

**Assembly Bill No. 901
INITIAL STATEMENT OF REASONS**

PROBLEM ADDRESSED BY AND BENEFITS OF REGULATIONS

Assembly Bill 901 (Gordon, Chapter 746, Statutes of 2015) (AB 901) revised Public Resources Code sections 41821.5 through 41821.9. The proposed regulations amend the California Code of Regulations to conform to the changes made by AB 901.

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 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 enable 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 to help industry more sensibly manage discards. 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.

GENERAL COMMENTS APPLICABLE TO STATEMENT OF REASONS

The Department has two broad missions regarding solid waste disposal and recycling in California. The first mission is to track local jurisdictions' compliance with the mandate

established by AB 939 (Sher, Chapter 1095, Statutes of 1989) to divert 50 percent of solid waste from disposal annually. The second, complementary mission, established by AB 341, is to achieve 75 percent recycling, statewide, by 2020. Unreliable and insufficient waste flow data have jeopardized these important missions. First, errors compromise the value of disposal information collected by the Department. Second, facility operators have sometimes unlawfully denied the Department's and local jurisdictions' access to inspect records in order to verify the accuracy of facility reports. Third, the Department lacks data on the flow of recycling in California, which limits the Department's ability to track progress toward the state's recycling goals. Left unresolved, these issues create irreconcilable gaps in the data the Department relies on to enforce current law and to achieve the 75 percent recycling goal.

The Department has historically lacked sufficient data on the handling of recyclable materials.^{1,2} Prior to the passage of AB 901, statutory authority to collect information on recycling activities was 20 years old and did not reflect current market practices or new mandates. While technically implementable, the existing statute was not designed to accommodate the new 75 percent recycling goal. Additionally, without the enforcement provisions contained in AB 901, a regulatory effort to require reporting from recyclers would face the same issues of inaccuracy and noncompliance that existed with disposal facilities prior to the passage of AB 901.

What the New Regulations Will Accomplish

AB 901 revises 41821.5 through 41821.9 of the Public Resources Code in the following ways:

- 1) Requires disposal facility operators to submit disposal tonnage information to the Department, and to counties only on request;
- 2) Requires recycling and composting operations to submit tonnage information directly to the Department;
- 3) Deletes the requirement for counties to submit tonnage information from facilities to cities, regional agencies, and the Department;
- 4) Requires exporters, brokers, and transporters of recyclables or compost to submit periodic information to the Department on the types, quantities, and destinations of materials that are disposed, sold, or transferred inside or outside the state;
- 5) Makes aggregated information, other than that aggregated by company, public information;
- 6) Provides that the Department may impose civil penalties administratively after first allowing entities an opportunity to comply;
- 7) Specifies the types of waste disposal records that are subject to inspection by the Department;

¹ "State of Recycling in California, 2016 Update." *California Department of Resources Recycling and Recovery*, February 2016.

² "2015 California Exports of Recyclable Materials." *California Department of Resources Recycling and Recovery*, November 2016.

8) Prohibits a government entity from disclosing the name of a waste hauler using a specific landfill unless necessary as part of an administrative or judicial proceeding; and specifies that jurisdictions may inspect records beginning with information from July 1, 2015.

The proposed regulations add necessary explanation for the implementation of these revisions to the Public Resources Code. In addition, the proposed regulations address several major issues that the statute does not specifically address, but are crucial to facilitating the Department's execution of AB 901 and other legislative mandates. These major issues include:

- Source sector (residential/commercial/self-haul)
- Thresholds for reporting
- Transfer/processor reporting
- Definitions of materials to be reported

Source Sector

According to data from the 2014 statewide waste characterization study, the commercial sector generates about 61.5 percent of the solid waste in California.³ Much of the commercial sector waste disposed in landfills is readily recoverable. Increasing the recovery of recyclable materials will directly reduce greenhouse gas (GHG) emissions from production, and avoid methane emissions at landfills from the decomposition of organic materials. Use of composted organic materials also provides environmental benefits such as carbon storage in soils and reduced use of fertilizers, pesticides, and water.

In order for the Department to implement policies mandated by legislation, especially regarding mandatory commercial recycling, commercial organics recycling, and methane emissions reduction targets, it is necessary that facilities report on the source sector of all solid waste disposed in California. The Department performs periodic waste characterization studies, and the most recent study⁴ identified changes in the proportion of commercial versus residential disposal over time, and differences in the proportion of commercial versus residential in different regions of the state. Quarterly collection of comprehensive source sector data, rather than limited sampling every 4 to 6 years during waste characterization, will enable the Department to understand better where materials are coming from, to evaluate the effectiveness of current programs, and to develop different program approaches for each sector.

Thresholds for Reporting

Reporting requirements for recycling and composting cover a wide array of industries and materials.⁵ The Department recognizes that many small businesses in the state handle small volumes of material, relative to the total amount of waste material generated in the state. In order to relieve businesses with small volumes of a burden that would be of little value, the Department established reporting thresholds in the proposed regulations, by activity, in consultation with industry representatives. Of the more than 2,100 facilities identified by the

³ "2014 Disposal-Facility-Based Characterization of Solid Waste in California." *California Department of Resources Recycling and Recovery*, 06 October 2015.

⁴ Ibid.

⁵ "State of Disposal in California, Updated 2016." *California Department of Resources Recycling and Recovery*, February 2016.

Department, about 25 percent are likely to have throughputs that fall below the reporting thresholds contained in the proposed regulations. The total throughput of these facilities represents less than one percent of the total throughput for the state.

Transfer/Processors Reporting

Transfer/processing facilities and operations include transfer stations and mixed waste processing facilities, which receive and process loads of recyclables and solid waste, and may separate some materials by type using manual separation or automated technologies. After removing recyclable materials and materials that cannot be landfilled, transfer/processors send residual waste to a landfill, to another facility or to market.

According to the Department's latest report on the state of disposal⁶, approximately 60 percent of solid waste disposed in the state moves first through a transfer/processor or material recovery facility. Under AB 901, material disposed must be attributed to the jurisdiction where it was created, while material that is recycled must be reported by material type. Since transfer/processors handle substantial amounts of material routed to both recycling and disposal, their reports must include information on both origin and source sector of solid waste, as well as material types for recycling streams.

The Department permits and regulates transfer/processors, who currently report inbound and outbound tonnage and jurisdiction of origin to landfills, counties and the Department. However, the quality of this information is quite variable. The proposed regulations will require this information to be reported directly to the Department, using a standardized electronic reporting system, which will ensure data quality and will transmit information to other facilities in a timely manner.

These regulations will create the Recycling and Disposal Reporting System (RDRS) database. Because material may flow through multiple facilities before being recycled or disposed, the RDRS database will track material flows through multiple facilities and streamline transmission of data between facilities. Storing all data in one place will reduce delays and inaccuracies in reporting for facilities down the line. Reporters will have the opportunity to verify entries by other reporters who sent materials to their facility.

Definitions of Materials to be Reported

Since 1989, the Department has monitored solid waste and promoted recycling in California. Solid waste reporting is well established under DRS; however, recycling reporting to the Department is new. Facilities have not reported tonnages for traditionally recycled materials such as glass, metal, paper, and plastic to the Department in the past, except for beverage containers subject to California Redemption Value, and materials covered by specific programs such as used oil, household hazardous waste, and covered electronic waste. This regulatory package includes definitions of material categories in order to clarify for the regulated community the entities that will be affected by these rules.

⁶ Ibid.

The Department generated a list of material categories for reporting based on materials that are commonly found in the waste stream and/or have substantial or potential recycling infrastructure in the state. Materials including paper, plastic, glass, and metal have a long history of recycling in the state, while other materials like organics have become a state priority more recently. Construction and demolition material constitutes a large portion of the waste and recycling stream by weight, and other materials like white goods, which contain hazardous materials, are banned from landfill disposal and are now more likely to be recycled. Textiles and carpet are a significant part of the waste stream, with more recycling opportunities emerging.

Some materials categories were excluded from reporting because they are reported through other programs or regulated by other agencies like mattresses, covered electronic waste, hazardous waste, and rendering plants.

SPECIFIC PURPOSE AND NECESSITY OF REGULATIONS

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.	GENERAL RECORD KEEPING REQUIREMENTS.

Subsection (a)

The purpose of this amendment is to delete “Board” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (e)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations 17365(e).

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.	RECORD KEEPING REQUIREMENTS.

Subsections (a), (c), (d)

The purpose of this amendment is to delete “Board” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (g)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations Sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations 17370.2(g).

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. GENERAL RECORD KEEPING REQUIREMENTS.

Subsection (a)

The purpose of this amendment is to delete “Board” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (h)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations Sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations Section 17379.0(h).

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
SECTION 17383.3. C&D WOOD DEBRIS CHIPPING AND GRINDING OPERATIONS
 AND FACILITIES.

Subsection (l)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations section 17383.3(l).

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
SECTION 17383.4. SMALL VOLUME CONSTRUCTION AND DEMOLITION/INERT DEBRIS PROCESSING OPERATIONS.

Subsection (j)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations subsection 17383.4(j).

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
SECTION 17383.5. MEDIUM VOLUME CONSTRUCTION AND DEMOLITION/INERT DEBRIS PROCESSING FACILITIES.

Subsection (m)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations subsection 17383.5(m).

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
SECTION 17383.6. LARGE VOLUME CONSTRUCTION AND DEMOLITION/INERT DEBRIS PROCESSING FACILITIES.

Subsection (k)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations subsection 17383.6(k).

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
SECTION 17383.7. INERT DEBRIS TYPE A PROCESSING OPERATIONS.

Subsection (k)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations subsection 17383.7(k).

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
SECTION 17383.8. INERT DEBRIS TYPE A AND TYPE B PROCESSING FACILITIES.

Subsection (j)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations subsection 17383.8(j).

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
SECTION 17388.4. INERT DEBRIS TYPE A DISPOSAL FACILITIES.

Subsection (g)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations subsection 17388.4(g).

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
SECTION 17388.5. CDI WASTE DISPOSAL FACILITIES.

Subsection (a)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations subsection 17388.5(a).

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
SECTION 17389. RECORD KEEPING REQUIREMENTS FOR OPERATIONS.

Subsection (d)

The purpose of this amendment is to delete “Board” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (j)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations subsection 17389(j).

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. RECORD KEEPING REQUIREMENTS.

Subsection (a)

The purpose of this amendment is to delete “Board” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources

Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (h)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations subsection 17414(h).

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.	GENERAL RECORD KEEPING REQUIREMENTS.

Subsection (h)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations subsection 17869(h).

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.	RECORD KEEPING REQUIREMENTS.

Subsection (j)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations sections 18808 through 18814) and will now be included in Title 14 California Code of Regulations subsection 17896.45(j).

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
SECTION 18794.0.	GENERAL REQUIREMENTS AND DUE DATES.

Subsection (c)

The purpose of this amendment is to change the reference to the definition of “jurisdiction” to Section 40415 of the Public Resources Code. This updates the Section 18794.0 of the California Code of Regulations to conform to SB 1016 (Wiggins, Chapter 343, Statutes of 2008), which was adopted without the development of regulations.

Subsection (e)(2)

The purpose of this amendment is to delete “Board” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (e)(3)

The purpose of this amendment is to delete “Board” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (f)

The purpose of this amendment is to remove the language “Jurisdictions shall submit three copies of the annual report” from Section 18794.0 of the California Code of Regulations, since jurisdictions are no longer required to do so after the passage of SB 1016, which was adopted without the development of regulations.

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
SECTION 18794.1.	GOAL ACHIEVEMENT CALCULATIONS.

Subsection (a)

The purpose of this amendment is to change the reference to the description of calculations required for the jurisdictional annual report from section 18794.1 to section 41780.05 of the Public Resources Code, and to remove the diagram illustrating the calculation process. This is necessary to conform to SB 1016, which removed the process for recalculating base year data, and was adopted without the development of regulations.

