



SF Environment

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A Department of the City and County of San Francisco

March 2, 2015

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
commentletters@waterboards.ca.gov



RE: Comment Letter - General Order for Composting Operations

Dear Ms. Townsend:

The City and County of San Francisco Department of the Environment appreciates the opportunity to provide these comments on the Draft General Waste Discharge Requirements for Composting Operations (“Draft Order” or “Order”). We appreciate and support State Water Board staff efforts and time to strike a balance between the protection of water quality and the recognition of the State’s important legislative goal to achieve 75% diversion of solid waste from landfills by the year 2020 through source reduction, recycling, and composting and recently adopted legislation mandating commercial organics diversion from landfill.

As the City and County of San Francisco has been at the forefront initiating cutting- edge composting programs and is committed to helping the state and our climate benefit from increased composting, we hope that the State Water Board will consider our comments as well as other comments brought forth by the composting industry and partners. Moreover, we encourage the Water Board to continue conversations with all stakeholders as the Order will have lasting impacts to California’s efforts to divert organics from landfills.

While the Draft Order provides useful guidance to the Regional Water Boards in permitting composting operations, we believe some of the language should be clarified so as not have any unintended consequences. In that vein, this letter seeks to be as specific and constructive as possible and offer alternative language where appropriate.

- **Finding 37., pg 8:** The timing provisions for allowing existing composting facilities to come into compliance with the new requirements of the Order are essential to providing a reasonable and feasible framework for the operational modifications and capital improvements that will be needed to meet these requirements. It is critically important that these timing provisions apply consistently throughout the state. Composting operations provide important benefits to the community, state, and environment, including meeting the State’s diversion goals and reducing greenhouse gas emissions that would result from the disposal of compostable materials in landfills. These benefits could be lost if individual Regional Water Boards do not provide sufficient time for compliance through the issuance of

site-specific Waste Discharge Requirements (“WDRs”) adopted for existing composting facilities in lieu of applying the Order. The Order should be revised to provide that the six year timeframe set forth for existing facilities to achieve compliance shall not be revised through the issuance of site-specific WDRs in lieu of enrollment under this General Order. Additionally, the Order should make clear that, pending the compliance period under the Order, enforcement actions should not be taken against an existing composting facility for not yet achieving compliance with the Order’s requirements.

- **Finding 31.g., pg. 7:** The Order should clarify that runoff from composting operations is not considered to be “designated waste.”

- The Order requires composting operations to be setback at least 100 feet from the nearest surface water body. The Order should clarify that this requirement does not apply to stormwater management systems, including conveyance systems, sedimentation ponds or storage ponds, or appurtenant facilities, as they are not considered “water bodies.” Additionally, the Order should clarify that the setback requirement does not apply to existing facilities, as these facilities should be grandfathered. Finally, the Order should specifically acknowledge that an engineered alternative, such as berms, ditches, and swales, may be allowed if these measures effectively isolate the compost operations runoff and protect water quality. Specific places in the Order where this revision may be applicable include, but are not limited to:
 - **Finding 28.b., pg. 5**
 - **Finding 48, pg. 10**
 - **Definition of “Distance to Nearest Surface Water,” pg. A-4**

- **Finding 35, pg. 7:** The Order should delete use of the word “misdemeanors.” The imposition of criminal liability for “failing to furnish the reports by the due date” seems unduly harsh and serves no public policy purpose that could not be met by the issuance of a Notice of Violation and/or imposition of a fine.

- Minimal ponding and incidental liquids that occur as part of the normal compost process or remain after rainfall do not indicate inadequate slope or site design. Additionally, seepage at the toe of compost piles that is collected by the runoff control system does not indicate that groundwater infiltration is occurring. The Order should be revised to clarify that it does not seek to treat such incidental water or ponding as a violation of the Order, given that the design will be graded to drain and collect all runoff for beneficial reuse. Specific places in the Order where this revision may be applicable include, but are not limited to:
 - **Finding 49.a., pg. 11:** The last sentence should be revised to say, “Tier II facilities must have a pad designed to comply with a hydraulic conductivity standard to limit infiltration of liquids to the subsurface at working surfaces, drainage ditches, and wastewater detention ponds, except where Table 3 standards for percolation are met.”
 - **Design, Construction, and Operation Requirements 1, pg. 18**

- **Specification 4.f., pg. 17:** The Order appears to prohibit sewage sludge and water treatment (filter cake) composting. It is essential that the Order allow the reuse of treated POTW wastewater and compost facility runoff. The Order should clarify that it does not intend to prohibit beneficial reuse of these materials.
- **Prohibition 9, pg. 17:** Use of manure and/or biosolids is integral to the startup and operation of certain anaerobic digestion (AD) systems. The Order seems to prohibit or unduly restrict all biosolids in composting systems since CalRecycle regulated AD facilities as compost facilities.
- **Additional Requirement 8, pg 26:** Purchase agreements often hinge on the transferability of existing permits, entitlements, and approvals. The Order should be revised to delete the phrase “nor create a vested right for the owner and operator to continue the regulated activity.” The current wording may impair or prevent the right to sell or transfer the compost operation.
- **Definitions, Attachment A:** Many definitions listed in Attachment A and used in the Order make substantial departures from existing provisions in the California Public Resources Code (see California Public Resources Code Section 17852). The Order should be revised to reconcile these definitions so as to be wholly consistent with fully promulgated and final California State regulations at Titles 14 and 27, as amended, including the terms in the Water Board’s Industrial General Permit.
- **Use of Compost:** Compost as used in the Order, includes curing and final product. Final product should be distinguished from active compost as it is suitable for use at homes or in agriculture and so does not pose a contamination threat. Please delete “final product” throughout the Order from the definition of “compost.” These instances include, but are not limited to:
 - o **Finding 8, pg. 1**
 - o **Prohibition 1, pg. 16**
 - o **Specifications 3 and 4, pg. 18**
 - o **Definition of “Containment Structures,” pg. A-3:**
 - o **Definition of “Process Wastewater,” pg. A-7**
- **MRP, Attachment B, Section A.1.c., pg. B-2:** Throughout the wet weather annual survey requirements that are to be included in the Annual Report, there is reference to items of “deficiency/non-compliance.” The Order should be revised to clarify that if these items are identified by August 31st and corrected by October 31st, then they are not considered to be deficient or non-compliant.
- **Economic Impact Analysis:** The Economic Considerations provided in Appendix D is lacking sufficient information in some key, but critical areas, which significantly underestimate the cost impacts of these WDRs. The economic analysis assumes “initial capital investments of approximately \$25.2 million in retention ponds, monitoring wells, and drains”; this analysis disregards the reality that a significant number of compost facilities will be required to install operating pads in order to meet water quality objectives, at a total cost many multiples higher than the low estimate provided. It is a significant omission to conclude that there will be no economic impact from construction of operating pads due

to these new standards. The economic analysis fails to discuss the costs of wastewater treatment and/or disposal that will be incurred by facility operators following the implementation of these WDRs.

We thank you again for your time and efforts. We look forward to future collaboration as we work toward a final Order. If you have any questions regarding this letter, please do not hesitate to contact me at 415-355-3751 or at jack.macy@sfgov.org.

Sincerely,

Jack Macy
Zero Waste Senior Coordinator