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December 23, 2020

Delivered via email: SB1335@calrecycle.ca.gov

Zack Bradford
Materials Management and Local Assistance Division
California Department of Resources Recycling and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025

Dear Mr. Bradford:

RE: Comments on the Proposed Regulations - Sustainable Packaging for the State of California Act of 2018 (SB 1335)

The California Compost Coalition (CCC) is a statewide organization representing operators of composting and anaerobic digestion facilities involved in the processing of green and food waste materials derived from municipal solid waste throughout California. CCC is pleased to see CalRecycle pursuing regulatory language that advances sound, economically viable organic materials management which will promote resource recovery markets and help California reach its mandated recycling and composting goals. To this end, CCC is providing our comments here related to the latest draft regulatory language.

We are pleased to see CalRecycle taking a largely practical approach to setting these packaging guidelines which could help minimize contamination in food waste feedstocks from State food production providers which are received by our member facility operators. We have comments and requests for clarification on some remaining issues which we would like to see addressed in the next draft of regulations.

Concerns About Identification and Contamination

Packaging and products made from compostable materials are not welcome at a majority of compost manufacturing facilities, especially those products which are not directly associated with food scrap recovery. Likewise, compostable plastics frequently are a contamination problem for recycling facility operators and remanufacturers.

One of the key issues for both composting and recycling facility operators is a lack of clear identification of materials, which leads to cross contamination. These regulations, and the impacted industries, could benefit greatly from a standard which could require listed packaging to be **“readily and easily identifiable”** as either compostable or recyclable so that source separation options are obvious to both consumers and facility operators, providing a pathway to reduced contamination.

Beyond physical contamination, we have concerns about the chemical compounds which may be present in food service packaging. While these regulations clearly addresses concerns regarding compounds identified in the “Toxics in Packaging Prevention Act” and total fluorine, we are very supportive of the requirement for disclosure of any chemicals included on the Proposition 65 list.

§17989 Definitions

(a)(25) – Safe and timely manner

CCC is fully supportive of setting a more restrictive disintegration time period, one which better reflects the realities of compost manufacturing instead of the lab standards found in ASTM D6400 and D6868. Our members have experience attempting to compost a number of packaging types, few of which meet the processing timeline needed to efficiently create saleable, finished products; the processing time for compost manufacturing is always well below the 180-day standard for complete degradation found in the ASTM regimen.

We recommend a field disintegration validation process be required, by the end of 2022, which would clearly identify which compostable materials meet compost manufacturing timelines, in order for products to continue to be listed beyond January 1, 2023.

We are aware that compostability depends greatly on the type of composting technology employed at an individual facility, as well as the manner in which composting is conducted. So, because a certain packaging type may meet a shorter degradability standard at one facility, it has little or no bearing on what may occur at a different site, with different conditions and technology application. We recommend that testing be conducted at both windrow composting facilities as well as aerated static pile facilities to assure that 90 percent disintegration occurs within 60 days in the varying active composting processes.

§17989.5 Compostable Food Service Packaging Criteria

CCC is fully supportive of requiring wide acceptability of both recyclable and compostable packaging materials as criteria for listing. We are unclear who will be responsible for verifying how many programs are accepting recyclable or compostable materials. We have concerns that a compostable product is regularly collected by a minimum of 50 or 75 percent of programs is a relevant metric – collection frequency is a moot point, unless the materials are “accepted” at a facility, as noted in the below language.

We are supportive of the concept that listed packaging be “accepted” by at least 50 or 75 percent of compost facilities permitted to accept mixed materials.

We continue to seek additional clarity on who would verify that the facilities are accepting the type of packaging that is applying for being listed. We would appreciate knowing CalRecycle will be the entity which will work to confirm acceptance rates.

Organic Certification Requirements

Beyond the above requirements, CCC proposes additional requirements to assure that the compostable products, most likely (but not exclusively) compostable plastics (mainly PLA, but other resins as well) take steps to become listed with the National Organic Program (NOP) as a synthetic material which is allowed for use in organic input material production; this is a lengthy petition process which should be undertaken as quickly as possible. Compostable products to be listed in January 2026, should be required to already have their petition process concluded, and all synthetic materials which are

unsuitable for organic production should be excluded from future listing until the issue is resolved.

Composters will be required to receive, process and market significantly higher volumes of organic materials, as they are diverted from landfilling, under the requirements of SB 1383. The expectation of CCC and other experts is that the large proportion of this composted material will be sold into agricultural markets. Farmers who currently buy compost for application onto fields producing food crops are almost exclusively requiring materials registered under the California Department of Food and Agriculture's (CDFA) Organic Input Materials program, where CDFA has responsibility to assure that compost and other inputs meet the NOP standards. These NOP standards do not allow unauthorized synthetics, like compostable plastics, in compost feedstocks. Most of these compostable products in feedstocks are currently being screened out by composters and other organic materials processors to be landfilled. This adds unnecessary cost to composting programs, for transportation and disposal of the materials, as well as jeopardizing the Organic status of the finished product, should the removal process not be deemed "robust" by CDFA inspectors during routine audits.

We look forward to future participation in this rulemaking and are available for any questions. Please call me at my office, at (916) 307-6119, should our assistance be needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Neil S.R. Edgar". The signature is fluid and cursive, with the first name "Neil" being the most prominent.

Neil S.R. Edgar
Executive Director