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SOLID WASTE MANAGEMENT COMMITTEE/
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August 9, 2012

Mr. Ken Decio
Senior Integrated Waste Management Specialist
Department of Resources
Recycling and Recovery
1001 I Street
Sacramento, CA 95812-4025

Dear Mr. Decio:

**COMMENTS REGARDING CALRECYCLE'S INITIAL DISCUSSION DRAFT
REGULATORY REVISIONS TO TITLE 14
ISSUE 3 - ON SITE STORAGE AND 12,500 CUBIC YARD LIMIT**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force appreciates the opportunity to review CalRecycle's Regulatory Revisions to Title 14, Issue 3, regarding the on-site storage and 12,500 cubic yard limit, dated July 3, 2012, (copy enclosed) and has the following comments.

Issue 3

"Agricultural material and green material composting operations are limited to 12,500 cubic yards of off-site-generated green material being stored on-site at any one time. Some stakeholders have indicated that they are unable to meet seasonal demand for their products as a consequence of the regulatory restrictions on accumulated materials. Staff proposes providing the Enforcement Agency (EA) with discretion to authorize an operator to temporarily store additional material if the EA determines it will not adversely affect public health and safety or the environment."

Comments:

- Redefine agricultural material and green material to have uniform meaning among other regulatory agencies, such as Air Resources Board, the State

Water Resources Control Board, and the California Department of Food and Agriculture, to eliminate ambiguity and regulatory overlap.

- Include standardized requirements for pile size, temperature monitoring, pile separation, and pile setbacks from the facility's property boundaries for review and approval by the EA.
- Section 17856 - Agricultural Material Composting Operations, Subsection (d)(1)(B) states in part, "The operator may request in writing that the EA authorize it to handle more than 12,500 cubic yards of material used for the production of compost on the site... The EA may not prohibit the on-site handling of materials in excess of 12,500 cubic yards unless it makes a written finding that handling the excess material may pose a risk to public health and safety or the environment."

The burden of proof to store additional materials without adverse effects on public health and safety or the environment should be placed on the owner/operator of the facility rather than the EA. As such, the operator must provide the EA with necessary documents for approval substantiating that the storage of additional quantities of material, as specified, will not have adverse impacts on public health and safety and the environment.

The proposal would allow storage of undefined additional material for a period of up to 90 days in a calendar year. In an urbanized area storage of unlimited quantities of materials beyond 12,500 cubic yards is of major concern due to the negative impact on neighboring residents, schools, and the immobile population. As such, Agricultural Material Composting Operations and Green Material Composting Operations and Facilities should not be allowed to be located within a quarter-mile radius of residences, schools, hospitals, senior citizen complexes, and other immobile populations without appropriate measures to mitigate adverse impacts.

- Section 17856 – Agricultural Material Composting Operations. To assist local governments with the effectiveness of their diversion programs, this Section needs to be expanded to include the following new subsection:
 - “Subsection (e) – These sites shall record the quantities of agricultural and green materials received, by jurisdiction of

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origin, and submit the data to the appropriate jurisdictions on a calendar quarterly basis.”

- Section 17857.1 – Green Material Composting Operations and Facilities. To assist local governments with the effectiveness of their diversion programs, this Section needs to be expanded to include the following new subsection:
 - “Subsection (d) – These sites shall record the quantities of agricultural and green materials received, by jurisdiction of origin, and submit the data to the appropriate jurisdictions on a calendar quarterly basis.”

We appreciate you considering our comments and look forward to working with CalRecycle and other appropriate state agencies in developing an effective statewide order for composting facilities. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147 or by e-mail at MikeMohajer@yahoo.com.

Sincerely,



Margaret Clark, Vice-Chair
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force and
Council Member, City of Rosemead

WT:dy

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Enc.

cc: Matthew Rodrigues, Secretary, CalEPA
CalRecycle (Caroll Mortensen, Mark Leary, Howard Levenson, Mark De Bie, Brenda Smyth)
State Water Resources Control Board (Charles Hoppin, Thomas Howard, Lisa Babcock, Roger Mitchell)
California Air Resources Board (Mary D. Nichols)
California Department of Food and Agriculture (Annete M. Whiteford)
Each Member of the Los Angeles County Integrated Waste Management Task Force

California Code of Regulations

Title 14. Natural Resources
Division 7. California Integrated Waste Management Board

DRAFT LANGUAGE FOR DISCUSSION - Provide the EA with discretion to authorize temporary storage of additional material.