Subsection (b), (c)(1) through (3), (d)(1) and (2), (e)

The purpose of this amendment is to delete these subsections from section 18794.1 of the California Code of Regulations. This is necessary to conform to SB 1016, which removed the process for recalculating base year data, and was adopted without the development of regulations. The deletions remove regulatory parts that are no longer relevant.

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
SECTION 18794.2. REPORTING REQUIREMENTS FOR CALCULATIONS.

Subsection (b)

The purpose of this amendment is to delete “Board” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (d)(1), (2)(A) through (G), and (3)(A) through (G)

The purpose of this amendment is to delete these subsections from section 18794.2 of the California Code of Regulations. This is necessary to conform to SB 1016, which was adopted without the development of regulations. The deletions remove regulatory language that is no longer relevant.

Subsection (e)

The purpose of this amendment is to delete “Board” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

The purpose of this amendment is to replace the words “adjustment method” with “disposal calculation.” This is necessary to conform to SB 1016, which was adopted without the development of regulations, and no longer allows adjustment methods.

Subsection (f)

The purpose of this amendment is to delete “Board” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (g)

The purpose of this amendment is to delete “Board” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (h)

The purpose of this amendment is to replace the words “host assigned” with the words “assigned to them;” and the words “as described in 18809, 18810, and 18811” with the words “pursuant to section 18815.9(b)(2)(B),” which replaces the reference within the new regulations. This amendment also adds the words, “A jurisdiction may also provide additional information related to the tons of waste ... that was reported in the Recycling and Disposal Reporting System, and was later diverted,” language which was added to clarify the existing sentence as to the type of waste tonnage that could be adjusted. These changes are necessary to conform to SB 1016, which was adopted without the development of regulations.

Subsection (i)

The purpose of this amendment is to remove the words “calculations as described in section 18794.1 above, show its.” This change is necessary to conform to SB 1016, which was adopted without the development of regulations.

Subsection (i)(1)

The purpose of this amendment is to remove the words “base year inaccuracies” and replace them with the words “calculations of the equivalent per capita disposal rate.” This change is necessary to conform to SB 1016, which was adopted without the development of regulations.

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

Deletion of Article 9.2 Sections 18800-18814.11

The purpose of these deletions is to remove the old regulations implementing the Disposal Reporting System. Because the proposed regulations drastically alter and reorganize reporting, it was necessary to fully remove the old regulations and replace them with the proposed language for clarity and to avoid confusing the regulated community.

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

Section 18815.1 Scope and Purpose

The purpose of this section is to identify the sections of the Public Resources Code the regulations implement, and to guide readers to the specific sections that apply to the various types of reporting entities. This section is necessary to provide general guidance and specify the scope of the regulations.

Subsection (a)

The purpose of this subsection is to explain that the proposed regulations will implement the reporting system set forth in sections 41821.5 through 41821.8 of the Public Resources Code. This is necessary because it states the primary statutory authority for the proposed regulations.

Subsection (b)

The purpose of this subsection is to make clear that these proposed regulations do not remove any authority from any government entity. This is necessary to alleviate concerns from the regulated community and local governments about how the proposed regulations will affect their own authority and agreements, and reiterates that local governments are given their own authority in the statute.

Subsection (c)

The purpose of this subsection is to inform the regulated community that the Department will maintain the confidentiality of the information contained within the reports submitted to the Department. This subsection is necessary to address concerns from stakeholders about the confidentiality of proprietary information.

Subsection (d)

The purpose of this subsection is to explain that the Department will serve as the central repository of information. This is necessary because, under DRS, transfer/processors reported primarily to the disposal facilities to which they sent materials, and the proposed regulations require reporting directly to the Department. Because this is a significant change from reporting under DRS, this subsection alerts the regulated community immediately, for clarity and to avoid potential confusion by these entities regarding how their information will be reported in the new system.

Subsection (e)

This subsection provides a reference for the regulated community to the sections of the proposed regulations that apply to specific types of reporting entities.

This is necessary for clarity and brevity, so that reporting persons can refer to the relevant section for each reporting activity.

Section 18815.2. Definitions

The purpose of section 18815.2 is to define discrete terms used in the regulations that have a meaning which may not be readily apparent without a definition, or that have a specific meaning within the context of these regulations only.

Some definitions have been in use for many years under DRS and other departmental requirements or are defined specifically in statute or in the California Code of Regulations. Some definitions have been crafted specifically for purposes of these proposed regulations. A list of definitions was compiled for terms used in the proposed regulations for completeness and so that regulated entities can find all of the definitions in one place.

Material definitions are included in 18815.2 to clarify the reporting obligation for entities described in 18815.3(b). These definitions are not intended to represent material types to be reported for recycling and composting, but rather as a guide for the broad categories that these regulations cover.

Subsection (a) defines the meaning of 60 specific terms used in these regulations. While this may appear to be a large number, the regulations cover all waste management and recycling in California, with a very diverse set of operations and materials.

Subsection (1)

The purpose of this subsection is to define “alternative daily cover” (ADC). This is necessary to clarify that this term has the same meaning as in section 20690 of Title 27 of the California Code of Regulations.

Subsection (2)

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The purpose of this subsection is to define “alternative intermediate cover” (AIC). This is necessary to clarify that this term has the same meaning as in section 20700 of Title 27 of the California Code of Regulations.

Subsection (3)

The purpose of this subsection is to define “beneficial reuse.” This is necessary to clarify that this term has the same meaning as in section 20686 of Title 27 of the California Code of Regulations. Beneficial reuse applies specifically to material used at a landfill. This definition relies on the established definition for these kinds of facilities to make it clear that only landfills may use this category.

Subsection (4)

The purpose of this subsection is to define “biosolids.” This is necessary to explain that this term refers to sewage sludge that has been treated to meet the land application standards for metal concentrations, pathogen, and vector control as specified in Chapter 40 of the Code of Federal Regulations part 503. Biosolids are currently reported to the U.S. Environmental Protection Agency (EPA), and entities will report to the Department in a similar way, minimizing reporting burdens.

Subsection (5)

The purpose of this subsection is to define the term “broker.” This definition is necessary because the statute mentioned, but did not define this term. To avoid confusion among potential reporters and double counting of material, broker is defined as someone who takes legal ownership of a material, and excludes those brokers who only facilitate or arrange sale or exchange of materials.

Subsection (6)

The purpose of this subsection is to define the term “carpet.” This is necessary to clarify that this term has the same meaning as in section 42971(d) of the Public Resources Code and for consistency with previous regulations applicable to the entities affected by these proposed regulations.

Subsection (7)

The purpose of this subsection is to define “chipping and grinding facility or operation” as a type of recycling facility or operation that has the same meaning as described in section 17862.1 for composting-related operations, and as in section 17383.3 for construction and demolition/inert debris (CDI) wood debris-related operations. This is necessary because there are two major types of chipping and grinding facilities with different guiding permits and regulations. This definition clarifies that both types are considered organics recyclers and are affected equally under this regulatory package.

Subsection (8)

The purpose of this subsection is to define “commercial sector.” This definition is largely consistent with the mandatory commercial recycling laws outlined in sections 42649.3 and 42649.8 of the Public Resources Code, with a slight modification to better align with reporting needs. The definition was developed after consultation with Department and industry experts, and is necessary so that tonnages can be tracked for commercial disposal. Multifamily of five or more units is included in the definition of commercial sector in all of these laws and regulations because generally, these residence types collect garbage in dumpsters like other commercial entities. This inclusion better aligns

with the operations of most haulers. Industrial waste was also added to the definition of commercial sector, since these wastes will not be otherwise captured.

Subsection (9)

The purpose of this subsection is to define “compost” as having the same meaning as in section 17896.2(a)(4), and to explain that, for the purposes of the proposed regulations, compost is considered an end product after it has achieved acceptable metal concentrations, pathogen reduction, and physical contamination levels under sections 17868.2, 17868.3, and 17868.3.1. Since compost is a finished product that is delivered to an end user, it is necessary to define when compost is finished.

Subsection (10)

The purpose of this subsection is to define “composting operation” or “composting facility.” This is necessary to clarify that these terms have the same meaning as in sections 17852(a)(12) and 17896. This also clarifies that in-vessel digestion is considered a type of composting operation or composting facility.

Subsection (11)

The purpose of this subsection is to define “construction and demolition/inert debris” or “CDI.” This is necessary to clarify that this term includes any mixture of either of the materials defined in sections 17381(e) and 17381(k). This is necessary to combine and simplify reporting for a multitude of reporting entities that handle either of the materials.

Subsection (12)

The purpose of this subsection is to define “contact information.” This is necessary for clarity and brevity because this term is used many times throughout the proposed regulations.

Subsection (13)

The purpose of this subsection is to define “contract-hauled.” This definition is necessary because the term has been defined differently than the usual definition in industry. Industry generally considers franchise and non-franchise haulers to be two different groups. This definition was developed to differentiate contract-haulers from self-haulers.

Subsection (14)

The purpose of this subsection is to define “Department” to mean the California Department of Resources Recycling and Recovery. This is necessary for clarity and brevity.

Subsection (15)

The purpose of this subsection is to define “designated waste.” This is necessary to clarify that this term has the same meaning as in section 13173 of the California Water Code. It is also necessary to define this term because, while designated waste is counted as disposal, it is subtracted from a jurisdiction’s disposal total for purposes of compliance with AB 939.

Subsection (16)

The purpose of this subsection is to define “disaster debris.” This is necessary to clarify that this term has the same meaning as in section 17210.1(d). It is also necessary to define this term because, while disaster debris is counted as disposal, it is subtracted from a jurisdiction’s disposal total for purposes of compliance with AB 939.

Subsection (17)

The purpose of this subsection is to define “disposal.” This is necessary to clarify that this term has the same meaning as in section 40192 of the Public Resources Code, but does not include lawful land application. Land application of compostable material and compost are specifically omitted from the definition because they are governed by section 17852(a)(24.5)(A), and will be tracked separately from disposal.

Subsection (18)

The purpose of this subsection is to define “disposal facility” and to detail what types of facilities need to report as disposal facilities for purposes of the proposed regulations. While this term is defined in section 40121 of the Public Resources Code, a definition specific to these regulations is necessary in order to include transformation facilities and inert debris and CDI disposal facilities. This definition of disposal facility is consistent with existing Department permitting requirements and guidelines.

Subsection (19)

The purpose of this subsection is to define “end product,” with examples of different types, so that reporting entities can determine when their product meets this definition. Reporting entities must report tons of end products sent to end users, but end users do not have to report. Therefore, it is necessary to specify what end products are, to differentiate recycling processes that must be reported from manufacturing processes that do not.

The transfer of an end product is the final reportable flow, and a material becomes an end product by meeting the level of processing described in this definition, but not when it is sent to another processing facility. For example, mulched green waste is an end product if it is land applied, but is a feedstock if it is sent to a composting facility.

Subsection (20)

The purpose of this subsection is to define “end user” and to identify the categories of end users for purposes of reporting. This subsection also provides examples for each category in order to assist reporting entities to determine in which end user category they should report.

This definition is necessary because it differentiates between manufacturing processes and recycling processes, and distinguishes end products from products that may be transferred between reporting entities but are not yet going to an end user. The reporting requirements change substantially when end products are sent to end users, because end users are reported grouped by category and region rather than individually.

Subsection (21)

The purpose of this subsection is to define “engineered municipal solid waste conversion” or “EMSW conversion.” This is necessary to clarify that this term has the same meaning as in section 40131.2 of the Public Resources Code.

Subsection (22)

The purpose of this subsection is to define “food” and “food waste.” This is necessary to clarify that this term has the same meaning as in section 17852(a)(20), but excludes agricultural material and agricultural by-product as defined in section 17852(a)(4.5 and 5). Agricultural material and agricultural by-products are specifically excluded from food

material because, under the current regulatory framework, these materials are not normally considered part of the waste stream, and are regulated by other state agencies.

