WATER RECLAMATION
SOLID WASTE MANAGEMENT

COUNTY SANITATION DISTRICTS
OF LOS ANGELES COUNTY

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Dear Mr. Decio:

Comments on Proposed Compostable Materials, Transfer/Processing Regulations

The Sanitation Districts of Los Angeles County (Districts) appreciate the opportunity to comment on CalRecycle's proposed regulations governing the handling, transfer, digestion, composting, and land application of compostable organic material. The proposed changes to Title 14 of the California Code of Regulations ("Title 14") appear to be the results of a collaborative effort between CalRecycle, the State Water Resources Control Board (SWRCB), and the California Department of Food and Agriculture (CDFA).

Now that AB 1826 (Chesbro) and AB 1594 (Williams) have been signed by the Governor, significantly more organic waste will need to be diverted from landfills and recycled. Consequently, it is critical that these regulations provide the opportunity to take advantage of existing organics management infrastructure and programs already in place, and provide a clear and certain regulatory pathway for the development or permitting of operations that can incorporate compostable materials. We respectfully submit our comments below.

MAIN ISSUES SUMMARY

- Publicly owned treatment works (POTW) receiving anaerobically digestible material, such as food waste, for the purpose of co-digestion with sewage sludge[1] to produce biosolids[2] meeting the U.S. Environmental Protection Agency (EPA) pollutant and pathogen requirements for land application under Title 40 of the Code of Federal Regulations (CFR), Part 503 ("Part 503") and SWRCB General Order No. 2004-0012-DWQ, should be exempt from Title 14 permitting. Section 17403.1(a)(8) of the proposed regulations appears to exclude POTW from being classified as a transfer operation under Title 14 but better clarification is needed. As noted by CalRecycle at recent stakeholder workshops, POTW are already regulated by the Regional Water Quality Control Boards (RWQCB) and must meet stringent discharge requirements under their National Pollution Discharge Elimination System (NPDES) or Waste Discharge Requirements (WDR) permits.

  It is important to note that co-digested biosolids require thickening/dewatering/drying, transfer and temporary storage onsite prior to their final disposition. To ensure that the requirement for a transfer/processing or compostable material handling permit is not triggered for these normal post-digestion processes, we request that the POTW exclusion include these processes.

[1] "Sewage sludge" refers to the solids separated during the treatment of municipal wastewater.
[2] "Biosolids" refers to treated sewage sludge that meets U.S. EPA pollutant and pathogen requirements for land application.

U.S. EPA and SWRCB consider co-digested mixtures of sewage sludge to be biosolids, which can include fats, oils and greases, and food waste. Consequently, co-digested biosolids meeting Part 503 and SWRCB General Order No. 2004-0012-DWQ requirements should not be subject to the new in-vessel digestion and land application requirements. While CalRecycle intends to consider co-digested mixtures of sewage sludge to be biosolids, as written in the proposed regulations it is unclear whether or not this is the case.

In order to be consistent with federal Part 503 regulations and SWRCB's interpretation of these regulations, we request that CalRecycle clarify in the regulations that co-digested biosolids are excluded from Title 14 permitting. This can be accomplished by modifying the "biosolids" definition to include co-digestion with other anaerobically digestible organic material and the handling, transfer, and thickening/dewatering/drying activities that occur within the POTW.

- Curbside greenwaste is not pure material or free of contaminants. Material recovery facilities (MRFs) already employ significant resources and equipment to clean up the greenwaste to the current one percent contamination limit prior to beneficial reuse. Cleaning up curbside greenwaste to meet the proposed 0.1 percent contamination level may not be practically achievable or measurable at a MRF. Already curbside greenwaste is not a preferred feedstock for composters. The proposed 0.1 percent contamination limit will make curbside greenwaste even less desirable to processing facilities like MRFs and may result in more greenwaste being landfilled. AB 1826 and AB 1594 requires more organics to be diverted from landfills, so more recycling or beneficial reuse outlets are needed for this material, not less. Additionally, the proposed 0.1 percent contamination standard may be below the existing detection limit for the test method used by compost laboratories, making the 0.1 percent limit not enforceable or scientifically practical. A contamination limit of 0.5 percent for land applied compostable materials is recommended since this would cut the current one percent limit in half and be an achievable and realistic benchmark for operators.

