October 18, 2019

Via electronic mail to CalRecycle Docket

To Whom It May Concern:

The California Association of Sanitation Agencies (CASA) appreciates the opportunity to comment on the recently proposed organics reduction regulatory language developed by CalRecycle for the implementation of SB 1383.

CASA is an association of local agencies engaged in advancing the recycling of wastewater into usable water, as well as the generation and beneficial reuse of renewable energy, biosolids, and other valuable resources. Through these efforts, we help create a clean and sustainable environment for Californians.

To date, the proposed regulations have included a provision that would prohibit local jurisdictions from enacting ordinances that would impede the lawful processing and recovery of organic waste through land application of biosolids. CASA appreciates that CalRecycle has retained this language and strengthened it in Section 18990.1 as this provision is absolutely essential to adequately addressing organic waste diversion in California and developing an effective program for implementing SB 1383. This point is further articulated in CASA’s comment letter on the previous draft regulatory text on July 17, 2019.

Our members remain focused on helping the State achieve the mandates of SB 1383. Wastewater treatment plants can utilize existing infrastructure in the form of anaerobic digesters to co-digest food waste and other organic waste, thereby diverting it from landfills. Significant increases in biogas production, and in turn renewable energy production, result from co-digestion at much lower costs than building new infrastructure. We can also accept significant quantities of green waste for co-composting with our biosolids. For these efforts to be viable, we need assurance of markets for the products of digestion, including both biosolids and biogas. While CalRecycle took positive steps toward assuring those markets exist, we request several clarifications below to expand those options.

**Specific Comments and Recommendations:**

1. **Article 1 Section 18982(a)(62) Defines Renewable Gas as being generated only from diverted organic waste.** This discounts the significant greenhouse gas reduction benefits of anaerobically digesting sewage sludge. Wastewater treatment plants should not be penalized for being early adopters of beneficial technologies such as anaerobic digestion. This definition should add the words “...and/or sewage sludge....” after Landfill.

2. **Article 2 Section 18983.1(a)(3) – States that “Any other disposition not listed in subsection (b) of this section” constitutes disposal at a landfill.** This apparently includes biosolids which are incinerated, thermally oxidized, or deposited on surface disposal sites co-located at a wastewater treatment plant. We fail to understand why disposition not at a landfill, should still be considered as “landfill disposal”, and why? Furthermore, such an interpretation creates undue financial hardship on those wastewater treatment plants utilizing alternative management options with significant capital expenditures. For them to abandon proven infrastructure and need to invest in alternative technologies will prove an untenable hardship for their ratepayers. We believe this...
language should be deleted as it is inaccurate. Biosolids produced from these facilities have never entered a landfill and thus it is unclear if, and why, they would have been included in the 2014 baseline. If not included in the 2014 baseline, and if they are now to be considered as landfill disposal, then their jurisdictions will be doubly penalized. Please also see our request below in comment #13 for the updated Waste Characterization Table.

3. Article 2 Section 18983.1(b)(6)(B)(1) – This section delineates activities which are deemed to be “recovery” and thus a reduction in landfill disposal. This section includes biosolids land application and references Appendix B of the federal 40 CFR part 503 regulations, which stipulate technology and other standards for both Class B and Class A pathogen reduction necessary for land application. The language in this section of the draft regulatory text, however, specifies only anaerobic digestion and compost as recovery activities. Appendix B provides detail on a suite of Class B and Class A pathogen reduction technologies, including far more options for achieving each Class, all of which are deemed equivalent to anaerobic digestion or composting.

None of the treatment processes delineated in Appendix B would generate methane. Therefore, the greenhouse gas reduction achieved via land application rather than landfilling is the same regardless of the technology employed to meet the pathogen reduction and vector attraction reduction criteria. The methane reduction is realized in the avoidance of landfilling not by the process utilized to treat the biosolids. While it is true that most biosolids in California undergo either anaerobic digestion and/or composting, other compliant technologies are also utilized and entities should not be penalized for using them.

CASA strongly urges CalRecycle to replace the words “…. anaerobic digestion or composting….” With “….. one of the processes, ....”. In support of this argument, please refer to the BEAM model at this link: https://casaweb.org/wp-content/uploads/2015/12/1-BrownetalEST-GHGCalculator10.pdf which has been adopted by the Canadian Ministries of the Environment as a means to quantify the climate change mitigation benefits of biosolids land application.

This section also raises questions on whether public distribution of exceptional quality biosolids for home use, public parks, golf courses, landscaping, or other beneficial uses constitute a reduction in landfilling. We assume that is the intent but clarity is requested. Additionally, language should be added that reclamation activities such as for fire ravaged land, superfund or other mine sites, brownfields, or overgrazed rangeland also qualifies as a reduction. Please refer to our comment on Article 6 for recommended language to address this.

