

RECYCLING AND DISPOSAL REPORTING SYSTEM HEARING

Wednesday, March 15, 2023

1:05 p.m.

Taken at the Department of Resources
Recycling and Recovery
Byron Sher Auditorium
1001 I Street, 2nd Floor
Sacramento, CA 95814

REPORTED BY: VICKI JELLEY, CSR NO. 11067

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APPEARANCES

- DONNET McFARLANE, Regulatory Analyst
- VIVIAN CRUZ, Regulatory Analyst
- RACHEL DANIELSON, Environmental Scientist
- CRAIG CASTLETON, Regulations Supervisor
- KRIS CHISHOLM, Attorney for the Regulation Unit
- DAN BROWN, Environmental Program Manager
- ERIC PAYNE, Senior Environmental Scientist Specialist
- SURGIT DHILLON, Senior Environmental Scientist
Supervisor

ALSO PRESENT:
VICKI JELLEY, Reporter

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MS. McFARLANE: Good afternoon, everyone. Our apologies for the late start. We were having some audio issues. My name is Donnet McFarlane. I am an analyst in the regulations unit. I note for the record that it is 1:05 p.m.

Thank you for joining us for today's public hearing on the recycling and disposal reporting systems permanent regulations and response to Assembly Bill AB 881 and Senate Bill SB 343.

Before we begin, there are a couple of announcements that need to be made. First, this hearing will be recorded. There's also a court reporter in attendance to transcribe the proceedings of this hearing.

Second, we have a required evacuation announcement. Please look around now and identify two exits closest to you. In some cases, an exit may be behind you. In the event of a fire alarm, we are required to evacuate this room immediately. Please take your valuables with you, and do not use the elevators. While staff will endeavor to assist you to the nearest exit, you should also know that you may find an exit door by following the ceiling-mounted exit signs. Evacuees will exit down the stairwells and

1 possibly to a relocation site across the street. If
2 you cannot use theirs, you will be directed to a
3 protective vestibule inside a stairwell. Should we
4 have to relocate out of the building, please obey all
5 traffic signals and exercise caution crossing the
6 street.

7 CRAIG CASTLETON: Good afternoon, everyone. My
8 name is Craig Castleton. I'm a supervisor with
9 CalRecycle's regulations unit. The purpose of today's
10 hearing is to receive comments on the proposed
11 regulations that were published by the Office of
12 Administrative Law and notice to the public on January
13 27th, 2023.

14 The publishing of that notice started a
15 45-day public comment period and CalRecycle welcomes
16 and will respond to all comments received at today's
17 hearing and during the 45-day public comment period in
18 the final statement of reasons.

19 On today's agenda, we have an overview of
20 the steps taken thus far and the current status of the
21 rulemaking followed by an opportunity to submit your
22 comments on the proposed regulations.

23 Present at the hearing today, we have
24 Dan Brown, environmental program manager 1, the Policy
25 Development Analysis Office in the knowledge

1 integration section. Also, on that team, we have Eric
2 Payne, who is a senior environmental scientist and
3 Surgit Dhillon, who is a senior environmental scientist
4 supervisor.

5 We also have other staff from the Policy
6 Development Analysis Office knowledge integration
7 section and Legal Affairs Office.

8 Next slide, please. So as a brief overview
9 of the steps taken thus far for this rulemaking, the
10 slide shows the public workshops were held on June
11 22nd, 2022; July 26, 2022; and August 30th, 2022 to
12 receive feedback on the proposed regulatory concepts
13 and language.

14 Following those workshops, the concepts of
15 the regulatory language were then developed into formal
16 rulemaking documents that were published and noticed to
17 the public on January 27th, 2023 starting the 45-day
18 public comment period. As I said before today, today
19 is the date of the public hearing, and CalRecycle
20 welcomes your comments on the proposed regulations.

21 Next slide, please. Following today's
22 hearing, CalRecycle will consider all comments received
23 and respond to those comments as part of the final
24 statement of reasons. The final statement of reasons
25 will be submitted to the Office of Administrative Law

1 as part of the final official rulemaking file for these
2 proposed regulations, and then the Office of
3 Administrative Law will review that rulemaking file.

4 Once the Office of Administrative Law
5 approves the regulations, they will become effective.
6 I will now pass it back to Donnet to open the comments.

7 DONNET McFARLANE: CalRecycle welcomes comments
8 from the public on the proposed AB 881 and SB 343
9 regulations.

10 As a reminder, the 45-day comment ends at
11 the conclusion of today's public hearing. Please be
12 respectful when speaking.

13 Now we would like to invite your comments
14 on the proposed regulatory changes. To make a comment
15 in person, please line up at the podium.

16 VERONICA PARDO: Hi. Good afternoon. Veronica
17 Pardo, Resource Recovery Coalition of California.
18 We've submitted comments.

