



MARK PESTRELLA, CHAIR
MARGARET CLARK, VICE - CHAIR

LOS ANGELES COUNTY
SOLID WASTE MANAGEMENT COMMITTEE/
INTEGRATED WASTE MANAGEMENT TASK FORCE
900 SOUTH FREMONT AVENUE, ALHAMBRA, CALIFORNIA 91803-1331
P.O. BOX 1460, ALHAMBRA, CALIFORNIA 91802-1460
www.lacountyiswmtf.org

September 24, 2019

Mr. Tim Hall
Materials Management and Local Assistance Division
California Department of Resources Recycling and Recovery
P.O. Box 4025
Sacramento, CA 95812

Dear Mr. Hall:

COMMENTS ON FINAL SENATE BILL 1383 INFRASTRUCTURE AND MARKET ANALYSIS REPORT DATED APRIL 29, 2019

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) would like to thank the California Department of Resources Recycling and Recovery (CalRecycle) for providing the enclosed August 13, 2019, letter in response to the Task Force comment letter dated May 29, 2019, on the Senate Bill 1383 (SB 1383) Final Infrastructure and Market Analysis Report (Final Report, linked below), which was released to public on May 21, 2019. The Report was prepared by CalRecycle as a part of the SB 1383 (Lara, Chapter 395 of the 2016 State Statutes) Short-Lived Climate Pollutants (SLCP) implementation.

<https://www2.calrecycle.ca.gov/Publications/Details/1652>

While the Task Force sincerely appreciates the CalRecycle response, we continue to have concerns with the subject Final Infrastructure and Market Analysis Report and its impact on local jurisdictions' compliance with SB 1383, as enumerated below:

General Comments:

- The Task Force is concerned about CalRecycle using the Final Report to analyze the progress that the waste sector, state government, and local governments have made in achieving the organic waste reduction goals for 2020 and 2025 for a report due to the Legislature no later than July 1, 2020. It is unrealistic to expect local governments to make progress in achieving the 2020 organic waste disposal reduction target with less than four months left in the year 2019 and considering the fact that the SB 1383 regulations are yet to be adopted by the State. Therefore, the Task Force recommends that the progress report state that the State Legislature and CalRecycle need to provide sufficient resources and realistic time for local

jurisdictions to make progress toward achieving the 2020 organic waste disposal reduction target.

- In its capacity analysis, the Final Report uses inconsistent terminology such as “available processing capacity,” “available permitted capacity,” and “daily incoming processing capacity.” The Final Report needs to be revised and updated to only quantify capacity that jurisdictions can currently use for organics processing as part of the permitted capacity analysis so that the progress report does not overestimate available capacity and underestimate local jurisdictions’ challenges in complying with SB 1383 requirements (emphasis added).
- The capacity analysis in the Final Report is inadequate because it is limited to composting and anaerobic digestion capacity only. It is unlikely that the State will achieve the 75 percent organic waste landfill disposal reduction target using composting and anaerobic digestion only, because composting and anaerobic digestion are not able to process many of the materials defined as “organic waste” in CalRecycle’s latest draft of SB 1383 regulations, which contrary to the requirement of the Public Resources Code (PRC), Section 42649.8 (c) has been significantly increased to include all types of paper products, textiles, some types of plastic, carpets, manure, and biosolids. The capacity analysis needs to be updated to include/analyze biomass conversion and non-combustion thermal conversion technologies, which based on a life-cycle analysis for greenhouse gas emissions, are equal or superior to composting, and the subject progress report to the Legislature needs to inform decision makers as to the need for conversion technology facilities and provide legislative and regulatory pathways for development of needed facilities using these technologies in California.
- CalRecycle should clarify how the State plans to achieve the 75 percent organic waste landfill disposal reduction target, including:
 - How the landfill disposal reduction will be measured (i.e., which definition of “organic waste” will be used).
 - How much of the landfill disposal reduction will be achieved through composting and anaerobic digestion.
 - How much of the disposal reduction will be achieved through other means, such as packaging reform, non-combustion thermal conversion, land application, biomass conversion, etc.
 - How much of the landfill disposal reduction is expected to be achieved statewide for each organic waste type.

