



JOINT STATE OFFICE

December 4, 2014

VIA E-MAIL, FAX & U.S. POST

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:

RE: Revision of existing Title 14 and Title 27 regulations regarding compostable materials, transfer/processing, permit application form, and permit exemptions

The California Refuse Recycling Council (CRRC) is a trade association of haulers, processors, recyclers, and composters with members throughout California. Our members have been engaged in organics processing and composting for years, and have strongly supported the revision of the Compostable Materials Handling and Transfer/Processing regulations to address our changing industry.

The CRRC appreciates the opportunity to comment on CalRecycle's proposed Title 14 and 27 revisions regarding Compostable Materials Handling and Transfer/Processing Regulations, and to participate in the series of informal workshops conducted to date. CRRC 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, while protecting public health, safety and the environment.

We have reviewed the Consolidated Draft Regulation Text, as well as the corresponding Initial Statement of Reasons and Standardized Regulatory Impact Assessment (ISOR). We support the majority of the issues being addressed and acknowledge your hard work in this important undertaking. Nevertheless, key issues remain that are of substantial concern to us. We are optimistic that our recommendations concerning these issues will result in revisions to the proposed text prior to the conclusion of the formal rulemaking process.

Issue 1: 0.1% Contamination Level

The CRRC supports an industry achievable contamination level in order to ensure that compost and compostable material that is land applied protects public health and safety and the environment. However, the current proposed level of 0.1% by weight of physical contaminants greater than 4 millimeters is impracticable for two reasons.

First, as the Initial Statement of Reasons indicates, CalRecycle estimates the economic impact of this regulation to be over \$50 million, with the proposed contamination level generating the largest projected costs. With a current estimated market valuation of \$100 to \$120 million for compost and mulch products in 2014, a “high cost scenario” represents a 40% to 50% increase to the total market valuation. This could lead to an increase of \$4-\$5 per ton of material, thereby causing a formidable market disruption which could generate a reduction in available organics processing and composting capacity as potential buyers will seek less expensive alternatives to compost and compostable material. This would occur at a time when the diversion of organics from California landfills is considered crucial in reducing greenhouse gas emissions, as outlined in the AB 32 Scoping Plan and AB 341’s goal of 75% diversion by 2020. Meanwhile, meeting the goals of recently passed AB 1826 (Chesbro) and AB 1594 (Williams) will require widespread growth of California’s organics processing and composting infrastructure. The potential price instability created by adoption of this rulemaking will be detrimental to the ability of operators to garner loan approvals, capitalize new equipment or land purchases, or absorb sales losses, while the industry undergoes a massive market correction. We need a workable number that is industry achievable and will assist the goals of the State in meeting its environmental objectives.

Second, we believe the proposed physical contamination level is essentially untestable with current lab testing methodology. Interviews with staff at Soil Control Labs, the most widely used laboratory for testing in California, reveal that their current methodology can test to a .5% contamination level at its lowest. Moreover, CalTrans established a new specification of .5% for plastic, glass and metal physical contaminants (% dry weight) in compost on January 16, 2014. This number is also based on research concerning what labs can currently detect. This specification has been in place for less than a year and, therefore, the industry has not had time to fully evaluate it. Additionally, it remains unclear whether this level is actually being applied in practice.

Given the exorbitant cost assumed with the proposed contamination level, as well as the lab testing limitations outlined by Soil Control Labs and Caltrans, the **CRRC proposes a realistic 1% target physical contamination level**. Coupled with this proposed number, we recommend a standardized and repeatable lab protocol be included in the regulations. We believe our proposed contamination level will meet the health and environmental goals of the regulation, be achievable by the industry, and be testable through an appropriate lab protocol.

Issue 2: Odor Management

The new regulations attempt to provide operators and Enforcement Agencies with additional mechanisms to address chronic odor at compostable materials handling facilities and

operations. We recognize that this is an important step in mitigating odor issues, but want to ensure that this framework does not lead to a dual regulatory structure whereby composting facilities will be required to create both an Odor Impact Minimization Plan and a Best Management Practice Feasibility Report. We see the Best Management Practice Feasibility Report as a guidance document, perhaps included in the appendix of the regulations, which LEAs and operators can use in necessary circumstances.

Issue 3: Land Application

As the regulations currently read, those using compostable materials for land application may not apply the material more than once during a 12 month period. We are concerned that some farmers and ranchers may need to apply compostable materials more than once a year in varying amounts, to fit their operational needs for soil fertility and weed suppression. We suggest that a person engaged in agricultural business may apply alternative application frequencies and depths of compostable material to their agricultural operations, but shall not exceed an average of 12 inches in total accumulated depth per year.

Finally, we recommend the formation of an industry committee or working group to assist CalRecycle in addressing the aforementioned issues, and others brought to your attention by stakeholders. This group should include, at a minimum, compost, customer (particularly those involved in agriculture), refuse hauler, State Water Resources Control Board, and Food and Agriculture representatives. We see this group as a means of achieving resolution to the most salient issues, especially as it relates to the physical contamination level and lab testing protocols. We are happy to participate in this collaborative group so that we can attend to industry issues and address the health and safety concerns of the larger regulation.

Again, we would like to thank CalRecycle for the opportunity to provide recommendations to the proposed rule changes. We look forward to working with CalRecycle, and other stakeholders, to finalize workable regulations that meet superior organics management goals in our State.

Sincerely,



Kathryn Lynch
Regulatory Advocate



Ralph Chandler
Regulatory Affairs Director

cc: Mark De Bie, Deputy Director, CalRecycle
Bob Holmes, Manager, Permits and Assistance, CalRecycle
CRRC State Executive Committee Members