Agricultural material and green material composting operations are limited to 12,500 cubic yards of off-site-generated green material to be stored on-site at any one time. Some stakeholders have indicated that they are unable to meet seasonal demand for their products as a consequence of the regulatory restrictions on accumulated materials. Staff proposes providing the EA with discretion to authorize an operator to temporarily store additional material if the EA determines it will not adversely affect public health and safety or the environment.

Proposed language:

**CHAPTER 3.1. COMPOSTABLE MATERIALS HANDLING OPERATIONS AND FACILITIES
REGULATORY REQUIREMENTS**

§ 17856. Agricultural Material Composting Operations.

(a) ~~All Agricultural material composting operations and chipping and grinding operations shall comply with the Enforcement Agency Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with section 18100), except as otherwise provided by this Chapter. Agricultural Compostable Materials Handling Operations shall only be subject to the requirements of section 17863.4 if the EA makes a written determination that the operation has violated the requirements for odor impacts of section 17867 and the requirements of this Chapter.~~

(b) ~~Compost produced by an Agricultural material composting operations are subject to the requirements of section 17863.4 only if the EA determines that the operation or has caused odor impacts in violation of section 17867, subdivision (2) and has notified the operator in writing of the violation. a chipping and grinding operation which uses only agricultural material may be sold or given away in unrestricted quantities. These operations shall be inspected by the EA at least once annually.~~

(c) ~~If their feedstock is limited to agricultural material, agricultural material composting operations may sell or give away any or all compost they produce. These operations shall be inspected by the EA at least once each calendar year at a time. Compost produced by an agricultural material composting operation which uses agricultural material and/or green material, as specified in section 17852(a)(21), may be sold or given away in accordance with the following restrictions.~~

(1) ~~Those sites that do not sell or give away more than 1,000 cubic yards of material per year shall be inspected by the EA at least once annually when actively composting. If more than 12,500 cubic yards of green material, including feedstock, compost, or chipped and ground material, is to be handled on-site of productive farmland as defined in Government Code section 51201, the operator shall give advance notice to the EA. The EA shall only prohibit the on-site storage of additional materials, or impose a greater inspection frequency, if the EA makes a written finding that it will pose an additional risk to public health and safety and the environment. The EA shall forward a copy of the request and approval to the Board.~~

(2) ~~Those operations that sell or give away more than 1,000 cubic yards of material per year, shall have no more than 12,500 cubic yards of green material, including feedstock, compost, or chipped and ground material, on-site at any one time and shall be inspected by the EA once every three (3) months.~~

~~(3) These sites shall record the quantity received of green material.~~

(d) Agricultural material composting operations whose feedstock is both green material and agricultural material are subject to the following requirements:

(1) Small Producers located on Agricultural Land:

(A) Operations located on land that is zoned for agricultural uses that sell or give away less than 1,000 cubic yards of compost per year shall be inspected by the EA at least once each calendar year at a time when compostable material on the site is active compost.

(B) The operator may request in writing that the EA authorize it to handle more than 12,500 cubic yards of material used for the production of compost on the site. The EA shall respond in writing to the operator's request within 14 days of receipt. The EA may authorize such an increase for a limited term it determines is appropriate. The EA may not prohibit the on-site handling of materials in excess of 12,500 cubic yards unless it makes a written finding that handling the excess material may pose a risk to public health and safety or the environment. The EA shall promptly forward a copy of the request and its decision to CalRecycle.

(2) Other Producers:

(A) Operations located on land that is not zoned for agricultural uses and operations that sell or give away 1,000 cubic yards or more of compost per year shall be inspected by the EA at least once every three (3) months unless the EA approves, with CalRecycle concurrence, an operator request for reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year.

(B) Requests for Increased Storage and Handling:

1. The operator may request in writing that the EA authorize it to temporarily handle more than 12,500 cubic yards of material used for the production of compost on the site. The EA shall respond in writing to the operator's request within 14 days of receipt. The EA may authorize such an increase if the EA determines it will not adversely affect public health and safety or the environment. The EA may impose any reasonable conditions on its approval of a temporary increase in site capacity. The initial term for a temporary increase in site capacity may not exceed 30 days. The EA may grant one or more additional 30-day extensions of storage time not exceeding a total of 90 days per calendar year.

2. With its request for an increase in site capacity, the operator shall submit the following to the EA:

a. A description of the storage capacity at the operation and the maximum and average lengths of time the compostable material will be stored.

b. A schematic drawing showing the general layout of the operation and the location(s) where all materials at the site are stored with specific identification of the proposed location of the excess material.

c. A description of any additional fire prevention, protection and control measures needed to minimize the risk of fire from the temporary increase in site capacity and to control and extinguish any such fires, which measures shall be approved by the local fire authority.

d. Where applicable, any revisions to the odor impact minimization plan necessary to address the storage of the additional material or a statement, with supporting information, that no revisions are necessary.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

§ 17857.1. Green Material Composting Operations and Facilities.

