Californians Against Waste

Conserving Resources. Preventing Pollution. Protecting the Environment.

March 02, 2015

Public Comment
General Order for Composting Operations
Deadline: 3/2/15 by 12:00 noon

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

RECEIVED
3-2-15
SWRCB Clerk

Re: Comment Letter – General Order for Composting Operations

Dear Ms. Townsend:

Californians Against Waste appreciates the opportunity to comment on the proposed general order for composting facilities. This order has been a long time in the making and we grateful for the time and effort the Board staff has dedicated to this effort. While the order has improved since its introduction, we remain concerned about the impacts that this order will have on the composting industry and the inherent environmental impacts from reduced composting in California. We hope to work with members of the Board and the administration on a strategy to maximize water quality protections, while ensuring the ongoing economic viability of the composting industry.

Californians Against Waste is a statewide membership-based public interest environmental organization representing over 5,000 active members. As an environmental organization, Californians Against Waste strongly supports efforts to appropriately manage and regulate all decomposition of organic materials to achieve the highest and best use of these materials and protect public health and the environment.

We support the State Board's interest in moving forward with uniform statewide standards for composting facilities. However, we are concerned about the negative impacts on existing and future composting operations that could result from the adoption of overly burdensome requirements that are not appropriately tailored to address the environmental risks and benefits at issue. In particular, if the standards in the General Order are not carefully crafted, they could reduce the number of composting facilities and the amount of compost production throughout the State. This would result in increased disposal of organic materials in landfills or direct land application of this material, which, in turn, would cause significant air quality, water quality, and other environmental impacts.

Scientific analyses by the California Air Resources Board and the United States Environmental Protection Agency show that landfill disposal of organic materials generates significantly greater greenhouse gas emissions than composting operations. Moreover, composting provides additional environmental benefits by minimizing the use of chemical fertilizers and pesticides; improving soil conditions to lessen erosion and runoff; reducing agricultural energy and water usage; minimizing the consumption of limited landfill capacity; and reducing the need for long-haul truck trips to transport organic materials to landfills.

We've had the opportunity to discuss many specific issues over the course of this rulemaking, but we would like to bring your attention a few high level issues that remain unresolved:

www.cawrecycles.org 921 11th Street, Suite 420 Sacramento, CA 95814 Phone: (916) 443-5422 Fax: (916) 443-3912

Cost of Pads and Ponds

Our largest concern remains the significant cost burden of constructing pads and ponds to meet the requirements of the Order. We urge you to work with stakeholders to identify opportunities to reduce these costs.

In a letter to the State Board, dated September 12, 2012, the California Department of Resources Recycling and Recovery ("CalRecycle") – the state agency charged with overseeing California's vital efforts to reduce, recycle, and reuse the waste it generates – emphasized the danger that overly stringent requirements imposed by the State Board would "suppress the growth of new composting facilities and may cause some existing facilities to go out of business."

CalRecycle expressed doubts as to whether composters could raise their rates to cover the increased costs without losing organic feedstocks to landfilling, land application, or even illegal dumping. CalRecycle also emphasized the critical need to expand, rather than hinder, the State's composting infrastructure to meet the 75 percent source reduction, recycling, and composting goal of AB 341. While the costs imposed under the order have been reduced somewhat since that time, we believe the same concern still the costs of the order will still have the potential to significantly hinder the composting industry.

Moreover, the Board has yet to identify why the pond and pad requirements in the Order need to be as onerous as they are. Smaller ponds, for instance, would drastically reduce the cost of compliance while providing a similar level of groundwater protection, especially for facilities that only handle Tier 1 feedstocks (but might exceed the size limits for Tier 1).

Similarly, the Board should consider increasing the hydraulic conductivity requirements for the pads and ponds for greenwaste-only facilities to reduce the cost of compliance for facilities that do not pose a major risk.

EIR Alternatives Analysis

The Alternatives Analysis done as part of the EIR was unnecessarily dismissive of the "Increase Hydraulic Conductivity Pad Requirement Alternative." The Board's own analysis supports the selections of this alternative from both an environmental and economic perspective.

