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May 16, 2018

Scott Smithline
Director, CalRecycle
1001 I Street
Sacramento, CA 95812
Submission via email to SLCP.Organics@calrecycle.ca.gov

RE: SB 1383 Proposed Regulation Released May 2018 – COMMENT LETTER

Dear Director Smithline:

The League of California Cities® appreciates the opportunity to comment on the proposed draft regulation released in May 2018, which seek to implement SB 1383 (Lara). The League continues to support both a robust waste management system that complies with California's climate goals and reasonable and achievable goals in removing short-lived climate pollutants, including methane, from landfills. We appreciate the stakeholder process CalRecycle is undertaking and the ability to weigh in on the proposed regulation.

We understand the challenge undertaken by CalRecycle to develop a comprehensive program to meet the new ambitious goals set forth by SB 1383. The League is encouraged by several key changes in the most recent draft, including the removal of the sunset date on mixed waste collection, the addition of waivers and exemptions addition of Corrective Action Plans in the enforcement provisions, and the addition of low population density waivers for small cities and rural areas.

However, cities remain concerned about critical points that hinder local governments' ability to implement the proposed regulation. Our key concerns are as follows:

Infrastructure Capacity: California lacks sufficient capacity today to be able to meet the needs for new organic waste processing. Many cities have expressed concern over an ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. There is an uneven distribution of waste disposal infrastructure, such as bio-digesters, across the state. Moreover, where the infrastructure does exist, capacity is limited. While the regulation provides five years to implement programs, cities are concerned that this is not sufficient time to develop and permit new facilities.

Funding: Lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The League and others continue to seek solutions to address the need for substantial public sector funding. For example, for a number of years, we have urged that "Cap-and-Trade" proceeds be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments continue to work to address the need for funds to undertake prescribed activities, such as updating bins and labels, as well as providing education and outreach.

Enforcement: The most recent draft of the regulation allows for Corrective Action Plans and establishes extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction and we continue to urge careful consideration of the differences among local jurisdictions, as well as the variety of community stakeholders, and infrastructure challenges a local jurisdiction may face.

Penalties: The penalties outlined in the most recent draft of the regulation are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, this regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle to continue working through the programmatic scheme before designing an appropriate set of penalties, particularly since programs have until 2022 to be implemented. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.

Procurement: New procurement requirements were released in the May 2018 draft that require local governments to purchase compost or renewable natural gas as well as minimum recycled content and recyclability standards for paper purchases. Cities have not had time to fully analyze the impacts of this proposal. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding.

The League appreciates the inclusive stakeholder process CalRecycle has undertaken. We look forwards to continued opportunities to comment on specific proposals. If you have any questions regarding these comments, please contact me at (916) 658-8250.

Sincerely,



Erin Evans-Fudem
Legislative Representative
League of California Cities