

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF WATER QUALITY  
AUGUST 4, 2015**

**ITEM 8**

**SUBJECT**

CONSIDERATION OF A PROPOSED RESOLUTION TO CERTIFY AN ENVIRONMENTAL IMPACT REPORT AND ADOPT GENERAL WASTE DISCHARGE REQUIREMENTS FOR COMPOSTING OPERATIONS.

**DISCUSSION**

The State of California currently disposes an estimated 35 million tons of waste annually in landfills, of which 32 percent is compostable. Composting organic material yields environmental benefits by recycling nutrients and diverting materials from landfills. Assembly Bill No. 341 enacted in 2011 established a policy goal that not less than 75 percent of the solid waste generated in the state be source-reduced, recycled, or composted by 2020. The California Department of Resource Recycling and Recovery (CalRecycle) developed a plan to increase the diversion of compostable material. Therefore, it is expected that the number of composting operations in California could be doubled or tripled in order to meet the 75 percent diversion goal. A statewide order for composting operations will result in a streamlined and efficient permit process, will reduce permitting delays, and will allow the Regional Water Quality Control Boards (Regional Water Boards) the ability to be more responsive to the expected increase in the number of composting operations.

Water Code section 13260 states that any person discharging waste or proposing to discharge waste, within any region that could affect the quality of waters of the state must file a report of waste discharge with the appropriate Regional Water Board. Water Code section 13263 states that the State Water Board or a Regional Water Board may prescribe general Waste Discharge Requirements (WDRs) for a category of discharges that meet specified criteria. State Water Resources Control Board (State Water Board) staff has developed the proposed General Waste Discharge Requirements for Composting Operations (General Order) to provide a transparent regulatory framework for existing and new composting operations statewide which also allows the dischargers to have a better understanding of the regulatory requirements as they plan construction of new facilities.

The proposed General Order provides for an exemption of composting operations that receive, process, and store less than 500 cubic yards of allowable materials at any given time. Also exempt are composting operations that receive, process, and store less than 5000 cubic yards of allowable materials per year and implement the management practices specified in the proposed General Order. The proposed General Order has a two-tiered system, for composting operations covered by the General Order, which is based on volume, type of feedstock, and hydrogeological conditions. It is the intent of the State Water Board that Regional Water Boards will enroll all eligible composting operations under this General Order. Existing Dischargers covered by individual WDRs or a conditional waiver of WDRs may continue discharging under that authority until those orders expire or come up for renewal. New composting operations will be required to seek coverage under the General Order by filing a Notice of Intent and technical report with the appropriate Regional Water Board.

The public comment period of the proposed Environmental Impact Report (EIR) and proposed General Order began on January 13, 2015 and ended on March 2, 2015. Public notice of the draft EIR and General Order was transmitted by U.S. mail to all 58 county clerks for a 45-day posting of the California Environmental Quality Act (CEQA) notice, owners and operators of all known composting operations, and all known interested stakeholders. A legal notice was published in six newspapers with the largest circulation in geographic areas across the state, automated e-mail messages containing the public notice were transmitted to Lyris lists related to Composting, and the notice was published on the State Water Board's web site.

A public workshop was held on February 13, 2015 and two follow-up focused stakeholder meetings were held on February 24 and 26, 2015. Written comments on the draft EIR and the General Order were received and reviewed, and the draft EIR and the General Order were revised where appropriate.

A board workshop was held on June 16, 2015 to provide information on the proposed changes to the proposed General Order in response to public comments, discuss major stakeholder concerns, and to receive public input in advance of the consideration for adoption. The State Water Board also heard information and comments regarding management of green waste in California including the relationship between the land application of un-composted green waste, the General Order, and the state's policy of 75 percent recycling, composting, and source reduction by 2020.

## **POLICY ISSUE**

Should the State Water Board certify the EIR and adopt General Waste Discharge Requirements for Composting Operations?

## **FISCAL IMPACT**

None.

## **REGIONAL BOARD IMPACT**

If adopted, the General Order will be available to the Regional Water Boards to use for composting operations that meet the eligibility criteria in the General Order.

