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SOLID WASTE MANAGEMENT COMMITTEE/
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June 1, 2017

Mr. Scott Smithline, Director
California Department of Resources Recycling and Recovery (CalRecycle)
P.O. Box 4025
Sacramento, CA 95812-4025

Dear Mr. Smithline:

COMMENTS ON THE INFORMAL RULEMAKING STAKEHOLDER WORKSHOP FOR SB 1383 SHORT-LIVED CLIMATE POLLUTANTS (SLCP)

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) would like to express our appreciation to the California Department of Resources Recycling and Recovery (CalRecycle) for providing the opportunity to comment on the Informal Rulemaking Stakeholder Workshops for SB 1383 Short-Lived Climate Pollutants (SLCP) held on May 17, 2017 and May 25, 2017.

<http://www.calrecycle.ca.gov/Actions/PublicNoticeDetail.aspx?id=2089&aiid=1906>
<http://www.calrecycle.ca.gov/Actions/PublicNoticeDetail.aspx?id=2090&aiid=1907>

The Task Force would appreciate CalRecycle's consideration of the following comments as part of the SB 1383 SLCP Rulemaking Process:

- The definition of organic waste in the regulations should be consistent with state law. Section 42649.8 (c) of the Public Resources Code defines "organic waste" as "food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste." Therefore, the definition of "organic waste" in the upcoming regulations should not include "applicable textiles and carpets," "fiber," "biosolids," "digestate," or "sludges."

CalRecycle has stated that to achieve emission reductions from landfills to meet the 40 percent methane reduction mandate, all material of biogenic origin must be included in its regulations. However, the fact remains that "organic waste" has already been defined in state law pursuant to Chapter 727 of the 2014 State Statute. To minimize confusion, CalRecycle should use an alternative term instead of "organic waste" for these regulations. For example, CalRecycle could use the term "biogenic waste," for "solid waste containing material originated from living organisms and their metabolic waste products, including but not limited to food, green waste, landscape and pruning waste, applicable textiles and carpets, wood, lumber, fiber, biosolids, digestate and sludges."

Furthermore, while carpet and textiles may contain biogenic materials, it is difficult to distinguish the difference between carpets made of wool versus synthetic polymers. For this reason, CalRecycle should not include carpet and textiles in the definition of “organic waste” or “biogenic waste” and address the recycling of those materials through separate avenues.

During the May 17, 2017 and May 25, 2017 stakeholder workshops, CalRecycle indicated that certain types of organic waste, such as carpets and textiles, will be measured as part of the state’s progress toward achieving the 50 and 75 percent targets. If carpets and textiles continue to be included in the definition of organic waste, the regulations need to specify how textiles and carpet diversion will be measured. In addition, the definition of organic waste only includes “applicable textiles and carpets.” The regulations should specify which textiles and carpets will be considered “applicable.”

For the potential inclusion of “biosolids,” “digestate,” or “sludges,” further clarification is needed to determine what constitutes recycling of these materials. If recycling options cannot be determined for “biosolids,” “digestate,” or “sludges,” CalRecycle should not include them in the definition of “organic waste” or “biogenic waste” and address the recycling of these materials through separate avenues.

- The term “generator” is already defined in Section 18450 of Title 14 of the CCR. Instead, CalRecycle should provide a definition for “organic waste generator.” It should be defined within the regulations as: “Organic waste generator means a public or private entity that is responsible for the initial production of organic waste and that may also be responsible for the initial production of solid waste and/or recyclable material.” The definition of organic waste generator within the regulations should be expanded to clarify whether all commercial and residential entities would be considered organic waste generators. If not, the regulations should specify in detail the qualifications to be considered an organic waste generator and any exceptions to being an organic waste generator.
- The regulations should clarify whether it is the responsibility of the individual, the generator (residence, commercial entity, etc.), or the local government to “keep organic [waste] materials clean and recoverable.” The regulations should also provide a clear definition of “clean” and “recoverable.”

A program to keep organic waste materials “clean” may be difficult to implement in a multi-residential complex. Therefore, the regulations should be written to require that organic waste materials be kept “**recoverable**” only, but not necessarily “clean” (emphasis added).

In developing regulations, CalRecycle should consider that requiring local governments to collect food waste separately from other organic waste to keep it “clean” may be costly and difficult to implement, and not include such a requirement

in the regulations unless it is environmentally and economically justified while ensuring the process is protective of public health.

- Per the California Air Resources Board (CARB) Revised Proposed Short-Lived Climate Pollutant Reduction Strategy (SLCP Strategy), approximately fifty-four new facilities would need to be built in California by 2020 and approximately seventy-three new facilities would need to be built by 2025 to achieve the organic waste diversion targets in Senate Bill 1383. Permitting and constructing a new organic waste processing facility in California can take five to ten years, and can take much longer and be much more difficult in densely-populated urban areas such as Los Angeles County. Building the needed facilities to achieve 75 percent organic waste diversion is not likely to be feasible by 2025 without changes in State law and regulations to streamline permitting and CEQA processes. In developing organic waste regulations pursuant to SB 1383, CalRecycle must take a proactive position in identifying solutions for overcoming the barriers to permitting new organic waste processing facilities, especially in urban areas, and work with the Legislature, the Governor, and the stakeholders to implement these solutions.

