



Public Workshop (8/27/12)
Compost Order
Deadline: 9/12/12 by 12 noon

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Ms. Jeanine Townsend
Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

VIA E-MAIL: commentletters@waterboards.ca.gov



RE: Statewide Tentative “General Waste Discharge Requirements for the Discharge of Wastes at Compost Management Units”

Dear State Water Board Members:

Sempra Energy’s regulated utility, San Diego Gas & Electric Company (the “Utility”) appreciates this opportunity to provide the State Water Resources Control Board (“State Water Board”) with comments on the statewide tentative **“General Waste Discharge Requirements for the Discharge of Wastes at Compost Management Units” (Order)**.

The Utility’s delivery of essential public services requires routine and emergency construction, operation, inspection, maintenance, repair and replacement of utility and other linear infrastructure. A primary mandate to the Utility and other entities with linear facilities regulated by the California Public Utilities Commission and/or other state and federal regulatory agencies is to provide safe and reliable service. To accomplish this mandate, the Utility needs to conduct tree trimming and brush clearing activities that generate green materials along the thousands of miles of linear facilities they operate throughout southern California. This Order may directly or indirectly impact these operations.

The Utility’s comments on the proposed Order address the following issues:

- Definition of “discharger”;
- Exempt Composting Activities (Finding A.4.b.);
- Materials provided to residents; and
- Indirect impacts.

Definition of Discharger

The proposed Order should clarify that persons that bring feedstocks (i.e., vegetative materials) to “discharge” to the Compost Management Unit are not included in the definition of “Discharger”.

Finding A.1. defines “Discharger” as:

“...any person responsible for discharging, or proposing to discharge waste to a Compost Management Unit (CMU); or any person who owns or operates a CMU; or any person responsible for ensuring compliance with the maintenance and monitoring operations at the CMU, as required under this Order”.

California Water Code (CWC) Section 13050(d) defines “Waste” to include:

“...sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal”.

Including the phrase “any person responsible for discharging, or proposing to discharge waste to a Compost Management Unit (CMU)” as part of the definition of “Discharger” makes this definition unclear. First, the CWC definition of “waste” is defined in the context of “disposal”; that is a substance becomes a waste when it is to be disposed. Since the purpose of a composting facility is to recycle materials and not to perform disposal, it is unclear why a person would bring (or a compost facility accept) a waste to a composting facility for disposal. Second, if the proposed definition of discharger is truly meant to include persons that bring feedstocks (e.g., vegetative materials) to a composting facility, this would illogically place requirements (e.g., application, fees, inspections, monitoring, etc.) on third parties that do not own or operate the CMU and have no ability to implement these requirements. **The Utility recommends that this first phrase (“any person responsible for discharging, or proposing to discharge waste to a Compost Management Unit (CMU)”) be deleted and/or the definitions of “waste” and “feedstock” in the proposed Order be modified to include statements that “waste does not include feedstocks” and “feedstocks are not waste”.**

Exempt Composting Activities (Finding A.4.b.)

The proposed Order should include additional “Excluded Activities” from the Health & Safety Regulations for Compostable Materials Handling Operations and Facilities Regulatory Requirements as “Exempt Composting Activities”.

A significant concern of the Utility is that the proposed Order may inadvertently apply to or regulate certain activities that the Utility may now or in the future consider to conduct as part of their construction, operations or maintenance activities, such as vegetative management activities. For instance, electric utilities are required to maintain specific clearances between their overhead lines and surrounding vegetation and the surface areas below which underground pipelines lay need to be kept clear for inspections. These activities require on-going tree trimming and brush clearing programs.

Cut branches and other vegetative material may be processed (e.g., chipping, grinding) at the site where they are cut with the processed material put directly into a truck for transport to a commercial composting facility or a landfill. Alternatively, cut vegetative materials may be transported prior to chipping or grinding. However, due to the size of our service territories it is not always efficient to take these materials directly to the disposal/composting facility the same day. To improve efficiency, the Utility is evaluating the benefits of establishing transfer sites where the material could be collected and later transported to a commercial composting facility. As written, it appears the Order could require these transfer sites to be regulated as composting facilities (i.e., if the material is not moved off-site within certain timeframes) and required to comply with the conditions of the Order, although actual composting activities are not being conducted. The proposed Order contains a list of exempt composting activities in Finding A.4.b that appear to be based on a subset of the activities that are excluded from compostable material handling operations or facilities in Title 14, Division 7, Chapter 3.1, Article 2, Section 17855 of the California Code of Regulations. Other excluded activities contained in CCR Section 17855 that should be included in the proposed Order as exempt composting activities include:

- Section 17855.5. – “The handling of compostable materials is an excluded activity if”:
 - Section 17855.5.J. – “the materials are handled in such a way to preclude their reaching temperatures at or above 122 degrees Fahrenheit as determined by the EA”.
- Section 17855.9. – “Beneficial use of compostable materials is an excluded activity. Beneficial use includes, but is not limited to, slope stabilization, weed suppression, alternative daily cover, and similar uses, as determined by the EA...”.

Including Section 17855.5.J. as an exempt composting activity would allow materials that have been cut or chipped and ground to be held temporarily at transfer stations for longer periods of time without the need for coverage under the proposed Order. This would make for a more efficient operation and reduce travel, traffic and vehicle emissions. Additionally, including Section 17855.9 as an exempt composting activity would help clarify that these activities are not regulated under the proposed Order. **The Utility requests the State Board to include these “excluded activities” in the proposed Order’s list of “exempt composting activities”.**

Materials Provided to Residents

There may be times when conducting vegetative management activities along rights of way that a resident at the location where the activity is occurring requests the Utility to leave chipped/ ground materials for their use. Providing chipped/ground material to residents is an efficient means to recycle this material, is consistent with Section 17855.9. and helps to reduce the amount of material that needs to be transported. **The Utility requests the proposed Order be modified to clarify that leaving the chipped/ground material for a resident is also an exempt composting activity and is not a “discharge” that is regulated by the proposed Order. This can be accomplished by adding the following exemption language to Finding A.4.b.:**

“Beneficial use of compostable materials is an excluded activity. Beneficial use includes, but is not limited to, slope stabilization, weed suppression, alternative daily cover, and similar uses, as determined by the EA”. Further, chipped/ ground material left by landscapers to be used by property owners or residents for beneficial use is exempted from the requirement to be covered under these WDRs”.

Indirect Impacts

The Utility is concerned that placing significant and costly new requirements (e.g., structural requirements) on composting facilities may result in fewer facilities that remain in business to recycle green material. Fewer facilities would translate into longer distances to transport cut and /or processed (i.e., chipping and grinding) materials from utility vegetative management activity sites to the composting facility, thus making these activities more expensive, and increasing traffic and vehicle emissions. **We urge the State Water Board to carefully consider these indirect impacts as part of its evaluation of the necessity of these requirements.**

San Diego Gas & Electric Company urges the State Water Board to incorporate the comments above into the proposed Order.

Please feel free to contact Fred Jacobsen (San Diego Gas & Electric Company) at 858-637-3723 if you have any questions concerning our comments.

Yours sincerely,

