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COMPOST
PRODUCERS**
"We Build Healthy Soil"



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March 2, 2015

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

Subject: Comment Letter – General Order for Composting Operations

Dear Ms. Townsend:

The Association of Compost Producers (ACP) is pleased to offer this letter of comments and recommendations on the State Water Resources Control Board, General Order for Composting Operations. ACP is a non-profit association of over 100 public and private organizations dedicated to increasing the quality, value and amount of compost being used in California. We do this by promoting activities and regulations that build healthy soil, benefiting both people and the environment.

In general, ACP members find both the process and content of the Compost Operations General Order wanting in a number of specific areas. We see that these flaws exist in both the *process* of promulgating this new regulation as well as in the *content* of the regulation itself. However, we are heartened by the open public process, and the Water Board's willingness to work closely with industry to address our concerns. Additionally, we feel that, by continuing to work closely and openly with Water Board staff, that we can adequately address these concerns, as outlined in our recommendations in this letter.

Process:

We fully understand that other organics recycling industry representatives have asked the Water Board, over a decade ago, to consider a "waiver" (or General Order) to take some of the guess work out of permitting compost production operations that is typical of the Waste Discharge Requirement (WDR) process, required of all industrial facilities within this state. Yet as we have engaged in this process, we find that this approach has some serious flaws. For example:

- Facility Parameters are too varied: Given the significant variability in size, weather, soil types, depth to ground water, feedstock types, etc., of compost sites and operations, that compost facilities throughout the state are a poor candidate for this type of regulatory approach. These facilities are not suited to a "one size fits all" approach to potential ground water protection.

- No Evidence of a Problem in Dryer Climates: Since the start of this process, and especially in dryer climate regions (e.g. all of Southern California, which handles about 2/3 of the organic recycling in the state), there has been no evidence presented that shows there is any movement of potential contaminants, through the soil column, into the groundwater. So the question still remains, why is an onerous, monolithic, statewide regulation being sought or considered as needed? This is especially true when there is no evidence that such protection is necessary to oversee the material managed in the state?
- Not collaborative or responsive: Our Association representatives have been engaging in this process since it began during the Fall of 2011. We have attended multiple meetings where we raised specific concerns and recommendations that have only been partially addressed by Water Board staff. Not only that, the Water Board staff that has been assigned to this process has "turned over" three times during this process. And while we have made multiple verbal and many written recommendations, Water Board staff has yet to address the data, the cost or the operational concerns we have repeatedly presented.
- Policy goal is to increase compost production & use, not limit it: The Water Board, along with the regulated community, are keenly aware of the State's 75% recycling goal, which by most estimates will require an addition 50 to 100 newly permitted compost facilities, and Anaerobic Digester facilities, or more-likely some cost effective combination by 2020. However, the current one size fits all approach will seriously establish yet another roadblock to the State achieving this goal.

Content:

There is specific language contained in the proposed General Order that still needs to be addressed, and doesn't seem to relate to the specific realities of organics recycling in general. While we have raised these concerns in previous meetings, we have yet to receive either an evidence-based, or reasoned response as to why they can't be incorporated into the General Order language.

- Chip & Grind Operations Excluded: We have stated over the years that we do not see the evidence or logic for excluding chip & grind operations from this General Order. Every compost facility has a chip & grind operation at the front end of their operations process. If this management area is to be managed through this General Order process, we see absolutely no reason for excluding stand-alone chip & grind operations from this process as well. ACP continues to work with local counties, e.g. Riverside County, which has had other contamination issues with this material. We would like to work with all agencies at the local level (air, water and solid waste) to make sure that what contamination and pollution control regulations apply to all organics feed stocks and products on as level playing field as possible, so that the environmental regulations do not inadvertently favor one product over another. This including not only chip & grind mulch, but also compost, biofertilizers and biochar. All of which start with various combinations of organic residual feedstocks of green material, biosolids, manure and foodscraps. Again, we make the firm recommendation that the chip & grind operations not be exempted from this General Order as a reasonable starting point.
- Clarification of the WDR Process and/or Exemption: The question of whether or not existing composting facilities within the footprint of a Regional Board-approved WDR are actually included in the General Order." This is another important example of a specific item which has yet to be addressed adequately by the Water Board.
- Demonstrated Contamination: The regular occurrence of groundwater contamination directly resulting from compost operations has not been adequately demonstrated. For example, at one major facility in the south San Joaquin Valley where ground water monitoring has taken place continuously for the past 20 years, *there is no evidence of any "contaminated" water whatsoever moving through soil beneath the facility and into the groundwater basin.* Compost facilities are not by nature infiltration basins, and therefore do not need to be set up

