May 31, 2018

Steven Sander
Policy Development and Analysis Office
California Department of Resources, Recycling and Recovery (CalRecycle)
801 K Street, 17th Floor, MS 17-01
Sacramento, CA 95814

Dear Mr. Sander:

The California Association of Sanitation Agencies (CASA) appreciates the opportunity to provide comments on the draft regulations intended to implement AB 901. CASA is an association of local agencies, engaged in advancing the recycling of wastewater into usable water, as well as the generation and reuse of renewable energy, biosolids, and other valuable resources. Through these efforts, we help create a clean and sustainable environment for Californians.

CASA supports the efforts of CalRecycle to better understand the flow of solid waste generated in California and its importance in meeting state objectives and mandates. However, we have serious concern that the current draft regulation is confusing with respect to the wastewater sector, the biosolids we manage, and the means by which it is managed. We offer comments below but would also welcome the opportunity to meet to further explain and clarify the concerns. We fear there is still a significant gap in understanding our sector and how it differs from conventional solids waste streams.

**General Comments:** Numerous definitions as referenced below are vague and result in uncertainty with respect to how biosolids, the wastewater sector, and our contractual arrangements generally are impacted by these regulations. As noted in earlier comments and meetings, the draft regulations remain extremely confusing and unclear with respect to biosolids. It remains unclear how biosolids are to be reported and by whom. We strongly recommend a separate section be developed for biosolids since they are distinctly different from typical “solid waste” streams.

As an example: biosolids are generated and treated at a wastewater treatment facility (WWTF). The biosolids may then be managed in the following ways:

1. Direct land application or for purposes of reclamation
2. Sent for further treatment at a compost or other facility (then subsequently land applied or otherwise recycled)
3. Publicly distributed.
4. Used as ADC or AIC at a landfill
5. Disposed of at a landfill
6. Sent to another treatment plant for treatment
7. Innovative technology such as pyrolysis
8. Surface disposed on-site
9. Incinerated
For options 1 – 7, there is generally a third-party company who “transports” the biosolids from the WWTF to the end use or other facility. The third party generally acts as a contract agent under the purview of the WWTF, though under a variety of contract types. Biosolids managed under options 8 and 9 never leave the site on which they are generated, and we expect they are exempt from these regulations, although that remains a question. Under the proposed regulations, it is completely unclear as to who reports what with respect to biosolids. The third-party hauler could be interpreted to be a “broker”, “hauler”, and “transporter”. Is the intent that a WWTF should report the volume of biosolids managed by the third party and the third-party reports where biosolids are sent? This seems inefficient since under state and federal law, the WWTF must report the disposition of their biosolids. Only when a receiving entity alters the characteristics of the biosolids (under option 2) would they report that disposition.

It appears that there are duplicative and confusing reporting requirements in the proposed regulations, which clarity can remedy. It is our belief that CalRecycle seeks to avoid double reporting and counting, therefore we recommend that if a reporting entity (such as a Transfer/Processor, Disposal Facility, or Recycling/Composting/WWTP Facility) reports outgoing tonnages, that their transporters/brokers, who decided the final destinations, be exempted from reporting those same tonnages.

Specific comments follow:

1. Section 18815.2(a)(7) – Broker – This definition is unclear with respect to contracted hauling agents for wastewater treatment plants. It states that a broker “gains control” of a material and determines the destination to which it is sent. We are unsure what “gains control” means in this context. Would an agent hired by a POTW to transport biosolids be a broker if the broker had the discretion of where to send the biosolids? Would that change if the POTW was informed of the destination beforehand?

2. Section 18815.2(a)(12) – Compost – Why is compost considered an “intermediate product”? What would be required to make it a final product? This is unclear and inconsistent with practice. This definition should also include Vector Attraction Reduction as necessary to achieve.

3. Section 18815.2(a)(13) – Composting Operation or Composting Facility - Includes in-vessel digestion in the definition. As included in earlier comments, we strongly recommend bifurcating digestion and composting as two distinct technologies. A separate definition should be added for in-vessel digestion consistent with Section 17896 PRC. Nothing about the anaerobic digestion process resembles composting and they should not be considered the same.

4. Section 18815.2(a)(23)(E) – End User – This applies to one land applying an “intermediate product”. How does an action such as land application become a “user”? It is a “use”. Also why are biosolids, compost, and other soil amendment products considered “intermediate”?

5. Section 18815.2(a)(28) – Generator – It remains very unclear whether a wastewater treatment plant generating sewage sludge and/or biosolids are included in this definition. Is the generation of sludge in the treatment process considered “the initial creation of solid waste, organics, or recyclable material”? This is a critically important definition and needs
clarity. Understanding whether biosolids are included in this definition impacts interpretations throughout these regulations and thus should be explicit and unambiguous.

6. Section 18815.2(a)(31) – Hauler – It is very unclear how this category applies to the wastewater sector. The definition states that a hauler collects material from a “generator” and delivers it to a reporting entity. The wastewater sector routinely classifies third parties contracted to move biosolids from the plant to an end user, composter, or other point of disposition as haulers. This definition appears not to apply to such parties but clarity is strongly requested.

7. 18815.2(32) – Intermediate Product – This definition is extremely confusing since it applies to compost in Sub (D) and biosolids in Sub (E) which would be land applied. What distinguishes an intermediate product from a final one? What are they intermediate to?

