



December 5, 2014

Submitted via email: compost.transfer.regs@calrecycle.ca.gov

Mr. 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 Title 14 and Title 27 Compostable Materials Regulations***

Dear Mr. Decio,

Thank you for the opportunity to provide comments on the proposed revisions to CalRecycle's Compostable Materials Regulations as set forth in Title 14 and Title 27. It is our understanding that the primary purpose of the proposed amendments is to address concerns regarding threats to public health and the environment due to isolated instances of solid waste contamination in compost applied to agricultural lands. However, Horizon Nut is concerned that these proposed regulations will unduly impact best practices and activities currently regulated rather than curtail illegal disposal. Specifically, we are concerned that CalRecycle proposes to redefine food processing byproducts as "waste" and common green waste handling practices as "disposal of solid waste" and regulate the temporary storage and handling of byproducts prior to beneficial reuse.

Horizon Nut operates nut processing facilities that require the removal of orchard waste (sticks, leaves, soil) and hull and shell from the finished product (nutmeats and inshell nuts) resulting in the generation of "byproduct." For decades, Horizon Nut has successfully identified and practiced beneficial reuse of byproducts as an alternative to landfill disposal. In order to generate usable commodities, the byproducts are segregated and handled in a manner that precludes contamination by solid waste streams. The produced commodities have a variety of beneficial uses in the agriculture and energy sectors: 1) green waste material removed from seasonal hulling operations may be returned to farmland for use as a soil amendment or shipped to a composting facility; 2) hull material is separated from the wastewater and either applied to land, shipped to a composting facility, or shipped as animal feed or bedding; and 3) shell material is commonly used for biomass conversion. These activities are already extensively regulated. For example, the application of material to land is regulated by the Regional Water Quality Control Board through the adoption of site-specific Waste Discharge Requirements or categorical waivers and the quality of material sold as feed is demonstrated by a California Feed License. Additionally, multiple agencies have the authority to investigate, regulate and/or cite facilities for nuisance or vector concerns.

As currently drafted, facilities briefly stockpiling or storing byproducts (commodities) may be unnecessarily regulated as "handling facilities." Further, with few exceptions, a Compostable

Materials Handling Facility Permit will trigger applicability of San Joaquin Valley Air Pollution Control District Rule 4566 *Organic Material Composting Operation* requirements. In many cases, the proposed regulation will result in multiple permits for the same operation.

As such, Horizon Nut requests that the necessary changes be made to clarify all definitions and exclusions that would determine who/what processes are bound to this amended regulation. Horizon Nut also strongly urges CalRecycle to reconsider regulating activities presently regulated by other agencies and to exempt nut farming and processing in light of best management practices and in consideration of the hindrance this rule places on crucial byproduct commodities that might otherwise be sent to landfills.

In addition to the concerns and recommendations addressed above, Horizon Nut recommends the following changes and/or requests the following clarifications:

“Agricultural Material” Definition

Horizon supports retaining the existing language in the definition of Agricultural Material [Section 17855 (a)(5)] that includes agricultural production and processing material and expanding the definition to explicitly include material generated during the post-harvest preparation of crops for market or further processing.

Further, Horizon supports striking the proposed addition of the term “waste.” Agricultural Material is defined as waste material, yet the term “waste” is not defined. Including salable feed, bedding and biomass commodities under the definition of “waste” is an overreach of this regulation.

“Agricultural Material Composting Operation” Definition

This definition references compost, which is not defined elsewhere in the regulation and falls short of clearly identifying who is subject to this definition. Initially, this definition reads as though it is only applicable to operations intentionally producing compost, however, it is our understanding that CalRecycle intends for this definition to apply to any operation that *could* produce compost. Clarification is requested.

“Chipping and Grinding Operations and Facilities”

Please clarify that agricultural material such as leaves, sticks, hull and shell that is generated during precleaning activities at food processing operations are not a chipping and grinding operation or facility.

“Compostable Material”

It is our understanding that CalRecycle intends for “Compostable Material” to include any organic material that when accumulated *could* become active compost. Stored food processing byproducts exposed to ambient summer temperatures in the Central Valley could near or exceed the temperature threshold of 122 degrees Fahrenheit as referenced in the definition of active compost and, therefore, might be considered active compost by virtue of ambient temperatures. Please clarify, as we do not believe food processing byproducts awaiting shipment to beneficial reuses to threaten the public health or environment that this regulation is intended to protect.

“Food Material” Definition

Horizon supports clarifying the definition of food material to include commercial or institutional prepared food waste and specifically exclude post-harvest, pre-manufacturing food processing byproducts.

“Land Application” Definition

Horizon Nut supports the explicit exclusion of agricultural material, with the above noted changes, from the requirements for land application. The land application requirements appear to be directed primarily toward biosolids, yet capture “compostable material”, which as discussed above is too broadly defined.

Excluded Activities:

Horizon Nut supports the clarification of Excluded Activities in Chapter 3.1, Section 17855 (a)(1) to include green waste generated during precleaning (after custody transfer) at a food processing facility and returned to the farmland under common control. Further, we understand that this exclusion is intended to exempt traditional agricultural practices. However, as it is written, it only excludes activities associated with the “compost activity,” yet neither farming or processing are composting activities. Therefore, we support revising the language from “compost activity” to “activity.”

Horizon Nut supports expanding the definition of “agricultural operation” in Excluded Activities, Chapter 3, Section 17855 (a)(5)(E) to include food processing operations used to store process agricultural material not used in the production of compost or mulch (i.e. animal feed or bedding, biomass conversion, etc.).

Horizon supports retaining the 17855 (a)(9) exclusion for beneficial use. The RWQCB, through the adoption of WDRs, has determined that many applications of organic material to land are a beneficial use that does not degrade the environment or pose a public nuisance or hazard.

Again, thank you for the opportunity to provide comments on the proposed revisions. Should you have any questions regarding our concerns, please feel free to contact me at (559)685-3663 or via email at ahowe@horizonnut.com.

Best Regards,



Andrew Howe
Director of Operations