



March 15, 2023

Donnet McFarlane
SB 343 and AB 881 Recycling and Disposal Reporting System (RDRS)
Department of Resources Recycling and Recovery, Regulations Unit
1001 I Street
Sacramento, CA 95814

RE: Comments on Recycling and Disposal Reporting System Regulatory Permanent Regulations

Transmitted via e-mail Regulations@calrecycle.ca.gov

Dear Ms McFarlane:

On behalf of the Rural County Representatives of California (RCRC), we appreciate the opportunity to provide input into on the proposed Recycling and Disposal Reporting System (RDRS) Regulatory Permanent Regulations. RCRC is an association of forty rural California counties, and the RCRC Board of Directors is comprised of an elected supervisor from each of those member counties.

In addition, twenty-six member counties have formed the Rural Counties' Environmental Services Joint Powers Authority (ESJPA) to provide assistance to solid waste managers in rural counties. These solid waste managers have been charged with ensuring that their respective counties meet state-imposed requirements to reduce waste being disposed in landfills and increase recycling/re-use efforts for certain products. Our counties' solid waste managers are dedicated to providing meaningful, environmentally conscious, and cost-effective solid waste services to their residents and businesses.

Overall, the objective of the proposed regulatory changes is to incorporate the provisions of SB 343 and AB 881. Major issues of concern about the proposed regulations include:

- Requiring Collection Methods (10.5) for all materials and not just products and packaging is inconsistent and excessive with the requirements of SB 343.
- The definition of (38.4) "Mixed plastic waste" is not consistent with AB 881 and should be revised.

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- The definition (43) “Recycle” or “recycling does not provide clarity and is not consistent with the Initial Statement of Reasons.
- Additional time beyond 10 days may be needed to resolve discrepancies and should be allowed as well as allowing an opportunity and time to contest the alleged discrepancy.
- Requiring self-haul to be separated into residential and commercial is not necessary and the default distinction using commercial emblems or licenses are arbitrary.

If you have any questions regarding these comments, please reach out to Staci Heaton, RCRC Senior Policy Advocate, at sheaton@rcrcnet.org or 916-447-4806 or Larry Sweetser, ESJPA Consultant, at sweetser@hazman.us or 510-703-0898 with any questions on these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Staci Heaton", with a stylized flourish at the end.

STACI HEATON
Senior Policy Advocate

Enclosure

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Section 18815.2 Definitions, (10.5) “Collection Methods”, page 3

The examples of collection methods listed do not recognize the reality that received materials from haulers and generators are not always discreet in how the materials were collected nor will the facility know if the material was required to be segregated by the jurisdiction of origin. Many facilities receive loads from multiple jurisdictions with different means of collection. Commercial and residential loads are often mixed in the same hauler or generator vehicle. The listed examples are not always the consistent categories that the Initial Statement of reasons indicates. Section 42355.51 of SB 343 is directed at whether products or packaging might have deceptive or misleading recyclability claims. This section was not directed to determine collection method for all materials received by reporting entities. Imposing determination for collection method for all materials is not consistent with SB 343 and is not necessary to achieve the objectives of SB 343.

In order to account for these scenarios and fulfill the requirements of SB 343, the proposed language should provide broader options such as indicated below:

(10.5) “Collection Method” means the method through which a reporting entity receives materials, as follows:

(A) For loads containing only products and packaging material received from a hauler or generator, collection method includes, at a minimum, the source sector, pursuant to paragraph (58), material stream, and whether the material was required to be segregated for collection or receipt, and, if so and if known, how (e.g., contract-hauled commercial mixed waste, contract-hauled residential 1-bin recycling, self-hauled residential mixed recycling), and any collection-related information that haulers or generators otherwise must provide to reporting entities pursuant to this article.

Section 18815.2 Definitions, (25.3) “Export”, page 5

This definition is confusing in that the first sentence limits the meaning “as in subdivision (c) of section 41781.4 of the Public Resources Code” which indicates “export” means export out of the country”. However, the second sentence indicates “Material shall be considered exported to the location where the material is received by the recipient, regardless of any address or location associated with the exporting reporting entity.” The location where material is received may be in the United States. This definition should be clarified to indicate that, “Material shall be considered exported to the location out of the county where the material is received by the recipient,”

Section 18815.2 Definitions, (38.4) “Mixed plastic waste”, page 6

The proposed definition indicates:

“Mixed plastic waste” is a mixture of plastics and any other materials, other than solid waste and green material for potential beneficial reuse, where such mixture does not comprise only high-density polyethylene, polypropylene, polyethylene terephthalate, or a combination of those three resin types.

