



July 17, 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. For the reasons outlined below, this provision is absolutely essential to adequately addressing organic waste diversion in California and developing an effective program of implementation for SB 1383. To the extent that recent comments and stakeholder feedback call into question that provision or seek to undermine its efficacy, we believe that this issue needs to be addressed. Local jurisdictions cannot be allowed to adopt more restrictive ordinances relative to the land application of biosolids under the guise of addressing health and safety concerns. Any interpretation to the contrary represents a significant departure from what we understood to be CalRecycle's intent.

It is critical that the entire state be open for land application when done as regulated under the federal and state regulations. We therefore urge CalRecycle to maintain the language as currently set forth in Article 9 with the revision and deletion of language recommended in comments 5 & 6 below.

Existing state and federal regulations adequately and thoroughly address health and safety concerns. The USEPA has committed significant resources to execute risk assessments, technical support documents, and comprehensive regulations which are reviewed every two years under the Clean Water Act to ensure the land application of biosolids protects public health and the environment. The State Water Quality Control Board has also expended tremendous resources in the development of a Programmatic Environmental Impact Report and a statewide General Order to ensure the safety of the land application of biosolids.

CASA has worked proactively with CalRecycle for more than two years in recognition that the wastewater sector can accept significant quantities of food waste for co-digestion and green waste for composting with our biosolids. However, in order to ensure the viability of such a partnership, there must be assurance of markets for our biosolids, biogas, and compost. Restrictive local ordinances are in direct conflict with this objective.

Biosolids are a renewable, valuable resource produced as an inherent component of the essential public service of wastewater treatment. Biosolids will be produced in greater quantities as our population increases and as SB 1383 is implemented and food waste is co-digested with Municipal sewage sludge. In keeping with the objectives of SB 1383 and the Healthy Soils Initiative, the land application of biosolids has been shown to sequester carbon, increase water holding capacity and thus reduce irrigation needs,

improve soil tilth, increase crop yields, and avoid the use of fossil fuel intense inorganic fertilizer. Therefore, unnecessary restrictions on biosolids used as soil amendments is counter to the goals of SB 1383.

Currently a patchwork of county ordinances restricts the land application of biosolids from onerous permitting and site requirements, treatment specifications (compost or Class A only), to outright bans across much of the state. This is an unsustainable landscape which forces municipalities to travel many miles to suitable land application sites. Indeed, roughly 15% of the biosolids produced in the state is land applied in Arizona, which deprives California farmers of this resource and disregards the objectives of the Healthy Soils Initiative.

There is now only one operating sewage sludge incinerator in the state, with no more expected to be built. Under SB 1383, landfills will no longer be a sustainable disposition, though roughly 20% of the state produced biosolids are currently managed at them. This further points to the importance of land application as the most valuable beneficial use for biosolids and the single viable option under SB 1383.

As an example of local ordinances being overly restrictive and in conflict with federal and state regulations, some include language prohibiting land application from October or November 15 – April 15 each year in anticipation of rainfall events (e.g. **Yolo County Section 06-12-03 General Requirements and Restrictions on Biosolids Application (b) *Biosolids shall not be applied to any land between November 15 and April 15.*** Such restrictions should be based on conditions and not hard dates. During the recent extended drought, land application could have been executed all year with the exception of a few days. The Statewide General Order already would have precluded application during those rare rain events based on language in Prohibition 13: “The application of biosolids to water-saturated or frozen ground or during periods of precipitation that induces runoff from the permitted site is prohibited.”. Other ordinances stipulate that only Class A biosolids may be applied (e.g. **Riverside County 8.129.040 - Land application of class B sewage sludge is prohibited., Effective November 25, 2001, it is unlawful for any person to land apply Class B sewage sludge to any land within the unincorporated areas of Riverside County (Ord. 812 (part), 2001).** As a consequence, increasing quantities of biosolids are managed in Arizona. The Statewide General Order sets standards for the land application of both Class A and Class B biosolids. Finding 11 promotes it with the following: “This General Order establishes a regulatory system to manage biosolids in a manner that is reasonably protective of public health and the environment to the extent of present scientific knowledge. The beneficial use of biosolids through land application under this General Order is environmentally sound and preferable to non-beneficial disposal.”

In short, State and federal regulations protect public health, safety, and the environment and should not be precluded by local ordinances.

Our members are 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 2 Section 18983.1(a)(3) – States that “Any other disposition not listed in subsection (b) of this section” constitutes disposal at a landfill. Would this include biosolids which are incinerated, thermally oxidized, or deposited in surface disposal sites at a wastewater treatment plant. We fail to understand what disposition not at a landfill, should still be considered as “landfill disposal”, and why? We believe this language should be deleted for the sake of accuracy and clarity.
2. 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 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. 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 which 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 should be excluded from these regulations. And emerging technology which may result in energy

production (thermal) or avoid fossil-based fuels (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 plant and their jurisdiction of origin. We request that these regulations be revised to explicitly articulate that approach.

3. 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.
4. 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.

Article 6 Section 18987.2. Biosolids and Sewage Sludge Handling at a POTW

(a) Biosolids generated at a POTW shall meet one or more of the following:

- (1) Treated and managed in accordance with the Land Application, Incineration, or Surface Disposal requirements specified in 40 CFR part 503,
- (2) Transported to a solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery as specified in Section 18983.1(b) of this division, including public distribution, and for landscaping, public parks and other facilities, golf courses, and reclamation projects, or
- (3) Be treated and managed in other approved manners, approved by the regional, state, or federal agencies having appropriate jurisdiction.

5. Article 9 Section 18990.1(b)(1) should make clear that recycling activities in accordance with applicable federal and state law cannot be restricted or prohibited in any way. The following verbiage should be added to this section: (b)(1) Prohibit **or restrict** the lawful processing and recovery of organic waste through a method 6 identified in Article 2 of this chapter
6. 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. Furthermore, as stated above the language in s 18990.1 (a&b) must remain, (with the edit recommended in comment 5).
7. 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

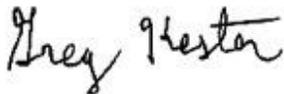
requirement and all biosolids products meeting the land application requirements of 40 CFR part 503 should be eligible. This includes use of biosolids for home use, on public parks and other property, golf courses, community gardens, etc.

8. 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, 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."
9. 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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