19 I do have a question, a process question
20 seeing the anticipated timeline. Are you anticipating
21 another 15-day comment period, or it sounds like this
22 package is going to go straight for approval, which is
23 in response. So I'm just curious if any of our
24 recommendations might be, you know, added to the final
25 rulemaking.

1 ATTORNEY CHISHOLM: We haven't made the decision
2 on whether or not to incorporate comments into the
3 rulemaking to change the regulations as they're
4 currently drafted. We'll be making those decisions
5 after we receive all comments at the end of the 45-day
6 period.

7 VERONICA PARDO: Okay. Thank you for that
8 clarification. Knowing that then, I think it might be
9 prudent then to reiterate our comments, so we
10 appreciate several changes to the regulations that we
11 think are making them more practical, the definition to
12 broker being one example and the benefit for facilities
13 to better allocate jurisdiction of origin for material.
14 I think those are positive changes.

15 We do have two requests that we put in our
16 written comments. One is to extend the date to Q1 of
17 2025 for the reporting entities for this obligation.

18 We do think that you should take the time
19 for beta testing, user interface with reporting
20 entities, and maybe work through some of the
21 expectations with the collection methods. I think that
22 one is a new reporting expectation that might be a
23 little bit tricky for folks, and then we do question
24 the need to further delineate self-haul into
25 residential and commercial.

1 I think the data you'll collect there won't
2 necessarily be that accurate. We've had these
3 conversations before about that kind of data
4 collection, but it's a lot to ask for facilities, and
5 we don't think it's necessarily aligned with the
6 expectations in the new bills that we address in our
7 comments, so anything that's aligned with -- I want to
8 get it correctly -- the AB 881 and 343, I believe, you
9 know, understand -- oh, it's up there; SB 343 --
10 understand those changes, but if anything that's
11 additional and burdensome to facilities, we would
12 prefer to see that removed, so appreciate the
13 opportunity to make these recommendations, and thank
14 you for your time.

15 DONNET McFARLANE: Thank you. We have no more
16 in-person comments at this time, so we will move over
17 to the Zoom room.

18 To make a comment -- an oral comment via
19 Zoom, please raise your hand, and the host will unmute
20 you. To make a written comment via Zoom, please use
21 the chat box. Staff will re-chat comments allowed for
22 the court reporter.

23 CRAIG CASTLETON: This is Craig Castleton. I see
24 we have a hand raised on the Zoom, so we will unmute
25 that person now.

1 LARRY SWEETS: Thank you. Larry Sweets on behalf
2 of the Rural Counties Representatives of California and
3 the Environmental Services Joint Powers Authority.

4 I've worked with this on the RDRS regs on
5 the previous version, and I'd like to continue and
6 appreciate the opportunity. We did submit written
7 comments, and thank you for confirming they were there.

8 Just a couple of highlights. I want to
9 echo the concern that Veronica Pardo mentioned, in
10 terms of dividing self-haul into residential and
11 commercial. We're really concerned about that because
12 a lot of our residents are tonnages in rural areas is
13 based on self-haul, and the arbitrary distinction of
14 residential and commercial is not very easy to
15 distinguish one over the other. Sometimes it's mixed,
16 and as pointed out in our comments, one of the
17 suggestions was to use the commercial plate or
18 commercial emblems.

19 Many people use those vehicles for
20 multi-purpose, so just that emblem itself may indicate
21 that it was commercial. Also, if somebody rents a
22 vehicle like a U-Haul or one of the other ones or they
23 hire a contractor to use that and they have a
24 commercial emblem, and it would get confusing to use
25 that distinction for commercial, versus residential.

1 We're not sure what the purpose of that
2 distinction would be for us to gather that information,
3 so it wasn't clear in the statement of reasons if it
4 was being made to give more specific or more exact
5 data.

6 We think it lends to more inaccurate data
7 for that, so we look forward to getting clarification
8 on that.

9 Another major concern was the collection
10 method. The 10.5 SB 343 asks for more information on
11 the collection method for plastics and packaging and
12 products, but the definition used also indicates other
13 materials, which we're not sure. That's a very broad
14 category. Packaging and plastic containers could
15 include a lot of things that are other materials, so
16 there's no delineation of what those are, whether they
17 even related to the packaging. It could be organics,
18 it could be metal, cardboard. I mean, it could be all
19 kinds of things that are related to "other," so we're
20 concerned about that broad of a category being used, as
21 far as a collection method distinction.

22 And, also, concern is exporting some of the
23 materials. We understand what was in the two
24 legislations, as far as exporting and making sure that
25 material exported, particularly out of the country, is

1 properly managed and actually set for recycling, as
2 opposed to sham recycling or wish recycling, and if it
3 can't be demonstrated, it becomes disposal.

4 We understand the need to do that. It just
5 seems overly broad, in terms of some of the other
6 materials that may be exported in passing on the intent
7 of those two legislations into other materials beyond
8 just the packaging and the materials both for 881 and
9 343, so that's our major concerns with the proposed
10 package, and we hope to have those addressed and
11 understand a little bit better why those were put in
12 there, so thank you very much.

