



May 18th, 2020

Senator Ben Allen, Chairman  
Senate Committee on Environmental Quality  
State Capitol  
Sacramento, CA 95814

**Re: SB 1191 (Dahle) Organic waste reduction - Strong Opposition**

Senator Allen:

The undersigned organizations must respectfully oppose SB 1191, by Senator Brian Dahle, and request that the committee not advance this proposal. By creating loopholes and offramps in the Short Lived Climate Pollutant (SB 1383) regulations, this legislation would undermine the state's ability to achieve the intended methane reductions of the law, along with all the related health and job creation benefits thereof.

CalRecycle has undergone a very intensive, multi-year, statewide stakeholder engagement process to develop regulations to achieve the targets laid out in SB 1383, going far beyond what is required under the Administrative Procedures Act. As a result, the agency has made significant changes in response to stakeholder input and crafted a thoughtful and nuanced approach to recovering organic waste. SB 1191 would not only undercut the state's climate efforts, but it would also eliminate the regulatory certainty that industry needs to develop the necessary infrastructure to implement the law.

**Good faith effort**

SB 1191 proposes to establish an off ramp for jurisdiction compliance with the SB 1383 regulations through a "good faith effort" provision. This is a concept that was used in the implementation of California's landmark Integrated Waste Management Act (AB 939, 1989). The implementation of the Act was significantly hindered by this provision, since it created a compliance system that could easily be abused. For this reason, the Brown Administration emphatically opposed the inclusion of this provision when SB 1383 went through the legislative process.

This provision would serve as a self-fulfilling prophecy. If “budgetary constraints” can be cited as a reason not to implement the regulations, then jurisdictions will not adequately budget for this program or set appropriate rates. Similarly, the “availability of markets” is not a static metric; compost markets will not exist until somebody builds a composting facility and markets the material.

Further, this list of possible offramps (income levels, high or low populations, actions by the state and federal government, etc.) is so broad as to allow nearly any jurisdiction in the state (from the most dense urban area to the most sparsely populated rural region) to claim some kind of exemption.

### **Bear population waivers**

SB 1191 proposes to allow jurisdictions with nearby bear populations to be given waivers from the requirements of the regulations. It is unclear why food scraps would pose a greater threat when collected in a different bin, since the amount of food waste generated is not increasing and the same protections that exist for trash (bear boxes, locking lids, etc.) would instead be implemented for the new bins that are dedicated to putrescible waste.

Further, this is largely a moot point, seeing as nearly every area of the state with bear populations is already subject to an exemption. In response to this comment during the regulatory phase, the Department stated:

*Finally, the commenter notes that the food waste collection waivers are limited to elevations above 4,500 feet. While that is true, the commenter ignores the fact that the low-population density waivers provided in the proposed regulation allow jurisdictions with low populations and low waste generation, as well as census tracts with less than 75 people per square mile, to be exempt from the entirety of the collection requirements (including the food waste collection requirements). The waivers allowed in the regulations virtually allow the entirety of the “American Black Bear Range” in California, as currently identified by the California Department of Fish and Wildlife (CDFW 2019), to be exempt from the organic waste collection requirements.*

### **Misplaced focus**

We agree with the author and sponsors on the need for increased organics recycling infrastructure. While we believe SB 1191 is counterproductive to this goal, there are other measures that the state can take to help develop this infrastructure.

Direct investment is arguably the most effective way of supporting this infrastructure. Historically state-level investment has been limited to the Department’s Greenhouse Gas Reduction Fund (GGRF) program, which has been severely underfunded and oversubscribed. In fact, CalRecycle has a list of shovel-ready projects that were qualified to be funded in the previous grant cycle but did not receive money because of a lack of funds. Additionally, infrastructure

investment through an “economic recovery bond” could supplement this funding to maximize the immediate and long term investments in this sector.

Incentive payments are another proven mechanism to stimulate recycling investment, and should also be considered to encourage organic waste diversion. While GGRF grants have been incredibly successful, they have been restrained by the “boom and bust” nature of annual allocations and the limitations of competitive grants, which deter long term investment and can create winners and losers. A continuous appropriation of funding, or at least dedicated multi-year allocations, would allow CalRecycle to develop guaranteed incentive payment based on the actual throughput of facilities. This model has been proven successful through various programs run by CalRecycle—most notably the Plastic Market Development program—and, unlike competitive grants, incentive payments support long range planning and investment in infrastructure.

Sales tax exemptions for equipment purchases have also proven to be an effective stimulus for the development of composting and anaerobic digestion facilities. Since it’s expansion to recycling and organics projects, the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) Sales Tax Exemption program has spurred the creation of several large scale investments in this sector. Unfortunately, the program has also become oversubscribed, reaching it’s cap almost immediately when it began accepting applications this year. Several shovel-ready recycling and composting projects were unable to apply and have been put on hold as a result. Increasing the cap from \$100 million to \$200 million and allowing the “roll over” of funds from one year to the next would strongly increase the effectiveness of this program.

Another important tool in the state’s arsenal is the ability to offer low interest loans and other financing mechanisms. This has proven to be a successful strategy in the long running California Recycling Market Development Zone (RMDZ) revolving loan program and various bonding and alternative financing programs offered by the California Pollution Control Financing Authority (CPCFA). The scope of these programs could be further expanded to support the development of more organics facilities. Additionally, some have proposed the creation of additional financing tools through the iBank or through the establishment of a new, targeted Authority within the State Treasurer’s Office, and these ideas deserve consideration by the legislature.

Finally, the state can take a much greater role in supporting the siting, permitting, and regulatory consistency of organic waste recycling projects. These facilities, by their nature, can have impacts, and, to a large extent, those impacts can be mitigated through the use of pollution control devices, Good Neighbor Agreements, best management practices, and appropriate siting. The state should provide support to project proponents, as well as operators of existing facilities, to clearly identify opportunities to streamline the permitting of projects that maximize the use of these tools. Additionally, in 2015 the legislature (in PRC 42649.87) directed the state’s regulatory agencies to work together to support the development of this sector and the

use of compost on natural and working lands. We would urge the legislature to eliminate the scheduled sunset of that section, and support its full implementation by exercising greater oversight.

Fundamentally, the most important tool for developing organics recycling infrastructure is regulatory certainty and action by local jurisdictions to implement this program. The SB 1383 regulations, as proposed, are estimated to not only cut greenhouses by 4 million tons annually, but are also projected to generate \$17 billion in economic benefits and create 4,500 temporary and 11,700 permanent jobs. SB 1383 was adopted in 2016 with a 5-year phase in, and neither the climate nor the economy can afford to postpone its implementation.

While we must respectfully oppose SB 1191, we hope to work with the author and the supporters of this bill to ensure the successful implementation of SB 1383.

Sincerely,



Nick Lapis  
Californians Against Waste



Dan Jacobson  
Environment California



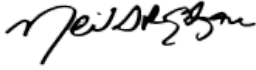
Cooper Freeman  
Occidental Arts & Ecology Center



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CC: Senator Brian Dahle  
Members, Senate Environmental Quality Committee