



September 13, 2016

Mr. Robert Carlson  
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**Subject: Proposed Regulations, Recycling and Disposal Facility Reporting**

Dear Mr. Carlson:

Thank you for conducting the three (3) recent workshops and for affording us this opportunity to participate and comment on the AB 901 regulatory process. Because of the potential complexity and costly burden to implement these regulations, CR&R has some real concerns regarding the ultimate outcome of this process. While we appreciate CalRecycle recently conducting three days of workshops to present concepts and receive feedback by the affected community, it seems very apparent that there will be a need for additional informal discussions upon your completion of the next set of draft regulations. It also appears to be premature to begin the formal rulemaking process as there is still so much detail that needs to be resolved.

At this point we would like to present to you some of our major concerns regarding the current set of proposed regulations. They are presented below in no particular order of concern.

Originally, AB 939 was based upon a highly complex process for determining diversion rates for each individual jurisdiction in the State. Over time, the numeric system was changed many times due to complexity, cost to implement, lack of accuracy and for various other reasons. These issues plagued not only the affected community but also CalRecycle staff in attempting to oversee the law. Because of these concerns and not that long ago, the Department pursued a disposal based goal measurement system that would simplify the process and be much more economical and provide more accuracy. Based upon some commentary at the workshops and the proposed regulations, it appears that we are starting to head down the same path creating an extremely complicated system that will prove to be difficult to maneuver, and the data will be overwhelming, producing very limited results and findings.

At the workshop it was stated that a primary purpose of AB 901 was to determine how well the State was doing in meeting its stated 75% recycling goal. A secondary goal was to gather data and determine waste flows and to also determine other uses once the data is received from program participants. While trying to gather data to determine the 75% goal seems reasonable, gathering data to determine future uses appears to be very questionable.

This type of approach conflicts with all known conventions in problem solving (typically you determine a critical need and then collect data to fulfill that need) and will create a potential costly burden for program participants. Additionally, since it is well known that accuracy levels are very questionable (it has been stated several times that +/- 20 would be reasonable for each material type estimate), what real need exists for this data outside of basic curiosity?

Statute states that composting and recycling facilities and operations are to report on "types, quantities, and destinations of materials." Based on this language, types of materials could be defined as those major types of

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materials collected. For instance this could include paper, metal, plastic, glass, and organics recycling categories and not be broken down into a multitude of sub material categories. Destination of materials could be generalized as going to type of destination (so much material was sent to brokers, so much to manufacturers direct) it was sent, rather than specific destination such as broker A or B, or specific manufacturer, et al.

Additionally, each compost and recycling facility and operation would be required to maintain specific records onsite for possible inspection by CalRecycle. This would not only simplify the process for affected parties but also for CalRecycle. Additionally, it should alleviate concerns regarding confidentiality of information.

CalRecycle really needs to assess a realistic view of this potentially costly data collection effort and the genuine ability of affected parties to collect meaningful data and CalRecycle's ability to sort through it all and make reasonable assumptions.

Another real concern is the potential cost and complexity of new regulations that will be put into place that will provide very little utility value to anyone. Experience shows that once regulations are implemented, it takes an elongated period of time to make amendments; meanwhile all those negatively affected will continue to be adversely impacted.

For this reason, it is suggested the Department only collect data determined by major material category with generalized destination detail, which would have potential immediate benefits. Once the Department and affected parties become acclimated to what it will truly take to manage this aggregated system, it can then possibly be expanded, but at least we would collectively not make an irreversible and costly error.

Thank you for your consideration in this matter. I look forward to future dialogue with the Department in resolving the implementation of this proposed set of regulations.

Sincerely,

David E. Fahrion  
President

cc: Ms. Kathy Lynch, Legislative Advocate  
CR&R