## **STAFF RECOMMENDATION**

Staff recommends that the State Water Board approve the resolution to certify the Environmental Impact Report and adopt General Waste Discharge Requirements for Composting Operations.

<p>State Water Board action on this item will assist the Water Boards in reaching Goals 1, 2, and 6 of the Strategic Plan Update 2008–2012, to protect and restore all surface waters, protect groundwater quality in high use basins, and enhance consistency across the water boards. In addition as stated in Assembly Bill No. 685 (2011–2012 Reg. Sess., chaptered September 25, 2012, ch. 524, Stats. 2012.), “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.” This General Order protects water quality in accordance with Assembly Bill 685.</p>
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## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2015-

### CALIFORNIA ENVIRONMENTAL QUALITY ACT ENVIRONMENTAL IMPACT REPORT GENERAL WASTE DISCHARGE REQUIREMENTS FOR COMPOSTING OPERATIONS

#### WHEREAS:

1. Composting is the biological decomposition of organic materials by microorganisms under controlled aerobic conditions to create a product (e.g. soil amendment, fertilizer, soil blend, etc.). Organic materials comprise a wide range of material types: grass, leaves, branches, prunings, stumps, wood waste, agricultural wastes, manure, food, and biosolids.
2. Compost can be a valuable soil amendment that improves soil tilth and plant health, increases soil water holding capacity, reduces runoff, adds beneficial microorganisms, adds organic matter, and may help to sequester carbon. Sustainable soil practices such as composting may help to conserve organic resources, and may reduce the use of inorganic soil conditioners, fertilizers, and pesticides.
3. Composting is one of a combination of sustainability practices promoted under the California's Healthy Soils initiative to ensure that agricultural soils have adequate organic matter or carbon content to be sustainable and resilient to climate change impacts. Soil with higher organic carbon content may also contribute to carbon capture by retaining carbon dioxide and methane greenhouse gases.
4. Composting materials may contain nutrients, metals, salts, pathogens, and oxygen-reducing compounds that have the potential to degrade or pollute water quality if run-off or wastewater is allowed to migrate into groundwater and/or surface water. The process of composting can allow contaminants to migrate with leachate or wastewater that contacts these materials.
5. Water Code section 13260, subdivision (a) requires that any person discharging waste or proposing to discharge waste, other than to a community sewer system, that could affect the waters of the state, shall file a report of waste discharge with the appropriate Regional Water Quality Control Board (Regional Water Board) containing information about the nature of any proposed discharge, existing discharge, or material change in an existing discharge.
6. Water Code section 13263, subdivision (a) requires the Regional Water Board to prescribe waste discharge requirements (WDRs) addressing any proposed discharge, existing discharge, or material change in an existing discharge. The WDRs implement relevant water quality control plans that have been adopted, and take into consideration beneficial uses to be protected, water quality objectives reasonably required for that purpose, other waste discharges, and the need to prevent nuisance.

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7. Water Code section 13263, subdivision (i) states that the State Water Resources Control Board (State Water Board) or a Regional Water Board may prescribe general WDRs for a category of discharges if the State Water Board or Regional Water Board finds or determines that the following criteria apply to the discharges in that category:
  - a. The discharges are produced by the same or similar operations;
  - b. The discharges involve the same or similar types of waste;
  - c. The discharges require the same or similar treatment standards; and
  - d. The discharges are more appropriately regulated under general WDRs than individual WDRs.
8. The State Water Board has determined that discharges at many composting operations may be more appropriately regulated under General Waste Discharge Requirements (hereafter General Order).
9. The objectives of the General Order include the following:
  - a. Protection of water quality by adopting requirements consistent with provisions of the Water Code, division 7 to ensure protection of beneficial uses of the state's waters from these operations.
  - b. Support California's Healthy Soils Initiative by streamlining the permitting process for composting operations and providing statewide regulatory consistency and interagency coordination.
  - c. Support California's diversion goal to recycle, compost or source reduce 75 percent of solid waste being disposed of in landfills by 2020 by diversifying the types of feedstocks allowed under the General Order.
10. The number of composting operations in California could be doubled or tripled in order to meet the state's 75 percent diversion goal. The statewide General Order for composting operations will provide a streamlined and efficient permit process, reduce permitting delays, and allow the Regional Water Boards to be more responsive to the expected increase in the number of composting operations.
11. For purposes of the General Order, "composting operations" are defined as the area at which operations are conducted, including the receiving area, pre-processing, processing, curing and storage areas, detention ponds, and other areas associated with the production of compost including storage areas for feedstocks, additives or amendments.
12. The General Order being considered by the State Water Board will apply to composting operations that process more than 500 cubic yards (cy) of green material, food material, paper, agricultural material, manures, and biosolids treated by composting to produce a product. These materials could affect the quality of waters of the state; the General Order would establish a notification and permit review process for private and public entities or persons performing composting operations.