Subsection (23)

The purpose of this subsection is to define “food waste self-hauler” as specified by the passage of Assembly Bill 1103 (Dodd, Chapter 443, Statutes of 2016) which amended section 41821.5(b)(2) of the Public Resources Code after AB 901 was passed. This is necessary because AB 1103 requires self-haulers to be defined to include at a minimum “a person or entity that generates and transports, utilizing its own employees and equipment, more than one cubic yard per week of its own food waste to a location or facility that is not owned and operated by that person or entity.” After extensive input from stakeholders during the informal rulemaking process, the Department decided to use the definition as provided by AB 1103.

Subsection (24)

The purpose of this section is to define “furniture,” provide illustrative examples of furniture, and exclude mattresses from the definition. Since mattresses are tracked via a different departmental program, this definition is necessary to specify which items are reportable.

Subsection (25)

The purpose of this section is to define “generator” as a person whose activities result in the initial creation of solid waste, organics, and/or recyclable material. This definition is necessary in order to determine the reporting obligation for various entities, since generators are not required to report.

Subsection (26)

The purpose of this subsection is to define “glass” and provide examples to illustrate the breadth of glass types that are generally considered to be a part of the waste stream. This definition is necessary to clarify confusion expressed by stakeholders about what types of glass were included in the proposed regulations.

Subsection (27)

The purpose of this subsection is to define “government entity” as an entity identified in section 40145 of the Public Resources Codes or an entity formed pursuant to section 40976 of the Public Resources Codes. This is necessary for consistency with current regulations applicable to the affected community. AB 901 mentions government entities but does not define the term.

Subsection (28)

The purpose of this subsection is to define “hauler” and specify what types of haulers are included for the purpose of this definition, while clarifying that a person who transports material from a reporting entity to another person is a transporter, not a hauler. This definition is necessary in order to determine the reporting obligation for haulers and transporters, since haulers are not required to report except in certain circumstances, and the term “hauler” is not otherwise defined in AB 901.

Subsection (29)

The purpose of this subsection is to define “jurisdiction of origin.” This definition is necessary because the existing departmental definition of jurisdiction is inadequate for tracking the origin of all waste generated or imported into California. Facilities must

report jurisdiction of origin, which may at times include areas outside of California. Therefore, areas outside of California were added to the existing definition of jurisdiction. Section 41780 of the Public Resources Codes requires that jurisdictions track disposal tonnages and divert 50 percent of the waste generated in their jurisdiction. Properly defining jurisdiction of origin enables reporting entities such as haulers, transfer/processors, and disposal facilities to understand the level of detail necessary for their reporting obligation.

Subsection (30)

The purpose of this subsection is to define “land application” as having the same meaning as section 17852(a)(24.5), including biosolids application. This definition is necessary because land application is an end use already regulated by the Department, while biosolids application is regulated by the state water boards.

Subsection (31)

The purpose of this subsection is to define “material(s).” This definition is necessary for consistency, clarity, and brevity because reportable materials include all materials that are recycled, composted, and disposed. Reporting entities have to report on all flows regardless of the materials’ destination. It also clarifies that reporting continues until the material is either disposed or is sent to an end user.

Subsection (32)

The purpose of this subsection is to define “metal” and provide illustrative examples of the types of materials that meet the definition. This definition is necessary for clarity because common language definitions of metal include materials that are not commonly considered part of the waste stream, such as rare earth metals, titanium or other precious metals shavings.

Subsection (33)

The purpose of this subsection is to define “organics” and to provide illustrative examples of the types of materials and products that meet the definition. This definition was developed in conjunction with industry and focuses on materials that are generally considered compostable and products made from those materials. This definition is necessary because other statutory and regulatory definitions of organics include materials that are not commonly considered compostable.

Subsection (34)

The purpose of this subsection is to define “paper” and to provide illustrative examples of the types of materials that meet the definition. This definition is necessary to clarify that paper includes a much broader set of products found in the waste and recycling stream than common language may suggest.

Subsection (35)

The purpose of this subsection is to define “permitted landfill” as having the same meaning as defined in section 18720(a)(50). This is necessary for completeness and for consistency with current regulations applicable to the affected community.

Subsection (36)

The purpose of this subsection is to define “person” as having the same meaning as defined in section 40170 of the Public Resources Codes. This is necessary to identify all types of people, entities, and companies in the proposed regulations.

Subsection (37)

The purpose of this subsection is to define “plastic” and provide illustrative examples of materials that meet the definition. This definition is necessary because common language definitions may suggest a limited application of the term, whereas reportable plastic flows include items from a variety of sources and applications. This definition clarifies that all types of plastic are reportable and resolves confusion expressed by stakeholders at informal workshops.

Subsection (38)

The purpose of this subsection is to define “recyclable material.” This definition is necessary because reporting ceases when materials become end products. While materials are being processed through recycling facilities, they are still considered reportable recyclable materials. Since there are different reporting requirements for recycling streams and disposal streams, it was necessary to define what constitutes the recycling stream.

Subsection (39)(A) through (D)

The purpose of this subsection is to define “recycle” or “recycling” as having the same meaning as defined in section 40180 of the Public Resources Codes, while clarifying that recycling does not include reuse. This section is necessary because it clarifies the existing definition of recycling used by the Department, using illustrative examples of recycling processes, so that entities that engage in the aforementioned activities understand their reporting requirements as a recycler.

This definition is necessary because AB 901 uses the term “recycling” but does not define it. Since some processors of organics are not composting the material, it was necessary to create a definition that includes organics that are processed but not composted. The Department considers chipping and grinding, wastewater treatment, and other types of organics processing to be recycling under these regulations.

Subsection (40)

The purpose of this subsection is to define “recycling and disposal reporting system number” or “RDRS number” as the number assigned to a reporting entity upon registration with the Department’s electronic reporting system. This definition is necessary for clarity and brevity.

Subsection (41)

The purpose of this subsection is to define “recycling facility or operation.” This definition is necessary to clarify that many types of permitted and non-permitted facilities will be considered recyclers for the purposes of these regulations, including, for example, chipping and grinding, CDI recycling centers, and other processors. It is necessary to differentiate between disposal and recycling or composting facilities because section 41821.5(b)(1) of the Public Resources Codes specifies that recycling and composting operations shall report on types of materials, but are not required to report jurisdiction of origin.

Subsection (42)

The purpose of this subsection is to define “report.” This definition is necessary to clarify that reports to the Department for the purposes of AB 901 are distinct from

records that entities keep but do not report, and other information provided to jurisdictions or other reporting entities separately.

Subsection (43)

The purpose of this subsection is to define “reporting entity.” This definition is necessary to clarify that a reporting entity for the purposes of AB 901 and the proposed regulations is distinct from a designated person with signature authority (required by section 18815.3(m)), or other employee of a reporting entity. Each reporting entity will be assigned one or more unique RDRS number(s), which will remain assigned to the reporting entity regardless of who has signature authority for submitting a report. The definition of reporting entity lists the types of activities that are subject to reporting, so that reporters may determine their reporting obligations. This definition is also necessary for clarity and brevity as the term is used frequently throughout the proposed regulations.

Subsection (44)

The purpose of this subsection is to define “reporting period.” This definition is necessary to specify that reporting entities will report to the Department quarterly. Disposal facilities have previously reported to the Department on a quarterly basis. Annual reporting would be too infrequent and not show changes in markets, disposal patterns, and material handling flows. Monthly reporting would be too costly and burdensome on reporters, and would not provide additional useful information. This definition provides consistency for reporting entities with a history of reporting and provides a clear schedule for reporting entities that will now report under these regulations.

Subsection (45)

The purpose of this subsection is to define “residential sector” as single-family residences and multifamily residences of fewer than five units. This definition is necessary to specify what types of residences comprise the residential sector, so that reporters can properly characterize this source sector.

Subsection (46)

The purpose of this subsection is to define “residual” as having the same meaning as defined in section 17402.5(b)(1). This definition is necessary for clarity and brevity and because “residual” is a term commonly used by transfer/processors and recyclers, so it was important to include the language used by the industry.

Subsection (47)

The purpose of this subsection is to define “resale for reuse.” This definition is necessary because entities participating primarily in reuse activities are not required to report and reuse is not otherwise defined in the Department’s statutes and regulations. Even though entities may engage in recycling activities, if recycling is exceeded by their primary business function of resale or reuse, they are treated as a generator of the recyclables and are not required to report.

Subsection (48)

The purpose of this subsection is to define “self-hauler.” This definition is necessary to differentiate self-haulers from contract haulers, who must report as separate source sectors for disposed materials.

Subsection (49)

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The purpose of this subsection is to define “site” and to address situations where multiple facilities or operations are co-located or adjacent. This definition is necessary because it specifies when multiple operations may report under one RDRS number or must register for separate RDRS numbers. Sites must be physically adjacent to each other in order to report as one site. There are many companies with several subsidiaries or sites throughout the state, so it was necessary to clarify that each location would have to report separately and cannot be combined even if they belong to the same parent company.

Subsection (50)

The purpose of this subsection is to define “solid waste” as having the same meaning as defined in section 18720(a)(40). This definition is necessary because solid waste and recycling streams have different reporting requirements. The definition of solid waste from Title 14 of the California Code of Regulations was used because it is more inclusive of the types of materials that are common in the solid waste stream than the definition of solid waste in the Public Resources Code, which is also significantly older.

Subsection (51)

The purpose of this subsection is to define “source sector” and identify the three types of sources, along with illustrative examples, that source sector must be reported by under the proposed regulations. In order for the Department to be able to implement policies related to these statutes, it is necessary that facilities report on the source sector of all solid waste disposed in California. Quarterly collection of comprehensive source sector data, rather than the current periodic, limited sampling, will enable the Department to understand better where materials are coming from and to develop different program approaches for each sector. Categories were developed with the intention of capturing relevant information for evaluating and measuring departmental goals, while limiting burden on reporting entities. Facilities are likely already tracking data that could be used for estimating source sector, based on discussions with the regulated community.

Subsection (52)

The purpose of this subsection is to define “textiles” and to provide illustrative examples of the kinds of materials that meet the definition. This definition is necessary for consistency with waste characterization studies conducted by the Department and to exclude materials that are defined elsewhere in these regulations. The term textiles has been defined elsewhere to include materials, such as mattresses and carpet, which are defined separately for these regulations, since they have their own extended producer responsibility programs. This helps entities to report materials based on how they are most likely handled and processed.

Subsection (53)

The purpose of this subsection is to define “tire-derived rubber” as the rubber from the processing of waste tires as defined in section 42807 of the Public Resources Codes. This is necessary for completeness and for consistency with existing regulations applicable to the entities affected by these regulations. The Department already receives information on whole tires from the tire manifest system, but it is important for the Department to receive information on what happens to the tires once they are processed and are no longer tracked through the tire manifest system.

Subsection (54)

The purpose of this subsection is to define “ton.” This definition is necessary to specify that weight shall be reported in tons, which is consistent with U.S. industry measurement standards. In addition, tons needs to be defined because elsewhere in the proposed regulations reporters are required to notify the Department of any conversion factors used to convert measurements to tons.

Subsection (55)

The purpose of this subsection is to define “transfer/processor” and to incorporate references to existing facility types that are considered transfer/processors for the purpose of the proposed regulations. This definition is necessary to consolidate what existing facility types are considered transfer/processors.

Subsection (56)

The purpose of this subsection is to define “transformation facility” as having the same meaning as in section 40201 of the Public Resources Code. This is necessary to clarify that transformation facilities are considered disposal facilities and for completeness and consistency with existing regulations applicable to the entities affected by the proposed regulations.

Subsection (57)

The purpose of this subsection is to define “transporter.” This definition is necessary because the statute mentioned, but did not define transporters. The Department only considers a person to be a transporter when they take legal ownership of material, as to avoid double counting of material that is already reported by another entity, and to differentiate the reporting obligations of transporters from haulers.

Subsection (58)

The purpose of this subsection is to define “waste-derived material.” This definition is necessary because it specifies that material sent to a facility for disposal that is then separated for beneficial reuse has specific and separate reporting requirements.

