



**CalRecycle**

# **AB 901: RULEMAKING**

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Recycling and Disposal Reporting Regulations

September 2017

Questions: [AB901.Reporting@calrecycle.ca.gov](mailto:AB901.Reporting@calrecycle.ca.gov)

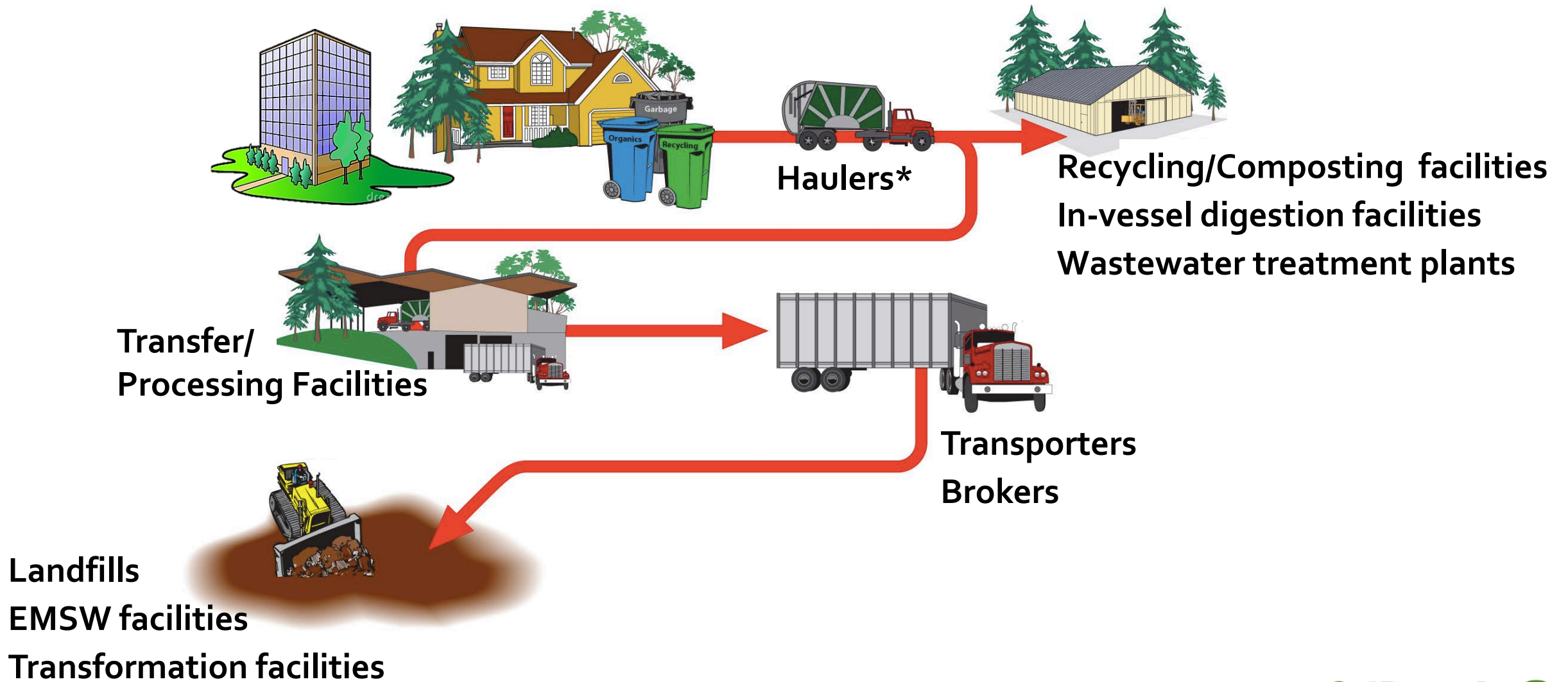
# AB 901 Summary and Intent

- AB 901 (Gordon, 2015)
- Facilitate the State's 75 Percent Recycling Goal
  - Identify and support recycling market trends and infrastructure
- Update and Streamline Procedures
  - Leverage technology to improve efficiency and accuracy
  - Direct, online reporting to CalRecycle, not to Counties
- Improve Data Quality
  - Expand reporting facilities: recyclers, composters, exporters, brokers
  - Enforcement actions

# The Regulatory Development Process and Project Timeline

- 1) Informal Workshop(s)
  - Input from regulated stakeholders
  - Scoping for Regulations
- 2) Formal Rulemaking Process
  - Governed by the Office of Administrative Law (OAL)
  - Strict timelines and comment periods
  - Begins after CalEPA approval, Fall 2017
  - Expected to be complete in 2018
- 3) Online reporting system (*development in process*)
  - Training and outreach, mid-late 2018
  - Registration expected to start Nov. 2018
  - Reporting begins first quarter 2019

# Who Reports to CalRecycle?



# Reports to the Department

- Recycling and Disposal Reporting System (RDRS) – all electronic!
- Must include contact information and RDRS number of **reporting entity** AND the **receiving entity**
  - Shipments to end users may be reported by **end user category and region** rather than by individual end user
- At the end of each reporting quarter, reports are due:
  - Within 30 days: Haulers
  - Within 60 days: Reporting entities aside from Haulers/Disposal facilities
  - Within 90 days: Disposal facilities