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13. Composting operations covered under the General Order are classified into tiers based on type of feedstocks, volume, and site hydrogeologic conditions. Tier I facilities maintain less than 25,000 cy of materials and accept lower-threat feedstocks; Tier II facilities have more than 25,000 cy of materials, and allow higher-threat feedstock materials such as manure and biosolids. Specifications and requirements for Tier II facilities are greater than Tier I facilities, relative to an increased threat from greater volumes and materials.
14. Certain composting-related activities are unlikely to degrade water quality and are therefore exempt from this General Order: agricultural composting, chipping and grinding operations, lot clearing by local agencies for fire protection, activities within a fully enclosed vessel, and operations with less than 500 cy of materials on site at any given time. Operations less than 5,000 cy per year of allowable Tier I and Tier II materials that completely cover all materials during rain events, and manage water to prevent leachate are also exempt from this General Order.
15. Composting operations that, in the judgment of a Regional Water Board, could not affect the quality of waters of the state are not required to file a report of waste discharge and are not required to obtain coverage under the General Order or individual WDRs. In making a determination of no potential threat to water quality, Regional Water Boards may consider a combination of factors, including beneficial uses of water, rainfall, depth to groundwater, and soil type.
16. The adoption of the General Order involves a discretionary action by the State Water Board; therefore, the General Order is considered a project subject to environmental review pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereafter CEQA).
17. The State Water Board, acting as the lead agency for this project, prepared an Environmental Impact Report (EIR), in accordance with title 14, California Code of Regulations, section 15080 et seq. The EIR presents the State Water Board's analysis of potential environmental impacts or consequences, directly or indirectly resulting from actions that composting operations are expected to take to comply with the General Order.
18. The State Water Board identified potentially significant environmental impacts associated with construction or operational activities to comply with the General Order at composting operations. The EIR discusses potentially significant impacts associated with Agriculture and Forestry, Biological Resources, Cultural Resources, Geology and Soils, Minerals, Hazardous Materials, Hydrology and Water Quality, Noise, Public Services, Utilities, Energy, and Transportation. Due to the site-specific nature of these impacts, the potential significance is uncertain and is contingent on site-specific conditions and circumstances within the jurisdiction of local land use authority and other public agencies. The environmental analysis and conclusions of those agencies would be considered to supersede the generalized discussion in the EIR.
19. Many of these potentially significant impacts would likely occur in the absence of adoption of the General Order for Composting Operations. Therefore, for the purposes of disclosure and fully informed decision-making, the EIR also presents a discussion of the possible environmental impacts of composting operations that are unrelated to the General Order.