The analysis finds that the higher hydraulic conductivity would be either equal or more environmentally protective under every criteria other than groundwater contamination. From the EIR (emphasis added):

> *Under the Increase Hydraulic Conductivity Pad Requirement Alternative, the General Order would be implemented with a minimum hydraulic conductivity design requirement of 1 x 10-4 cm/s or 1 x 10-3 cm/s. It is anticipated that this alternative would have similar impacts as the project to aesthetics, agriculture and forestry, biological, cultural, geology, soils, minerals, hazards and hazardous materials, land use, noise, population and housing, and public services and utilities.*

Impacts resulting from compost operation construction (new or modifications) would potentially be less for air quality, traffic, and transportation due to meeting the less stringent hydraulic conductivity requirements. The less stringent standards increases the range of potential soil types likely to meet the requirements, therefore increasing the likelihood that existing and new composting pads may meet the standard with minimal construction. Less construction results in less emission of criteria pollutants from heavy equipment, less greenhouse gas emissions, and less traffic on the roads.

Impact from this alternative is anticipated to have a greater effect on water quality. As described in Chapter 11, several studies concluded that composting nutrient rich feedstocks on coarse textured soils can create elevated nitrates in shallow groundwater. The alternative of allowing a hydraulic conductivity value of 1 x 10-4 cm/s or 1 x 10-3 cm/s represents the lower level for sands, which is a coarse-textured soil type. Because this alternative increases the probability of degrading groundwater, it is expected to have a greater negative impact on water quality than the project.

The impacts on water quality cited in the third paragraph (which are the basis for rejecting this alternative) are explained as being "described in Chapter 11." We have not been able to find an analysis in Chapter 11 that showed the composting of the materials covered under this order would have a greater ground water impact when composted on coarse textured soils. The only relevant reference we could find in Chapter 11 was citation to a Kennedy/Jenks study from 2007, which does not actually show groundwater impacts from facilities composting the materials covered under this regulation.

This alternative needs to be reevaluated. We believe upon a second review, the board will find that this alternative does, in fact, meet the requirements of the Board with a lower environmental and economic impact.

Economic Analysis

The economic analysis that accompanied the Order is flawed in several ways, but two major issues have jumped out at us. First, the costs of improving pads to meet the requirements of the rule were not included in the analysis. This appears to be a major component of the cost and it is not accurate to assume that the cost will not be applicable to any facilities because they will all use the groundwater monitoring alternatively. Second, the profit margins and economics of composting seem incongruent with the composting facilities that we are familiar with (especially the smaller ones and publicly-owned facilities).

These issues give a distorted impression of the impacts of the regulation. The economic analysis needs to be amended to reflect the real costs of the regulation and the true economics of composting to allow the Board to accurately weigh the costs and benefits of individual components of the Order.

Timing

The timing provisions for allowing existing composting facilities to come into compliance with the new requirements of the General Order are essential in 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. This could be undercut if individual Regional Water Quality Control Boards do not provide sufficient time for compliance through the issuance of site-specific Waste Discharge Requirements that are adopted for existing composting facilities in lieu of applying the General Order.

The Order should be amended to explicitly identify that the timing in this General Order will serve as a minimum for all parts of the state, and composting facilities should not be subject to enforcement ahead of the timelines established in the rule.

Reducing the Environmental Impacts of the Order

While not explicitly part of the existing order, we urge the Board to work with us and other stakeholders to take an incentive-based approach to achieving the water quality goals that we share. In order to insure the ongoing viability of the composting industry (and all the underlying environmental benefits), the state should fund a significant portion of the compliance costs of the Order. We would love to work with the Administration (and, if necessary, the Legislature) to pursue something akin to the ARB's successful Carl Moyer program to achieve California's multiple goals in this sector.

Please do not hesitate to contact us regarding this proposal or any of the other content in this letter.

Nick Lapis, *Legislative Coordinator*
Californians Against Waste

CC:

Members, State Water Resources Control Board
Secretary Matt Rodriquez, California Environmental Protection Agency
Director Caroll Mortenson, CalRecycle
Cliff Rechtschaffen, Martha Guzman-Aceves, Graciela Castillo-Krings, Office of Governor Jerry Brown