It is imperative that all treatment options in 40 CFR part 503 Appendix B (Class A and Class B) be allowed and viewed as “recovery” (not just anaerobic digestion and composting). Treatment technologies are themselves dynamic and emerging, resulting in alternative treatment and final use of biosolids. For example, thermal processes can produce energy and biochar. These technologies should be encouraged, not excluded as the language in this section appears to do. Dried biosolids have long been used effectively as alternative fuel at cement kilns in place of fossil-based fuels. We recommend all treatment technologies specified in Appendix B of 40 CFR part 503 that result in land application or land reclamation should be counted as a reduction in landfill disposal. Existing biosolids management practices whereby biosolids do not leave the site such as incineration and surface disposal should be excluded from these regulations. And emerging technologies which may result in energy production (thermal and deep well injection) or avoid fossil fuel consumption (cement kilns), but which do not send any biosolids to a landfill should be encouraged.
Additionally, our understanding is that CalRecycle does not intend (and lacks the authority) to ban any organic waste stream from landfills. Rather, future use was to be negotiated between a wastewater treatment plant and their jurisdiction of origin. We request that these regulations be revised to explicitly articulate that approach.

4. Article 2 section 18983.1(c) – Includes “...or any other disposal of waste as defined by Section 40192(c) of the Public Resources Code.”, in the definition of Landfill. This is a very broad definition and seems to limit the disposition to organic waste deposited on land. We believe this is an overly restrictive definition and will create confusion because of the inclusion of technologies other than landfilling in the definition of landfill (by virtue of the cross-reference to PRC Section 40192(c)). We request that CalRecycle clarify the scope of this definition.

5. In order to clarify that alternative treatment processes and end uses of biosolids are allowed, and do not constitute landfill disposal, we recommend the following language be inserted in the deleted section below.

6. Article 9 Section 18990.1(b)(1). CASA strongly supports and appreciates the additional language in this section which makes clear that local ordinances cannot either prohibit or otherwise limit or restrict recovery activities outlined in Article 2.

7. Article 9 Section 18990.1(c)(3) seems inconsistent with the language added to s. 18990.1(a & b) which restricts local ordinances such that they may not impede organics recycling. Sub (c)(3) seems to supersede that restriction. Deletion of this language is requested to ensure an open market across California for organics recycling.

8. Article 11 Section 18992.1(a)(2) allows capacity planning to include reports generated which would account for organic waste not currently accounted for in the most recent Waste Characterization Study and cites biosolids and digestates as examples. Why would biosolids and digestates not be included in future waste characterization studies? This especially concerning given the requirements of AB 901 which should easily facilitate such inclusion.

9. Article 12 Section 18993.1(f) defines eligible recovered organic waste products which satisfy the procurement requirements of s. 18993.1(e).

   i. Sub (f)(1) stipulates that compost is an eligible product. We assume this includes biosolids compost but request explicit confirmation of that. Furthermore, there are
many other biosolids products which should be considered as eligible recovered organic waste products. A jurisdiction should be given broad latitude in meeting this requirement and all biosolids products meeting the land application requirements of 40 CFR part 503 should be eligible. This includes use of biosolids for home use, on public parks and other property, golf courses, community gardens, etc.

10. Article 12 Section 18993.1(f)(2) deletes pipeline injection as an eligible use of renewable gas for satisfying the procurement requirements. We understand that pipeline injection may be considered conveyance rather than an end use. However, there are numerous other potential end uses than the current definition allows. We recommend amending the definition as follows: Renewable gas used for fuel for transportation, electricity, or heating applications, production of renewable hydrogen, energy storage, creation of bioplastics, or pipeline injection for use offsite for residential, industrial or commercial applications other than electricity, transportation or heating, and all other such applications that allow jurisdictions to avoid fossil gas use.

11. Article 12 Section 18993.1(h)(1) states that in order for renewable gas from a POTW to qualify for procurement requirements must be produced in part from diverted organic waste from a “permitted solid waste facility”. There are cases where organic waste may be diverted from a landfill but not be processed at a permitted facility (ie, out of date items from grocery stores, food scraps from institutions managed in a Grind2Energy type unit, cafeteria, industrial food processing, etc.). We recommend amending the language to add at the end of sub (1) “… or the organic waste would otherwise have been disposed of in a solid waste landfill.”.

12. Article 12 Section 18993.1(h)(4) limits the renewable gas eligible for procurement to only that generated due to the diverted organic waste and makes ineligible renewable gas generated from sewage sludge at a POTW. It requires the separation of the two. This is problematic for two reasons. It eliminates the benefits of digesting sewage sludge, which could otherwise be landfilled, if not for the proactive investment by the wastewater treatment plant to extract renewable resources in the form of renewable gas and biosolids, but also discounts the synergistic benefits of co-digesting food waste with sewage sludge which yields more biogas than either would on their own. We strongly recommend deletion of this section and allowing all beneficial use of biogas from co-digestion be eligible as procurement products without bifurcating the production and making ineligible the biogas produced from sewage sludge. We understand the need to require co-digestion to ensure renewable gas is produced from diverted organic waste, but we disagree with the need to separate gas produced by each.

13. 2014 Waste Characterization Table – Please confirm that this Table has been updated to include biosolids data from 2014, since this serves as the baseline upon which compliance with the draft regulations is based. Please also provide clarity as to where this table can be found.

CASA has been pleased that CalRecycle recognizes the wastewater sector as part of the solution for organics diversion, and we greatly value the collaborative and productive relationship we have developed with CalRecycle. We hope the issues articulated in this letter and other comments can be addressed and we stand ready to assist in any way possible. We have appreciated how responsive Hank Brady and his entire team have been through this process and look forward to finalizing this effort.
Please feel free to contact me at 916-844-5262 or via email at gkester@casaweb.org for further information or clarification. We applaud your efforts in developing these important and exhaustive regulations.

Sincerely,

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Director of Renewable Resource Programs

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