Specific Comments:

- The response letter states on page 1 that in-County organics processing capacity exists at the Sanitation Districts' Joint Water Pollution Control Plant (JWPCP) in Carson. While JWPCP has the capacity to accept 325 tons per day of source-separated food waste slurry, this is not sufficient to process all of the food waste generated in the County and all 88 cities within the County. Furthermore, the County continues to lack sufficient in-County or regional capacity to process other types of organic waste as defined by the SB 1383 regulations, including green waste, wood waste, paper waste, textiles, carpets, manure, biosolids, and sewage sludge (emphasis added). Despite the available capacity at JWPCP, the County will continue to face significant challenges in securing sufficient capacity in compliance with the SB 1383 regulations by January 1, 2022.
- The response letter states on page 1 that "jurisdictions are expected to be actively engaging with facilities to secure available capacity to successfully implement their expanded commercial organics programs." However, Assembly Bill 1826 [AB 1826] (Chesbro, Chapter 727 of the 2016 State Statutes), which required jurisdictions to develop commercial organics programs, does not require jurisdictions to engage with facilities to secure available capacity. Furthermore, the requirements of AB 1826 only cover certain organic waste materials [PRC, Section 42649.8 (c)], such as food waste, green waste, wood waste, and food-soiled paper, whereas the SB 1383 regulations expand the definition of organic waste to include several other materials including all paper products, carpets, textiles, manure, and biosolids. Some of these materials must be processed using technologies other than anaerobic digestion and composting, such as thermal conversion technologies. It is unrealistic to expect jurisdictions to have developed organic waste recycling capacity for these materials based on the requirements of AB 1826. Therefore, CalRecycle does not have necessary justifications to penalize jurisdictions for "failing" to satisfy requirements that do not currently exist in state law or regulation.
- The response letter states on page 2, "Because it typically takes several years to site, permit, and build new facilities, jurisdictions should already be working to secure the feedstock and capacity that will be needed to implement collection for all residential and commercial organic waste generators." Current state law or regulation do not require jurisdictions to provide mandatory organic waste collection services for residential organic waste generators and only requires jurisdictions to provide mandatory organic waste collection for some commercial organic waste generators, pursuant to AB 1826. In addition, the SB 1383 regulations have not been adopted and will not become effective until January 1, 2022. Because CalRecycle is aware of the lengthy process to develop new facilities, CalRecycle should consider extending the deadline to one that is realistically workable to secure sufficient organic waste infrastructure capacity to several years after January 1, 2022.

- The response letter states on page 2 that “If a jurisdiction has not fully implemented its programmatic requirements, then it would be subject to enforcement actions beginning January 1, 2022.” The response letter continues that “the regulations allow for the jurisdiction to request a Corrective Action Plan,” but that “in the case of jurisdictions, failure of a governing body to plan for the needed capacity would not...allow a violation to be subject to a Corrective Action Plan.” CalRecycle cannot reasonably expect jurisdictions to develop the needed capacity by January 1, 2022, when it is currently September 2019 and the regulations have not yet been adopted. Once the regulations are adopted, this will likely leave local jurisdictions two years or less to develop the needed capacity, which CalRecycle acknowledges can take several years to site, permit, and build, let alone develop and finance. In addition, local jurisdictions will also need to establish organics collection systems during this time period, which is a lengthy process that includes terminating existing contracts, establishing new contracts, adopting ordinances, conducting community outreach, and adopting rate increases. The regulations do not become effective until January 1, 2022, so CalRecycle instead of threatening jurisdictions with penalties for a failure to act prior to January 1, 2022, should partner with local jurisdictions to achieve the state goals and help in the development of the needed infrastructure.

An electronic copy of this comment letter will be emailed to:
timothy.hall@calrecycle.ca.gov and CalRecycle management as listed on page 5.

