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Upper Valley Recycling

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May 6, 2015

Mr. Ken Decio

Senior Integrated Waste Management Specialist  
Department of Resources Recycling and Recovery  
1001 I Street  
PO Box 4025

Sacramento, CA 95812-4025

**Re: CalRecycle Proposed Compostable Materials, Transfer/Processing Regulations**

Dear Mr. Decio:

Once again, the California Compost Coalition appreciates the opportunity to comment on CalRecycle's proposed Title 14 and 27 revisions regarding Compostable Materials Handling and Transfer/Processing Regulations, and our participation in the entirety of the informal workshops and meetings conducted to date. CCC commends and supports CalRecycle in its efforts to update the existing regulations regarding compostable materials and transfer/processing facilities in order to address the changing nature of organic waste handling throughout California, as well as safely enable the needed growth in diversion of this waste stream to meet the 75% Initiative, Strategic Directive 6.1, and other sustainability goals of the state.

We have reviewed the Proposed Regulation Text, released for an additional 15-day comment period on April 21, 2015, that has been provided for this rulemaking. We are especially supportive of the changes made to draft language provided for a majority of the issues being addressed, as they resulted from our comments and participation in both your robust informal rulemaking process and the formal process, in many cases. However, we have significant concerns about a few remaining key issues and are hopeful that our comments will result in further revisions to the proposed text prior to the conclusion of this formal rulemaking process.

**Physical Contamination Limits**

We are highly supportive of the proposed limits on physical contaminants allowed in compost products (currently set at 0.5%, by weight) and look forward to helping develop the proper sampling and field testing protocol that are needed. However, we do not believe that the proposed implementation deadline of January 1, 2018 is achievable, strongly supporting our recommended January 1, 2020 date. We have concerns that these contamination limits will be implemented during a time of great turmoil and uncertainty in the compost market, as the hundreds of programs, in nearly every jurisdiction, as required under AB 1826, begin collecting and

processing food and other organic materials from thousands of generators who have little or no experience in doing so. As has been identified by members of the CalRecycle team, a monumental effort in outreach and education, with extensive monitoring and continuing support, will be required by jurisdictions, haulers, processors, and composters – in conjunction with regulators – to get the AB 1826 efforts off the ground. Additionally, thousands of tons of green materials will be moving from current use as alternative daily cover at landfills, adding to the new, potentially-contaminated sources of incoming feedstocks at composting and anaerobic digestion facilities. We do not believe that the requisite controls on feedstock contamination

We believe that the implementation schedule for the proposed physical contamination limits could cause significant financial stress to composters statewide, stifling industry growth at one of the more critical points in its history, when multiple policy directives point to approximately 10 million tons of organics being removed from landfills over the next decade, at the same time as tremendously increasing the demands on organics processing and composting companies to provide service. It is unclear that many of the dozens of food waste composting operations will have adequate time to fund, purchase, and install the necessary processing equipment that will likely be necessary to clean physical contaminants from finished product to meet the new standard in barely more than two years from the rule adoption. Please allow composters adequate time and opportunity to implement changes in order to meet this stringent, new standard.

#### **Chipping/Grinding Operations and Facilities and Land Application**

CCC is not supportive of the current language related to land application, believing the practice needs additional restrictions. Land application continues to undermine potential feedstock sources for our industry, while increasing the potential for spreading pathogens, physical contamination, and invasive pests throughout the state. §17852 (a)(24.5)(A)(5) requires that the operator provide verification of compliance with sampling and testing requirements for metals, pathogens, and physical contaminants; this section is vague and needs to be modified to include specific language that any and all sampling and testing results related to compliance with this subsection be subject to the General Record Keeping Requirements found in §17869.