DETAILED COMMENTS

POTW EXCLUSIONS

POTW are regulated by the RWQCBs, with plant effluent required to meet stringent NPDES permit limits and biosolids required to meet federal pollutant and pathogen requirements. Consequently, no additional permitting is required. CalRecycle's proposed regulations appear to support the RWQCB's continued oversight of POTW even when anaerobically digestible material (food waste) is received for co-digestion with municipal sewage sludge and has excluded anaerobic digestion at POTW from Title 14 permitting.

For clarity purposes, we believe the proposed regulations should specify that all of the additional processing and transfer activities required for biosolids after digestion, such as dewatering, thickening, or drying, are part of the POTW exclusion, and that these activities will be regulated by the RWQCBs under the POTW permit. Additionally, co-digested biosolids are considered biosolids by the U.S. EPA and SWRCB since they undergo that same digestion and post-digestion processes as municipal biosolids to meet the Part 503 requirements. The POTW exclusions need to include co-digested biosolids.

By modifying the definition of biosolids to address the aforementioned issues, minimal to no changes would be required to the POTW exclusions contained in the transfer/processing, compostable material handling, in-vessel digestion, and land application sections of the proposed regulations. We request the following change to the biosolids definition in Section 17852:

17852. Definitions
(a)(9) "Biosolids" means solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Biosolids includes, but is not limited to, treated domestic

septage and scum or solids removed from primary, secondary, or advanced wastewater treatment processes. Biosolids does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during the preliminary treatment of domestic sewage in a treatment works. For the purposes of this regulation, biosolids includes sewage sludge co-digested with other anaerobically digestible material in the same digester, which may undergo thickening, dewatering or drying, transfer and temporary storage at a POTW.

STANDALONE FOOD WASTE DIGESTION AT A POTW

The proposed regulations should allow for the case-by-case review of standalone food waste-only digesters located at a POTW for the purposes of obtaining an exclusion from Title 14 permitting. Since different types of configurations are possible, it is best that CalRecycle and the SWRCB review the specific project. For example, the biogas generated from a food waste-only digester can be commingled with biogas from biosolids digesters for power generation. The food waste digestate may be dewatered separately but then commingled with biosolids and land applied under Part 503 requirements. Other variations are possible. To allow for different types of anaerobic digestion to be constructed at a POTW, we ask that the following provision be added to Section 17896.6:

17896.6. Excluded Activities.
(a)(4) For the purpose of this exclusion, the Department, in consultation with the State Water Resources Control Board, will on a case-by-case basis, review and consider approval of additional configurations of the anaerobic digestion of digestible organic material within a POTW Treatment Plant.

CLARITY NEEDED IN REGULATORY TIERS

As proposed in Section 17896.6(a)(3), an in-vessel digestion facility with 100 cubic yards of total material (solid waste, feedstock, and digestate) onsite at any given time is excluded from the requirements of Chapter 3.2 (In-Vessel Digestion Operations and Facilities Regulatory Requirements). It is unclear, however, why this facility would not be permitted under a Registration Tier or Full Solid Waste Facility Permit Tier given the 100 cubic yard volume. The 100 cubic yards exceeds the 60 cubic yard threshold for a medium volume facility as defined in Section 17896.2(a)(17).

Additionally, the use of both units (cubic yards and tons per day) in each regulatory tier creates the potential for confusion or misunderstanding as to which tier the applicant would fall under. We suggest that just tons per day (tpd) be used in Section 17896.5, as shown below.

