



December 4, 2014

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

Dear Mr Decio,

The Central Valley Ag Group (CVAG) of companies welcomes and is appreciative of the opportunity to comment on the California Department of Resources Recycling and Recovery (Cal Recycle) Compostable Materials, Transfer/Processing proposed regulation proposal to amend the California Code of Regulations, Title 14, Division 7, Chapters 1, 2, 3.1, and 5 and create Chapter 3.2; and to amend Title 27, Appendix 1. In response to these proposed changes we kindly ask that you consider our comments regarding the proposed changes that will affect our industry.

Company Background

Since 1996, the Central Valley Ag Group, headquartered in Oakdale, CA, has been committed to providing local dairies and livestock farmers with feed ingredients and services that provide value to their number one cost, animal feed. Our company provides this value through our feed processing services and our value-based feed ingredients, which are sourced from food processors. Products, which are used as ingredients range from various fruit and vegetable pomaces including grape pomace to culled fruit and vegetable products. Many products, which would normally go to landfills, or composting facilities are instead recycled for beneficial reuse as a value-based animal feed ingredient.

Industry Background (Dairy, Livestock, and Animal Feed)

In 2009, the California Dairy Industry was hit especially hard with low milk prices and high feed costs. This squeeze in operating margins caused a large number of family dairies, who were not able to cut their feed costs in order to survive, to fail and file for bankruptcy protection. Many farms that were able to survive were those that utilized value-based feeds similar to those provided by CVAG to reduce feed costs. These value based feeds have spawned a sub-industry within the typical feed and grain mill industry that has been the source of large amounts of job growth and revenue for the local economy. It is a similar transformation to what the Recycling Industry has done when compared to the landfill and waste industry. This Feed By-products sub-industry, which can be defined as the Recycling Industry for food and food by-products, has shown to have strong economic viability in recent years. Today, five years later, the dairy and livestock industry faces additional headwinds as the effects of the current drought and rapid conversion of farm ground into orchards have been realized with shortages of silage required for feed. As dairies and livestock farmers look to value based feed ingredients and by-products to supplement corn shipped from the Midwest and silage grown locally, the by-products industry continues to see both a shortage in supply and an increase in demand.

Economics

When fed to animals, by-products including but not limited to grape pomace, various fruit and vegetable pomaces, culled fruit and vegetables, and pre-consumer food waste provide tremendous value to the farmer and local economy and waste industry through efficiency.

The economics of using food by-products and pre-consumer food waste as animal feed continue to improve due to increasing commodity prices as competition for world resources (water, land, food, energy, and fossil fuels) increases. When used as feedstock for dairy and livestock farmers, by-products offer an interesting perspective on the efficiency of Mother Nature as an alternative to other uses. As feed for animals, the by-products produce three main products that are reintroduced to the food stream; milk, beef, and manure (fertilizer) with the potential to derive further value with new technology using manure as feedstock for anaerobic digestion electricity production.

The trickle down effects of providing dairy and livestock farmers with value-based feeds made from food by-product are seen in innovation and job growth in the dairy and feed industry due to improved margins. The Stanislaus County Department of Environmental Resources has been proactive in supporting the regulation of this industry for this same reason. The local economy has a vested interest in agriculture and farming including the associated jobs and revenues including the supporting roles of that industry including the by-product feed industry.

Current Regulation

Currently, with the purpose of food safety, the Dairy and Livestock feed industry including the by-product Feed Industry is licensed, regulated, and inspected by the California Department of Food and Agriculture (CDFA). Further, the by-product Feed Industry is regulated locally by programs administered by the Stanislaus County Department of Environmental Resources (DER) to ensure public health and safety. Those programs include the Food By-products Processors Program, Food By-products Direct Feed Program, Dehydration Program, and Small Refuse Hauler Program. All programs have been successful in adequately regulating a burgeoning industry.

The complete list of agencies currently regulating the responsible use of food by-products for use as an animal feed ingredient in Stanislaus County includes:

California Department of Food and Agriculture (CDFA)

Stanislaus County Department of Environmental Resources

San Joaquin Valley Air Pollution Control District

State Water Resources Control Board

As part of our responsibility to the industry, CVAG is a member to multiple local industry groups. In this, our primary goals aim to promote a component of self-regulation within the industry by working with local and state agencies to promote the responsible reuse of by-products.

A current list of industry groups with food processing and related by-product safety and responsibility include the Manufacturers Council of the Central Valley and the Stanislaus County Food Processing By-Products Re-Use Committee.

It is our opinion that business participation for industry regulation and standardization is best practice for maintaining industry credibility and responsibility. Our current industry is already regulated by a group of public agencies who have designed programs in conjunction with local businesses and industry leaders to support economic activity while maintaining industry responsibility. We believe strongly that consideration must be given for the existing efforts of local agencies to regulate this industry and not to create an environment of over-regulation, which can easily make compliance efforts onerous for the food processing industry and those sub-industries such as the by-products feed industry that support it.

Applicability

The Central Valley Ag Group along with all similar participants in the food by-product for animal feed industry are currently regulated by local and state agencies which have a vested interest to realize and continue the benefits that using food by-products as dairy and livestock feed provides along with public health and safety. Additionally, land application of food by-products remains a critical component of the industry to maintain balance within the industry as a destination for material unfit for animal consumption.

Recommendation

Based on the information provided herein we recommend the following changes and considerations to the proposed rule change

1. Recognize that the Stanislaus County Department of Environmental Resources through the Food By-product Use Program has created a program which bolsters local revenues and job growth while adequately protecting public health, safety, and the environment through its regulation of activities related to the use and reuse of food processing by-products.
2. Recognize that the California Department of Food and Agriculture through its Food Safety initiatives in conjunction with its Feed inspection program has provided food safety while supporting California's Dairy and Food Processing Industry through regulation of feed manufacturers and food processors.
3. Amend 17852 to provide a definition of a compostable material called "Food Processing By-Products" defined as: solid or semisolid substances derived from agricultural plant material delivered to a food processor for processing that are not utilized in the final product. Food processing by-products include but are not limited to culls, peelings, seeds, under or over ripe food, skins, cores, pomace, puree, hulls, shells, pits, stems, and leaves.
4. Amend 17855 to exclude activities associated with the beneficial reuse of Food Processing By-Products and grape pomace as an activity considered under the definitions of a "Compostable Materials Handling Operation or Facility" or "Agricultural Material Composting Operation" if the beneficial reuse is characterized as an animal feed ingredient. The exclusion shall also include any ingredient used for the raising of livestock or animal husbandry inspected, and regulated by the California Department of Food and Agriculture.