

**Inland Empire Disposal Association**  
**Los Angeles County Waste Management Association**  
**Solid Waste Association of Orange County**

December 5, 2014

Via email: [compost.transfer.regs@calrecycle.ca.gov](mailto:compost.transfer.regs@calrecycle.ca.gov)  
and First Class Mail

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

Re: Proposed amendments to CCR Title 14

Dear Mr. Decio

I am writing on behalf of the organizations listed above to express their concerns regarding that portion of the proposed regulations that would establish a 0.1% contamination limit for compostable material that is applied to land. As several industry representatives have repeatedly and consistently stated during the informal process of vetting these regulatory changes, such a standard is not attainable. Unless it is replaced with a contamination level that is achievable, it will mean the end of land application of compostable materials. This, in turn, will cause a significant decline in reported diversion levels for nearly every local agency in the Southern California, perhaps resulting in some jurisdictions failing to meet their AB 939 disposal reduction requirement.

For reasons that are well known to regulators and businesses alike, in Southern California the demand for permitted compost operations/facilities far exceeds supply. As a direct consequence of this lack of composting capacity, most of the organic material collected by waste haulers in the region is land applied rather than composted. Indeed, the above organizations informally estimate that as much as 80% or more of all compostable material that is generated in the counties of Los Angeles, Orange, Riverside, San Bernardino, and San Diego is currently land applied.

Southern California waste haulers were early and consistent supporters of legislation, including the recently enacted AB 1826 (Chesbro), that would result in further diversion of organic material from landfills, chiefly because they believe that such laws will encourage, albeit indirectly, the development of the additional composting facilities, infrastructure and markets

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that Southern California sorely lacks. Additional infrastructure is needed now just to meet the demands of existing law.

The problem will only be compounded by the adoption of an artificial contamination standard that will effectively deprive generators of the land application alternative. When one also considers, alongside the proposed 0.1% contamination limit, the dual impacts of more organics coming out of landfills as a result of AB 1826 and AB 1594, it's clear that steps must be taken at once to avert a rather significant capacity shortfall problem in the very near future.

The 0.1% threshold reportedly originated with a Ventura County pilot program. Not much more is known about it: we have no information regarding the success of that program, the scientific basis for that number, or evidence indicating it was the subject of a comprehensive analysis of the true economic (cost) impacts, to say nothing of its potential to influence waste diversion/disposal reduction in the region. Several stakeholders (including both waste haulers and composters) who participated in the nearly 18 month informal process that preceded this formal rulemaking have recommended a contamination standard of 1%. At this juncture, several of our members are not fully satisfied that a numeric contamination limit is even necessary. However, if the Department must include one, we would support the 1% recommendation, and urge that it be amended into the draft regulations, at least until such time as there is ample evidence to justify adoption of a different limit.

The issue of cost is also significant to the association members. The Standardized Regulatory Impact Assessment prepared by the Department in connection with these regulations suggests an estimated economic impact (including fiscal impact) of slightly over \$50 million (the "high cost" scenario) by 2015 for the proposed changes in law, growing to \$63 million by 2018. We think those figures are grossly understated. They do not begin to fully account for the upstream costs to acquire land, construct, permit and operate the array of new organics processing facilities that will be required once the land application option is lost.

As any facility operator can readily attest, the cost to enclose a *single* composting facility (the direction in which most air quality regulators appear headed) can often exceed \$10 million. And, at one facility in the Inland Empire where they already had an enclosure, the cost of converting the property (a former IKEA warehouse) into a composting facility exceeded \$60 million (including processing equipment). If CalRecycle staff is correct in its informal estimate that as many as 100 or more additional waste processing/composting facilities will be needed to bring California into compliance with the 75% policy goal expressed in AB 341 (Publ. Res. Code Section 41780.01), it is obvious that the expense of doing so will easily exceed the \$50-\$63 million assessment figure on which the Department now relies. A more accurate figure (using the CalRecycle estimate of 100+ facilities required) is probably closer to \$1 billion. Moreover, these are just the hard costs of new facility development; they assume that suitably zoned and conveniently located property is even available for such purposes. If it is not, then one must also add in a significant transportation cost component as well.

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Against this background, it seems unwise for the State to adopt a physical contaminant limit that has not proven to be achievable. Until this region of the State has the same access to compost facilities and markets that exists elsewhere in California, it makes little sense to add to the burden by imposing a contamination limit so severe that will deprive the region of its only currently viable disposal alternative---the safe land application of compostable materials.

In summary, this regulation will disproportionately impact local governments, ratepayers, and waste haulers in Southern California, and at a cost that is likely to be at least several hundreds of millions of dollars. We respectfully urge that the draft regulation be amended to incorporate a 1% contamination limit for land application, recognizing that the limit may change at some point in the future after a testing protocol is established, should future testing reveal that a different (commercially and technically feasible) limit is appropriate.

In the interim, a more thorough review and economic analysis of the upstream cost impacts of the proposed contamination limit is certainly warranted.

As always, my clients are grateful for this opportunity to comment and appreciate your willingness to consider their point of view on such a vital issue.

Very truly yours,

A handwritten signature in black ink, appearing to read 'KELLY ASTOR', written over a circular stamp or seal.

**KELLY ASTOR**  
General Counsel  
Inland Empire Disposal Assn  
Los Angeles County Waste Management Assn  
Solid Waste Assn of Orange County