Subsection (59)

The purpose of this subsection is to define “wastewater treatment plant” as having the same meaning as section 3671 of Title 23 of the California Code of Regulations. This definition is necessary for completeness and to specify that facilities covered by the referenced section of the California Code of Regulations shall report.

Subsection (60)

The purpose of this subsection is to define “white goods” and to provide illustrative examples of materials types that meet this definition. This definition is necessary because reporting entities commonly recycle or separate white goods from the waste stream for further processing and this definition clarifies the types of materials that reporting entities can classify as white goods.

Section 18815.3. Registration, Reporting and Exemptions

Subsections (a)(1) through (4)(A) and (B)

The purpose of this subsection is to identify the types of entities that are not required to register or report. This is necessary to clarify the kinds of entities that are not required to report due to the nature of their involvement with recycled materials. End users, generators other than food

waste self-haulers, persons that generate, process, and use material all on the same site, and persons that primarily reuse material, are not required to report. People who generate, process and use their own materials are not participating in the waste and recycling stream, and are outside the scope of the proposed regulations.

Subsection (b)

The purpose of this subsection is to identify the types of entities that must register and obtain a RDRS number for each site that they operate. This subsection is necessary to clarify which entities that sell, transfer, process, or dispose material must file a report with the Department. If a reporting entity meets both of the requirements of subsections (b)(1) and (b)(2), then the reporting entity must register with the Department and obtain a RDRS number.

Subsections (b)(1)(A) through (L)

The purpose of this subsection is to identify the first requirement a reporting entity must meet in order to be required to register with the Department and obtain a RDRS number. This subsection is necessary because it lists the types of activities and categories of materials that trigger this first requirement for registration.

Subsection (b)(2)

The purpose of this subsection is to identify the second requirement a reporting entity must meet in order to be required to register with the Department and obtain a RDRS number. This subsection is necessary because it sets the minimum threshold amounts for materials handled within a quarter that triggers registration and reporting. For recyclable material, organics, and/or solid waste for disposal or recycling, this subsection sets a minimum threshold of 100 or more tons per quarter. This threshold is necessary in order to capture data on the majority of facilities in California, without putting an undue burden on entities handling relatively small amounts of material.

The 100-ton threshold was chosen because, of the more than 2,100 facilities identified as potential reporting entities by the Department, about 25 percent are likely to have quarterly throughputs that fall below the 100-ton threshold. The total throughput of these facilities represents less than one percent of the total throughput for the state. The Department, in consultation with industry representatives, sought to establish reporting thresholds in order to relieve businesses with small volumes of a burden that would be of little value for analysis of waste and recycling flows throughout the state.

Subsection (b)(2)(A)

The purpose of this section is to state that all permitted disposal facilities are required to report regardless of disposal tonnages. This is necessary because under the current DRS all disposal facilities are required to report. The disposal of solid waste is of public health concern, so all permitted active disposal facilities shall report disposal to the Department.

Subsection (b)(2)(B)

The purpose of this subsection is to set the minimum threshold for registration for food waste self-haulers. This is necessary because the passage of SB 1103 (Public Resources Codes 41821.5) made it necessary to include reporting requirements for food

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waste self-haulers and that statute sets a minimum threshold for reporting of 1 or more cubic yards of food waste per week, which staff converted to 12 cubic yards per quarter to match the reporting period. CalRecycle estimates 1 cubic yard of food waste to weigh about 500 pounds on average, so 6,000 lbs. is a weight-based conversion of the 12 cubic yard requirement.

Subsection (b)(2)(C)

The purpose of this subsection is to set the minimum threshold for registration for those who deliver applicable organics for direct land application in excess of 50 tons per quarter in accordance with section 17852(a)(24.5). This is necessary because the land application of compostable material, particularly the large-scale use of urban green material, has increased recently in California. Organics are of special interest to the Department because of their potential for generating greenhouse gas (GHG) emissions and public health issues related to organics materials management. The 50 ton threshold was chosen because the Department has not previously tracked organics that are directly land applied, and, in consultation with industry representatives, developed a threshold that would capture the majority of material used in this way, while avoiding burdening very small users of land-applied organics.

Subsection (b)(2)(D)

The purpose of this subsection is to set the minimum threshold for registration for reporting entities that exclusively process construction and demolition/inert debris (CDI) in excess of 2,500 tons per quarter. This is necessary because CDI materials are exceptionally dense and heavy, and therefore a separate, higher threshold was necessary. This CDI threshold is limited to reporting entities that exclusively process CDI, and does not apply to reporting entities that process some CDI as part of their activities. The 2,500 ton threshold generally excludes low volume notification tier CDI operations (section 17383.4), which have been determined by enforcement agents to require limited regulatory oversight.

Subsection (b)(2)(E)

The purpose of this subsection is to clarify that operators that are subject to the composting regulations are also required to report, regardless of tonnages processed. Composters who are exempt from composting regulations are similarly exempt from reporting in RDRS. This section is necessary to clarify that this regulatory package relies on the thorough and extensive stakeholder engagement to develop regulations for composting. The proposed regulations will be consistent with these rules.

Subsection (b)(2)(F)

The purpose of this subsection is to clarify that all wastewater treatment plants must report to the Department. This subsection is necessary because the proposed regulations do not include a minimum threshold for wastewater treatment plants and therefore require all wastewater treatment plants to report. No minimum threshold was set for wastewater treatment plants because all wastewater treatment plants are involved in the processing of organic waste, and they are increasingly processing organic materials like food waste. Organics are of special interest to the Department because of the potential for GHG emissions and public health issues related to organics materials management.

Subsections (c)(1) through (5)

The purpose of these subsections is to explain how to register multiple activities occurring at the same site. Each site must register individually, regardless of ownership or affiliation to other sites. This subsection is necessary because it clarifies that all reporting entities shall apply for and receive a RDRS number for each site they operate. The statute allows aggregation of reports for recycling and composting facilities, but not for disposal facilities. This section explains how co-located operations should register to report.

Co-located activities on the same site should all be considered when determining whether the reporting entity is required to register and report. The previous subsection states the thresholds for reporting. If a reporting entity meets any of the thresholds, they shall report all materials and activities taking place on the site, even if some of those activities would have been below the threshold on their own. Any reporting entity that has a cumulative 100 tons or more of material for any activity on one site is required to report all activities. This approach is necessary to prevent reporters from seeking multiple RDRS numbers for various activities in hopes that each of them may fall below a reporting threshold. This provision prevents facilities from dividing flows across RDRS numbers aiming to avoid reporting responsibilities.

Subsections (d) and (e)

The purpose of these subsections is to explain that reporting entities must register with the Department before reporting begins. This is necessary in order to clarify when reporting entities must be registered in order to report for a quarter. The Department, after receiving input from stakeholders at informal rulemaking workshops, has determined that 30 days is a reasonable amount of time to register with RDRS.

Subsection (f)

The purpose of this subsection is to identify when reporting entities must notify the Department if the operation closes, becomes inactive, or will no longer meet the reporting requirements. This is necessary so that the Department can remove reporting entities from the database in a timely manner and know from what reporting entities it should expect to receive reports. The Department, after receiving input from stakeholders at informal rulemaking workshops, has determined that 30 days is a reasonable amount of time to notify RDRS of closing or becoming inactive.

Subsection (g)

The purpose of this subsection is to state that registered entities that temporarily do not meet the thresholds must notify the Department. This is necessary to ensure the Department is aware of whether a report is needed from a reporting entity, and to relieve the Department of the burden of contacting entities to ask if they are required to report for a particular quarter.

Subsection (h)

The purpose of this subsection is to identify the information all reporting entities must provide. This is necessary to inform reporting entities that, if an entity meets the reporting threshold for one activity, all reportable activities must be included. For example, if an entity has met the threshold for recycling but not for composting, the entity must report both recycling and composting flows.

Subsection (i)

The purpose of this subsection is to inform reporting entities that they must report on material sent to end users by end user category and region. This is necessary because it informs reporting entities how they are supposed to report material sent to end users.

Subsection(i)(1)(A) through (C)

The purpose of this subsection is to identify the regions for end user reporting. This is necessary because it informs a reporting entity of the region categories for end users that the reporting entity must use when reporting material sent to an end user. Stakeholders expressed concern about the confidentiality of proprietary information and customer lists. Therefore, region and end user categories were developed with input from stakeholders. In general, stakeholders identified reporting by counties to be the most workable way to report end users by region. Additionally, stakeholder input was used for reporting regions outside of the state and county.

Subsection (i)(2)

The purpose of this subsection is to identify the end user categories that a reporting entity must use when it reports material it sent to an end user. Because these categories are detailed in the definitions section, for brevity this subsection refers back to that section (18815.2(a)(20)). This subsection is necessary because it identifies the other piece of information that reporting entities must report when they send material to end users.

Subsection (i)(3)

The purpose of this subsection is to identify how end user reporting should be done when persons acquire end products directly at the reporting entity's site. This subsection is necessary because it addresses the problem of how to report end user region when an end user travels to the reporting entity to acquire the end products.

Subsections (j) and (k)(1) through (2)

The purpose of these subsections is to detail the information reporting entities must provide to the Department on individual recipients of material, if those recipients are not end users. If the reporting entity cannot determine whether a recipient is an end user, the reporting entity must provide contact information for the recipient in their report to the Department. This is necessary because the Department needs to track the flow of materials through the recycling infrastructure, and thus must know where a reporting entity sent its material. The Department must have some basic understanding of the destinations of materials and end products, in order to determine if the receiver also has a reporting obligation to the Department. However, the Department acknowledges that it may not always be possible for a reporting entity to determine whether a material recipient is an end user. Therefore, these subsections provide a way for reporting entities to report regardless of whether they are aware of what type of entity they are sending their material to.

Subsection (l)

The purpose of this subsection is to inform reporting entities that they shall report using the Department's online reporting system, and that they must ensure that the information provided is accurate and complete. This is necessary because it informs reporting entities how they must report and informs them that they are responsible for the accuracy and completeness of the information provided in their reports.

Subsection (l)(1)

The purpose of this subsection is to inform reporting entities that they should use the best available data, and what they are required to do if other reporting entities fail to give them required information in time. This section is necessary to ensure that the reporting entity is not held liable for the transgressions of another player, while giving information to the Department on the identity of the reporting entity that did not fulfill their own reporting requirement.

Subsection (l)(2)

The purpose of this subsection is to provide a timeframe for reporting entities to inform the Department in the instance that a reporting entity identifies an error in a report it had already submitted. The ten day time frame is necessary so that mistakes are fixed in the reporting system in a timely fashion, to ensure that data are accurate and reliable.

Subsection (l)(3)(A) through (C)

The purpose of this subsection is to inform reporting entities of the information that each report they submit to the Department must contain. This subsection is necessary because the Department needs to know the contact information and RDRS numbers (if they have a RDRS number) of all reporting entities in order to accurately track, aggregate, and analyze data. This list is also included for clarity and completeness so that reporting entities can refer to one section to determine whether they have included all of the required information in their report. This information provides an avenue for the Department to check accuracy of reports, and to reduce the instances of double counting of data for statewide reports and analyses.

Subsection (m)

The purpose of this subsection is to require a reporting entity to designate a person with signature authority to submit the report. This is necessary because the Department needs to know that a report was submitted by a representative of the reporting entity with authority to verify that the submitted information is accurate, complete, and correct.

Subsection (n)

The purpose of this subsection is to provide the Department with a procedure for determining whether or not a person meets the requirements to register or report. This subsection is necessary because it establishes that the burden of proof is on the entity claiming to not be required to register or report to prove that that is the case. This section is also necessary because it details the process by which the Department will determine whether an entity is required to register or report, including informing the entity and performing inspections or other appropriate enforcement action.