Notification Tier
Limited Volume In-Vessel Digestion Operations (<15 tpd), Section 17896.11

Registration Tier
Medium Volume In-Vessel Digestion Operations (≥15 tpd & ≤ 100 tpd), Section 17896.12

Full Solid Waste Facility Permit
Large Volume In-Vessel Digestion Operations (>100 tpd), Section 17896.13

SOLID WASTE DEFINITION

Section 17896.1(a) indicates that Chapter 3.2 sets permitting requirements and minimum operating standards for in-vessel digestion operations and facilities that receive and process "solid waste." Since "solid waste" is not defined in Section 17896.2, it may be more appropriate to use the term "digestible organic material" for this chapter. CalRecycle should substitute "solid waste" for "anaerobically digestible material" in Section 17896.1(a).

LAND APPLICATION EXCLUSIONS

As proposed in Section 17852(a)(24.5), land application would be allowed under the following two scenarios:

Scenario A: On Any Land

- The compostable material cannot contain more than 0.1 percent by weight of contaminants greater than four millimeters. At least one sample for every 5,000 cubic yards of the compostable material will be sent to a laboratory for this contamination testing.

- The compostable material would essentially have to meet "exceptional quality" biosolids standards contained in 40 CFR Part 530 for metal concentrations and pathogen density.

- Land application can only occur once in a 12 month period with an average depth of 12 inches, unless otherwise approved by the LEA and RWQCB.

Scenario B: On Land Zoned Only for Agriculture

- The compostable material cannot contain more than 0.1 percent by weight of contaminants greater than four millimeters.

- CDFA determines that the land application is agronomically beneficial and the LEA receives that determination.

As proposed in regulatory notes under Section 17852(a)(24.5), the following activities or compostable products would not be subject to these new land application requirements:

1. The use of compost produced in compliance with Article 3.1 and/or 3.2 of this Division.

2. The use of compostable material for landscaping on a parcel of land 5 acres or less in size.

3. The final disposition of compostable material spread on land by a Federal, State, or local government entity, provided the material is applied in accordance with applicable law.

4. Beneficial reuse at a solid waste landfill pursuant to the 27 CCR Section 20686.

5. Beneficial reuse of biosolids pursuant to 40 CFR Part 503 and State Water Resources Control Board General Order No. 2004-0012-DWQ, or site-specific Waste Discharge Requirements or other issued requirements from the State Water Resources Control Board or a Regional Water Quality Control Board having jurisdiction. In addition, as specified in section 17850(d), nothing in these standards shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all authorizations and complying with all requirements of other regulatory agencies, including but not limited to, local health entities, regional water quality control boards, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.

We believe that these regulatory notes should be actual exclusions. Notes do not carry the same regulatory weight as exclusions.

CONTAMINATION LIMITS

As proposed, compostable material and digestate can only be land applied if it contains less than 0.1 percent by weight of contaminants greater than four millimeters and only once in a 12 month period. These requirements appear to be more restrictive than and inconsistent with the Ventura County ordinance referred to in the Initial Statement of Reasons for these proposed regulations.

Ventura County Ordinance No. 4423, adopted by Board of Supervisors on December 7, 2010, specifically addresses the land application of "mulch." Mulch is defined in the ordinance as "compostable material limited to landscape waste and crop production byproducts consisting of leaves, grass clippings, weeds, yard trimmings, wood waste, branches and stumps, and whole plants/trees, that have been mechanically reduced in size, whether composted or not." The ordinance requires that:

- Land application of mulch not exceed 12 inches in depth.
- Mulch not contain more than 0.1 percent by volume of contaminants, such as plastic and glass.

The ordinance allows the property owner to reduce the mulch contaminant level to below 0.1 percent to avoid LEA enforcement actions or fines by physically removing and properly disposing the contaminants. The ordinance does not restrict the frequency of land application. It leaves the landowner or farmer to determine what is agronomically beneficial for the particular crops being grown. Additionally, the ordinance does not require third party laboratory testing for contamination levels.

