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November 25, 2014

Mr. Ken Decio
Waste Permitting, Compliance, and Mitigation Division
California Department of Resources Recycling and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025

Dear Mr. Decio:

Thank you for the opportunity to provide comments on the proposed CalRecycle Composting Regulations. The California Air Pollution Control Officers Association (CAPCOA) represents all 35 air pollution control officers in the State and is dedicated to improving public health and providing clean air for all of California's residents.

We understand the amendments, as proposed, are beneficial in that they provide a pathway to meeting the 75% diversion goals by 2020 as established in AB 341. The intent to reduce emissions, inclusive of Greenhouse Gases (GHGs) and co-benefit emission reductions, is important to the overall goals of the amendments. It should be noted, however, that these amendments do not relieve facilities of the obligations established in existing or future regulations by other agencies, including air districts and water control boards. In this light, CAPCOA appreciates the Notes and References in the proposed regulations that notify potential owners, operators, and/or designees of the obligations to obtain the necessary permits from other agencies, including those from air quality management and air pollution control district.

To meet the waste diversion goals, CAPCOA realizes that there will be a range of composting operations from uncontrolled open composting through in-vessel digestion operations. CAPCOA has concerns over the amount of Volatile Organic Compounds (VOCs) and odors generated from open composting and strongly supports promoting well controlled, in-vessel digestion operations. CAPCOA believes most landfills are well-controlled and, although they have the potential for higher GHG emissions, do not contribute significant amounts of VOCs or odors.



The ISOR indicates in-vessel composting promotes a reduction in greenhouse gas emissions. However, there is little documentation in the ISOR to quantify greenhouse gas reductions or to specify the basis for comparison to substantiate this claim. We recommend CalRecycle include the calculations and basis for the claimed GHG reductions as an attachment to the ISOR to account for other types of emissions (increased or decreased) as a result of employing the digester technology.

CAPCOA would like to recognize and strongly support the numerous requirements in the proposed regulations that require odorous materials to be containerized or otherwise enclosed and encourage CalRecycle to not lessen these requirements in response to others' comments.

CAPCOA has the following comments and concerns regarding the specific sections of the proposed regulations:

Odors and Nuisance: CAPCOA believes the best solution to minimizing odor issues is proper siting of these facilities and encourages CalRecycle and lead agencies to involve the local air districts in the initial environmental reviews and site evaluations. In the proposed regulations Section 17852 (27.5), the definition of a "nuisance" is being clarified as anything indecent or offensive to the senses and interfering with the enjoyment of life or property is a "nuisance." However, a "nuisance" exists only if it affects, at the same time, an entire community, neighborhood, or considerable number of persons. While air districts are cognizant about triggering enforcement action from a single complaint without just cause, CAPCOA suggests the requirement that a nuisance affect an entire community or neighborhood may broaden the "burden of proof" of nuisance too much, such that "nuisance" is not determined except in extreme cases. Although Health and Safety Code Section 41700 and 41705 requires air districts to redirect complaints to the local enforcement agencies, these sections have established regulatory language for determining "nuisance." The criteria for nuisance in HSC Section 41700 allow for flexibility and balance in determining nuisance conditions and are currently used in air quality enforcement. Air districts will continue to have a significant role in receiving odor complaints and determining nuisance conditions. CAPCOA supports strengthening the language in the proposed regulation.

Recommendation: Remove the "entire community or neighborhood" provisions from the definition and include the following language from HSC Section 41700: "discharging quantities of air contaminants or other material that cause injury, detriment, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property".

Relaxation of specific metal limits: The proposed regulations revise threshold limits for various metals for beneficial land application in coordination with US EPA revisions to national standards. Specifically, limits were raised for selenium and the limits for chromium compounds were removed. CAPCOA understands that these thresholds may conflict with existing regulatory limits for defining hazardous waste in the Department of Toxic Substance Control (DTSC) regulations. This is a concern in that if compost is applied and later determined to be a "hazardous waste" the DTSC may require removal and disposal of the soils. Some air districts regulate remediation

activities in order to control fugitive emissions, especially those containing toxic air contaminants, and require those operations to possess an Authority to Construct (a type of air permit). Discrepancies in different agencies metals limits may be used to thwart the beneficial use of compost and allow preventable post-application problems.

Recommendation: Ensure the proposed limits are consistent with thresholds within DTSC (and any other applicable agency) regulations.

Seasonal Storage Compliance: Pursuant to Section 17857.1, facilities are allowed, at the EA discretion, to increase the holding time (seasonal storage) for materials by as much as 90 days provided the materials are stable and there is no indication of adverse impacts to health and the environment.

Recommendation: Provide criteria for such determinations, such as photographs, enforcement/compliance histories, conditions or parameters of the pile, etc.

Odor Impact Minimization Plan: The provisions building up to and including an Odor Impact Minimization Plan (OIMP), Section 17863.4, are ambiguous and do not provide specific guidance.

Recommendation: Provide clear, specific guidance for developing the OIMP.

Biogas Control: Proposed Section 17896.19 requires in-vessel operations to “minimize” fugitive emissions. CAPCOA is concerned that local permitting requirements for many facilities will require controls and practices beyond those typically associated with “minimizing” emissions. We suggest the following language to indicate to the regulated community that other agencies may require more stringent measures.

Recommendation: Edit the proposed language to read: “The operator of an in-vessel digestion operation or facility must take adequate measures ~~precautions to prevent~~ minimize the uncontrolled release of biogas that may have harmful effects on site users and the general public.”

On-site Digestate Composting: Section 17896.57 prohibits on-site aerobic composting of digestate except at large volume, in-vessel composting operations that have obtained the required permit. CAPCOA has concerns this requirement will tend to discourage the development of in-vessel digestion. In particular, Yolo-Solano AQMD is aware of an in-vessel digestion operation within its jurisdiction that desires to compost the resulting digestate despite only qualifying as a medium volume in-vessel digestion facility.

Recommendation: Suggest revising this to allow approval for medium volume facilities or those with review and approval by the lead agency.

In addition, we suggest clarifying language to several other proposed sections:

Section 17863.4: “Upon submittal of the Plan by the operator, the EA, within a specified time, shall approve or not approve the Plan. If not approved, then the operator shall resubmit an approvable

Plan within a specified amount of time.” and “The items in subsection (b) should be required to be contained in the Plan and be implemented upon approval of the Plan.” (As opposed its being “guidance” and the operator having the option to explain why certain procedures are not necessary.)

Section 18302: *In subsection (d), add a requirement that the “EA shall contact and interview the complainant.”*

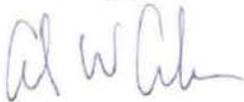
Section 18302: *In subsection (d)(3)(B): Add a phrase to the requirement: “Verify the odor event at the complainant’s location and ascertain by various means, including by interviewing the complainant, if the odor is interfering with the complainant’s use and enjoyment of the property.”*

Need for other Agency Permits: The proposed revisions acknowledge that other requirements may apply from other agencies (i.e., air districts and regional water quality control boards), but should further mention requirements such as permits, the potential requirements for air pollution control devices, and the applicability of New Source Review for criteria pollutants and air toxics.

Recommendation: Include additional language to indicate other media regulations may apply which may include, but are not limited to, permits, additional air pollution and water pollution controls, etc.

Again, thank you for the opportunity to provide comments on the proposed regulations. If you have any questions please contact Ken Koyama, Executive Director, at (916) 441-5700. We look forward to working with you on this issue.

Sincerely,



Alan W. Abbs
President