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Mr. Ken Decio
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Dear Mr. Decio:

Re. CalRecycle Regulatory Revisions to Title 14 and 27 Regarding Compostable Materials Handling and Transfer/Processing

The City of Bakersfield is pleased to offer this letter to make comments and recommendations on CalRecycle's revisions to the Title 14 and 27 Compostable Materials Handling and Transfer/Processing Regulations.

Our publicly owned and operated compost facility has over twenty years of experience developing solutions to challenges arising from waste diversion mandates and a wide range of environmental regulations. We have incrementally developed from a 5 acre grinding operation back in 1992 to a 97 acre composting and recycling facility, which is an industry leader in modern processes and environmental controls. Our records and financial data are freely available without proprietary limitations. As our volume doubled every five years, we made careful study of all new processes and equipment to invest our public's money wisely. Along the way, we have made it a point to "try before you buy" any equipment or begin new processes. In our best professional assessment, our facility and the compost industry are not ready to handle the proposed 0.1% contaminant limit. Please consider the following points:

1. **Stakeholder Situations Vary** – CalRecycle reports have indicated that some composters have met the proposed limit. Before proceeding with the limit, please look into the situations of those composters compared to others who do not report being able to make it. It is likely that the ones that make it have feed stocks that are inherently low in foreign material content. An example might be bio-solids or very selective landscape waste. If the regulation is based on these "easy" situations, it will not consider the reality faced by composters who handle the mass of food waste and curbside green waste feed stocks which inherently

contain foreign material. A level playing field is needed to avoid those with “easy” situations gaining a market advantage due to one-size-fits-all regulations.

2. **Testing and Economic Analyses Needed** – We are not aware of a test method to determine compliance with the proposed contaminant limit. Without being able to test, we are unable to evaluate equipment performance and design a solution, or to conduct an economic analysis. As mentioned above, we invest the public’s money wisely only after proving things out. Just as CalRecycle must perform an economic analysis to establish the regulation, so must we as public servants do a valid analysis before changing our currently successful system. Please do not proceed with the regulation until a test method has been established and some real situational results have been obtained and shared.
3. **Volume vs. Weight of Contaminants** – If the intent of the regulation is to limit litter from plastic in compost, is a weight based contamination limit really the answer? With compost weighing about 1,000 pounds per cubic yard (a typical pickup truck load), the proposed 0.1% weight limit would allow 1 pound of contaminants per cubic yard. If they are heavy, they won’t be noticed in the product. But if they are light film plastic, they fill a bag the size of a basketball. Is a basketball sized pile of plastic film OK in every small load? Or 20 times that per big rig when dozens of big rigs place compost on a farm? Our agriculture markets would not accept that, and it is unlikely that any market would, but the proposed limit would allow it. The point of this rhetoric is not to induce a more stringent limit, but rather to illustrate that the proposed regulatory approach is not a practical solution.

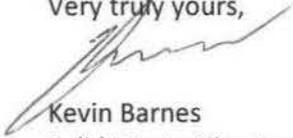
With this extreme case in mind, and in the absence of a test method as discussed in #2 above, we experimented with a volume based contaminant test. We simply took the foreign material over 4mm in size from compost samples and compressed them in a syringe to measure the cubic centimeters of material. It was a relatively quick and easy test that Local Enforcement Agencies could do or ask to be done with quick results. A big advantage is that the compost didn’t have to be baked in an oven for several hours to eliminate moisture. With a volumetric approach, an extreme case of too much film plastic would be caught if there was a reasonable limit of this type. It may be more realistic and practical than a weight based limit, but much more consideration is needed.

4. **Legal Issues** – Even though a volumetric limit may be more practical and meaningful than the proposed weight based limit, a numerical limit of any kind may ultimately backfire on the state. Consider how some high-end markets require very clean compost, which is made from cleaner feed stocks. When some “compliant” compost from the proposed one-size-fits-all regulation eventually creates a problem on the land in a high-end market, and the land owner sues the composter, the composter will have to defend the suit saying that the compost meets state regulations. Is it practical or wise for the state to enter this arena, or should a better, market based and use-based approach be made?
5. **Mulch vs. Compost** – Fundamentally, the problem of debris in raw, un-composted mulch, which for good reason started this regulatory effort, should not be overlapped with the compost market. Not only is physically impossible to test raw mulch the way compost is tested, but the issues are different. Please consider separating the real issue of debris in raw mulch from that of compost. Millions of tons of **successful**

composting will be inhibited by the proposed regulation, as will the industry's progress toward the new organic waste diversion goals.

Again, we appreciate the opportunity to weigh in on this important issue. As we have done for two decades, we will endeavor to divert more waste and build markets for the resulting products. We are quite willing and capable of working collaboratively toward practical solutions. Two good examples of this are the joint effort with CalRecycle during local air district rulemaking, and the subsequent composting technology advancement project team effort, which is now resulting in full implementation at our facility. However, we do consider the proposed contaminant limit regulation to be a very grave situation for our facility and many others. We encourage CalRecycle to carefully evaluate the points above before proceeding with new regulations. Please feel free to contact me for any clarifications or questions. And as always, we welcome site visits for anyone desiring to see firsthand how compost operations are done. It is our privilege and duty to share all of our information as a public facility. I can be reached at (661) 326-3109 or kbarnes@bakersfieldcity.us.

Very truly yours,



Kevin Barnes
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