

SONOMA COUNTY LOCAL TASK FORCE ON INTEGRATED WASTE MANAGEMENT

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Subject: Comments on SB 1383 Proposed Regulation Text Second Formal Draft

We thank CalRecycle for the opportunity to provide recommendations, questions, and comments on the SB 1383 (Lara, 2016) Proposed Regulation Text Second Formal Draft released by CalRecycle in June 2019. The comments listed below represent a compilation of remarks from members of the LTF and do not necessarily represent the positions of Zero Waste Sonoma (formerly known as Sonoma County Waste Management Agency), its member jurisdictions or the County of Sonoma. A list of those who participated in the preparation of these comments can be found at the end of this letter.

GENERAL PROVISIONS

Section 18981.2 (d)

- Under General Provisions, says that jurisdictions can't delegate authority to impose penalties. Zero Waste Sonoma is a JPA representing 10 different jurisdictions. Under the definition of a "Jurisdiction", it says that JPAs can be used to comply with requirements. **Question:** Would using a JPA for enforcement constitute delegation?

ARTICLE 3 – ORGANIC WASTE COLLECTION SERVICES

Section 18984 (c)

- **Typo** for the sections listed – 198984 should be 18984.

Section 18984.1

- **(a) (1) (A) Recommendation-** remove this addition. This seems to be overly prescriptive. Whether a facility accepts certain materials should not be part of the regulation. They will enforce their acceptable/non-acceptable materials with those bringing material to them.
- **(A and B) Recommendation:** Amend (A) to say "Carpets and non-compostable paper shall not be collected in the green container." And then amend (B) to say, "Hazardous wood waste shall not be collected in the blue, gray, or green container."

- (5) **Recommendation**- remove section. This seems to be overly prescriptive. **Question:** Why are these three materials called out? There are other materials that shouldn't go in the green container. Also, who is to say there won't be a truly compostable carpet invented. In this case we would be limiting the ability to compost it.
- (d) **Recommendation**- remove this addition. This seems to be overly prescriptive. Whether a facility accepts certain materials in a bag should not be part of the regulation. They will enforce their policies with those bringing material to them.

Section 18984.2

- **(a)(1)(C) Recommendation:** remove this addition. This seems to be overly prescriptive. Whether a facility accepts certain materials should not be part of the regulation. They will enforce their acceptable/non-acceptable materials with those bringing material to them.
- **(c) Recommendation:** (1) to say, "Carpets and non-compostable paper shall not be collected in the green container." And then amend (2) to say, "Hazardous wood waste shall not be collected in the blue, gray, or green container."
- **(f) Recommendation** - remove this addition. This seems to be overly prescriptive. Whether a facility accepts certain materials should not be part of the regulation. They will enforce their acceptable/non-acceptable materials with those bringing material to them

Section 18984.4

- **(4) Recommendation** - remove this addition. Whether a facility accepts certain materials should not be part of the regulation. They will enforce their acceptable/non-acceptable materials with those bringing material to them.
- **(5) Recommendation** - remove this addition. Whether a facility accepts certain materials should not be part of the regulation. They will enforce their acceptable/non-acceptable materials with those bringing material to them.

Section 18984.5 Container Contamination Minimization (b) annual route review for prohibited container contaminants on randomly selected containers

- **(b)(4)(A) Recommendation:** Remove this section. Private arrangements between a jurisdiction and a designee should not be dictated in the regulation.
- **(b) Question:** How many randomly selected containers per route are considered a sufficient sample size to meet the route review requirement?

Section 18984.6 (4), pg 25: "Documentation of the number of containers disposed..."

- **Question:** does this mean the number of truckloads of recyclables/organics sent to landfill because they were deemed too contaminated?

Section 18984.8 Container Labeling Requirements (a) jurisdiction shall place a label on each new container or lid provided to generators.

- **Question:** Does this labeling requirement apply to new containers only? OR, are jurisdictions required to label all generators' existing containers?
- **(c) – Recommendation:** Add “primary” between “indicate items.” This is consistent with (b)(1) where it indicates primary materials accepted. You can't have a complete list of prohibited containers so only primary items should be required.

Section 18984.11 (c),

- **Question:** would it be acceptable for JPAs to issue exemption waivers to organic material generators?

Section 18994.1 (3)

- **Question:** would the contact person you require be from each of the individual jurisdictions, or would a person from the JPA representing these jurisdictions suffice?

ARTICLE 4 – EDUCATION AND OUTREACH

Section 18985.1

- **(e),** pg 33: The cost of producing all educational materials in multiple languages is extremely high if we were to use 0.5% as the threshold. Assuming Google is correct that Sonoma County has a population of 500,000 people, 0.5% is 2500 people. **Recommendation:** Threshold should be increased to 10,000 people or 5% for (1), and 50,000 or 10% for (2).