The Proposed Initial Statement of Reasons indicates this definition is needed to conform to AB 881 sections 41781.4 and 41821.5 (b)(4). However, AB 881 limits “mixture of plastic wastes to only ‘polyethylene, polypropylene, or polyethylene terephthalate’” intended for

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export. These regulations should not expand the definition of mixed plastic waste beyond that intended by AB 881 especially to include “any other materials”, which is a vastly arbitrary inclusion that might include other materials that are not even petroleum based. It could even include all other recyclables such as cardboard and metal. The term “mixed plastic waste” is used later requires reporting of tons of mixed plastic waste exported. Including “any other materials” as mixed plastic wastes with result in excess reporting and be contrary to the intent of AB 881. The definition should be limited solely to AB 881 mixed plastics as follows:

“Mixed plastic waste” is a mixture of plastics consisting of high-density polyethylene, polypropylene, polyethylene terephthalate, or a combination of those three resin types.

Section 18815.2 Definitions, (43) “Recycle” or “recycling”, page 7

The proposed addition “that recycling shall also include all activities considered recycling for purposes of section 41821.5 of the Public Resources Code” is confusing since that section does not specifically identify activities considered as recycling. Section 41821.5 refers Public Resources Code section 40180 and “except that recycling is not limited to the processing of materials that would otherwise become solid waste, but also includes processes applied to nonhazardous materials that have value principally as a feedstock for that processing, regardless of whether the materials have been discarded or constitute solid waste.” Public Resources Code section 40180 which states:

“Recycle” or “recycling” means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. “Recycling” does not include transformation, as defined in Section 40201 or EMSW conversion.

Section 40180 clearly limits “recycle and recycling” to processing and returning materials to the “economic mainstream in the form of raw material”. The inclusion of activities listed in as in (43)(A) through (D) and registration as a “recycler” for activities that only process various materials is inconsistent with section 40180 and 41821.5 that require return to the economic mainstream or as a feedstock. Many of the activities listed in (43)(A) through (D), such as sorting, cleaning, and baling, are common activities that may occur at a transfer station or landfill. Including these activities would result in those transfer stations and landfills also being required to register as recyclers.

Without clearly indicating that recycle or recycling is limited to returning the materials to the economic mainstream or feedstock, locations that sort carpet, furniture, or brown and white goods, as well as other simple activities would be required to register as recyclers.

The proposed Initial Statement of Reasons indicates the change is needed to update the definition to address changes to reuse.

Since the proposed addition of Section 41821.5 is overly broad and inconsistent with the intent to address reuse, the addition of “except that recycling shall also include all activities

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considered recycling for purposes of section 41821.5 of the Public Resources Code” should be removed.

Section 18815.2 Definitions, (58) “Source Sector”, page 8

The addition of (D) is not clear what the name of the term to be used for this source sector.

The addition indicates, this new source sector as:

(D) Reporting entity other than contract hauler or transfer/processor. Commencing with reporting period 4 of 2024, residual disposal from, and material sent by, recyclers, composters, brokers, transporters, and disposal facilities shall be assigned to this source sector.

The change is not clear as to whether this new source sector is one sector such as “other” or is the intent to have source sectors for each of the entities listed separately as recyclers, composters, brokers, transporters, and disposal facilities. Grammatically, the proposed language seems to classify all of the entities as one source sector.

Clarification is needed as to the specific source sector.

Section 18815.3 (n)(5), Discrepancy notification page 15

This proposed section requires resolving a reporting discrepancy within 10 business days. If there is agreement on the discrepancy, 10 business days is sufficient time to resolve the discrepancy. If there is not agreement with the discrepancy or if the discrepancy requires coordination and cooperation with many other parties, 10 business days will not be sufficient.