# Reporting Thresholds

- Solid waste disposal facilities (*any tonnage*)
- Waste water treatment plants (*any tonnage*)
- Any person that recycles, sells, transfers, processes or disposes:
  - 100 tons or more of recyclable materials, organics, and/or solid waste per quarter
  - 2,500 tons or more processing only CDI per quarter
  - 50 tons or more for organics directly land applied per quarter
- “Food waste self-haulers” who haul 12 or more cubic yards (or 6,000 lbs) of food waste per quarter (per AB 1103 – Dodd, 2016)
- Any person composting organics who is not excluded from composting and in-vessel digestion regulations (Sections 17855 & 17896, CCR)

# Reporting Requirements

- For solid waste
  - Tonnage
  - Jurisdiction of Origin: where did the waste originate?
  - Source sector: Overall by facility, not by load or jurisdiction
    - Residential/single family
    - Commercial/multi-family
    - Self-haul
- For recycling and composting
  - Tonnage
  - Material Type
  - Receiving entity (or end user category): where did the material go?

# Enforcement

- Written notification – Chance to remedy problems within given deadline.
- Department will consider:
  - Whether the violation(s) was intentional
  - History of non-compliance
  - Gravity/severity of the violation
- A reporting entity is not liable for inaccurate data reported to them, if they identify reporting entities, who refuse to provide complete or accurate information



# Confidentiality

- Proprietary business information provided to or obtained by the Department is considered **confidential** and not subject to Public Records Act Requests.

# AB 901 Regulatory Updates

- May 2017 - A Request for Approval to Proceed to Formal Rulemaking Process
- A number of changes have been made since for clarification including:
  - Reordering and renumbering sections; referring to better, more relevant sections
  - Rewording language as well as correcting of grammatical and punctuation errors
  - Changes in nomenclature/naming, e.g. “DDRS” vs. “RDRS”
  - More extensive clarifications are explained in the attachment

# AB 901 Regulatory Updates

- The **BLUE highlights** in Section 18815.3 show changes that clarify that the tonnage thresholds for registration and reporting refer to the aggregated tonnages of all activities on a site, not to each individual activity.

## **Section 18815.3 Registration, Reporting and Exemptions.**

- (b) A reporting entity shall register and obtain at least one RDRS number per activity on each site they operate, if they meet both of the following criteria:
- (2) The person recycles, sells, transfers, chips and grinds, processes, and/or disposes 100 tons or more of **any combination of recyclable material, organics, and/or solid waste in a quarter, for all activities on the same site**, or is one of the following:

# AB 901 Regulatory Updates

- The **BLUE highlights** in Section 18815.3 show changes that clarify that the tonnage thresholds for registration and reporting refer to the aggregated tonnages of all activities on a site, not to each individual activity.

## Section 18815.3 Registration, Reporting and Exemptions.

(c) For a facility engaged in multiple activities, regardless of ownership, on the same site:

**(4) For determining registration status or reporting status for an individual reporting period, a reporting entity must account for all cumulative tons across all activities conducted at the site, pursuant to section 18815.3(b)(2) of this article. If any single activity is subject to reporting, or the cumulative tonnages of multiple activities exceed the tonnages in section 18815.3(b)(2), the reporting entity must report all activities conducted at the site.**

**(5) Reporting entities engaged in multiple activities at the same site must inform the Department in their report of all reportable activities occurring at the site.**

# AB 901 Regulatory Updates

- The **YELLOW highlights** in Section 18815.3 show changes that clarify that all solid waste disposal facilities (landfills, EMSW and transformation facilities) must report. This is consistent with current requirements in DRS.

## Section 18815.3 Registration, Reporting and Exemptions.

- (b) A reporting entity shall register and obtain at least one RDRS number per activity on each site they operate, if they meet both of the following criteria:
- (2) The person recycles, sells, transfers, chips and grinds, processes, and/or disposes 100 tons or more of any combination of recyclable material, organics, and/or solid waste in a quarter, for all activities on the same site, or is one of the following:
- (A) An active permitted disposal facility.**

# AB 901 Regulatory Updates

- The **YELLOW highlights** in Section 18815.6 show changes that clarify that all solid waste disposal facilities (landfills, EMSW and transformation facilities) must report. This is consistent with current requirements in DRS.

**Section 18815.6 Reporting Requirements for Disposal Facilities.**

- (a) **All active permitted disposal facilities must report each quarter to the Department.** In its report to the Department, a disposal facility shall provide the following information for all tons disposed, using the reasonable methods in section 18815.9 of this Article:

# AB 901 Regulatory Updates

- The **GREEN highlight** in Section 18815.3 shows the addition of a tonnage for food waste (6000 pounds) to help entities that track by weight instead of volume.