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]), 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 amend the subject Final Report to address the enlisted inadequacies and recommendations. Additionally, these recommendations should be incorporated into the new revised draft of the SB 1383 regulations which are currently under preparation. We also request that CalRecycle incorporate these recommendations in the analysis required by PRC, Section 42653, which requires CalRecycle, in consultation with the California Air Resources Board, to analyze the progress that the waste sector, state government, and local governments have made in reducing organic waste disposal (emphasis added).

Mr. Tim Hall
September 24, 2019
Page 5 of 5

Thank you for your consideration. 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
Mayor, City of Rosemead

KV:cso

P:\epub\Budget\TASK FORCE\Task Force\Letters\2019\September\Infrastructure Market Comments 09.23.19 CR1.docx

Enc.

cc: CalRecycle (Scott Smithline, Howard Levenson, Mark de Bie, Cara Morgan, Hank Brady, Clark Williams, Georgianne Turner, Chris Bria, and Marshalle Graham)
California Air Resources Board (Mary Nichols and David Mallory)
California Department of Fish and Wildlife (Chuck Bonham)
California Department of Food and Agriculture (Secretary Karen Ross)
California Department of Public Health (Director Karen Smith)
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 (Frank Wen)
Each City Recycling Coordinator in Los Angeles County
Each Member of the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force
Each Member of the Task Force Alternative Technology Advisory Subcommittee
Each Member of the Task Force Facility Plan and Review Subcommittee



Department of
Resources Recycling and Recovery

Jared Blumenfeld
Secretary for
Environmental Protection

Scott Smithline
CalRecycle Director

August 13, 2019

Ms. Margaret Clark
Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force
900 South Fremont Avenue
Alhambra, CA 91803-1331

RE: "Comments on Final Senate Bill 1383 (SB 1383) Infrastructure and Market Analysis Report Dated April 29, 2019"

Dear Ms. Clark:

Thank you for your May 29, 2019, letter on the above-referenced subject. While this particular contractor report has been published and is available on CalRecycle's website, it is only one of many information sources that CalRecycle will use to prepare the analysis required by Public Resources Code Section 42653(a) (i.e., "No later than July 1, 2020, the department, in consultation with the State Air Resources Board, shall analyze the progress that the waste sector, state government, and local governments have made in achieving the organic waste reduction goals for 2020 and 2025...").

I would like to apprise the Committee/Task Force that CalRecycle will take the comments in your letter under consideration as we prepare this analysis, which is due by July 1, 2020. CalRecycle plans to provide opportunities for public comment on drafts of this analysis, including holding at least one public workshop on the draft in the spring of 2020.

I also would like to take this opportunity to respond to the Committee/Task Force's specific concern about the report's estimate that Southern California has over 3 million tons of excess available permitted capacity for composting and anaerobic digestion. These results are different from what CalRecycle previously estimated. CalRecycle appreciates the Committee/Task Force's concern about this estimate and offers the following points for your consideration. Please note the following:

- It is encouraging that the report shows there are existing facilities with capacity to accept additional organics, including food scraps. A portion of this capacity is located outside of the county. There is also some capacity available within the county, such as LA County Sanitation's Joint Water Pollution Control Plant in Carson, which is actively seeking additional secured feedstock. To be clear, while there is existing capacity, jurisdictions are actively expanding collection service due to the expansion of the 2019 threshold for mandatory commercial organics recycling. Jurisdictions are expected to be actively engaging with facilities to secure available capacity to successfully implement their expanded commercial organics programs. The number of regulated businesses that need collection services may increase again in early 2020 depending on CalRecycle's determination.

- Furthermore, while the report states there is some existing capacity, it also states, “the amount of available capacity is not sufficient to meet the goals of SB 1383.” The current draft of the SB 1383 regulations would require jurisdictions on January 1, 2022, to have implemented the required collection services for all of their organic waste generators. Because it typically takes several years to site, permit, and build new facilities, jurisdictions should already be working to secure the feedstock and capacity that will be needed to implement collection for all residential and commercial organic waste generators.