The regulations should allow for additional time to resolve the discrepancy. This proposed allowance could be similar to:

(5) If the Department notifies reporting entities of a discrepancy between their submitted reports, or if the reporting entities discover a discrepancy themselves, then it shall be the responsibility of the reporting entities to compare relevant records and resolve the discrepancy in each of their reports within 10 business days. If more than 10 days are required to resolve the discrepancy, the reporting entities should notify the Department of the reasons for the delay and propose a new deadline for resolution.

Section 18815.3. (q) Multiple reporting entities on single site, Page 15

This allowance seems to allow multiple reporting entities on a single site to report as one site. If this is the intent, this allowance is much appreciated to streamline reporting and avoid multiple activities on the same site from reporting to each other and allow transfer of materials between these multiple entities that is not easily allowed under the current reporting system.

Section 18815.6 (b) Reporting Requirements for Disposal Facilities, Page 23

This section assigns a disposal facility with materials that are accepted and directly transported from the disposal facility. This assignment is misleading especially if the jurisdiction or jurisdictions of origin are known or can be allocated. Based upon the same

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allowance as indicated in Section 18815.9 Methods (b)(4) on page 31. This section should be revised to indicate that allowance such as:

A disposal facility receives and directly transfers material that is not solid waste, designated waste, disaster debris, or material for potential beneficial reuse to another reporting entity inside or outside California, then that material is considered as having been generated by the disposal facility unless the jurisdiction of origin is known or allocated per a collection method provided in Section 18815.9 (b)(4).

Section 18815.9 Methods, page 28

Subsection (A)(1)(b) addresses “material sent for beneficial reuse”. Beneficial reuse is determined by the receiving facility not the sending facility. This section should be revised to indicated:

(D) With the exception of material received and designated for beneficial reuse, contract haulers,

Section 18815.9 Methods (b)(3.5), (4), and (5), page 31

The allowance for allocating jurisdiction of origin is much appreciated. Previously, all residuals were assigned to the host jurisdiction which unfairly penalized that jurisdiction. Efforts were made to incorporate this common industry practice into the original RDRS regulations but were rejected. This proposed allowance fixes that host penalty issue.

It is not clear as to why transfer/processors (3.5) and reporting entities (5) do not have the same options for allocation as for the other facilities listed under (4). All types of facilities should have the same allowances for allocating tonnages.

Section 18815.9 Methods (c)(1)(D), page 32

This proposal seeks to create an arbitrary distinction between self-haul commercial and self-haul residential based upon whether the vehicle has a commercial emblem or commercial license plate. The Proposed Initial Statement of Reasons indicates this change is proposed “to increase the accuracy of source sector data”. Increasing accuracy of data can be helpful but notification is provided as to why that increased accuracy is beneficial and justifies the level of effort needed by reporting entities to capture this data.

Requiring this distinction for allocating self-haul by commercial and residential should be removed as a requirement since it is not necessary as a required distinction of source sector.

The proposed distinction between commercial and residential is arbitrary. Larger pickup trucks are usually assigned commercial plates even if solely used for personal use. Many residents, especially in rural areas, have vehicles they use for both business and personal use so delivered loads are often combined residential and commercial and this proposal has no means of allocating a load between the two proposed source sectors. Rental moving vehicles are often used for moving residential materials and are issued commercial plates. As proposed, a resident in a personal vehicle hauling their own materials would be classified as self-haul residential but if they rented a moving truck or van, the wastes would be classified as commercial even if it is the same waste from the same residential source. This arbitrary

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distinction based upon commercial emblems or licenses will result in skewed allocations and not provide the accuracy claimed in the proposed Initial Statement of Reasons.

This section should be revised to eliminate the arbitrary distinction.

- (1) Assigning source sector based on vehicle type, such as:
 - (A) small vehicles, such as automobiles, pickups and small trailers, and flat beds as “self-hauled.”
 - (B) Side loaders as “contract-hauled single-family residential.”
 - (C) Front loaders, and rear loaders, and roll-off trucks as “contract-hauled commercial/multi-family.”

This elimination should be imposed on all of the commercial and residential self-haul distinctions throughout the proposed regulations, especially throughout Section 18815.9 Methods, since this distinction is arbitrary, inconsistent, and the effort to capture that data is not justified.

Section 18815.9 (c)(7) Methods, Residual, page 32

This section deals with assigning source sector but assigns the residual to the reporting entity. The proposal is not clear what the term for this new source sector is to be named.