## Section 18815.3 Registration, Reporting and Exemptions.

- (b) A reporting entity shall register and obtain at least one RDRS number per activity on each site they operate, if they meet both of the following criteria:
- (2) The person recycles, sells, transfers, chips and grinds, processes, and/or disposes 100 tons or more of any combination of recyclable material, organics, and/or solid waste in a quarter, for all activities on the same site, or is one of the following:
    - (B) A food waste self-hauler who hauls 12 or more cubic yards, **or 6,000 lbs** of food waste per quarter.

# AB 901 Regulatory Updates

- The **GREY highlight** in Section 18815.3 shows an addition clarifying that if an entity fails to register and the Department has reason to think it should have registered, then the entity must provide evidence on its decision.

## **Section 18815. 3 Registration, Reporting and Exemptions.**

(n) If the Department has information that a person does not meet the requirements to not register or report set forth in subsection (a) of this section, the burden of proof shall be on that person to demonstrate otherwise, through documentation such as business records, receipts, invoices, or similar records. At the time that the Department requires a person to provide evidence that it is not required to register or report, the Department shall provide a written description of the information that has caused the Department to believe that the person is required to register and report. Nothing in this requirement is intended to require the Department to identify the name or other identifying information regarding any individual(s) who have complained about the person. Nothing in this section precludes the Department from the following: inspecting a business to verify that it is conducted in a manner that meets the provisions of this subsection; or, from taking any appropriate enforcement action pursuant to this Article.



# AB 901 Regulatory Updates

- The **GREEN highlight** in Section 18815.6 shows changes that clarify that reporting entities must report on any waste-derived beneficial reuse materials that are moved from one landfill to another landfill.

## Section 18815.6 Reporting Requirements for Disposal Facilities.

- (c) In its report to the Department, a disposal facility shall provide the following information for all tons accepted for beneficial reuse, using the reasonable methods in section 18815.9:
- (1) For waste-derived material accepted for beneficial reuse from a transfer/processor **or another disposal facility**, report the tons of each material used from each transfer/processor **or disposal facility**, and their contact information, and RDRS number if the facility has one.

# AB 901 Regulatory Updates

- The **BLUE highlight** in Section 18815.8 shows the changes to simplify and clarify requirements for brokers and transporters.

## Section 18815.8 Reporting Requirements for Transporters and Brokers

- (a) **A person who does not take legal ownership of materials and does not decide the destination for the material, but merely facilitates a sale or transfer, is not required to report the transaction to the Department.**

# AB 901 Regulatory Updates

- The **BLUE highlight** in Section 18815.8 shows the changes to simplify and clarify requirements for brokers and transporters.

## **Section 18815.8 Reporting Requirements for Transporters and Brokers**

- (b) In its report to the Department, transporter or broker shall provide the following information for all tons they legally possess, using the reasonable methods described in section 18815.9 of this Article:
- (1) For materials sent for disposal or beneficial reuse to a transfer/processor, broker, transporter, or disposal facility inside or outside of California, report the total tons of each material type, pursuant to section 18815.9(a) of this Article, sent to each person and their contact information, and RDRS number if the person or facility has one.**
  - (2) For materials sent for recycling or composting to recycler, composter, broker, or transporter inside or outside of California, report the tons of each material type, pursuant to section 18815.9(a), sent to each person and their contact information, and RDRS number if the person or facility has one.**
  - (3) For end products sent to end users inside or outside of California, report the tons of each material type, pursuant to section 18815.9(a) of this Article, sent to each end user category by region pursuant to section 18815.3(i) of this Article.**

# AB 901 Regulatory Updates

- The **YELLOW highlights** in Section 18815.9 show changes that clarify language on hauler requirements related to jurisdiction of origin and source sector to provide context from Section 18815.4.

## Section 18815.9 Reasonable Methods.

- (b) When required by this Article, a reporting entity shall use the following methods to determine jurisdiction of origin for material sent to disposal:
- (2) **A hauler shall provide the jurisdiction or origin information at the time of delivery, unless both the hauler and receiving facility have agreed to periodic reports in lieu of providing information at the time of delivery. The hauler shall provide the periodic report to the receiving reporting entity within 30 days of the end of the reporting period. The hauler shall use any of the following sources of information to estimate the percentage of solid waste from each jurisdiction:**

# AB 901 Regulatory Updates

- The **YELLOW highlights** in Section 18815.9 show changes that clarify language on hauler requirements related to jurisdiction of origin and source sector to provide context from Section 18815.4.

## Section 18815.9 Reasonable Methods.

(d) If asked for information on source sector, a hauler shall provide the information at the time of delivery, unless both the hauler and receiving facility have agreed to period reports in lieu of providing information at the time of delivery. In these cases, a hauler shall provide the periodic report to the receiving reporting entity within 30 days of the end of the reporting period. When providing source sector information, a hauler shall use any of the following methods to estimate the overall tonnages or percentages of disposal from each source sector sent to the receiving facility.

# Recommendation

- Staff has made several clarifications and corrections in the AB 901 regulatory language
- We recommend the Director adopt the modified text and submit to the Office of Administrative Law to initiate the formal rulemaking process under the California Administrative Procedures Act.

# Contact

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