Many MRF operators may consider it impractical to clean up curbside greenwaste to below 0.1 percent contamination. Additionally, the 0.1 percent may not be detectable in compost laboratories if it is below the detection limit of the test method developed by U.S. Composting Council for the examination of compost. We request a 0.5 percent contamination limit for land applied compostable material. CalRecycle can evaluate the effectiveness of a 0.5 percent contamination limit over time and determine at some point in the future if the limit should be reduced further. Consideration should be given to phasing in the new contamination requirement over time to preserve the existing recycling outlets for curbside greenwaste for an interim period. We request that Section 17852 be modified as follows:

17852. Definitions.

1. The compostable material does not contain more than ~~0.1%~~ 0.5% by weight of physical contaminants greater than 4 millimeters as specified in section 17868.3.1.

SAMPLING FREQUENCY

Section 17868.1(a) specifies the sampling frequency for compost operations of various types and sizes, with high volume biosolids composters testing for metal concentrations and pathogen densities once per month, and other facilities sampling every 5,000 yd^3 of compost produced. However, proposed Section 17868.3.1(c) discusses sampling frequency for physical contaminants independently, thereby creating potential confusion and conflict. To unify these provisions, we suggest cross-referencing the earlier section:

17868.3.1. Physical Contamination Limits

(c) All compostable material handling facilities shall ~~take one representative sample for every 5,000 cubic yards of compost~~ conduct sampling according to the frequency schedule specified in Section 17868.1(a) and send to a laboratory …

TURNAROUND TIME FOR TEST RESULTS

Sections 17868.1(a), 17868.2(a), 17868.3(a), 17868.3.1(a) require sample results for metals, pathogen and physical contaminants to be received prior to removing finished compost from site. Identical provisions are proposed in Chapter 3.2 for digestate-derived compost. Earlier sampling is ruled out since the language requires verification to "occur at the point where compost is sold or removed from the site." This is not practical for some composting facilities due to storage limitations and the turnaround time required for receiving certified analytical results from independent laboratories, typically two weeks. We request that the requirement for test results in the aforementioned sections be modified as follows:

"... Best efforts will be made by the operator to obtain ~~S~~sampling results ~~must be received by the operator~~ prior to removing compost from the composting operation or facility where it is produced. Sampling results shall be available for review by the EA at the composting site. ..."

ENFORCEMENT

As worded, Section 18302(d) implies that the enforcement agency (EA) will issue a violation to the operator after investigating the odor complaint. This precludes any due process. We suggest that this section be changed as follows:

18302. Written Complaints of Alleged Violations.
(d) Upon receipt of an odor complaint, the EA shall investigate the complaint as soon as practical ~~prior to issuing a violation for failing to minimize odor~~. The odor complaint investigation...

INSTRUCTIONS FOR APPLICATION

The EA does not have land use authority and, therefore, cannot change the conditions or limits contained in an approved conditional use permit and certified environmental document. The "authorized by the EA" language contained in Part 3 (Facility Information) of the instructions for the solid waste facility permit application implies that the EA can modify the local government's land use authority. We request that the "authorized by the EA" language contained in the Facility Size, Maximum Traffic Volume Per Day, and Days and Hours of Operation sections of Part 3 of the instructions be deleted:

c. **Facility Size**: The area that encompasses the entire area on which solid waste facility activities ~~are authorized by the EA to~~ occur. This includes...

d. **Maximum Traffic Volume Per Day (vpd)**: The maximum number of vehicles authorized ~~by the EA~~ to enter the facility on a daily basis. This number...

e. **Days and Hours of Operation**: The days and hours that the facility is authorized ~~by the EA~~ to operate and the hours of waste receipt ~~authorized by the EA~~ if different from hours of operation. This information...

Thank for your considering our comments. Should you have any questions, please feel free to contact Mr. Glenn Acosta at (562) 908-4288, extension 2723.

Very truly yours,

Grace Robinson Hyde

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PP:GA:rvr

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