ARTICLE 5 – GENERATORS OF ORGANIC WASTE

18986.1

- **(c)(1)- Recommendation** - Remove this addition. This seems to be overly prescriptive. Why are these three materials called out? There are other materials that shouldn't go in the green container. Also, who is to say there won't be a truly compostable carpet invented. In this case we would be limiting the ability to compost it.

18986.2

- **(c)(1) Recommendation** - Remove this addition. This seems to be overly prescriptive. Why are these three materials called out? There are other materials that shouldn't go in the green container. Also, who is to say there won't be a truly compostable carpet invented. In this case we would be limiting the ability to compost it.

ARTICLE 7 – REGULATION OF HAULERS

Questions:

- Can you clarify who is a self-hauler and how jurisdictions are to identify and locate haulers and self-haulers?
- Will CalRecycle be providing a model ordinance for jurisdictions regarding self-hauling?
- What category are landscape companies under, are they generators and therefore self-haulers as they are creating the clippings or are they haulers?
- How are jurisdictions required to monitor self-haulers and landscape companies?

ARTICLE 8 – CALGreen BUILDING STANDARDS AND MODEL WATER EFFICIENT LANDSCAPE ORDINANCE

Section 18989.2

- **Suggestion:** Delete entire section related to Model Water Efficient Landscape Ordinance – there is no relation to organics management. Strike this provision and any associated penalties resulting from this section within SB 1383 regulation text.

ARTICLE 10 – JURISDICTION EDIBLE FOOD RECOVERY PROGRAMS, FOOD GENERATORS, AND FOOD RECOVERY

Section 18991.5 (a)

- **Suggestion:** We request that the 6-ton threshold for reporting be restored, so as to read: “... *that collects or receives 6-tons or more of edible food....*”. Non-profit food recovery organizations are typically run by volunteers on limited budgets. Setting a reporting threshold for organizations that handle larger volumes puts less burden on smaller organizations. This change would also be replicated to Article, 13 18994.2 (h)(2).

ARTICLE 11 – CAPACITY PLANNING

Questions:

- “Jurisdiction” is generally referenced in the SB 1383 text, but in this section, you reference “counties.” What does “counties” mean?
- Can a regional agency (i.e. JPA) report on behalf of its member agencies?

ARTICLE 13 – REPORTING

Section 18994.1 (3)

- **Question:** is it required that the contact person be from each of the individual jurisdictions? Can a name from the Agency/JPA suffice for all covered jurisdictions?

Section 18994.2

- **Recommendation:** It would make most sense to not have an annual report due in 2022. Jurisdictions have to report on the entire CY 2022 again by August 1, 2023 – seems redundant.

18994.2 (b) (4) & (5)

- **Recommendation:** Remove these additions. This seems to be overly prescriptive. Whether a facility accepts certain materials should not be part of the regulation. They will enforce their acceptable/non-acceptable materials with those bringing material to them.

ARTICLE 14 – ENFORCEMENT

Question: Documentation is required for route reviews, compliance reviews, contamination checks, etc. Will CALRecycle be providing form templates? Or will jurisdictions be on their own to develop these forms?

ARTICLE 16 – PENALTIES

Section 18997.2

- **Suggestion:** Non-profit food recovery organizations should not be penalized if they are keeping records in good faith.
 - At a minimum, eliminate enforcement actions against food recovery organizations that are recovering less than 6-tons of food per year.

Section 18997.3

- **Table 1, pg 76: Recommendation:** Needs insertion in bold “Jurisdiction fails or continues **(to fail)** to transport waste, to a facility that meets the high diversion requirements...”
- **Table 2, pg 79: Typo** should be corrected to “Jurisdiction fails to provide **education** and outreach materials...”

ARTICLE 17 – PERFORMANCE-BASED SOURCE – SEPARATED ORGANIC COLLECTION SERVICE

Section 18998.1 (a)

- Expecting that jurisdictions provide a 3-container collection service to 90% of all generators in order to participate in the performance-based program is unreasonable. Sonoma County has a

very large population of self-haulers, most of them because they are in rural areas and/or in the agricultural sector. **Suggestion:** This requirement should be changed to “if 10% or less of all generators in the jurisdiction are non-compliant, then the jurisdiction qualifies for a performance-based program.”

