



ORANGE COUNTY  
**COASTKEEPER**

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*Sent via Email:* commentletters@waterboards.ca.gov

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-2000



**Re: Comment Letter – CEQA – Composting General Order NOP**

Dear Ms. Townsend:

On behalf of Orange County Coastkeeper (“Coastkeeper”), please accept the following comment letter written in response to the State Water Resources Control Board’s (“State Board”) May 13, 2019 “Notice of Preparation and Notice of Public Scoping Meeting for the Supplemental Environmental Impact Report for Amendment of General Waste Discharge Requirements for Composting Operations” (“Notice”).

#### Background

Coastkeeper is a non-profit water quality organization with a mission to promote and restore water resources that are drinkable, fishable, swimmable, and sustainable in the Orange County region. It accomplishes this mission through advocacy, education, restoration, and enforcement. Coastkeeper has over 6,000 members who live and/or recreate in and around Orange County. Coastkeeper also includes members living in Riverside County and San Bernardino County, who enjoy membership through our Inland Empire Waterkeeper and Coachella Valley Waterkeeper programs. On behalf of our collective members, Coastkeeper submits the following comments for consideration by the State Board on the proposed amendments to the General Waste Discharge Requirements for Composting Operations (“Compost Permit”).

Coastkeeper has direct experience with both the composting industry and herbivore manure management. For nearly a decade, Coastkeeper has worked to improve storm water quality discharged by waste haulers in the Santa Ana River watershed. We began by enforcing elements of the General Permit for Storm Water Discharges Associated with Industrial Activities, Order 2014-0057-DWQ (“Storm Water Permit”), and its predecessor, against the region’s largest waste haulers. Many of those same waste haulers were also developing or operating industrial scale composting operations. As a condition of some of our settlement agreements, those same dischargers were required to analyze storm water discharges draining their compost areas for fecal coliform, E. coli, and total coliform. Storm water results from those drainage areas show the highest levels of bacteria Coastkeeper has viewed from any industrial facility. Some of those composting area storm water discharges drain to receiving waters subject to bacteria TMDLs. Apart from the suggested amendments in the NOP, Coastkeeper separately recommends the inclusion of bacteria sampling at any facility enrolled under the Compost Permit whenever a discharge occurs.

Apart from our experience with compost operations, Coastkeeper also has significant experience with manure management at concentrated animal feeding operations (“CAFOs”). We are the only environmental organization to have negotiated the past two regional dairy permits before the Regional

Water Quality Control Board, Santa Ana Region (“Regional Board”). We also successfully litigated a Clean Water Act action late last year where we sought to enforce federal CAFO regulations against an unpermitted horse CAFO in the city of San Juan Capistrano. The need for proper manure management is critically important to protect surface water and groundwater quality. Areas within the Regional Board’s jurisdiction already suffer from decades of poor manure management with harmful and costly consequences. Once home to a thriving dairy industry, portions of Riverside County have groundwater basins without the assimilative capacity for additional manure-related pollutant loading. Numerous desalters exist throughout the watershed to remove elevated nitrates and control high salinity resulting from past agricultural activities, including pollutant loading from poor manure management.

#### Manure as a Tier I Feedstock

Insofar as the State Board is considering amending the Compost Permit to allow manure to be classified a viable feedstock for Tier 1 facilities, Coastkeeper strongly encourages the State Board to also consider the localized impact such an amendment could pose to those regions whose groundwater is already affected by manure-related pollutant loading. Coastkeeper is concerned that those existing, or future, facilities enrolled in the Compost Permit could seek to enroll and implement Tier I BMPs that would be insufficient to protect groundwater quality. The additional requirement that facilities using herbivore manure to also install monitoring wells and implement a groundwater protection monitoring plan would be insufficient in our Regional Board’s jurisdiction since it has already identified dairies as contributing to groundwater pollutant loading. Assuming that dairies in our region would seek to compost their manure under the Compost Permit, this would pose a threat to groundwater and likely would conflict with our Basin Plan. Manure generated in our region is already transported out of the watershed. Allowing for additional loading of nitrates to groundwater from manure at Tier I facilities runs counter to existing protections in our Basin Plan. Providing for further dairy-sourced nitrates to groundwater without assimilative capacity for nitrates is not consistent with maximum benefit to the people of the state. It simply shifts the burden of additional pollutant loading to existing and future desalters paid for by ratepayers to remedy pollutants that the State Board is proposing to authorize.

Coastkeeper encourages the State Board to strengthen paragraph 57 of the Compost Permit to either identify those regions where the ability to use manure as a Tier I feedstock may run afoul of the applicable Basin Plan (e.g., the Santa Ana region) or affirmatively state that all enrollees must notify their applicable Regional Board of their coverage under the Compost Permit.

We also recommend amending paragraph 59 of the Compost Permit to include not only a reference to the Storm Water Permit, but also any applicable CAFO NPDES permit for those facilities, like dairies, which may wish to enroll under the Compost Permit. This additional reference would address some of Coastkeeper’s concern that the inclusion of manure as a Tier I feedstock for composting could occur through a WDR alongside facilities that otherwise would need NPDES permit coverage. Distinctions between regulatory definitions of “areas of industrial activity” under the Storm Water Permit versus “production areas” in CAFO parlance confuses what is regulated storm water in one permit compared to another. We wish to avoid a scenario where a CAFO classifies their manure management in an otherwise authorized nutrient management plan as “composting” and regulated under the Compost Permit instead of their existing CAFO permit. While composting should be encouraged, the regulations for manure management via a NPDES CAFO permit are distinct from the regulations in the Compost Permit, a WDR. We support a comprehensive and protective regime and do not support a program that could unintentionally cause the piecemealing of activities to reduce regulatory efficiency and weaken surface and groundwater protections.

Expanding the Agricultural Composting Exemption

Coastkeeper's primary concern with expanding the Agricultural Composting exemption to include non-agricultural sites rests in ensuring the exemption doesn't swallow the rule. The exemption is designed for agricultural sites and expanding it beyond those designated as agricultural seems to undermine the exemption. A description of the types of facilities or operations contemplated by expanding the exemption would help Coastkeeper better understand the need for the proposal. That said, increasing the export limit from 1,000 cubic yards to 5,000 cubic yards would increase the availability of compost throughout the state and would be beneficial.

Thank you for the opportunity to comment on the NOP for the Compost Permit. Please feel free to contact Coastkeeper with any questions or concerns regarding this comment letter or to inquire about our position on the Compost Permit more broadly. I can be reached directly at 714-850-1965 ext. 1006 or via email at [colin@coastkeeper.org](mailto:colin@coastkeeper.org). Thank you for your dedication to the process and commitment to clean water.

Regards,



Colin Kelly

Senior Staff Attorney

Orange County Coastkeeper