FISCAL IMPACT

Costs to any local agency or school district requiring reimbursement: As described above, the Department has concluded that the proposed regulations do not impose any costs to local agencies or school districts requiring reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Costs or savings to any state agency: Implementation of the proposed regulations would result in costs to the Department. It is estimated that \$99,274 will be needed for one limited term position in the first year, and \$198,548 for two limited term positions in the second year, for enforcement implementation. There are no direct savings to the state due to the proposed regulations.

Non-discretionary cost or savings imposed upon local agencies: There will be a cost to publicly owned facilities and/or operations to comply with the proposed regulations. Staff estimates the cost to publicly owned facilities and/or operations to be:

1 st year	2 nd year	3 rd year
\$ 2,135,000	\$ 1,554,000	\$ 1,554,000

There is an estimated savings to counties due to the implementation of the proposed regulations. Counties will no longer be required to collect, compile, and submit disposal information to the Department. Staff estimates the combined savings to all counties to be approximately \$1,136,000 annually.

Cost or saving in federal funding to the state: None

EFFECT ON HOUSING COSTS

The Department has made a determination that the proposed regulations will not have a significant effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES, INCLUDING ABILITY TO COMPETE

Although the proposed regulations will directly affect businesses statewide, including small businesses, staff conclude that the proposed regulations will not have a significant adverse economic impact on businesses and would not affect the ability of California businesses to compete with businesses in other states. Furthermore, staff have found that a number of other states already require the reporting of recycling and disposal information.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Creation/Elimination of Jobs within California

There may be the creation of a small number of jobs within California. Some businesses may choose to hire full or part time employees to fulfill the reporting requirements laid out in the proposed regulations. Others may be able to complete reporting requirements within current hours worked, with existing resources. It is unlikely that any jobs will be eliminated because of the proposed regulations.

Creation of New Businesses/Elimination of Existing Businesses in California

It is unlikely that any new businesses will likely be created because of the proposed regulations, or that any businesses will be eliminated because of the proposed regulations due to the estimated per facility cost to comply.

Expansion of Businesses Currently Doing Businesses within the State

It is unlikely that the proposed regulations will cause the expansion of any businesses currently doing business within the state since the goal of the proposed regulations is to set up a system for facilities to report on materials currently being disposed, recycled, or composted.

Benefits of the Proposed Action

The proposed regulations will benefit the health and welfare of California residents, worker safety, and the state's environment because the proposed regulations will result in the collection of disposal, recycling, and composting information from reporting entities. This information will help the Department evaluate California's recycling infrastructure and help guide strategies to achieve the statewide 75% recycling goal. The proposed regulations also outline the framework for enforcement on reporting entities that do not meet reporting requirements. Added enforcement procedures will result in more complete and timely reporting of information to the Department.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The proposed regulations will require reporting entities to submit disposal and recycling information directly to CalRecycle on the types, quantities, and destinations of materials that are disposed of, sold, or transferred inside or outside of the state. There is a range of representative businesses subject to this rulemaking action depending on the type of facility or reporting entity. CalRecycle staff estimate the average cost per facility in the first 12 months, due to the proposed regulations, will be approximately \$2,150.

BUSINESS REPORT

CalRecycle has found that the reporting requirements of the proposed regulatory action, which apply to businesses, are necessary for the health, safety, and welfare of the people of the State of California.

EFFECT ON SMALL BUSINESS

CalRecycle has determined, pursuant to California Code of Regulations, Title 1, section 4, that the proposed regulatory action would affect small businesses. However, the Department has also determine the proposed regulations will not have a significant, statewide adverse impact on small businesses and will not impede the ability of small businesses to compete in other states.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department, or that was otherwise identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law than the proposed action.

CONTACT PERSON

Inquiries concerning the substance of the proposed action may be directed to:

Jane Mantey, Ph.D.
801 K Street, 17th Floor
Sacramento, CA 95814
PHONE: (916) 322-1866
FAX: (916) 319-7482
EMAIL: Jane.Mantey@CalRecycle.ca.gov

Back-up contact person to whom inquiries concerning the proposed action may be directed:

John Sitts
801 K Street, 17th Floor
Sacramento, CA 95814
PHONE: (916) 341-6232
FAX: (916) 319-7199
EMAIL: John.Sitts@CalRecycle.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF THE PROPOSED REGULATIONS

The Department will have the entire rulemaking file and all information that provides the basis for the proposed regulation available for inspection and copying throughout the rulemaking process at the following address: 801 K Street, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulation, the economic and fiscal impact statement, and the Initial Statement of Reasons. Copies may be obtained by contacting

the persons listed above. For more timely access to the proposed text of the regulations, and in the interest of waste prevention, interested parties are encouraged to access the Department's Internet webpage at www.calrecycle.ca.gov/Laws/Rulemaking/Reporting/. Additionally, the Final Statement of Reasons will be available at the above listed Internet address, or you may contact the people named above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for the modified text should be made to the contact persons named above. The Department will transmit any modified text to all persons who testify at the public hearing; all persons who submit written comments at the public hearing; all persons whose comments are received during the comments period; and all persons who request notification of the availability of such changes. The Department will accept written comments on the modified regulation for at least 15 days after the date on which they are made available.