Furthermore, the SLCP Strategy estimates that the capital cost to build enough facilities to achieve 75 percent organic waste diversion is over \$2 billion. Developing new and expanded infrastructure to achieve the organic waste diversion targets is not feasible without significant capital investment by the State, local governments, and the private sector. The Task Force questions the viability of funds/grants such as the Greenhouse Gas Reduction Fund (GGRF) since it is subject to annual adjustment, reduction, and/or elimination by the Legislature and the Governor during the State Budget adoption process. Assembly Bill 1613 (2016) appropriated only \$40 million in GGRF funds to CalRecycle for waste diversion (including organic waste diversion), GHG reduction programs, and infrastructure development. In developing regulations, CalRecycle should consider identifying funding sources for organic waste processing facilities. Furthermore, for Fiscal Year 2016-17, CalRecycle is providing only \$12 million in GGRF grants for digestion projects, a sum which does not even provide for the siting of a single anaerobic digestion (AD) facility with 100 tons of organic waste per day capacity. The Governor and CalRecycle should consider allocating more funding to projects with significant methane reduction benefit potential, such as AD infrastructure or co-digestion projects at wastewater treatment facilities.

- The SB 1383 Regulatory Concepts propose expanding AB 876 (Chapter 593 of the 2015 state statute) organics recycling capacity requirements to include plans by jurisdictions to address insufficient capacity. CalRecycle should clarify whether regulations developed pursuant to SB 1383 have the authority to expand requirements established by AB 876. If not, AB 876 requirements should not be expanded. Furthermore, infrastructure capacity and planning should be limited to counties and regional agencies, since solid waste disposal and diversion planning is conducted more effectively on a countywide and regional scale.

- In the SB 1383 Regulatory Concepts Section, CalRecycle has indicated that regulatory programs and goals will be “measurable” and “enforceable.” The regulations should specify the desired accuracy of the measurable criteria and should not require unnecessary accuracy. A visual inspection, with no sorting or characterization of waste, should be sufficient.
- The regulations should address how methane leakage will be avoided. There are limitations on the regulation of interstate commerce as it pertains to directing the flow of solid waste (including the organic portion), as established by the U.S. Supreme Court ruling on *C&A Carbone, Inc. v. Town of Clarkstown* in 1994. Therefore, there can be no prohibition on transporting organic waste to solid waste management facilities located outside of California and/or in foreign countries with lax solid waste regulations and low tipping fees. For example, if organic waste is transported to Arizona, it will then be disposed of in landfills, negating the intention of SLCP Strategy.
- Any regulations pertaining to organic waste markets should consider the amount and type (woody, green, or other) of organic waste materials generated throughout the year. The regulations should consider where this organic waste material can be stored and how much space will be needed for storage of this material if it cannot be put on the market immediately, because organic waste materials stored in piles can generate heat that could potentially cause fires and can also release greenhouse gases (GHGs). The regulations should also ensure that storage and/or management of organic waste materials are consistent with the requirements of other State agencies, including, but not limited to, the California Department of Food and Agriculture and the California Department of Forestry and Fire Protection.
- The regulations should incentivize the development of alternatives to AD and composting. A substantial amount of organic waste and digestate remains after the AD process, and composting it all is not feasible in urban settings. The draft language deems organic waste sent to an operation or facility with processes that reduce SLCPs as determined by the Executive Officer of CARB to constitute a reduction of landfill disposal. Because non-combustion thermal conversion of digestate and other residuals from organic waste processing reduces SLCPs, the regulations should include these non-combustion thermal conversion technology processes as an acceptable means to reduce landfill disposal of organic waste as determined by the Executive Officer of CARB.
- CalRecycle and CARB must develop solutions within the framework of state law. The implementing regulations should not exceed the authority granted in the law to the point that they are neither cost-effective nor feasible.

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Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill 939 [AB 939], as amended), the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated, cost-effective, and environmentally sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

We respectfully request CalRecycle to address these questions, concerns, and recommendations in the next stakeholder workshop and any upcoming draft regulations.

Should you have any questions regarding these comments, please contact Mr. Mike Mohajer, a member of the Task Force at MikeMohajer@yahoo.com or at (909) 592-1147.

Sincerely,

Margaret Clark

Margaret Clark, Vice-Chair
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force and
Council Member, City of Rosemead

cc: CalRecycle (Howard Levenson)
California Air Resources Board (Mary Nichols and David Mallory)
League of California Cities
League of California Cities, Los Angeles Division
California State Association of Counties
Each Member of the Los Angeles County Board of Supervisors
Sachi A. Hamai, Los Angeles County Chief Executive Officer
Each City Mayor/Manager in the County of Los Angeles
South Coast Air Quality Management District
South Bay Cities Council of Governments
San Gabriel Valley Council of Governments
Gateway Cities Counsel of Governments
Southern California Association of Governments (Carl Morehouse and Huasha Liu)
Each City Recycling Coordinator in Los Angeles County
Each Member of the Los Angeles County Integrated Waste Management Task Force
Each Member of the Task Force Alternative Technology Advisory Subcommittee

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Each Member of the Task Force Facility Plan Review Subcommittee