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20. The EIR also identifies potential mitigation that could feasibly be implemented to alleviate, minimize, or avoid any potentially significant environmental impacts. However, with the exception of water quality impacts, the State Water Board does not have authority to require implementation of mitigation for any specific site, nor are these suggested measures within the authority of the State Water Board. Therefore, such impacts may be significant and unavoidable. However, mitigation that is specified or required by an agency with appropriate jurisdiction and authority may have the potential to reduce findings of significant and unavoidable to less than significant with mitigation.
21. The State Water Board has identified potentially significant impacts related to hydrology and water quality. Mitigation measures have been incorporated into the General Order pursuant to Public Resources Code section 21081.6(b), and monitoring and reporting requirements have also been incorporated into the General Order pursuant to Public Resources Code section 21081.6(a)(1), and in accordance with CEQA Guidelines sections 15091 and 15097.
22. The State Water Board evaluated cumulative impacts and proposed alternatives to the General Order, in accordance with CEQA Guidelines section 15130. These impacts and proposed alternatives are discussed in the EIR.
23. The EIR included an analysis of economic considerations to evaluate the likelihood that some facilities may cease operations due to additional costs to comply with the General Order. The economic considerations analysis concluded the increased costs would not threaten the economic viability of compost operations subject to the General Order. The analysis also concluded that composting operations would be unlikely to raise their prices to the point where they would be unable to compete with landfills.
24. The economic considerations analysis revealed that the additional costs have the potential to create a hardship for small composting operations. Therefore, a provision was added to the General Order allowing a conditional exemption for small composting operations (less than 5,000 cubic yards) that: (1) cover materials during rain events, and (2) manage process water to prevent leachate.
25. Development of statewide WDRs for composting operations has progressed over a number of years. In 2009, the State Water Board, in consultation with California Department of Resources, Recycling, and Recovery (CalRecycle), began developing regulatory concepts for water quality protection at composting operations, and held a joint public workshop to exchange and receive input from composting operations. Between 2009 and 2012, the State Water Board held a number of informal workgroup meetings and public workshops that included input from Regional Water Boards, state and local agencies, and stakeholders. State Water Board prepared and planned to present a Mitigated Negative Declaration (MND) for the General Order at the November 2012 Board meeting. In response to stakeholder comments, the MND was removed from the agenda.
26. Beginning in January 2013, the State Water Board began preparation of a full draft EIR and resumed preparation of the General Order. The State Water Board convened an interagency workgroup meeting that included CalRecycle and Regional Water Boards, and held public informational meetings in southern California and northern California. The State Water Board staff held a scoping meeting on August 23, 2013 in Sacramento, California to solicit input from agencies and interested parties on issues to be addressed

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in the EIR. The scoping meeting included a description of the meeting's purpose, proposed requirements, an overview of the environmental review process and preparation of the EIR, and a public comment period.

27. The State Water Board circulated the draft EIR and General Order dated January 6, 2015, for public comment on January 13, 2015. The deadline for submission of written comments was 12:00 noon on March 2, 2015.
28. Public notice of the draft EIR and General Order was transmitted via U.S. mail to all known owners/operators of existing composting operations, known stakeholders, and all 58 county clerks for a 30-day posting of the CEQA notice. A legal notice was published in six newspapers with the largest circulation in geographic areas across the state, and automated e-mail messages containing the public notice were transmitted to individuals who subscribe to the Lyris electronic lists related to Composting. The General Order, EIR, and associated documents were posted at the State Water Board's internet webpage, [http://www.waterboards.ca.gov/water\\_issues/programs/compost/](http://www.waterboards.ca.gov/water_issues/programs/compost/).
29. The EIR (SCH# 2015012021) was submitted to the State Clearinghouse on January 13, 2015, to be distributed to selected state agencies (Department of Conservation; Department of Fish and Wildlife, Headquarters; Department of Parks and Recreation; Department of Water Resources; Department of Resources, Recycling and Recovery; Department of Food and Agriculture; Air Resources Board; State Water Board: Division of Drinking Water; State Water Board: Division of Water Quality; State Water Board: Division of Water Rights; Department of Toxic Substances Control; Native American Heritage Commission) for review. None of the state agencies submitted comments to the Clearinghouse by the close of the review period.
30. The State Water Board held a public workshop on February 13, 2015 in Sacramento to provide information, answer questions and listen to comments from the public and stakeholders on the draft EIR and General Order. The State Water Board hosted two informal, focused stakeholder meetings on February 24 and 26, 2015. Additionally, the State Water Board held a workshop on June 16, 2015 to provide information on the proposed changes to the General Order in response to public comments, discuss major stakeholder concerns, and to receive public input. During the workshop, the State Water Board directed staff to provide clarifying information and make changes to the General Order.
31. **Statement of Overriding Considerations:** The State Water Board has duly considered the EIR, which identifies potentially significant and unavoidable impacts resulting from adoption and implementation of the General Order. Consistent with CEQA Guidelines section 15093, subsection (a), specific overriding economic, legal, social, technological or other benefits outweigh the potentially unavoidable adverse environmental impacts. The State Water Board makes this statement of overriding considerations concerning the General Order to explain why the benefits override and outweigh any potentially unavoidable impacts. Use of compost products may contribute to alleviating impacts of drought conditions, soil erosion, and reducing greenhouse gases. The General Order provides a statewide, coordinated and consistent approach to permitting new, existing, and expanding composting operations while ensuring continued protection of surface water and groundwater quality. The State Water Board finds that potentially significant, unavoidable environmental impacts that may directly or indirectly result from adoption of the General Order are acceptable in light of the benefits set forth above, and that each of