8. 18815.2(42) Recycle or recycling – processes which result in the production of intermediate products from materials which have been “recovered or discarded by a generator”. Elsewhere wastewater treatment is designated as a recycling facility, which makes this definition unclear. Are biosolids considered a product made from recovered or discarded material from a generator? Why wouldn’t recycling be defined as engaged in one of the end user categories? a. Sub(B) – as a recycling category includes organics which are not composted, including “treating wastewater”. What does this mean? How is this used in the regulation?

9. Section 18815.2(47) – Reporting Entity – Clarity is necessary to determine who reports what activity. Wastewater treatment plants producing biosolids and those who haul them could be captured in this section under Subs (A, C, and E), but the reporting requirements remain unclear.

10. Section 18815.2(62) – Transporter – Designates a transporter as one who takes physical possession of a material and determines the destination for its disposition. The distinction between a broker, hauler, and transporter and their relationship to biosolids needs clarity and explicit explanation of reporting requirements. Would a party contracted by a wastewater treatment plant to haul biosolids to either an end user or a recycling facility or operation be the reporting entity if they assume legal ownership for the period during which they possess biosolids? What of the wastewater treatment plant? In some cases the ownership is only for the duration of the transport. We assume only one entity should report this but which one is unclear, and whether they are a broker, hauler, transporter and/or generator?

11. Section 18815.2(63) – Wastewater Treatment plant – is considered a “recycling facility”. The relationship of a WWTP as a “generator” should be explained.

12. Section 18815.3(b)(1) – Describes entities that must register and report for materials handled in subsection (a)(1): It is unclear if wastewater treatment facilities should register, and if so, under what category?

13. Section 18815.3(b)(2)(B) – In describing who must report includes contract haulers who deliver organics for direct land application. This could be simplified if elsewhere the distinction between brokers, haulers, and transporters of biosolids were explicitly defined and responsibilities explained.

14. Section 18815.3(b)(4)(D) – Includes wastewater plants as reporting entities but lacks the clarify of under what circumstances as expressed earlier. To assist with the clarification the scenarios below were developed last year in consultation with CalRecycle staff originally working on these regulations to describe the various reporting obligations with respect to biosolids produced at wastewater treatment plants. The following is from May 22, 2017:
“Currently the approach taken for biosolids seeks information on gross volumes of biosolids sent off site for a number of management options (compost, land application, landfilling, alternative daily cover, etc.). Reporting will be based on gross volumes for each end use based on where they are sent. This will be by County if in California, by state if sent to another state, or by country if sent out of the US. If biosolids are used on-site such as through incineration or surface disposal, then no reporting is required. The attached summary provides more detail on how it is intended to work.

Reporting would be quarterly online or digital to CalRecycle beginning with the first quarter of 2019.

A. As an illustrative example: the amount of biosolids sent by a POTW to an end use, or another facility and where it was sent (ie. County).
   a. POTW X sends Y (Dry Metric Tons (DMT)) biosolids to County Z for land application.
   b. POTW X also sends Y biosolids DMT to County A for land application.
   c. POTW X also sends Y biosolids DMT to third party B for further treatment.
   d. POTW X also sends Y biosolids DMT to landfill C for alternative daily cover.
   e. POTW X also sends Y biosolids DMT to landfill D for burial.

B. The amount of biosolids or compost sent by a third party (ie, composter) to an end user and where it was sent.
   a. Composter A sends Y tons of compost or biosolids (DMT) to County A for consumer use (ie, individual farmers, or public distribution).
   b. Composter A sends Y tons of compost or biosolids to County B for consumer use.

C. A POTW contracts with a third party to manage their biosolids in a manner specified in the contract (ie, 70% land application in County D and 30% landfill at Landfill E). In this case the POTW generator would report the end use of all of its biosolids.

D. A POTW contracts with a third party to manage their biosolids and leaves the disposition to the discretion of the contractor. In this case the contractor reports the end use(s) of all biosolids it manages in this way. If the contractor executes contracts with multiple POTWs and has the discretion to manage the biosolids however it deems best, then gross volumes are reported for all biosolids. There is no need to specify the source of the biosolids. The individual POTWs would report that they gave Y tons of biosolids to the third-party contractor.“

The intent described above seems to be consistent with the draft language but needs explicit clarity.

15. Section 18815.3(b)(5) – Includes composters and in-vessel digesters not excluded by sub (E) through PRC sections 17855 or 17896.6. How does this correlate with other sections requiring such reporting. We don't believe entities excluded in the referenced sections are intended to be excluded from reporting.
16. Section 18815.3(c)(5) – Excludes wastewater treatment plant that only sends material to another wastewater treatment plant. Since we believe it is the intent of CalRecycle to exclude biosolids which never leave their site of origin we recommend adding: “…or manage all sludge and biosolids on-site”.

17. Sections 18815.4, 18815.7, 18815.8 – Set forth reporting requirements for haulers, recyclers and composters, and brokers/transporters which require clarity as previously articulated.

CASA would be glad to meet with CalRecycle to clarify our comments and concerns and to offer solutions. Please contact me at gkester@casaweb.org or at 916-844-5262. Thank you again for the opportunity to provide comments and we look forward to proactively working with you on solutions.

Sincerely,

[Signature]

Greg Kester
Director of Renewable Resource Programs