Section 18815.4. Reporting Requirements for Haulers

The purpose of this section is to detail the reporting requirements that are specific to haulers. Haulers are exempt from reporting to the Department for most situations because they will report directly to facilities. The facilities will then report the information received from the haulers to the Department.

Haulers will be required to report to the Department only under the following conditions:

1. When materials are exported directly out of the state.
2. When materials are taken directly from a generator and delivered to an end user, as in the case of direct land application of green waste material.

This is necessary for clarity and brevity because having haulers report directly to the Department will result in double counting, and it could potentially add thousands of additional reporters. The Department has determined that from an accuracy and data management perspective, aggregating hauler information at the facility level will simplify the system. By limiting the instances of hauler reporting to the above-listed conditions, the Department will only receive information from haulers when haulers' material-transfer information would not otherwise be transmitted to the Department via a facility receiving material from the hauler.

Subsection (a)

The purpose of this subsection is to identify the reporting requirement for food waste self-haulers. This is necessary because it satisfies AB 1103's requirement that the Department develop regulations that define food waste self-haulers and require them to report to the Department.

Subsection (b)

The purpose of this subsection is to explain the reporting requirements for haulers when they report information to an in-state facility that is receiving their material. This section outlines the methods and timing for a hauler's report to the receiving facility. This is necessary because it identifies the reasonable methods a hauler can use to report. It also provides a default timing for reporting while also allowing the hauler and the receiving facility to establish their own timing and method for transferring the required information. Finally, it provides a deadline for the hauler to provide the receiving facility with the information, which is necessary because the receiving facility needs to use the information received from the hauler in the receiving facility's report to the Department. The 30-day timeframe was identified in informal stakeholder workshops as a reasonable deadline for haulers to transmit the information to the receiving facility.

Subsection (b)(1)(A)

The purpose of this subsection is to require haulers to provide jurisdiction of origin information to each receiving transfer/processor or disposal facility for all solid waste, organics, and recyclable material. This is necessary because jurisdiction information must be reported on all material disposed. Since organics and recyclable material will have residual material disposed as solid waste, the jurisdiction information must accompany the material so that jurisdiction of origin of residual material is accurately tracked at the time of disposal.

Subsection (b)(1)(B)

The purpose of this subsection is to require haulers to provide source sector information to each transfer/processor or disposal facility, if requested by those facilities, and source sector information must be provided in tons or by percentage using the methods in section 18815.9 of the proposed regulations. This is necessary because source sector information must be reported on all material disposed. Since organics and recyclable material will

have residual material disposed as solid waste, the source sector information must accompany the material to ensure accurate tracking.

Subsection (b)(1)(C)

The purpose of this subsection is to require haulers to provide jurisdiction of origin information and source sector for solid waste that haulers deliver to a broker. This is necessary because jurisdiction of origin and source sector information must be reported on all material disposed. Since organics and recyclable material will have residual material disposed as solid waste, the jurisdiction and source sector information must accompany the material to ensure accurate tracking.

Subsection (c)

This subsection identifies when haulers must report directly to the Department, and the information they must provide. This is necessary to capture all material flowing throughout the state, while minimizing duplicate reporting. Most haulers will report to a receiving facility, not report to the Department, except for the cases outlined in this section. This subsection details the situations in which haulers must report directly to the Department:

Subsection (c)(1)

The purpose of this subsection is to cover a situation where a hauler hauls material directly from a generator to an end use inside or outside of the state. In that instance, the hauler must report to the Department the tons of each material type sent to each end user category by region. This is necessary because the only way to capture this flow of material is to have the hauler report it directly to the Department, since generators and end users do not report.

Subsection (c)(2)(A) and (B)

The purpose of this subsection is to cover a situation where a hauler transports materials, solid waste, organics, or recyclable material, directly from a generator to a person outside of the state. This is necessary because when a hauler picks up material directly from a generator and transports the material out of state, the only way the Department can capture that material flow is from the hauler's report.

Subsection (c)(3)

The purpose of this subsection is to identify the due dates for haulers to submit their reports to the Department. Due dates to the Department are the same as to receiving facilities for consistency.

These due dates are necessary so that haulers report approximately 30 days after the end of the reporting period, allowing transfer/processors who rely on that information to complete their own reports. The 30-day period was chosen after extensive stakeholder input during the informal rulemaking process. 30 days gives haulers enough time to make their reports so that the transfer/processors receive the haulers' information in time for the transfer/processors to generate their reports. The proposed regulations use the final day of the month as due date, rather than a set 30-day time period, for consistency and clarity.

Subsection (d)(1) and (2)

The purpose of this subsection is to make clear that haulers are not required to submit in their report information on specific collection locations or customers to other reporting entities or to the Department. This subsection restates the confidentiality assurances given in statute. This is necessary because stakeholders expressed concern about the confidentiality of customer lists and proprietary information.

This subsection also states, however, that jurisdictions and the Department may request this information for other purposes. This is necessary to clarify that local jurisdictions independent authority to act is not affected by the proposed regulations. In addition, to ensure compliance with statewide waste management goals, the Department maintains its auditing abilities as allowed by AB 901.

Section 18815.5. Reporting Requirements for Transfer/Processors

The purpose of this section is to detail the reporting requirements that are specific to transfer/processors. Prior to the passage of AB 901, transfer/processors reported their total tons sent to disposal and total tons to recycling to the counties. AB 901 changed this reporting structure in two ways. First, transfer/processors will now report their total tons sent to disposal directly to the Department instead of to counties. Second, transfer/processors have a new reporting requirement of reporting all materials sent to composting and recycling by material type directly to the Department.

This section also describes that this information shall be reported to the Department in two ways:

1. Materials coming into the facility; and
2. Materials going out of the facility.

The need for reporting both inbound and outbound information is due to the fact that processing removes recyclable materials from the waste stream. It is important for the Department to be able to see inbound information to ensure fair allocation of residuals.

The RDRS will make the transfer of jurisdiction and source sector information easier for reporting entities along a chain of material flow. It is possible for materials to flow through multiple transfer/processors before reaching recycling or disposal facilities. The RDRS will allow for the reporting of this information from many reporters simultaneously, so that reporters do not have to wait on information from other transfer/processors to complete their report to the Department. The complete and accurate transfer of information along this chain is only possible if transfer/processors report both incoming and outgoing information. This requirement is similar to what the Department and the counties already requires in transfer station reports. The current transfer station reports ask for the total accepted tons and totals sent offsite; therefore, this does not constitute a change in reporting, except for the addition of source sector.

The proposed regulations require reporting of additional information for disposal of disaster debris and designated waste. This information is necessary for jurisdictions to complete their annual reports pursuant to AB 939, for compliance with their 50 percent diversion mandate.

Material sent to landfills for beneficial reuse does not count as disposal for the jurisdictions, so beneficial reuse material does not need to be tracked by jurisdiction of origin. One exception to this requirement is for green waste used as alternative daily cover (ADC) because, due to the passage of AB 1594 (Williams, Chapter 719, Statutes of 2014), it will count as disposal beginning in 2020. For these reasons, it is important for transfer/processors to report the

jurisdiction of origin for green waste used as ADC so that it can be fairly allocated by jurisdiction of origin beginning in 2020.

Subsection (a)

The purpose of this subsection is to inform transfer/processors of the information they are required to report to the Department. This is necessary because it informs transfer/processors of their reporting obligations.

Subsection (a)(1)(A) through (C)

The purpose of these subsections is to detail the reporting requirements for all tons a transfer/processor accepts from different types of entities and how a transfer/processor must report that tonnage information to the Department. Inbound information allows the Department to ensure fair allocation of residuals. This information is necessary to ensure accurate jurisdictional allocations for all materials sent for disposal.

Subsection (a)(2)(A) through (B)

The purpose of this subsection is to detail the reporting requirements for all tons of material a transfer/processor sends out of its facility for composting or recycling and how the transfer/processor must report those tonnages to the Department. This subsection is necessary because it fulfills one of the primary purposes of AB 901, which was to have the Department collect data and understand the flows of compost and recycling materials in the state's waste stream. Collection of this data from transfer/processors captures a critical portion of the flows of these types of materials.

Subsection (a)(3)(A)

The purpose of this subsection is to detail the reporting requirements for all tons of solid waste, mixed materials, commingled recyclables, and residuals, a transfer/processor sends out of its facility. This subsection is necessary because it explains how transfer/processors must report outgoing tonnages to the Department, to ensure that all waste going to disposal is counted, and that jurisdictional allocations are correct. Transfer/processors will report waste going to a disposal facility, as well as waste going to another transfer/processor, broker, or transporter. This should enable the Department to minimize double counting of material in the waste stream. It is also important that the Department track recyclables as they move through the recycling chain pursuant to AB 901, and to avoid double counting of material in the recycling stream.

Subsection (a)(3)(B)(i) through (ii)

The purpose of this subsection is to explain that transfer/processors shall report the percentage of materials sent from each sending facility and delivered by all haulers. This subsection is necessary because the RDRS system will use jurisdiction information reported by sending facilities, but material delivered by haulers must be reported by the transfer/processor including jurisdiction allocations. Jurisdiction of origin and source sector information shall be based on information haulers provide, but due to the sometimes significant level of processing and sorting that takes place at transfer/processors, transfer/processors can adjust those allocations based on their operations.

Subsection (a)(4) and (5)

The purpose of these subsections is to explain how transfer/processors must report outgoing tonnages of disaster debris and designated waste sent for disposal to the Department. This is necessary because it is important for jurisdictions that disaster debris be tracked, since tonnages of disaster debris do not count toward jurisdictional annual disposal totals. In addition, in certain circumstances the tonnage of designated waste can be subtracted from a jurisdiction's annual disposal total. In both cases, the total amount of disaster debris and designated waste must be tracked in order to assess the state's overall disposal tonnage.

Subsection (a)(6)

The purpose of this subsection is to describe requirements for transfer/processors to report material sent for beneficial reuse at a landfill or other transfer/processor. This subsection is necessary because transfer/processors must report the tons sent to each facility by material type. Green waste material sent for beneficial reuse at a landfill must be reported in tons by jurisdiction of origin. This reflects a statutory change enacted by AB 1594 (Williams, Chapter 719, Statutes of 2014).

Subsection (b)(1) through (4)

The purpose of this subsection is to state the reporting timelines for transfer/processors. These due dates are necessary so that transfer/processors report 60 days after the end of the reporting period, allowing disposal facilities who rely on that information to utilize the data in their own reports. This also provides the transfer/processors with 30 days after the haulers report to them to finalize their report to the Department. The 60-day time-period for transfer/processor reporting was chosen after extensive stakeholder feedback during the informal rulemaking process. 60 days allows transfer/processors enough time to receive information from haulers in order to compile their reports.

Subsection (c)(1) and (2)

The purpose of this subsection is to make clear that transfer/processors are not required to submit in their report information on individual haulers or end users. This subsection restates the confidentiality assurances given in statute. This is necessary because stakeholders expressed concern about the confidentiality of customer lists and proprietary information.

This subsection also states, however, that jurisdictions and the Department may request this information for other purposes. This is necessary to clarify that local jurisdictions have independent authority that is not affected by the proposed regulations. In addition, to ensure compliance with statewide waste management goals, the Department maintains its auditing abilities as allowed by AB 901.

Section 18815.6 Reporting Requirements for Disposal Facilities

The purpose of this section is to detail the reporting requirements that are specific to disposal facilities. Prior to the passage of AB 901, disposal facilities reported their total tons sent to disposal and beneficial reuse to the counties. With the passage of AB 901, disposal facilities will now report their total tons sent for disposal and beneficial reuse directly to the Department. Disposal facilities will also report tonnage of all materials sent off-site for recycling, composting, or end use by material type directly to the Department.

Subsection (a)(1) through (4)

The purpose of this subsection is to describe the information a disposal facility must report to the Department for material coming into the facility. This subsection is necessary because disposal facilities must provide information regarding tons and jurisdiction of origin as well as source sector for all material received from haulers and from transfer/processors. Jurisdiction of origin information is required to ensure that local jurisdictions receive adequate information regarding disposed tons assigned to them for purposes of meeting their diversion goals under Public Resources Code section 41780(a)(2). Transfer/processors will be reporting to the Department separately, including information regarding jurisdiction of origin and source sector, so it is not necessary for the receiving disposal facility to report detailed information beyond total tons from transfer/processors.

