



**California Construction and
Industrial Materials Association**

September 28, 2016

Mr. Robert Carlson
Project Lead, AB 901 Regulations
CalRecycle
PO Box 2815
Sacramento, CA 95812-2815

Re: Draft Regulations and Construction Materials Industry Suggestion

Dear Robert:

We would like to thank your staff for your August workshops. They have certainly helped clarify several questions we had about the proposed regulations. The clarity provided by your staff leaves us convinced the currently proposed regulatory language is structured to the professional waste and recycling industry not the diversion recycling and reuse industry. As a result the proposed language appears to be a very poor fit for our industry. Our Industry does not handle co-mingled wastes; rather our industry acts as a diversion point of separated wastes from generators (Contractors). That said, we believe at the workshops we came to understand your primary objectives and would like to provide suggestions we believe will help you achieve those objectives along with ensuring your system is not so burdensome that it reduces the number of facilities engaging in recycling of inert debris. Further, we have connected it with our industries current treatment as inert debris recycling centers under Title 14.

CalcIMA is a trade association for aggregate, ready mixed concrete, and industrial mineral producers in California. Members of CalcIMA operate about 500 mines and production facilities. Materials produced include aggregate, recycled aggregate, concrete, asphalt, cement, roofing granules, clay, and much more. Recycling and reuse of materials is an aspect of many of CalcIMA members' operations; and is an activity that the industry has worked closely with CalRecycle over many years to encourage and facilitate. The use of Recycled Asphaltic Payment (RAP) in asphalt produced for state and federal jobs is not only encouraged but required. Caltrans specifications often require use of up to 25% RAP; while the use of up to 50% RAP is required by the Federal Highway Administration (FHWA) and the Federal Aviation Administration (FAA) in the production of Asphalt. CalcIMA has also sponsored several bills designed to promote recycled material use in contracting, AB 812 (Ma), AB 2355 (Levine) and

1029 J Street, Suite 420
Sacramento, CA 95814
Phone: (916) 554-1000
Fax: (916) 554-1042

www.calcima.org
www.distancematters.org

AB 221 (Quirk-Silva). While we support recycling efforts we find the current proposed system overly burdensome for our industry.

Origin and Source Data Tracking

The information burden of tracking the source and origin of each load of Type A Inert debris would be extremely difficult for our members as we are not the waste industry but a materials industry. Our members accept Type A Inert Debris (as defined in 14 CFR 18381.(k)(1)) and operate in accordance with the Type A inert debris recycling center. Our members also implement Inert Debris Engineered Fill Operations (as defined in 14 CFR 17381.(l)) in accordance with Lead Agency approved Reclamation Plans. We do not accept materials which do not meet the Type A Inert debris definition for recycle. Trash recycling facilities accept material from specific jurisdictions, and specific contracted waste haulers where reasonable estimates by volume by source and origin may be achievable. It is very important to note that under Title 14, Section 17381.1 as inert debris recycling centers, our members are not allowed to take in more than 10% residuals of the amount of debris received at our facilities. To be an Inert Debris Recycling Facility a facility must stay under the proposed reporting threshold that would require us to report origin and source. Section X.10 (b) of the draft regulations would have us tracking such data whether we reported or not under an applicable reporting section. This is a serious issue as we don't track origin data and it would be difficult to do so.

Quarterly Reporting

Quarterly reporting is another activity that seems highly unnecessary. The desire for the state to understand what materials are recycled is understandable. However, that this information be reported quarterly when its sole use may be a report to the legislature, at least in regards to our facilities, is too much. An annual schedule is appropriate.

Regulatory Certainty

There is a significant amount of regulatory uncertainty in the current draft regulations. This is not surprising as they are a first draft, however, such uncertainty could be damaging to recycling and reuse efforts. At the same time the complexity of the system proposed may be appropriate for the non-hazardous waste management industry. That is they may well be taking in such varied materials and processing and moving them through the economy in such complex ways, that one needs more data from them. The Inert debris recycling at our facilities is more basic. We take materials that are largely like our existing raw materials, process them in similar sorting and crushing operations, and sell them as equivalent products to our virgin material producers to augment and replace the use of virgin aggregates. The use of Type A Inert debris and inert debris engineered fill conserves our natural resources and promotes a sustainable environment.

