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March 16, 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 CALRECYCLE SHORT-LIVED CLIMATE POLLUTANTS (SLCP) RULEMAKING PROCESS

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 upcoming Short-Lived Climate Pollutants (SLCP) Rulemaking process.

The Task Force would appreciate CalRecycle's consideration of the following comments as part of the SLCP Rulemaking process,

<http://www.calrecycle.ca.gov/Actions/PublicNoticeDetail.aspx?id=1985&aiid=1810>

- **Definitions – Organic Waste:** The definition of organic waste in the regulations should be consistent with state law. Section 42649.8 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 in order 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. In order to minimize confusion, CalRecycle should use an alternative term instead of “organic waste” for the purpose of these regulations. For example, CalRecycle could use the term “biogenic waste,” defined as “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 determine 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.

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.

- **Definitions – Generator:** 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.
- **Edible Food Recovery Baseline:** According to SB 1383, CalRecycle shall adopt regulations to achieve the organic waste reduction goals for 2020 and 2025, including requirements intended to meet the goal that not less than 20% of edible food that is currently disposed of is recovered for human consumption by 2025. The regulations need to define how to calculate the amount of edible food in the waste stream.
- **Organic Waste Collection Services – Managing Contamination:** It is unclear whether it is the responsibility of the individual, the generator (residence, commercial entity, etc.) or the local government to “keep organic materials clean and recoverable.” The SB 1383 Regulatory Concepts do not clarify how CalRecycle defines clean and do not designate an entity responsible for keeping organic materials clean. It is not clear whether the person that generates or creates organic waste would be responsible for keeping these organic materials clean. The SB 1383 Regulatory Concepts seem to indicate that local governments will be required to collect food waste separately from other organic waste in order to keep it “clean,” but CalRecycle does not clarify whether this is true. Such a collection program may be costly and difficult to implement. Furthermore, a program to keep organic materials “clean” may be difficult to implement in a multi-residential complex. Therefore, the regulations should be written to require that organic materials be kept “recoverable” only, but not necessarily “clean.”

- **Infrastructure Capacity and Planning:** According to 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 in order to achieve the organic 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 organics 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 communicate the same to the Legislature and the Governor along with potential remedial measures. As the Task Force has mentioned in the past to CalRecycle and CARB, this is a critical issue and local governments and industry cannot address existing legislative and regulatory dilemmas that are critical obstacles in development of need infrastructures. The team work is essential!

Furthermore, the SLCP Strategy estimates that the capital cost to build enough facilities to achieve 75 percent organics diversion is over \$2 billion. Developing new and expanded infrastructure to achieve the 2020 and 2025 organic diversion targets is neither achievable nor feasible without significant capital investment by the State, local government, and private sectors. 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 and GHG reduction. In developing organic waste regulations pursuant to SB 1383, 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. CalRecycle should consider allocating more funding to projects with significant methane reduction benefit potential, such as anaerobic digestion (AD) infrastructure or co-digestion projects at wastewater treatment facilities. As such, the proposed regulatory concepts must be expanded to firmly identify available funds that would be allocated by the Legislature and the Governor to assist stakeholders to achieve the mandates of SB 1383.

The SB 1383 Regulatory Concepts propose expanding AB 876 organics recycling capacity requirements to include plans by jurisdictions to address insufficient capacity. CalRecycle should clarify whether or not their regulations have the authority to expand requirements established by legislation. If not, AB 876 requirements should not be expanded. 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.

- **Reporting – Monitoring Effectiveness of Programs:** The regulations must clarify how CalRecycle will determine which actions will be considered as compliance with the organics disposal reduction targets. The measures that jurisdictions can use to justify compliance to CalRecycle and CARB must be described in the regulations.

In formulating regulatory criteria that are both “measurable” and “enforceable,” as written in the SB 1383 Regulatory Concepts, CalRecycle should also specify the desired accuracy of the measurable criteria. The regulations should not require unnecessary accuracy. A visual inspection, with no sorting or characterization of waste, should be sufficient.

- **Reporting – Tracking Organic Waste Disposal and Methane Reduction Mandate:** 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, 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 foreign countries and states with lax solid waste regulations and low tipping fees, such as Arizona, where the organic waste will then be disposed of in landfills, negating the intention of SLCP Strategy.
- **Market Development:** Any regulations pertaining to organics markets should consider the amount and type (woody, green, or other) of organics generated throughout the year. The regulations should consider where this organic 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 material stored in piles can generate heat that could potentially cause fires and can also release greenhouse gases (GHGs). The regulations should also take into account how storage of organic materials will comply with regulations by other agencies besides CalRecycle, such as the California Department of Food and Agriculture and the California Department of Forestry and Fire Protection.

Furthermore, the regulations should incentivize the development of alternatives to anaerobic digestion and composting. A substantial amount of organic waste remains after the anaerobic digestion process and composting of all the organic waste and digestate generated is not feasible in urban settings. The regulations should include non-combustion thermal conversion of the digestate as a viable solution to meeting the organic waste reduction targets.

- **Miscellaneous and Other Comments:** CalRecycle and CARB must develop solutions within the framework of state law rather than stretching the production of regulations to a point that they are neither cost-effective nor feasible.

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

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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 hope that these initial questions, concerns, and recommendations will be addressed in the next preliminary draft of the SLCP regulations for further analysis and discussions.

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

cc: CalRecycle (Christine Hironaka and 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
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 Alternative Technology Advisory Subcommittee
Each Member of the Facility Plan Review Subcommittee