

San Luis Obispo County Integrated Waste Management Authority

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September 5, 2012

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

Subject: Tentative Statewide General Waste Discharge
Requirements for the Discharge of Waste at Compost Management Units

Dear Ms. Townsend:

The San Luis Obispo Integrated Waste Management Authority appreciates the opportunity to comment on the Tentative Statewide General Waste Discharge Requirements for the Discharge of Waste at Compost Management Units. The Authority is an AB 939 Regional Agency comprised of San Luis Obispo County, all of the incorporated cities within the County and special districts. The authority works with our member jurisdictions and the private sector to develop and implement diversion programs that have achieved the original diversion goals of AB 939 and put us well on our way to meeting the new goal of 75% diversion. A key component of our strategy to achieve that higher goal is the expansion of an existing compost facility and the potential development of a new anaerobic digestion/composting facility. We are therefore extremely interested and at least somewhat concerned about the potential impact of this order on such efforts.

The Authority fully supports a streamlined regulatory approach which establishes an appropriate level of regulatory oversight of compost facilities necessary to protect the waters of the state. We further believe that it is critically important that this streamlined regulatory approach provide sufficient flexibility and clarity to allow for the most cost effective approaches to protecting the waters of the state, while capturing the numerous environmental benefits of composting and/or anaerobic digestion of organic materials.



Based upon our review of the draft order, we cannot conclude with any confidence that it provides the necessary flexibility and clarity to allow the most cost effective solutions for protecting the waters of the state. One reason for that is that there appear to be major internal inconsistencies within the draft order. For example, Section A.16 Application, reads:

A.16. APPLICATION. Water Code section 13260(a) requires any person discharging waste or proposing to discharge waste that could affect the quality of the waters of the state, other than into a community sewer system, to file a Report of Waste Discharge. Nothing in this Order is intended to require coverage under this Order if a Regional Water Board, through its Executive Officer, determines that a project could not affect the quality of the waters of the State in its region. Each Regional Water Board may regulate compost management units or other composting operations in any appropriate manner. This Order is one option available to the Regional Boards to regulate composting operations. For the purposes of this Order, a NOI and accompanying technical report (as described in Attachments B and C of this Order, respectively) is equivalent to the aforementioned Report of Waste Discharge. After the Regional Water Board determines that the NOI is complete and that the CMU can be appropriately regulated under this Order, a NOA will be issued by the Regional Water Boards' Executive Officer.

The underlined language above appears to provide significant flexibility to the Regional Boards to determine an appropriate and cost-effective level of regulation. However, Section B.2 Enrollment Procedures, reads:

B.2. Existing Permitted Compost Management Units. At any time, the Discharger of an existing permitted CMU, as defined in Finding No. A.10.a, may seek rescission of individual WDRs, and seek enrollment and authorization to discharge under this Order by submitting to the appropriate Regional Water Board a complete NOI (Attachment B). The NOI must be filed with an appropriate filing fee – pursuant to Cal. Code Regs. title 23 section 2200 –and a technical report including, but not limited to the information requested in Attachment C of this Order. Dischargers of CMUs subject to individual WDRs issued by the Regional Water Boards are not required to enroll under this Order if the requirements of the individual WDRs are more protective than those prescribed in this Order.

The underlined language above appears to eliminate the flexibility afforded in the previously cited section by in effect establishing a minimum standard for existing WDRs of “more protective than those prescribed in this order.”

Furthermore, Section E.3. Design Specifications, Tier 3, reads:

Tier 3: This tier is applicable to any CMU for which the Discharger proposes to discharge or is actively discharging either (1) Tier 1 feedstocks (limited to “agricultural material”, “green material”, “paper material”, “vegetative food material”, or any combination of these feedstocks) in volumes greater than 12,500 cy; or (2) any

feedstocks or combination of feedstocks specified in Finding No. A.4.a of this Order in any volume, to any storage or composting area at a CMU, and advocating that: (1) existing containment structures and/or current management practices at the CMU are equally protective of the waters of the state, as those specified for Tier 2 CMUs (Design Specifications, section E.2 of this Order); and (2) current management practices at the CMU minimize the potential emergence of leachate.

The underlined language above appears to establish a standard of “equally protective” based upon containment structures and management practices, but does not appear to allow for consideration of factors such as depth to groundwater, natural soil permeability, precipitation levels, evaporation in this determination. If it does not allow for consideration of such factors, then the apparent flexibility provided by this language is illusory at best.

In effect, it appears that there are at least three different and conflicting standards being promulgated in this order: “equally protective,” “more protective,” and “in an appropriate manner.”

The draft order also contains significant ambiguities. For example, Section A.4.b., Exempt Composting Activities, specifies certain activities that are conditionally exempt from the order, including:

vii. Stabilized Compost Areas at CMUs, provided the Discharger maintains these areas to comply with the requirements contained in Design Specifications section E.1.

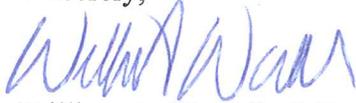
It is not clear from this language whether this exemption only apply to the Tier 1 feedstocks or all feedstocks identified in A.4.a. and whether the Tier 1 volume limits still apply to such exempt materials. Based upon a telephone conversation between our consultant, John Cupps and Mr. Roger Mitchell, we have been lead to believe that the intent of this conditional exemption is that it applies to all feedstocks listed in Section A.4.a. and that the volume limitations specified in Section E.1 do not apply. We respectfully submit that clarifying language is needed to express that intent. We would also note that this interpretation appears to conflict with later provisions. For example, Section A.4.d., Threshold Volumes reads:

To be consistent with the numeric thresholds used by the California Department of Resources Recycling and Recovery (CalRecycle) for notification and registration tiers, the State Water Board will use a value of 12,500 cubic yards (cy) for the total volume, on site at any time, of any combination of feedstocks, additives, amendments, active or stabilized compost as the numeric threshold used as part of the tier assessment under this Order

Furthermore, In light of this interpretation, we would respectfully submit that anaerobic digestate which meets the definition of stabilized compost and which contains no free liquids should qualify for composting at a Tier 1 facility.

In closing, we would respectfully submit that the draft order needs significant more work to ensure that it provides sufficient flexibility and clarity to allow for the most cost effective approaches to protecting the waters of the state. We therefore request that the Board direct its staff to continue to work with stakeholders to further refine the draft order before bringing it forward to the Board for consideration of adoption.

Sincerely,



William A. Worrell P.E.