The RDRS system will apply the jurisdiction and source sector information reported by the sending transfer/processors to the tons reported as received by the landfill. Public Resources Code section 41825(e)(4)(A) allows jurisdictions to remove special wastes, including disaster debris and designated waste, from their disposal numbers, so this specific information must also be tracked and reported to the Department. Much of the information required under this subsection (with the exception of source sector) has been a requirement under previous statute and regulation (section 41821.5 of the Public Resources Code and section 18810.9 of the California Code of Regulations). Regulated facilities have been required to report this information to the counties in which they operate since 1995, so this should not represent significant additional tracking or reporting obligation. Collecting information regarding source sector is necessary to support the Department's programs and general obligations including the 75 percent recycling goal, mandatory commercial recycling, and mandatory commercial organics recycling.

Subsection (b)(1) through (5)

The purpose of this subsection is to describe the information that a disposal facility must report for materials leaving the facility for recycling, for composting, or to another disposal facility.

This subsection is necessary because the Department needs to track the flow of all recycling and composting in the state. Since some disposal facilities have drop-off areas for customers for recycling, it is necessary to clarify that recycling flows are also reportable at disposal facilities. In addition, this subsection is necessary because it addressed materials that are generated on a disposal site that may then be sent off site for disposal or processing or as end products, as well as other situations where a disposal facility may not be the final resting place of materials tracked by the RDRS.

Subsection (c)(1) through (4)

The purpose of this subsection is to describe the information that a landfill must report for all tons accepted on-site for beneficial reuse. Reporting on the amounts and materials used beneficially are necessary because landfills are permitted to use these materials only as specified in Title 27, section 20686 of the California Code of Regulations. Therefore, enforcement agencies need this information to ensure that landfills are applying beneficial reuse materials according to permits. Beneficial reuse material does not count as disposal, except for green material used as ADC, which will be considered disposal starting in 2020. The Department will require reporting by jurisdiction for green waste beneficially reused so that disposal is allocated properly. The Department considers beneficial reuse material important to track, since beneficial reuse material ends up in the landfill, and has the potential to be diverted,

Subsection (c)(1)

This subsection is necessary to explain that for waste-derived material accepted for beneficial reuse from a transfer/processor, the disposal facility shall report the tons of each material used and the contact information for each transfer/processor. This is necessary so the Department can track the tonnage and types of material used as beneficial reuse across facilities.

Subsection (c)(2)

This subsection explains that for green waste material accepted from all haulers, bringing waste from any source, the disposal facility shall report the tons of green waste and the jurisdiction of origin for material accepted for ADC, AIC, construction, and landscaping or erosion control. It is necessary to specify that the jurisdiction of origin shall be reported for green waste material.

The proposed regulations add more specific categories of beneficial reuse. The previous regulation only three categories: ADC, AIC and other beneficial reuse. Landfills in recent years have reported greater tonnages of materials in the “other” category, which has caused that category to grow over time. In order to ensure that facilities are using materials according to permitted allowances, more clarity is needed in the “other” category. The additional categories of construction and landscaping will replace the “other” category, and stakeholders in both public workshops and in the stakeholder survey have found these categories sensible. These expanded categories will allow the Department to better understand how materials are used at landfills, and ensure compliance with permits.

Subsection (c)(3)

This subsection explains that for beneficial reuse material other than green waste, disposal facilities shall report the tons of each material type used for ADC, AIC, construction, and landscaping or erosion control. It is necessary to specify that for these materials, disposal facilities shall report material type, but shall not report jurisdiction of origin, as they are required to do for green waste.

Subsection (c)(4)

This subsection states the material types of beneficial reuse that disposal facilities will report. This subsection is necessary because facility operations regulations include these approved material types, and the enforcement agency may approve others. These material types are specific for beneficial reuse, and are different than material types for reporting of recycling and composting.

Subsection (d)(1) through (4)

The purpose of this subsection is to state the reporting timelines for disposal facilities.

The reporting periods are set quarterly to maintain consistency with current reporting requirements for disposal facilities, with an additional 30 days added to give reporting disposal facilities time to compile information provided to them by haulers and transfer/processors. It is necessary to include the reporting deadlines within the regulations to avoid any ambiguity regarding when reporting entities must submit their reports. These deadlines were chosen after extensive input from stakeholders during the informal rulemaking process.

Subsection (e)(1) through (2)

The purpose of this subsection is to state that disposal facilities are not required to submit in their report information on individual haulers or customers. This subsection restates the confidentiality assurances given in statute. This is necessary because stakeholders expressed concern about the confidentiality of customer lists and proprietary information.

This subsection also states, however, that jurisdictions and the Department may request this information for other purposes. This is necessary to clarify that local jurisdictions have independent authority that is not affected by the proposed regulations. In addition, to ensure compliance with statewide waste management goals, the Department maintains its auditing abilities as allowed by AB 901.

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

The purpose of this section is to detail the reporting requirements that are specific to recycling and composting facilities and operations. Prior to the passage of AB 901, recycling and composting facilities and operations did not report to the counties or to the Department. The passage of AB 901 created a new reporting structure that requires recycling and composting facilities and operations to report their total outgoing tons by material type directly to the Department.

Subsection (a)(1) through (3)

The purpose of this subsection is to describe information required for materials leaving the operation for disposal, further processing, or end use. The statute clearly states that recyclers and composters are to report the types and quantities of materials that are disposed of, sold, or transferred to other recycling or composting facilities or operations, end users inside of the state or outside of the state, or exporters, brokers, or transporters for sale inside of the state or outside of the state. This section is necessary to describe these statutory reporting requirements in more detail in order to clarify the reporting requirements and to state reporting requirements for recycling and composting facilities and operations in the same location.

Subsection (b)(1) through (4)

The purpose of this subsection is to state the reporting deadlines for recycling/composting operations. These due dates are necessary so that recyclers and composters have enough time to compile and submit their reports. This reporting timeline was developed after receiving feedback at multiple informal stakeholder workshops.

Subsection (c)(1) and (2)

The purpose of this subsection is to state that recyclers/composters are not required to submit information on specific customers (except other reporting entities) to the Department. This information will not be made publically available. This subsection restates the confidentiality assurances given in statute. This is necessary because stakeholders expressed concern about the confidentiality of customer lists and proprietary information.

This subsection also states, however, that jurisdictions and the Department may request this information for other purposes. This is necessary to clarify that local jurisdictions have independent authority that is not affected by the proposed regulations. In addition, to ensure compliance with statewide waste management goals, the Department maintains its auditing abilities as allowed by AB 901.

Section 18815.8 Reporting Requirements for Transporters and Brokers

Any person transporting materials on behalf of another reporting entity, who does not decide where to send the material, is not required to register or report. The original reporting entity sending the materials will report them, even if they use a third party transporter to move the materials. Thus, transporters and brokers are only required to report if they take legal possession of the material, meaning that they control its destination. In cases in which transporters and brokers are simply assisting in a transaction between two reporting entities, transporters and brokers shall not report to the Department. Transporters and brokers are only required to report to the Department if they take legal possession of the material. If a facility sells or transfers material to a broker, and the facility is not aware of the destination of the material, the facility will report that they transferred the material to the broker.

Subsection (a)

The purpose of this subsection is to state when a broker or transporter should report to the Department. This is necessary to avoid duplicate counting. There is no need for transporters and brokers to report information that other entities already report.

Subsections (b)(1) through (3)

The purpose of these subsections is to explain that a transporter or broker who legally possesses solid waste or recyclable or compostable material, shall report to the Department.

Subsection (b)(1)

This subsection is necessary to describe the information transporters and brokers must report for material sent for disposal or beneficial reuse inside or outside California.

Subsection (b)(2)

This subsection is necessary to describe the information transporters and brokers must report for material sent to a recycler, composter, or other broker or transporter inside or outside California.

Subsection (b)(3)

This subsection is necessary to describe the information transporters and brokers must report for end products sent to an end user inside or outside California.

Subsections (c)(1) through (4)

The purpose of this subsection is to state the reporting deadlines for transporters and brokers. These due dates are necessary so that the transporters and brokers report 60 days after the end of the reporting period, allowing other reporters who rely on that information to verify the data in their own reports. The due dates were chosen after extensive stakeholder feedback during the informal rulemaking process.

Subsections (d)(1) and (2)

The purpose of this subsection is to state that transporters and brokers are not required to submit information on customers (except other reporting entities) to the Department. This information will not be made publically available. This subsection restates the confidentiality

assurances given in statute. This is necessary because stakeholders expressed concern about the confidentiality of customer lists and proprietary information.

This subsection also states, however, that jurisdictions and the Department may request this information for other purposes. This is necessary to clarify that local jurisdictions have independent authority that is not affected by the proposed regulations. In addition, to ensure compliance with statewide waste management goals, the Department maintains its auditing abilities as allowed by AB 901.

Section 18815.9 Reasonable Methods

Subsection (a)

The purpose of this section is to detail the methods for reporting that are specific to each of the types of facilities and operations required to report. This section is necessary because it is important for the Department to receive accurate data from reporting entities. Therefore, the following section outlines the appropriate methods for reporting, allowing some flexible options to accommodate different types of reporters.

Subsection (a)(1)

The purpose of this subsection is to clarify that reporters shall report all material sent for disposal as solid waste, and that reporters do not need to further sort or characterize solid waste. This is necessary so that reporting entities understand that it is not necessary to sort residuals, or to attempt to characterize individual material types in residuals that are going to disposal.

Subsections (a)(2)(A) through (C)

The purpose of these subsections is to clarify that recyclable materials should be reported at the level of segregation at the time they are sold or transferred. This approach is necessary because it allows reporters to utilize existing tracking mechanisms for their material, without the need to create new material types to conform to Department standards. It will also allow for easier comparisons to their records during audits. For example, a reporter that sells mixed paper does not have to further characterize that material, but if the material is sorted and sold as white ledger, it should be reported as white ledger. The approach allows the Department to understand flows through the recycling infrastructure and to determine the level of processing achieved in the state.

Subsection (b)

Subsections (b)(1)(A) through (D)

The purpose of these subsections is to describe the accepted procedures for haulers to determine jurisdiction of origin for material headed to disposal. Haulers may provide this information either at the time of delivery, or through periodic reports to the receiving facility. These subsections are necessary to clarify that haulers can choose the method that is most effective and convenient for their operations.

Subsections (b)(2)(A) through (C)

Proposed Reporting Regulations

The purpose of these subsections is to describe the specific procedures a transfer/processor or disposal facility shall use to determine jurisdiction of origin. It is necessary to describe the three different options for determining jurisdiction of origin because facilities throughout the state have a variety of business processes dependent on the physical and procedural limitations of their locations. These options allow flexibility for the variety of facilities affected by these regulations.

Subsections (b)(3)(A) through (C)

The purpose of these subsections is to describe the accepted procedures for transfer/processors to adjust their determination of jurisdiction of origin for material sent for disposal. A transfer/processor shall base their determination on allocations of inbound materials, and may adjust the allocations based on facility-specific practices. These subsections are necessary to clarify that transfer/processors can adjust allocations based on specific evidence related to their operations, for which they must also keep appropriate records.

Subsection (c)

The purpose of these subsections is to describe how a reporting entity may assign source sector for material headed to disposal. These subsections allow reporters flexible options for tracking and reporting the source sector of incoming material without having to slow down their intake of customers. Descriptions of each of the methods for determining source sector will result in uniform data collection from reporting entities.

Subsections (c)(1)(A) through (C)

The purpose of these subsections is to describe how a reporting entity may assign source sector for material headed to disposal by truck type. This is necessary because it allows reporters to easily identify the source sector of incoming material without having to slow down their intake of customers. Descriptions of the specific truck type associated with each source sector will result in uniform data collection from all reporting entities.