- **Comment:** The requirement to automatically enroll all new customers effectively creates mandatory collection service, which in Sonoma County is not universal. There are still many self-haul customers, especially in the more rural areas of the county that would be strongly opposed to mandatory service. **Suggestion:** Please consider revising the requirement to allow for a modified program in unincorporated rural areas that permits a jurisdiction to meet the performance-based requirement while maintaining individual customer’s ability to self-haul. One suggestion would be to (for rural areas) eliminate the “automatically enroll” provision and clarify that the 90% requirement relates to the percentage of customers signed up for collection service as opposed to all customers residing in the collection area.
- **Suggestion:** (4) For the first sentence about automatic enrollment, amend to the following: “...organic waste collection service within 30 days of occupancy of a business or residence unless the commercial entity explicitly requests an exemption that is approved by the jurisdiction.”

Section 18998.1 (a)(A)(4)

- **Questions:**
 - How are jurisdictions/haulers to automatically enroll new businesses or residents?
 - How would a jurisdiction know in advance which service level to provide?
- **Suggestion:**
 - Instead of requiring “automatic enrollment” please consider allowing for phased-in universal or mandatory service whereby existing customers can choose to self haul (grandfathered) until there is a change of occupancy or service is signed up for voluntarily. This would allow for mandatory service to be phased-in over time.

Section 18998.1 (b)

- **Question:** How will this work with generators who self-haul or other haulers, such as landscapers, who are hauling organics in a jurisdiction? Will the designee have to oversee all efforts by other haulers in the jurisdiction?

Section 18998.3

- (a) It says here jurisdictions must notify CalRecycle annually “on or before Jan 1 of that year” if they intend to implement a performance-based program. However, on pg. 90 in Table 11, it says jurisdictions must notify CalRecycle 180 days before. **Question:** Which one is it? Language should be consistent.

TITLE 14

Section 17409.5.2-6

- **Comment:** Please consider revising the sample frequency in these sections (and others as applicable) from 10 consecutive days to 7 consecutive days. This should still provide reliable data while reducing the operational and cost impact to these facilities.

Section 17409.5.4 (A)

- **Recommendation:** add in the bolded text, “For each **annual** reporting period...”

Section 17409.5.5.

- **Recommendation: (1)** Since these samples are of the residuals, should they not be smaller than 200 pounds or perhaps sampled less frequently?
- **Recommendation: (2)** Amend language to be consistent with Section 17867 (B), pg 130: “If the total weight of material sent to disposal in a single operating day is less than 200 pounds, the operator shall sample all of the material that is sent to disposal that day.”

Chapter 3.1. Composting Operations Regulatory Requirements; **Article 5.0.** Composting Operation and Facility Siting and Design Standards; **Article 3** Operating Standards for In-Vessel 19 Digestion Operations and Facilities

- **Comment:** Please consider revising the sample frequency in these sections (and others as applicable) from 10 consecutive days to 7 consecutive days. This should still provide reliable data while reducing the operational and cost impact to these facilities.

Chapter 9: Planning Guidelines and Procedures for Preparing, Revising, and Amending Countywide or Regional Integrated Waste Management Plans; **Article 9.25** Recycling and Disposal Reporting System; **Section 18815.5 (e)** Reporting Requirements for Transfer/Processors.

- **Comment:** Please correct or clarify the follow language in this section and others (Emphasis added), “(1) The Department shall determine the quarterly recovery efficiency by dividing the **value** of recovered organic waste reported in subdivision (d)(2)(A)[Recovered Organics (RO)] by the combined **valued** of recovered and disposed organic waste reported in (d)(2)(A) and (d)(2)(B)[Total Available Source Separated Organic Waste (TASSOW)]: $RO/TASSOW = \text{Recovery Efficiency}$ ”
- **Suggestion:** Instead of using “value” above, should consider using “volume” or “quantity.”

AMENDMENTS TO EXISTING TITLE 27 REGULATIONS

Environmental Protection **Division 2.** Solid Waste; **Section 20901.** Gray Container Waste Evaluations; **Section 20901.1.** Gray Container Waste Evaluations– Frequency; **Section 20901.2.** Gray Container Waste Evaluations - Measuring Remnant Organic Material.

- **Please clarify if,** as here in Sonoma County, a regional agency has historically been the reporting entity for all 10 jurisdictions in the county does this mean that the requirement to “conduct

waste evaluations on the gray container collection stream received directly from each jurisdiction collection service...” could be satisfied by sampling for the combined regional agency or will the sampling need to be performed for each of the 10 separate jurisdictions? If the latter is the case, please consider revising the language to allow for combined sampling for the regional reporting entity.

Thank you for your consideration of the comments expressed above.

Sincerely,

Ken Wells, Chairman

Sonoma County Local Task Force on Integrated Waste Management

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