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RE: Comments on Senate Bill 1383 Draft Proposed Regulation Text – May 2018

The California State Association of Counties (CSAC) is pleased to offer the following comments on the proposed regulations to implement SB 1383 (Lara, Chapter No. 395, Statutes of 2016) for organics diversion from our landfills. We would like to thank the Department of Resources, Recycling and Recovery (Cal Recycle) for their continued public outreach during this process. We are encouraged by several changes that have been made to the most recent draft, an acknowledgement that CalRecycle has taken into consideration concerns that have been voiced at the local level.

CSAC supports the inclusion of an extended timeframe to delay implementation to counties with populations of less than 70,000, and the ability for a county to apply to CalRecycle for two-year waivers for rural areas within a county. In addition, we are encouraged by the inclusion of a mechanism to allow consideration of a jurisdiction's efforts for compliance. The inclusion of "Corrective Action Plans" allows extended timelines and milestones for achieving compliance, if the jurisdiction has demonstrated that it has made a "substantial effort" to comply. These are both positive additions to the updated draft, and they take into consideration the regional differences amongst jurisdictions and the challenges we face with infrastructure development and capacity issues. Despite these positive developments, counties remain concerned with several provisions of the draft regulations, outlined below.

The proposed draft includes an organics procurement requirement on local jurisdictions, but not state entities. We believe that market development is an important part of the conversation, as it is critical to the success of any recycling program. However, we do not believe that this set of regulations is the appropriate vehicle – as this process should include a state component, which requires a broader scope and conversation. As such, we believe there is a need for a more comprehensive approach to state and local organics procurement requirements, and a need for a separate regulatory process for this issue. We also must note that local jurisdictions are struggling with market development for other recyclable materials, including plastics and paper, due to China's announcement regarding their intention to ban certain recyclable materials. We appreciate CalRecycle's acknowledgement of this challenge, known as "National Sword," and their commitment to additional outreach and guidance on

this important issue. This is an important reminder that diversion or recycling requirements alone cannot achieve the state's goals.

In addition, counties are concerned with the requirement on jurisdictions that lack sufficient organics capacity to submit a plan to CalRecycle to demonstrate expanded capacity. California has added roughly 13 active anaerobic digestion (AD) facilities and 169 active composting facilities in the past 20 years. At least 135 to 150 new facilities must be financed, sited, permitted, and built in the next nine years to achieve the target of 75% organics diversion by 2025. To meet these goals, California will need upwards of \$3 billion in capital investment. The Governor's proposed cap and trade plan includes a wholly inadequate \$20 million in funding for waste diversion for the FY 18-19 budget. We firmly believe that capacity is a statewide conversation that is tied to resources and requires the participation of all stakeholders. This requirement is beyond the ability of most local jurisdictions to achieve, and should be part of a broader effort focused on the development of organics infrastructure and associated funding in California.

Finally, we believe the set of penalties included in the draft is premature. Given the challenges ahead, we believe a schedule of penalties should be developed after the implementation of programs in 2022. It is very difficult to determine at this moment whether the penalties are appropriate if we have not implemented this new and aggressive program. Counties are also concerned with the enforcement provisions which require counties to inspect and fine individuals and businesses.

Local governments stand ready to work with the state to help develop reasonable and economically feasible regulations that will help reduce methane emissions, and then work to develop the necessary infrastructure and increase public awareness and education about this important issue. Thank you for the opportunity to provide you our comments. Should you have any questions, please feel to contact me at 916-327-7500, ext. 504, or cmartinson@counties.org.

Sincerely,



Cara Martinson
Senior Legislative Representative & Federal Affairs Manager