Subsections (c)(2)(A) through (C)

The purpose of these subsections is to describe the accepted procedures for obtaining source sector for material headed to disposal by billing records. A reporting entity may assign source sector based on billing records. These subsections are necessary so that reporters may easily identify the source sector of incoming material without having to slow down their intake of customers. Descriptions of the specific types of billing records associated with each source sector will result in uniform data collection from all reporting entities.

Subsection (c)(3)

The purpose of this subsection is to describe how contract-haulers may report source sector for material headed to disposal periodically. A transfer/processor may request but not require periodic reports from a hauler. This subsection is necessary so that reporting facilities may easily acquire the source sector of incoming material without affecting their daily operations. This subsection offers flexibility for reporting entities to ask for the information from their haulers.

Subsection (c)(4)

The purpose of this subsection is to describe the accepted procedure for obtaining source sector for material headed to disposal directly from customers by asking them at the gate. This subsection is necessary because it allows reporters to gain source sector information directly from customers if other methods are not sufficient or practical, and to offer flexibility for reporting entities to ask for the information directly of each customer at the gate.

Subsection (d)

Transfer/processors or disposal facilities may request periodic reports from haulers for source sector for materials sent to disposal. The purpose of these subsections is to explain how contract-hauler shall generate a periodic report for overall tons or percentages by source sector that have been sent to the requesting facility. This is necessary so reporting entities can obtain sufficient information from haulers to complete their own reports, while allowing haulers flexibility to efficiently characterize the loads delivered by source sector, based on their established business processes, with minimal disruption to their daily routine.

Subsections (d)(1)(A) and (B)

This subsection details the accepted procedures for contract-haulers to report source sector to the requesting facility by truck type. This is necessary so the haulers can efficiently characterize the loads delivered by source sector, based on their established business processes, with minimal disruption to their daily routine. Descriptions of the specific truck type associated with each source sector will result in uniform data collection from all reporting entities.

Subsections (d)(2)(A) through (C)

This subsection details the accepted procedures for contract-haulers to report source sector to the requesting facility by examining billing records. This is necessary so that haulers can efficiently characterize the loads delivered by source sector, based on their established business processes, with minimal disruption to their daily routine.

Subsection (d)(3)

This subsection explains that contract-haulers may report source sector to the requesting facility by examining dispatcher records of hauling routes, total bin volumes from each source sector, or total weights from each source sector. This is necessary so that haulers can efficiently characterize the loads delivered by source sector, based on their established business processes, with minimal disruption to their daily routine.

Subsection (e)

This subsection explains that if a reporting entity is unable to estimate source sector using one of the methods described in this section, the reporting entity shall submit to the Department a request to use an alternate method. This subsection is necessary to allow flexibility for reporting entities regarding source sector data, and allows reporting entities to create alternative methods that may better fit their operations.

Subsection (f)

This subsection explains that, if a reporting entity uses an approved method for determining source sector, then inaccuracies or errors in source sector reporting shall not be subject to penalties pursuant to section 18815.10 of the proposed regulations. This is necessary so reporters understand that good faith reporting of source sector will not result in penalties. Reporting source sector to the Department is a new process for reporters, and the Department's goal in collecting information on source sector is to enable the Department to make data-driven decisions about implementation of Department policies.

Subsection (g)

This subsection explains that while reporters will measure most flows with scales, the Department allows some exceptions based on operational restrictions, determined in consultation with stakeholders. In certain cases, where transactions are completed on the basis of volume rather than weight, reporters can use volume to weight conversion factors to complete their reports, and shall revise those factors every 3 years. This subsection is necessary to allow flexibility for facilities that perform these daily operations on the basis of volume. The Department chose a 3-year interval for revising conversion factors based on input from stakeholders.

Subsection (g)(1)

This purpose of this subsection is to explain that reporting entities shall use scales, not estimates, if they have scales at the facility. This requirement avoids the practice of using estimates instead of weighing, when scales are available. The succeeding subsections detail the conditions under which a reporting entity may use a method other than weighing with scales to determine tonnages. These subsections are necessary to clarify that reporters shall use scales except in specific circumstances detailed in the proposed regulations. In order for the Department to get accurate and useful data, reporters must use the most accurate measuring procedures that are reasonable. These subsections give reporters flexibility under certain circumstances to use a method other than weighing with scales when appropriate for their business processes.

Subsections (g)(2)(A) through (E)

Subsection (g)(2)(A)

The purpose of this subsection is to explain that transfer/processors and disposal facilities that record self-haul loads by volume may estimate disposal tonnages using volume to weight conversion factors. This is necessary to give reporters flexibility to continue their current business practices. Tracking self-haul loads by volume is a common practice that gives a good estimate of weight, while allowing facilities to continue to employ an acceptable method that would not slow business processes.

Subsection (g)(2)(B)

The purpose of this subsection is to explain that transfer/processors may subtract total inbound contract-hauled tons from total tons sent to disposal facilities to estimate tonnage from the self-haul sector. This is necessary to allow facilities to continue to employ an acceptable method commonly used by transfer/processors.

Subsection (g)(2)(C)

The purpose of this subsection is to explain that rural, low volume transfer/processors may use volume to weight conversion factors, or weight determined at the receiving facility, to report tonnages. This subsection is necessary because it continues to give these facilities flexibility allowed by previous reporting regulations, and is necessary to allow facilities with small inflows, and facilities in rural areas, the flexibility to employ acceptable methods compatible with their business processes, and to not add undue burdens of acquiring and maintaining scales for small rural facilities.

Subsection (g)(2)(D)

The purpose of this subsection is to explain that, if a recycler (including CDI recyclers) or composter sells or transfers materials based on volume, it may use material-specific volume to weight conversion factors to estimate tons. This is necessary to give reporters flexibility to continue their current business practices. Tracking recycling loads by volume is a common practice that gives a good estimate of weight, while allowing facilities to continue to employ an acceptable method that would not slow business processes.

Subsection (g)(2)(E)

The purpose of this subsection is to explain that, if a reporting entity creates liquid or gas end products, it shall use material-specific conversion factors to report tonnages. This subsection is necessary to specify to facilities with these types of products that they must report in tons, but shall use appropriate conversion factors compatible with their established business processes.

Subsections (g)(3)(A) through (C)

The purpose of these subsections is to allow flexibility for facilities that are very small, remote, or in areas where the use and maintenance of scales would be burdensome or costly.

Subsection (g)(3)(A)

This subsection is necessary for facilities with small inflows to continue using conversion factors, and to not add undue burdens of acquiring and maintaining scales for small facilities.

Subsection (g)(3)(B)

This subsection is necessary to allow facilities that may have limited ability to operate and maintain scales due to weather conditions to use conversion factors.

Subsection (g)(3)(C)

This subsection is necessary to allow facilities that are so remote that electricity is unavailable to use conversion factors.

Subsection (g)(4)

The purpose of this subsection is to explain the need for indicating the use of conversion factors, and proper revision and recordkeeping. This is necessary to give reporters flexibility to continue their current business practices, while allowing the Department to verify that the methods used result in accurate data collection. Tracking loads by volume is a common practice that gives a good estimate of weight, while allowing facilities to continue to employ an acceptable method that would not slow business processes. The Department may ask for revision of factors that are not satisfactory.

Subsection (h)

This subsection explains that a reporter shall identify the methods used in preparing its report. This is necessary to ensure that reports contain information that enables the Department to characterize accurately the data that reporters provide.

Section 18815.10 Procedure for Imposing Civil Liabilities

The purpose of this section is to lay out the procedure for the Department to impose civil liabilities. The text of the statute (section 41821.7 of the Public Resources Code) describes the general procedure for imposing liabilities. The procedure outlined in this section adds necessary detail to the enforcement process created in statute, and is necessary to establish clear procedures that conform to the Department's enforcement approach. The procedure is very similar to departmental procedures in other regulations.

Subsection (a)

The purpose of this subsection is to identify the sections of AB 901 that grant enforcement authority for creating civil liability procedures. This is necessary for completeness so that regulated entities know that these procedures are implementing enforcement that AB 901 authorizes.

Subsections (b)(1) through (5)

The purpose of this subsection is to identify the process by which the Department will give parties an opportunity to comply prior to initiation of enforcement as required by section 41821.5(c)(1) of the Public Resources Code. This section is necessary because statute specifically requires it. Additionally, having an established procedure in place for giving parties an opportunity to remedy before commencing enforcement actions conforms to the Department's general procedure of written notice of potential failure to comply and a reasonable timeline for remedy.

Finally, this procedure follows the Department's intention to focus its resources on compliance assistance before taking formal enforcement action and imposing penalties. The Department developed the language in the proposed regulations after extensive input from stakeholders representing the regulated community. It is the intention of the Department, as required by statute, that enforcement programs have technical assistance, outreach, and training programs to assist the regulated community.⁷

⁷ "2015 CalRecycle Enforcement Report." *California Department of Resources Recycling and Recovery*, November 2016.

Subsection (c)(1) and Penalty Table I

The purpose of this section is to describe how civil penalties may be imposed, and to provide a penalty table to illustrate application of the ranges of civil penalties authorized by statute for the various actions and omissions for which civil penalties may be assessed. This is necessary because it informs the regulated community of the process the Department will use to calculate civil penalties. The table provides a clear and quick way for both the regulated community and the Department to identify types of offenses and corresponding civil penalty amount, by number of times each offense is committed.

Subsections (d)(1) through (6)

The purpose of this subsection is to identify the factors the Department must take into consideration when determining where in the penalty range the penalty amount should fall, if applicable. Use of factors of this type was specifically mandated by AB 901 (Public Resources Code 41821.5(c)(2)). This is necessary to inform the regulated community of the types of considerations the Department may make when determining penalty amounts for which the Department has discretion in application. This is also necessary to inform the Department of the types of factors it should consider when calculating civil penalties. Finally, in an administrative enforcement proceeding, these factors will assist an administrative law judge in understanding how the Department determined penalty amounts.

Subsections (e)(1) through (3)

The purpose of this subsection is to identify how accusations and accompanying documents will be served. This subsection is necessary to ensure that that regulated community understands how accusations will be served so that due process is followed. This procedure follows established departmental protocol for serving of accusations and is also consistent with procedures governing administrative hearings as required by AB 901 (Public Resources Code 41821.7(c) (requiring hearing to be conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

Subsections (f) and (g)

The purpose of these subsections is to state that if more than one party is responsible for a violation, all involved parties will be held liable. However, a reporter will not be liable if the information provided to them is incomplete or inaccurate.

These subsections are necessary to ensure that the regulated community understands that joint liability is possible under these regulations. However, the Department will not hold reporting entities liable if incomplete or inaccurate reports regarding jurisdiction of origin information were provided by a hauler, if the reporting entity identifies the hauler that failed to provide data or provided incorrect data. This is a restatement of protections specified in 18815.3(l) of these regulations and is restated here for completeness and clarity.

Section 18815.11(a) through (c) Record Retention Requirements for a Reporting Entity

Public Resources Code 41821.5 gives the Department authority to develop procedures for reporting. Public Resources Code section 41821.6 gives the Department authority to conduct audits and perform site inspections, observe facility operations, and otherwise investigate the recordkeeping and reporting of persons subject to the requirements of these regulations. These subsections describe specific rules governing the retention of records by regulated entities for

use in the event of an audit or inspection. This section explains the length of time that records must be kept, the types of records that must be kept, and the format of records. This is consistent with other departmental practices.

These subsections are necessary to allow the Department to verify information in, or verification of, the reports required by sections 41821.5(a) and (b) of the Public Resources Code.

Subsection (a)

The purpose of this subsection is to state that reporting entities must retain the reports and supporting records that are used in creating reports at their places of businesses for five years after submitting the report. This is necessary to ensure that if the Department needs to examine these records to verify the accuracy of the reports, supporting documentation will be available.