(a) A green material composting operation ~~that has up to~~ may have no more than 12,500 cubic yards of feedstock, compost, ~~or~~ and chipped and ground material on-site at any one time. Green material composting operations shall comply with the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with section 18100)- and with the applicable requirements specified in this Chapter.

(1) These operations shall be inspected by the EA at least once every three (3) months unless the EA approves, with CalRecycle concurrence, an operator request for reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year.

(2) The operator may request in writing that the EA authorize it to temporarily handle more than 12,500 cubic yards of feedstock, compost, and chipped and ground material on the site. The EA shall respond in writing to the operator's request within 14 days of receipt. The EA may authorize such an increase if the EA determines it will not adversely affect public health and safety or the environment. The EA may impose any reasonable conditions on its approval of a temporary increase in site capacity. The initial term for a temporary increase in site capacity may not exceed 30 days. The EA may grant one or more additional 30-day extensions of storage time not exceeding a total of 90 days per calendar year.

(A) With its request for an increase in site capacity, the operator shall submit the following to the EA:

1. A description of the storage capacity at the operation and the maximum and average lengths of time the compostable material will be stored.

2. A schematic drawing showing the general layout of the operation and the location(s) where all materials at the site are stored with specific identification of the proposed location of the excess material.

3. A description of any additional fire prevention, protection and control measures needed to minimize the risk of fire from the temporary increase in site capacity and to control and extinguish any such fires, which measures shall be approved by the local fire authority.

4. Where applicable, any revisions to the odor impact minimization plan necessary to address the storage of the additional material or a statement, with supporting information, that no revisions are necessary.

~~(b) A green material composting operation that has up to 12,500 cubic yards of feedstock, compost, or chipped and ground material on-site at any one time shall be inspected by the EA at least once every three (3) months, unless an operator request for a reduced inspection frequency of no less than annually is approved by the EA. The EA shall only approve a lesser inspection frequency, if the EA finds that it will not pose an additional risk to public health and safety and the environment. The EA shall forward a copy of the request and approval to the Board.~~

(e)(b) A site that handles green material composting facility that has more than 12,500 cubic yards of feedstock, compost, ~~or~~ and chipped and ground material on-site at any ~~one~~ time is a green material composting facility, excepting green material composting operations which the EA has authorized to temporarily exceed 12,500 cubic yards pursuant to subdivision (a)(2) above. Green material composting facilities shall obtain a Compostable Materials Handling Facility Permit pursuant to the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 4, Subchapter 1 and Subchapter 3, Articles 1,2,3, and 3.1 (commencing with section 21450) prior to commencing operations. Green material composting facilities shall comply with the applicable requirements specified in this Chapter 3.1.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

§ 17862.1. Chipping and Grinding Operations and Facilities.

(a) A chipping and grinding operation that receives up to 200 tons per day of material that may be handled by a green material composting operation shall comply with the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with section 18100), ~~except as otherwise provided by~~ and the applicable requirements specified in this Chapter.

(1) Chipping and grinding operations shall be inspected by the EA at least once every three (3) months unless the EA approves, with CalRecycle concurrence, an operator request for reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year.

(b) A chipping and grinding facility that receives more than 200 tons per day but not more than 7, and up to 500 tons per day of material that may be handled by a green material composting operation shall obtain a Registration Permit pursuant to the requirements of Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0, prior to commencing operations and shall comply with the applicable requirements of this Chapter.

(c) A chipping and grinding facility that receives more than 500 tons per day of material that may be handled by a green material composting operation shall obtain a Compostable Materials Handling Facility Permit pursuant to the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 4, Subchapter 1 and Subchapter 3, Articles 1,2,3, and 3.1 (commencing with section 21450) prior to commencing operations and shall comply with the applicable requirements of this Chapter.

(d) A chipping and grinding operation or facility shall not be subject to the provisions of sections 17868.1 through 17868.3 of this Chapter.

(e) If a chipping and grinding operation or facility exceeds the contamination limits specified in section 17852 (a)(21), it shall be regulated as set forth in the Transfer/Processing Regulatory requirements (commencing at section 17400).

(f) If a chipping and grinding operation or facility stores material for a longer period of time than is allowed by section 17852 (a)(10)(A)(2), ~~then the site it~~ shall be regulated as a green material handling operation or facility, as set forth in this Chapter.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.