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Subject: Waste Management comments on proposed Regulations related to the Transfer and Processing of Compostable Materials.

Dear Mr. Decio:

Thank you for the opportunity to provide comments to CalRecycle regarding the proposed regulations for the transfer and processing of compostable materials. Waste Management (WM) strongly supports the adoption of compostable material regulations that provide reasonable statewide standards to protect human health and the environment – and that create a predictable and fair set of standards for the management of these renewable resources. For the most part, WM believes the proposed regulations accomplish this purpose. However, given that the State has recently embarking on public policies that will require the diversion of compostable materials from landfill disposal (e.g., 75% recycling goal, AB 1826, and AB 1594) we are concerned that certain provisions of the proposed regulations may substantially drive up the cost of meeting these state policies, goals and requirements. While at the same time, this would place local collectors, processors and users in the untenable position of bearing the risk for regulatory compliance.

Physical Contamination Limits

WM has significant concern with the proposed physical contamination limit of 0.1%. Specifically, we are concerned that this limit, as proposed, is not technically attainable, is not justified based on current experience and practices, would have the unintended consequence of driving more organics to landfills versus sustainable beneficial uses, would be costly and difficult to obtain, and was not adequately considered in the State's economic analysis.

As far as we are aware, this proposed standard is based on the most restrictive standard in California – the 0.1% (by volume) limitation imposed in Ventura County. The Ventura standard was developed based on the land application of compostable materials as mulch – but certainly did not consider the extensive diversion of organic materials from the waste stream as currently envisioned by California public policy – including the diversion of food wastes. The consequences of not meeting the Ventura standard simply meant that the material would have to be directed to other management practices,

either elsewhere than Ventura or for disposal. With the current statewide organic diversion policies – alternative practices are considerably more limited.

Furthermore, the Physical Contamination Limit is proposed without a clear sampling and analysis protocol, making compliance problematic. WM recommends CalRecycle consider the following ideas in the rulemaking process:

1. **Proposed Limit:** As California strives to reach its diversion goals, organics materials have historically and will continue to be composted from a variety of sources, with varying levels of contaminants. Requiring all compost to achieve a 0.1% contaminant level creates a costly and unnecessary burden when a variety of viable markets exist for varying contaminant levels. For example, some agricultural markets and reclamation projects successfully use compost products with greater than 1% contamination levels without causing harm to human health or the environment. In contrast, the bagged product/homeowner markets tolerate minimal to no contaminants. Based on current experience and practice in the US and California, WM recommends that physical contaminant levels be set by the marketplace and the end users of compost products until a better technical and economic justification can be made to set limits based upon California-specific scientific data and a public review process.
2. **Definition, Protocol & Testing:** Should the State require set contamination limits, the sampling for physical contamination should follow the United States Composting Council's (USCC) testing method as specified in the "*Test Methods for the Evaluation of Compost and Composting (TMECC)*" for physical contaminants, as referred to and defined as total inerts (glass, plastic, metals and sharps). This methodology went through a rigid development phase, and has been accepted by many states and adopted by composting programs and end users throughout the US. It is a standard test included in the USCC "*Seal of Testing Assurance (STA) Program*". Labs approved to provide testing should be on the USCC's "Approved" list, guaranteeing some quality control in conducting the testing procedure. Furthermore, results and compliance should be specified as reported on a dry weight basis, normalizing the measurement method.

Application Frequencies and Depth of Application

WM also has concerns about the proposed limitations compostable material application frequencies and depth of application. According to the proposed regulations, the compostable material may not be applied more frequently than once during a 12-month period, and, at the time of the application, the compostable material will not exceed an average of 12 inches in total, accumulated depth.

There is a wide variety of green materials and compost as well as highly variable soil, crop and climatic conditions throughout California. One application of compost in the dry southeast region of California may be completely different from an application of ground yard waste in Ventura County and yet again completely different from the application of compost in Napa County. WM is aware of agricultural operations, such as orange, avocado, and row crop growers, where the use of mulch provides a variety of benefits including moisture retention, erosion control, weed abatement, and nutrient value. The farmers base their application rates and frequency based on the specific horticultural and/or agronomic

crop needs, and may apply compost and/or ground yard waste more than once per year, or at depths greater than 12 inches.

The proposed regulations allow the Enforcement Agency (EA), in consultation with the Regional Water Quality Control Board (RWQCB), to approve alternative application frequencies and depths in certain circumstances. While this provision should be retained, WM believes that the depth and frequency rates should be stricken and the regulations should allow the application of green materials and compost at horticulturally/agronomically appropriate rates as determined by the owner and operator of the land application site – subject to normal EA inspection and review.

In summary, the 12-inch limit on accumulated applied materials and once per year limit on application rates should be stricken from the proposed regulations. Instead, the regulations should require the application of compostable materials at agronomically/horticulturally appropriate rates. Normal oversight by the EA will allow enforcement if the application rates or frequency cannot be justified.

Mixed Material Composting Operations

Under Article 1, page 10 section 43 “Mixed Solid Waste” is now defined as “Mixed Materials”. Under the proposed Draft Regulatory Tiers such operations will require a Full Solid Waste Facilities Permit.

(26) “Mixed Material” means any compostable material that is part of the municipal solid waste stream, and is mixed with or contains non-organics, processed industrial materials, mixed demolition or mixed construction debris, or plastics. A feedstock that is not source separated or contains 1.0% or more of physical contaminants by weight is mixed material.

Other than the requirement to acquire a full solid waste permit, the only other requirement in the proposed regulations appears related to sampling. Any fully permitted facility receiving mixed materials must take one composite sample every 5000 yards of compost produced. We are not aware of any other limitations and restrictions related to the acceptance of “mixed materials” – other than the final compost must meet contaminant levels specified in the regulations. We understand that any materials not meeting these final requirements must be managed for disposal. WM would appreciate further clarification and confirmation that we are interpreting these provisions correctly. WM will follow-up with you to discuss the limitations related to the acceptance and processing of mixed materials as provided by these proposed regulations.

WM appreciates the opportunity provide these views for your consideration. Please let me know if you have any questions or require further information regarding these comments and concerns.

Very Truly Yours,

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Ken Decio, CalRecycle
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