13 DONNET McFARLANE: Thank you, Larry.

14 CHUCK HALCOTT: Chuck Halcott representing
15 Republic Services. Just very quickly, lend our
16 support. We've submitted our letter, our comments
17 through a letter but also wanted to lend support to
18 Larry Sweets' comments and to those of Veronica Pardo
19 presented today particularly regarding the timing of
20 the regs, the self-haul issue, and the collection of
21 the (Inaudible).

22 DONNET McFARLANE: Thank you for your comment.
23 We will be here until 1:30 p.m. for any further
24 comments or questions. To make a comment in person,
25 please line up at the podium. To make an oral comment

1 via Zoom, please raise your hand, and the host will
2 unmute you. To make a written comment via Zoom, please
3 use the chat box that will re-chat comments allowed for
4 the court reporter. Hi, Chuck. You can go ahead with
5 your comment.

6 CHUCK BEARD (phonetic): Yeah. Thank you. Yeah,
7 this is Chuck Beard (phonetic) with the City of Palo
8 Alto. I actually have a couple of questions.

9 One question is, what happens if a city in
10 accepting more materials than what is listed in
11 CalRecycle's final list? That's kind of one question.
12 Will the city have to stop collecting the extra
13 material or will it be okay to continue, as long as
14 there's some sort of proof of recycling?

15 DONNET McFARLANE: Thank you for your comment.

16 DAN BROWN: In response to that last comment, so
17 I think there's a couple of things, one that is outside
18 the scope of the current rulemaking, and so we can have
19 a separate session if you inquire about kind of
20 CalRecycle's role in 343 and get an answer to your
21 question, so I believe we have some contact information
22 as part of the presentation, so contact us, and we will
23 get back to you.

24 CHUCK BEARD (phonetic): Thank you. I do have
25 another question if that's okay. Can I ask that?

1 DONNET McFARLANE: Go ahead.

2 CHUCK BEARD (phonetic): Okay. Yeah. One
3 question I had is what happens when the California
4 broker sells waste materials to a non-California
5 broker?

6 It seems like the chain of custody gets
7 broken, and there may not be a good way to know the
8 final destination of the waste material. Is that
9 something that will be addressed in either 343 or 881?

10 DAN BROWN: So on that, again, if you reach out
11 to our RDRS assistance team, we can help walk through
12 some of the logistics of reporting, so I can't
13 necessarily get into those details right now, but we
14 can (Inaudible) through the scenarios and make sure
15 you're provided the correct guidance.

16 CHUCK BEARD (phonetic): Okay. Thank you.

17 LARRY (Inaudible): Yes. This is Larry
18 (Inaudible) following up on (Inaudible) part of those
19 discussions, as well.

20 We understand the intent is to track
21 materials and make sure it's managed and (Inaudible).
22 The difficulty many of us have is that when you send
23 the material off for recycling purposes from a solid
24 waste transportation landfill (Inaudible) outpost even,
25 the end destination will pass through many hands. We

1 may not always be privy to it, the final destination,
2 only the next destination, and even if we are told
3 where it goes, it may not actually get there. May be
4 diverted portions, may be diverted, so it's going to be
5 a very tricky complication, so if there are further
6 discussions, we would like to be part of that
7 discussion. Thank you.

8 DONNET McFARLANE: Thank you for your comment.
9 To make an oral comment via Zoom, please raise your
10 hand and the host will unmute you. To make a written
11 comment via Zoom, please use the chat box. Written
12 comments may also be submitted to
13 regulations@calrecycle.ca.gov, the subject line AB 881
14 and SB 343, RDRS rulemaking. E-mail comments must be
15 sent by the conclusion of the public hearing.

16 Thank you all for joining us today. If you
17 would like to stay informed on the status of the RDRS
18 proposed regulations, please subscribe to the service
19 list shown in the presentation slide. The PowerPoint
20 presentation and recording from this hearing, along
21 with all comments received during the public comment
22 period will be posted on the RDRS rulemaking web page
23 for future reference.

24 Thank you. That brings today's hearing to
25 an end. I note for the record that it is 1:30 p.m.

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(Whereupon the proceedings concluded at 1:30 p.m.)

1 STATE OF CALIFORNIA,)
)
2 COUNTY OF SACRAMENTO.)
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4 I, Vicki Jelley, a Certified Shorthand Reporter
5 licensed to practice in the State of California, do
6 hereby certify:

7 That on the 15th day of March, 2023, at the hour
8 of 1:05 p.m., I was present at the above-entitled
9 matter; that I took down in shorthand notes all
10 proceedings had and testimony given; that I thereafter
11 caused said shorthand notes to be transcribed into
12 longhand typewriting, the above and foregoing being a
13 full, true, and correct transcription thereof.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 20th day of March, 2023.

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Signature on File

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Vicki Jelley, CSR No. 11067

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