We believe the simple solution is to recognize Inert Debris Recycling Centers which are already defined in CalRecycle regulations as a reporting entity that is by obligation both a recycler and end user. This approach ensures the contractor generator who is also a source separator remains a non-reporting entity, that the haulers from the source separator remain a non-reporting entity, and our members have clear reporting obligations.

Inert Debris Engineered Fill Operations

We believe “Inert Debris Engineered Fill Operations (IDEFO) as defined in CCR Title 14, Section 17388(1), should not be required to register and report and be included in the exemptions. We believe staff agreed to this interpretation at the workshops and it really is the proper solution for an activity that is not allowed to count towards diversion.

“(1) "Inert Debris Engineered Fill Operation" means an activity exceeding one year in duration in which only the following inert debris may be used: fully cured asphalt, uncontaminated concrete (including steel reinforcing rods embedded in the concrete), crushed glass, brick, ceramics, clay and clay products, which may be mixed with rock and soil. *Inert debris placed in an Inert Debris Engineered Fill Operation is not counted as diversion or disposal for a given jurisdiction.*” [17388\(1\)](#)

If CalRecycle does not concur, we *strongly* recommend similar treatment to that requested below for Inert Debris Recycling Centers. Perhaps the hardest obligation for them as an end user of the material is tracking source and origin data.

Solution. “Inert Debris Recycling Centers – as defined by [Title 14 17381.1](#) as a reporter

We believe it would be best if CalRecycle create an “Inert Debris Recycling Center” reporter that functions as both the Recycler and End User. This system creates absolute certainty of obligation for our industry and also enables exceptions to records tracking reporting that make sense considering the nature of our industry and the regulatory requirements of CCR 17381.1. In our model we do have some differences from your structure for other reporters, as follows;

1. Annual reporting
 - a. For all solid waste and/or residuals disposed inside or outside the state.
 - i. Report total tons
 1. Note to be an “Inert Debris Recycling Center” under title 14, the requirement is currently for the residual to be less than 10% of the debris received at the site calculated on a monthly basis. Therefore 10% waste exemption language not needed.
 - b. Recycled Inert Debris Tonnage Sold and Removed from Center.

We believe the information above is the information CalRecycle needs from our facilities to determine how much material our facilities are recycling materials. This approach provides data that has previously not been available for quantification and supports CalRecycle’s recordkeeping and reporting obligations. This approach provides the CalRecycle desired information in a way that is not overly burdensome to our member Operations. And it is therefore unlikely to have existing recyclers leave the marketplace.

Adding such an entity would require some conforming changes throughout the regulations. Based on our understanding of your language we have drafted suggestions in areas we identified:

- Definitions
- Transporter and Broker X.B

- Prevent shipments of products triggering tracking
- Registration and Reporting Regulation
 - 1000 CY Inert debris annual reporting threshold
- Record Retention Requirements
 - To ensure we don't have to track source and origin with no probability of ever needing to report it.

And:

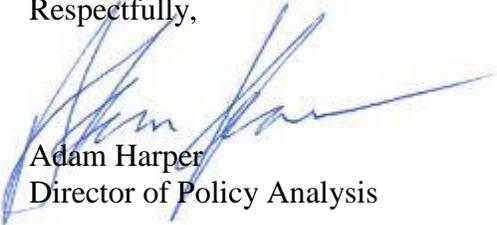
- A draft of IDEFO reporting Exemption:

Conclusion:

We have done our best to implement what we believe were CalRecycle's needs inside a system that would be of limited burden on our membership and therefore unlikely to harm construction inert recycling within California. We are more than willing to meet with you to work through any issues and discuss our thinking further. Likewise if your staff would find it helpful to visit a mine facility that also engages in recycling we could arrange a visit to better understand our operations.

The CIWMB when it adopted the original Title 14 regulations understood the value our members facilities provide to recycling and reusing inert debris in this state and support environmental sustainability. There are significant advantages to both recycling and the environment of a system that enables the providers of virgin materials and products to also provide recycled aggregates and RAP. It is import to the state of California to conserve natural resources, minimize greenhouse gas production, increase transportation efficiency, and conserve the state's limited landfill space. The inert debris recycling our members currently implement addresses each of these elements which together promote a better and sustainable California for all our citizens. We would hate to see regulations adopted which dis-incentivize an activity we and our members have worked diligently to implement, foster and encourage.

Respectfully,



Adam Harper
Director of Policy Analysis