If a jurisdiction has not fully implemented its programmatic requirements, then it would be subject to enforcement actions beginning January 1, 2022. For violations that are due to barriers outside the jurisdiction’s control and which may take more time to correct, the regulations allow for the jurisdiction to request a Corrective Action Plan. However, a Corrective Action Plan can only be issued when there are specified mitigating factors such as extenuating circumstances that are outside the control of the regulated entity. In the case of jurisdictions, failure of a governing body to plan for the needed capacity would not be an extenuating circumstance and would not allow a violation to be subject to a Corrective Action Plan.

In this context, it is important to note that the report states that 78 percent of responding compost facilities say they will expand or build new infrastructure when they have new feedstock contracts. Facility developers cannot justify investing in new capacity unless collection contracts are in place, especially given the significant expense in developing new facilities. Based on the data in Figure 24 of the report, the primary reason organics processing facilities expand is an increase in feedstock availability via new collection programs. Facilities will expand if there is contracted feedstock; it has typically become too costly, time-consuming, and risky for facility developers to create new processing capacity without a dedicated contract for feedstock.

- Additionally, the report thoroughly explains that the 3 million ton estimate is based on several sources of information and provides numerous caveats. For example, see:
 - page 28: “There can be a significant difference between *permitted* capacity (i.e. how much material a facility is legally entitled to receive on a daily or annual basis—sometimes referred to as maximum daily throughput) and *operational* capacity (what a facility is actually able to process based on available land, pad space, manpower, mechanical equipment, and so on).”
 - page 29: “however, transportation distance, a site’s daily traffic limitations, company affiliations, feedstock quality, and other factors can all have an impact on how much capacity is truly “available.””

Most importantly, the purpose of the report is to provide a regional and statewide analysis of the composting and anaerobic digestion infrastructure, barriers to infrastructure development and expansion, and markets for products generated by composting and anaerobic digestion. Jurisdictions should not rely on the statewide or regional capacity estimates in the report to assume that it will have adequate capacity to handle the increased amount of organic materials that will be collected from within its jurisdiction when the SB 1383 regulations become effective. While the regulations will not be effective until January 1, 2022, the current draft of the regulations would require jurisdictions on January 1, 2022, to have implemented the required collection services for all of their organic waste generators. Thus, CalRecycle has been encouraging jurisdictions to begin thinking now about the planning capacity requirement and to consider opportunities for expanding or creating new capacity in or near their jurisdictions. The latest version of the draft SB 1383 regulations includes an important planning capacity requirement under which each County, in coordination with the cities and regional

agencies located within the County and in consultation with other specified entities, must conduct a quantitative exercise within specified reporting periods. Jurisdictions would be required to submit the first report on August 1, 2022, to address their planning for the future capacity needed January 1, 2022 through December 31, 2024 that includes:

- Estimates the amount of organic material that will be disposed;
- Identifies the amount in tons of existing organic waste recycling infrastructure capacity, located both in the county and outside of the county, that is verifiably available to the county and jurisdictions located within the county (where “verifiably available” includes a guarantee of access to existing permitted or authorized capacity at a facility, or to new or expanded capacity that will be available prior to the end of the reporting period); and
- Estimates the amount of new or expanded organic waste recycling facility capacity that will be needed to process the organic waste identified above, in addition to any verifiably available existing capacity.

Any jurisdiction that lacks sufficient capacity based on this analysis then will have to submit an implementation schedule to CalRecycle that demonstrates how it will ensure there is enough new or expanded capacity to recover the organic waste currently disposed of by generators within their jurisdiction by the end of the report period.

Again, thank you for providing these comments. If you have additional comments or questions on the contractor report or the upcoming analysis, please do not hesitate to contact me at timothy.hall@calrecycle.ca.gov or (916) 341-6175.

Sincerely,



Tim Hall
Senior Environmental Scientist

cc's via email:

Members, L.A. County Solid Waste Management Committee/Integrated Waste
Management Task Force
Hank Brady, CalRecycle
Howard Levenson, CalRecycle
Cara Morgan, CalRecycle
Clark Williams, CalRecycle
Patrick Holland, L.A. County
Carlos Ruiz, L.A. County