We understand that chipping and grinding operations and facilities have restrictive time limits for the storage of materials onsite; however, this time limit need not impact their ability to receive and retain lab results after tested materials have shipped, in order to verify compliance, as noted above, when needed. Additionally, current language suggests that chipping and grinding operations would only be required to sample and test materials upon EA request; we do not support a lower standard for sampling and testing at chipping and grinding operations, as the materials they produce are processed to a much lower level than compost, and represent a significantly higher threat for the spread of pathogens and/or invasive pests. Chipping and grinding operations and facilities should be subject to the same materials sampling and testing requirements as composting operations and facilities. If the CalRecycle goal is to protect the public health, safety, and the environment – as is stated repeatedly in the ISOR – there appears no logical basis for lesser testing requirements for non-composted materials versus composted materials. A typo is apparent in §17862.1 (a)(1)(d) which states “the operator shall analyze at least one composite sample of compost”; we believe this is inappropriate for this section.

Additionally, the new proposed language in §17852 (a)(24.5)(A)(4)(b) appears to allow up to 36” of compostable materials and/or digestate to be applied on land zoned for agricultural uses in three applications per 12 month period. This effectively triples the previous 12” annual allowance and is wholly contrary to compost industry needs to maintain cost competitive feedstock streams while, at the

same time, tripling the aforementioned potential threats to the environment. We certainly hope that is not CalRecycle's intent at that this section can be rewritten to provide more sensible guidelines.

#### **Odor Best Management Practice Feasibility Report**

CCC supports this additional odor management regulatory process which would require operators to fully evaluate odor sources on their sites, with an eye on developing appropriate, effective mitigation measures for nuisance odors. While we understand that this new Odor Best Management Practice Feasibility Report would be required at a critical time in the compliance and enforcement process for an odor issue, it is highly infeasible that such a report be produced within 14 days, if the goal is to produce a comprehensive plan that may represent the operator's last, best chance to survive. Unless the odor issue is a proven threat to public health and safety – which is rarely the case – we see no good reason why allowing 60 days for proper development and submittal of this report should be a problem.

#### **Dairy Digesters**

The new proposed language in §17896(a)(3)(B) provides an exclusion for operators who annually sell or give away less than 1,000 cubic yards of compost produced from digestate. It requires that digestate not composted may not be given away or sold. This allows for operators who pay to have digestate – no matter how little that payment – to be land applied without being composted. We would ask that the language be revised to limit the exclusion to include materials for which the operator may pay to land apply the digestate.

#### **Research Composting and In-Vessel Digestion Operations**

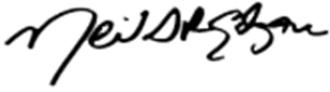
CCC is in full support of Research Composting and In-Vessel Digestion Operations as a necessary option for the development of innovative technologies and processes that allow these young industries to expand in a more environmentally-friendly manner. Many of our members have taken advantage of Research Operations to help them advance our understanding and adoption of feasible technology options that are now employed across the industry.

We believe the future of some new technologies may be in jeopardy, or innovation may be stifled at some levels, if the proposed regulations are adopted to include a maximum of four years for an individual research operation. Many new technologies – particularly for potential in-vessel digestion options – come with a significant capital investment, with prices for infrastructure and equipment reaching into the tens of millions of dollars for even the smallest volume operations. Operators seeking to “kick the tires” on many of the technology options that are likely the future of organics processing will have a difficult time developing loans, grants, and other financing for a project with a two-year lifespan, let alone justifying the expense. Even the potential for the EA to extend the research operations for a second, and final, two years is onerous and represents a barrier to project development. We would recommend that the limit of two, two-year periods be removed, with current language retained which leaves the time limit at the discretion of the EA.

#### **Conclusion**

CCC looks forward to improvements to the proposed regulations which allow for continued industry growth, provide a level playing field with competitive operations, and set standards that are attainable, yet still provide reasonable protection of the public health, safety, and the environment. Our members operate permitted operations and facilities and have concerns about inconsistent enforcement of current regulations which has often left them at a competitive disadvantage. Given the expectation of tremendous industry investment to meet the imminent policy mandates to be implemented over the next few years, we are hopeful that enhanced enforcement mechanisms can be developed and employed that will keep the composting industry thriving and make our efforts worthwhile.

Sincerely,

A handwritten signature in black ink, appearing to read "Neil S.R. Edgar". The signature is written in a cursive, flowing style with some loops and flourishes.

Neil S.R. Edgar  
Executive Director