Subsection (b)(1) through (4)

The purpose of these subsections is to describe the types of records to be retained by reporting entities. This is necessary so that the reporting entity and the Department, in the event of a discrepancy or audit, can verify the accuracy of reports.

Subsection (c)

The purpose of this subsection is to state that supporting documents described in this section must be kept in a usable format, either in electronic or paper form. This is necessary so that each reporting entity can keep their records in a form that is most convenient for their individual business processes.

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

The statute gives very specific confidentiality protections for proprietary business information that is not subject to a public records request under the California Public Records Act. However, the record and report confidentiality provisions were written in multiple parts of the statute. This section restates those provisions for clarity and completeness, to ease reporter concerns, and to present all the protections in one section. It also includes examples of records and reports that may not be released to the public, but are still subject to inspection by the Department. It also clarifies that government entities other than the Department are not governed by this section, but rather by the statute. This section is necessary to ensure the following: 1) that reporting entities are aware of the records review requirements required pursuant to sections 41821.5(a) and (b) of the Public Resources Code, and 2) that reporting entities are aware that records are subject to confidentiality provisions pursuant to sections 41821.5(g)(1) and (7) of the Public Resources Code.

Subsection (a)

The purpose of this subsection is to inform reporting entities that they must provide the Department with access to their records. This is necessary to inform reporting entities that the records they maintain pursuant to the provisions of AB 901 and the proposed regulations must be made available to the Department.

Subsection (b)

The purpose of this subsection is to outline procedures by which the Department may receive copies of records. This is necessary because there may be times when the Department may need to request specific documents as part of an audit or inspection or in lieu of an audit or inspection.

Subsection (c)

The purpose of this subsection is to outline how reporting entities will provide electronic copies of records to the Department. This is necessary to inform reporting entities of how they will be required to store and provide electronic documents and what to do when a reporting entity does not keep electronic records.

Subsection (d)

The purpose of this subsection is to restate the statutory language regarding a reporting entity's ability to redact specific information from records. This language is necessary for completeness and for clarity by putting all statutory provisions regarding confidentiality in the same location.

Subsection (e)

The purpose of this subsection is to restate statutory language regarding the confidentiality of records maintained by a reporting entity. This language is necessary for completeness and for clarity by putting all statutory provisions regarding confidentiality in the same location.

Subsection (f)

The purpose of this subsection is to restate the statutory language regarding records provided to the Department that are exempt from disclosure. This language is necessary for completeness and for clarity by putting all statutory provisions regarding confidentiality in the same location.

Subsection (g)

The purpose of this subsection is to identify specific types of records and reports that will be considered confidential as a matter of law and will be exempted from Department procedures for determining whether a record is confidential, proprietary, or a trade secret. This is necessary because, after extensive consultation with stakeholders, several pieces of information that reporting entities will have to submit or retain contains sensitive information, the dissemination of which could have impacts on reporting entities businesses and competitiveness. Therefore, this section specifically identifies those types of records and reports as confidential so that they will always be protected from disclosure to the public and other reporting entities. This is not a complete list of information or records that may be considered confidential, proprietary, or a trade secret, and the Department will consider confidentiality and requests for documents to be treated as confidential according to the provisions of AB 901, the proposed regulations, and its other statutory and regulatory requirements.

Subsection (h)

The purpose of this subsection is to restate the statutory language regarding Department audits and confidentiality of records in the event of a Department audit. This language is included for completeness and for clarity by putting all statutory provisions regarding confidentiality in the

same location. This subsection is also necessary because it clarifies that the protections of subsection (g) also apply to records produced as a result of a Department audit.

Subsection (i)

The purpose of this subsection is to state how requests for and inspections of records from other government entities are handled. This is necessary because AB 901 lays out specific procedures for government entities to inspect and copy records that are not affected by or addressed in the proposed regulations.

Section 18815.13 Complaints Regarding Non-Compliance

This section describes the process that will be used for reporting non-compliant entities. This is necessary because the proposed regulations create the possibility that reporting entities may need to inform the Department of other reporting entities that not in compliance with AB 901 or its implementing regulations. This section provides necessary details on how reporting entities must notify the Department regarding this information.

Subsection (a)

The purpose of this subsection is to explain that a reporting entity shall inform the Department of specific allegations of non-compliance by another reporting entity that fails to provide it with the information required by these regulations. This subsection is necessary because reporting entities depend upon each other for accurate information on material flows for some of their reports. In order to ensure accurate reporting, the Department needs to identify problems with reporting, and use its enforcement authority to enforce compliance.

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.	CIWMB – DISPOSAL SITE RECORDS. (T14: SECTION 17258.29, 17636, 17637, 17638, 17639)

Subsection (f)

The purpose of this amendment is to delete “CIWMB” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (g)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations 18808 through 18814) and will now be included in Title 27 California Code of Regulations 20510(g).

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
SECTION 20686.	BENEFICIAL REUSE

Subsections (b) and (d)

The purpose of this amendment is to delete “CIWMB” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (d)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations 18808 through 18814) and will now be included in Title 27 California Code of Regulations 20686(d).

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.	CIWMB - DAILY AND INTERMEDIATE COVER
SECTION 20690.	CIWMB - ALTERNATIVE DAILY COVER. (T14: SECTION 17682, 17258.21(B))

Subsections (a)(1), (a)(5), (a)(7); (b), (b)(3)(B), (b)(9)(C)

The purpose of this amendment is to delete “CIWMB” and replace it with “Department.” This updates the regulations to use the current term for the California Department of Resources Recycling and Recovery and is a nonsubstantive change without regulatory effect, being made while other subsections in the section are being amended.

Subsection (a)(5)

The purpose of this amendment is to replace the reference to the DRS with a reference to the RDRS. This is necessary to update this subsection with a reference to the proposed regulations, which will replace the old DRS regulations. This amendment also includes instructions on availability of records for inspection because that language was previously included in the old DRS regulations (Title 14 California Code of Regulations 18808 through 18814) and will now be included in Title 27 California Code of Regulations 20690(a)(5).

INITIAL DETERMINATION THAT THE ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

After conducting an Economic Impact Assessment (EIA) in accordance with Government Code Section 11346.3(b), the Department concluded that the proposed regulations will not have a significant adverse economic impact on California businesses. The Department estimates a

typical business will have an initial cost of \$292.00, and an annual ongoing cost of \$1,862. Much of the information required to be reported has historically already been reported or is information that businesses should already be collecting for their own needs, and the Department made significant efforts to engage with affected businesses to assess how these regulations could be crafted in a way that most aligns with current business practices. Accordingly, the Department was able to conclude that the proposed regulations will not have a significant adverse economic impact on businesses.

The total economic and fiscal impact on all businesses of the proposed regulations is estimated at \$7,330,000 in the first 12 months of implementation. The Department concluded that the regulation's impact on business does not reach the threshold of a major regulation. Therefore, the Department did not conduct a Standardized Regulatory Impact Assessment (SRIA).

The Economic Impact Assessment is detailed below and is included as an attachment to the regulation package.

REASONABLE ALTERNATIVES

The Department considered alternatives to the proposed regulations. First, requiring recyclers and composters to report jurisdiction of origin for materials disposed, i.e., residuals, was examined as an option. While it would be useful to the Department to track the origin of residual waste from recycling and composting activities, tracking this would put a burden of an average of \$3,413 per operation on reporters. This would mean an estimated cost of \$4,556,000 to implement this alternative (\$3,413 per report x 1335 reports ≈ \$4,556,000). Additional training hours would be needed, with an estimated cost of about \$211,000 (2 hours per employee x 2 employees per reporter x \$30.33 per employee per hour x 1335 reports x 1.3 overhead multiplier ≈ \$211,000). The total estimated cost for reporting jurisdiction of origin for materials disposed for recyclers and composters would be approximately \$4,757,000.

Material sent to recyclers, composters, and non-solid waste permitted transfer/processors often comes from multiple jurisdictions. The residual material these facilities are not able to recover and send to disposal is assigned to the jurisdiction where the processing facility is located. By implementing this alternative, more precise jurisdiction of origin information would be collected and reported, resulting in more accurate allocation of disposed materials. However, this alternative was eliminated to reduce the data collection and reporting burden on facilities. Residual disposal from recyclers and composters will continue to be allocated to the jurisdiction where the processing facility is located.

A second alternative considered was requiring reporting entities to list all end users individually instead of by category. To accomplish this, reporting entities that send material to end users would spend additional time entering those individual end users into RDRS. The additional time could be up to 5 additional hours and have an estimated cost of about \$271,000 (5 hours per reporting entity x \$30.33 x 1374 Recycling, Composting, Transporters, and Broker reports x 1.3 overhead multiplier ≈ \$271,000).

Obtaining lists of individual end users would allow the Department to confirm that material has reached the point at which reporting is no longer required. However, since information on individual end users can be obtained by the Department through audits of reporting entity records if necessary, this alternative was rejected.

Based on the foregoing, the Department had determined that: 1) neither alternative would be less burdensome and equally effective in achieving the purposes of the proposed regulations in

a manner that ensures full compliance with the authorizing statute or other law being implemented and made specific by the proposed regulations; and 2) neither alternative would lessen adverse economic impacts on small businesses or stimulate business in the state while protecting human health, safety, and the environment.

FINDING ON NECESSITY OF REPORTS [GOVERNMENT CODE SECTION 11346.3(d)]

AB 901 amends existing reporting requirements on disposal and adds additional reporting requirements for entities handling recycling and composting. The proposed regulations do not require reports in addition to what is described in statute, but the regulations do, among other things, add specificity and detail to the reporting required by statute as is required in section 41821.5(c) of the Public Resources Code. The added specificity is necessary to meet the statutory mandate of section 41821.5(c) of the Public Resources Code and also to ensure that the Department receives information necessary to meet its various statutory mandates (as discussed in the opening section of this document). The Department has also found that the reporting requirements in the proposed regulations are necessary for the health, safety, and welfare of the people of the state because these reports will directly inform the Department's ability to effectively meet its waste management and diversion goals.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

Pursuant to Government Code section 11346.2(b)(6), the Department found that there are no federal laws or regulations comparable to the proposed regulations; therefore, these regulations do not duplicate or conflict with any federal law or regulation. Accordingly, the Department is not adopting regulations differing from federal regulations.

ECONOMIC IMPACT ASSESSMENT

The Department, in consultation with the Department of Finance, concluded that the proposed regulations' economic impact does not reach the threshold of a major regulation. Therefore, the Department conducted an Economic Impact Assessment (EIA) in accordance with Government Code Section 11346.3(b). The following are the findings from the Economic Impact Assessment that address Government Code Section 11346.3(b)(A) through (D). Additional economic and fiscal analyses can be found in the Form 399 and its supplement.

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.

SUPPORTING TECHNICAL STUDIES, REPORTS, AND DOCUMENTS

"2015 California Exports of Recyclable Materials." *California Department of Resources Recycling and Recovery*, November 2016.

<http://www.calrecycle.ca.gov/Publications/Documents/1587/201601587.pdf>

"2014 Disposal-Facility-Based Characterization of Solid Waste in California." *California Department of Resources Recycling and Recovery*, 06 October 2015.

<http://www.calrecycle.ca.gov/Publications/Documents/1546/20151546.pdf>

AB 901 Economic Impact Statement Form 399 and Supplemental Information. California Department of Resources Recycling and Recovery, September 2017.

"CalRecycle 2015 Enforcement Report." *California Department of Resources Recycling and Recovery*, November 2016.

<http://www.calrecycle.ca.gov/Publications/Documents/1580/201601580.pdf>

"State of Disposal in California, 2016 update." *California Department of Resources Recycling and Recovery*, 20 February 2016.

<http://www.calrecycle.ca.gov/Publications/Documents/1556/201601556.pdf>

"State of Recycling in California, 2016 update." *California Department of Resources Recycling and Recovery*, February 2016.

<http://www.calrecycle.ca.gov/Publications/Documents/1554/201601554.pdf>