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the benefits constitute an overriding benefit warranting approval of the General Order independent of the other benefits, despite each and every potentially unavoidable impact.

32. The documents and other materials that constitute the record of proceedings on which the State Water Board findings are based are located at State Water Resources Control Board, Division of Water Quality, 1001 I Street, 15th floor, Sacramento, California, 95814. The custodian for these documents is the Division of Water Quality.
33. The General Order does not become effective until a Notice of Determination, along with payment of applicable fees as required by the Department of Fish and Wildlife (<https://www.wildlife.ca.gov/Conservation/CEQA/Fees>), has been filed with the Governor's Office of Planning and Research, State Clearinghouse.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Hereby finds there may be potentially significant impacts to agricultural resources, air quality and greenhouse gases, biological resources, cultural resources, geology/soil resources, hazards and hazardous materials, hydrology and water quality, noise, public services and utilities, and transportation and traffic. Mitigation measures are discussed in the EIR that, if implemented, have the potential to reduce or eliminate those impacts. With the exception of impacts related to hydrology and water quality, the State Water Board does not have authority to require implementation of mitigation for any specific site. However, in accordance with California Code of Regulations, title 14, section 15091, subdivision (a)(2), "*such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.*" Therefore, findings of significant and unavoidable impacts may have the potential to be reduced to less than significant with mitigation, if mitigation is specified or required by another agency with appropriate jurisdiction and authority.
2. Directs State Water Board and Regional Water Board staff to convene interagency work groups with CalRecycle, to review the state of regulatory oversight of land application in California, launch an expanded education and outreach program regarding land application of uncomposted green waste, and take enforcement action as needed to address any potential threat of unregulated land application of uncomposted green waste and to provide periodic status updates and progress reports to the State Water Board.
3. Directs State Water Board and Regional Water Board staff to continue to engage in California Healthy Soils Initiative, along with the California Department of Food and Agriculture (CDFA), California Department of Resources Recycling and Recovery (CalRecycle), California Environmental Protection Agency, and the California Natural Resources Agency and its associated departments and to provide periodic status updates and progress reports to the State Water Board.



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4. Directs State Water Board staff to report on the status of enrollment and compliance with the General Order, within two years of the adoption of this order. The report should include the number of facilities enrolled under the General Order, and information about each facility's compliance approach, plans, issues, and status.
5. [Certifies that the EIR](#), which consists of the revised draft EIR and responses to comments received on the draft EIR, has been completed in compliance with CEQA guidelines. The State Water Board has reviewed and considered the information contained in these documents, which reflect the State Water Board's independent judgment and analysis.
6. Directs State Water Board staff, within five (5) working days, to file a Notice of Determination, along with payment of applicable fees as required by Department of Fish and Wildlife, to the Governor's Office of Planning and Research, State Clearinghouse, at 1400 Tenth Street Sacramento, CA 95814.

## CERTIFICATION

The undersigned Clerk to the Board hereby does certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on August 4, 2015.

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Jeanine Townsend  
Clerk to the Board