



VIA EMAIL ONLY to Clerk of the Board, commentletters@waterboards.ca.gov

March 2, 2015

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

RE: Comment Letter – Proposed General Order for Composting Operations

Dear Ms. Townsend:

Dairy Cares and the Agricultural Council of California appreciate the opportunity to provide comments on the State Water Resources Control Board's (State Board) Draft Environmental Impact Report (Draft EIR) and Proposed General Waste Discharge Requirements for Composting Operations (Draft Order). Based on our review of the Draft EIR and Draft Order, we are concerned in general that the Draft Order may negatively impact California's dairy operations, and may unintentionally discourage composting, which we all would agree is good for the environment.

Dairy Cares is a coalition of California's dairy producer and processor organizations, including the state's largest producer trade associations (*Western United Dairymen, California Dairy Campaign, Milk Producers Council, California Farm Bureau Federation, and California Cattlemen's Association*) and the largest milk processing companies and cooperatives (*including California Dairies, Inc., Dairy Farmers of America-Western Area Council, Hilmar Cheese Company, and Land O'Lakes, Inc.*). Formed in 2001, Dairy Cares is dedicated to promoting the long-term sustainability of California dairies. The coalition represents California's more than 1,500 dairy farms.

Dairy Cares is dedicated to ensuring the long-term sustainability of California's dairy industry by providing leadership and serving as a resource on a wide range of dairy sustainability issues, including environmental stewardship, animal welfare, and community involvement. The organization works collaboratively with its members and regulators to develop science-based

management strategies for a better natural environment; promote technically and economically feasible air and water quality programs; and support compliance with state and federal laws, regulations, and policies. Dairy Cares believes environmental stewardship is a necessary component of providing affordable, nutritious food.

Agriculture Council of California (Ag Council) represents approximately 15,000 farmers across the State of California, ranging from small, farmer-owned businesses, to some of the world's best-known brands.

I. California Dairy Industry Heavily Regulated to Protect Water Quality

As a preliminary matter, it is important to understand that the California dairy industry and its operations are currently subject to detailed water quality requirements, and are required to comply with water quality standards, through NPDES permits, waste discharge requirements, and conditional waivers of waste discharge requirements issued by various California Regional Water Quality Control Boards (Regional Water Boards). Implementation and compliance of these orders is costly and has profoundly affected dairies' water resources and land management practices.

Through these orders, dairy facilities as a whole are regulated (including composting areas), and all waste generated at such facilities is regulated and subject to various provisions. For example, the Central Valley Regional Water Quality Control Board's Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies (R5-2013-0122, hereafter "Central Valley Order") defines "waste" to include, but not be limited to, "manure, leachate, process wastewater and any water, precipitation or rainfall that contacts raw materials, products, or byproducts such as manure, *compost piles*, feed, silage, milk, or bedding." (Central Valley Order, p. 3, emphasis added.) Any discharge of waste from the facility, including compost piles, cannot "cause underlying groundwater to exceed water quality objectives, unreasonably affect beneficial uses, or cause a condition of pollution or nuisance." (Central Valley Order, p. 23.) Similarly, the Santa Ana Regional Water Quality Control Board's General Waste Discharge Requirements for Concentrated Animal Feeding Operations (Dairies and Related Facilities) within the Santa Ana Region (Santa Ana Order) requires that the "discharge of wastes to the ground shall not cause or contribute to an exceedance of any applicable water quality objectives specified in the Basin Plan." (Santa Ana Order, p. 17.)

Thus, the broad nature of these orders (and others from the various Regional Water Boards) protects water quality from wastes generated on-site and incidental to dairy operations, including wastes associated with compost piles. Accordingly, composting activities that occur on dairy facilities are already regulated under current dairy orders, and water quality is protected, which is the primary purpose of the State Board's Draft Order.

II. Draft Order Needs to Exempt Dairy Facilities

Our primary concern is that the Draft Order could be interpreted in a manner that would require dairy facilities to obtain additional permit coverage through the Draft Order for any composting pile, which would be in addition to permit coverage already provided by other Regional Water

Board orders. Specifically, the Draft Order includes an exemption for agricultural composting. (Draft Order, p. 6.) However, the definition of agricultural composting does not clearly include composting that may occur at a dairy facility. (Draft Order, p. A-1.) Further, the definition of agricultural composting limits the amount of compost product that may leave the property, which is unrelated to the protection of water quality. There are no other exemptions listed in Finding 30 of the Draft Order that would apply to dairy facilities.

Collectively, these provisions imply that composting activities that occur at dairy facilities would *not* be exempt from the Draft Order, even though dairy facilities in their entirety are already subject to extensive water quality requirements. Moreover, even if dairy facilities were included in the definition of agricultural composting, the amount of composting product leaving the property is unrelated to water quality protections that are already in place on dairy facilities. The Draft Order's failure to include a specific exclusion for dairy facilities is improper, and fails to consider that such facilities are already regulated with requirements that are similar to those within the Draft Order.

For example, many of the prohibitions in the Draft Order are the same or similar to those in dairy orders. (See Draft Order, pp. 16-17; see also Central Valley Order, pp. 12-13 and Santa Ana Order, pp. 9-11.) Other similar provisions include those with respect to ensuring that facilities be designed, constructed, and maintained to control and manage storm water run-on, run-off, and precipitation from a 25-year, 24-hour peak storm event. (Draft Order, p. 19; Central Valley Order, p. 14; Santa Ana Order, p. 20.) There are also detention pond requirements in the Draft Order that are similar to the detention pond requirements in the dairy orders. (See, e.g., Draft Order, p. 19; see Central Valley Order, p. 15-19; see Santa Ana Order, p. 20-21.)

Notably, however, the Draft Order includes detention pond liner requirements for Tier II composting operations that conflict with retention pond requirements in dairy orders. Should dairy facilities be subject to the Draft Order, there will be considerable confusion as to what set of requirements applies. Further, if dairy facilities are considered to fall within Tier II composting operations because of "manure," then dairy operators will be subject to increased regulatory requirements, which will result in considerable expense to dairy facilities – discouraging composting at dairies, perhaps even among dairies already composting – as well as potential environmental impacts. Such impacts to dairy facilities were not evaluated or anticipated in the Draft EIR.

To avoid duplicative regulation of composting activities that may occur at dairy facilities, the Draft Order needs to be revised to clearly exempt dairy facilities that are subject to other Regional Water Board orders. Accordingly, we recommend the following amendment to the Draft Order:

Finding 30, page 6, add new subdivision b: Composting activities that occur at dairy facilities that are subject to individual WDRs, General WDRs, NPDES Permits, and/or a conditional waiver of WDRs.

III. Manure Is a Beneficial Agricultural Material

On another note, the Draft Order proposes to exclude manure from the definition of agricultural material. We are concerned that such an exclusion here implies that manure is *not* a beneficial agricultural material. As the State Board knows, manure is beneficial when returned to the soil as fertilizer and a soil conditioner, and should be treated accordingly.

IV. Conclusion

In conclusion, we respectfully request that the State Board amend the Draft Order to explicitly exclude dairy facilities that are otherwise regulated by Regional Water Boards through other orders that address dairy facilities in their entirety. We further request that manure be classified as a beneficial agricultural material as a feedstock for compost materials. Please contact me at (916) 441-4384 if you have any questions.

Sincerely,



J.P. Cativiela
Program Coordinator, Dairy Cares



Emily Rooney,
President, Agricultural Council of California

- C: Theresa Dunham, Somach, Simmons and Dunn
Charles "Chuck" Ahlem, Chairman, Dairy Cares
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