- with impervious surfaces in most locations, especially throughout Southern California. This condition was not fully accounted for in the currently proposed regulatory language. In fact, compost is routinely used as a water filtration medium as a best management practice to filter both groundwater and surface water. This best management practice is in fact used in many thousands of locations, and the states waters are very adequately protected by the healthy soil layer and compost.
- Digestate percentages are arbitrary: The Water Board has arbitrarily picked a number of no more than 10-30% digestate shall be incorporated into compost, and yet there is no evidence that this is consistent with sound, well established composting practices. Also, if the digestate has undergone its own PFRP (Process to Further Reduce Pathogens), and meets other Title 14 regulations, there is no sound evidence for any arbitrary limit on use of digestate in composting. These should be regulated by the usual compost production parameters, of pile moisture, C:N ratio, aeration, etc.
 - Economic analysis not including liner costs: The economic analysis was limited in scope and contained flawed assumptions. Only 8 facilities were polled, which does not adequately capture the industry. Moreover, the underlying assumption was that major paving would not be required, which is not realistic. The proposed General Order would require paving of work surfaces, which is the most expensive mitigation measure, potentially adding millions of dollars to the development cost of a composting facility. The economic analysis needs to be readdressed to capture the real economic costs of the proposed General Order.
 - No waste water additives: The fact that wastewater additives (particularly fats, oils and greases) are eliminated, has no basis in facility operations best management practices. Many facilities truly need this water, and without any countervailing evidence that this ever gets into as much as the upper soil layers, much less migrating any deeper, makes their elimination seem capricious and arbitrary.
 - New trash policies: There has been no acknowledgement or explanation regarding how the Water Board's new Trash Policy plays into, and positively or negatively affects the General Order Process. Industry participants need to understand *from the Water Board*, how these two pieces of regulation relate to each other prior to implementation of either.
 - CalRecycle Title 14/27 not considered or explained: The Water Board staff knows that CalRecycle is currently undergoing a Title 14/27 revision process. In fact, based on our industry meetings with Water Board staff last week, understand that the Water Board and CalRecycle are having regular talks. We heartily applaud this interagency collaboration. However, the industry stakeholders are not currently in a position to lock down specific recommendations until all the current compost regulations are revised and finalized. Otherwise the current General Order may not make sense without Title 14/27 being settled, as those are the core regulations for compost operations.

These, as well as a large number of specific wording changes, in the detailed elements of the regulatory language, need to be explicitly addressed. Once these larger content issues have been addressed, then we can circle back and address some of the specific issues, that may be obviated by amending some of these more general issues. We provide a continuing process in our recommendations to address these concerns.

Recommendation:

While we do agree that there are serious flaws in both the process and content of the General Order, we also believe that with a concerted and collaborative effort, it is possible to remedy the current situation within the Water Board's existing timeline for this General Order. We make the following urgent recommendations to do so:

- Engage in a transparent working process to address the specific flaws that we see in both the content and process of these regulations with key industry stakeholders including, but not necessarily limited to, the following:

Association of Compost Producers

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- Association of Compost Producers representatives
- Other industry representative associations and councils
- CalRecycle
- Agricultural industry and government stakeholders
- Specific wording outlined in the industry coalition letter has been put forth, and through the above process over the coming few weeks, we are willing and able to be part of offering specific language that addresses some of the key issues we have outlined above, including, but not limited to:
 - Alternative Requirements and Specifications for Pond Installation
 - Additives and Amendments
 - Food Material Definition
 - Compliance Schedule Timeline
 - Economic Impact
- Collaborate with Water Board staff through this transparent, multi-stakeholder process, to:
 - Address the process deficiencies outlined above
 - As best as possible, make sure that the General Order is in harmony with the new Title 14/27 revisions, emerging Air District regulations and local county organic management and regulatory issues
 - Modify the approach to content changes to make the GO regulations *more fair to all types of organic recycling facilities* and *less onerous on all industry players* so they are not penalized by a few of the sensitive site and weather geographic conditions at those sites.

Again, thank you very much for the opportunity to provide this important input of the compost producer industry experience and perspective. We remain ready and willing to work with the Water Board to enhance both the California organic recycling industry and local sustainable economy, while protecting the ever more precious waters of California.

Sincerely,



Dan Noble, ACP Exec. Dir.
Jeff Ziegenbier, ACP President

CC:

Members, State Water Resources Control Board
Secretary Matt Rodriguez, California Environmental Protection Agency
Director Carroll Mortenson, CalRecycle
Cliff Rechtschaffen, Martha Guzman, Graciela Castillo, Office of Governor Jerry Brown