

## Are Composters Being Treated Like Dirt?

Some composters claim to make 'black gold'. Other composters use diverse feedstocks and give their compost away dirt cheap. Still other composters claim their organic product will save the world and make soils healthy again, which it will. At the end of the day, composters employ tremendous amounts of labor and innovative new technologies to transform millions of tons of bulk material into a living dirt product. Lately however, the composting industry itself is being treated like dirt.

At a time when there is expected to be 100 new or expanded compost facilities by 2020 to meet the goals of AB 32 and AB 341 to get to 75% recycling, and another 100 new or expanded facilities by 2025, with an effective ban of organics from the landfill to mitigate methane, facilities may instead choose to close their gates. Having already lost Sonoma Compost to regulatory purgatory, many other compost facilities are considering getting out of the business feeling drained by regulatory fatigue. The recent court decision (vacating NOP 5016) threatening organic status could put pressure on compost inputs, while upcoming contamination limits are so low and will force even more post-processing. Expensive Water Board regulation of pads and ponds, and air permits add further to these costs. These air permits pin down point sources, but fail to recognize the better management practices being offered. The combined force of these pressures have driven composters to a crux where the new tons are not showing up at new prices to afford the luxury of compliance in this new era.

To make matters dirtier, the biomass crisis is crippling markets and diminishing revenue for many composters. Woody biomass is being stranded at many composting facilities, as the dwindling number of biomass to energy facilities are compelled to take forestry waste. Composters handling this crowded-out material are being hit twice as

air districts target their unsold biomass stockpiles for permits, while outlet markets for the product remain elusive. The cumulative impacts of air, water, land use, and federal NOP regulatory compliance are trumping the very industry on which the mandates of AB 32 and AB 1826 depend.

Many composters have raised the bar over the years and taken an emerging industry in the 1990s to a mature business model today. As the industry gets cleaner on contamination and run-off, it's being treated dirtier in the marketplace; the industry has not been able to raise pricing and has lost out on incentives over last few years that could have assisted in paying for the required improvements.

If ever there were a time for permit streamlining, it is now. Implementation of AB 1045 (Irwin, 2015) is necessary to have Cal-EPA coordinate on water, air, and waste issues among agencies.

Coordination of this sort is essential as many agencies may think that compost is really 'black gold', and that there are no limits of expense that the compost industry can endure in search of complying with a myriad of threshold limits that are almost impossible to meet, or too expensive to fund with current pricing. AB 1045 may be meeting internally, but there needs to be an external process, or even a Compost Commission, to oversee the process to move 8 million organics tons by 2020 and 14 million organics tons by 2025.

The statewide recycling rate has dipped to 47% in 2015, but could increase to 60% by 2020 with enforcing AB 1826, the laggard mandated commercial organics collection program. Composting is the tonnage bouncer AB 939 recycling needs, and must be further pursued against the backdrop of regulatory fatigue and diminished markets. Compost will always be local with domestic markets, farm-to-fork food, and community engagement.

It is time to make compost great again.

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# Organic Status of Compost in Jeopardy

Back in late 2009, a third-party produce inspection at a Sacramento-region grocer, revealed residues of Bifenthrin and other degraded pesticides in a sample of live wheatgrass. In response, CDFA notified three compost facilities and every organic farmer in the state that the composters were no longer able to sell products to organic farmers. Subsequently, the National Organic Program Guidance 5016: The Allowance of Green Waste in Organic Production Systems was issued, which allowed for the presence of these Unavoidable Residual Environmental Contaminants, unless they caused harm to plants, soil, or water.

On June 21, a US District Court judge in San Francisco made a ruling that vacated the NOP 5016 guidance because the department didn't properly follow the Administrative Procedures Act, providing for a more public process. USDA now has 60 days to issue new guidance on the matter before an August 22 deadline.

While the ruling leaves the majority of the composting industry, certifiers, and some certified organic farmers both in the dark about how to proceed and potentially open to lawsuits should residues of prohibited pesticides be found in organic compost, nothing has yet been determined by NOP, who, all indications are, will issue new temporary guidance and ask the judge, or an appeals court, for a stay of her order.

This ruling does not impact the status quo from 2011 and there is no indication that NOP, CDFA, CCOF or other certifiers will require testing of all materials or forbid the use of materials without testing. If compost materials have tested clean, there should be no question that they are saleable to organic production. CCC is working with other stakeholders to help provide information to NOP on market impacts to the compost industry, without relief, but there is remaining uncertainty over outcomes until decisions are made at NOP and any subsequent legal remedies are pursued.

## Revision to AB 199 Regulations

### CAEATFA to Restart STE Program

In October 2015, Governor Brown signed AB 199, which provides financial assistance in the form of sales tax exemption (STE) on equipment purchases to businesses that process or utilize recycled feedstock, including organic materials. The Treasurer's committee that oversees these sales tax exemptions, CAETEFA, in November 2015, suspended processing applications that would have exhausted nearly all of the \$100 million annual allowance for the program before any of the newly eligible AB 199 projects could apply.

On July 19, CAEATFA adopted their new AB 199 regulations, which are still awaiting the approval from the Office of Administrative Law (typically a 30 day process). According to the OAL website, there is an August 11 deadline to approve the new regulations, assuming there are no outstanding issues identified by OAL.

Once the new regulations are approved by OAL, CAEATFA will be able to post their new application forms online and accept new applications, apparently at the same time. There will be a very short window of time where interested parties can download, fill in, and submit the new application. CAEATFA will not accept applications that are on the old application forms; the new forms are supposed to be a streamlined version of the old ones. CAEATFA staff has advised that the changes to the application forms are minimal and suggested applicants gather all of the pertinent information on the old forms and transfer it to the new forms, once available.

If you are interested in applying for the STE program, please go to the CAEATFA website (<http://www.treasurer.ca.gov/caeatfa/>) and sign up to receive info on their list serve.

### SB 1383 (Lara)

TOPIC: Would require CARB to approve and implement Short-lived Climate Pollutants strategy to achieve 40% reduction in methane, 40% reduction of hydrofluorocarbon gases, and a 50% reduction in anthropogenic black carbon below 2013 levels, by 2030.

Passed out of Assembly Natural Resources on June 27 with a 6-1 vote.

STATUS: Re-referred to Assembly Appropriations Committee. **SUPPORT**

### SB 32 (Pavley)

TOPIC: Requires the Air Resources Board (ARB) to approve statewide greenhouse gas (GHG) emissions limits equivalent to 40% below the 1990 level by 2030. The bill would also require CARB to prepare and submit to the Joint Legislative Budget Committee and appropriate policy committees a report relating to the greenhouse gas emissions reductions achieved toward those limits. This bill would become operative only if AB 197 of the 2015-16 Regular Session is enacted and becomes effective on or before January 1, 2017.

STATUS: Re-referred to Assembly Appropriations Committee. **SUPPORT**

### AB 1811 (Dodd)

TOPIC: This bill modifies the requirements for the inspection of organic input materials to remove annual inspection requirements, but also allows inspection of organic input materials at times other than during registration process.

STATUS: Re-referred to Senate Appropriations. **SUPPORT**

### AB 2511 (Levine)

TOPIC: Defines "biochar" as a material derived from thermochemical conversion of biomass in an oxygen-limited environment containing at least 60 percent carbon. It also adds biochar to the definition of "auxiliary and soil plant substances" by including it in the list of products intended to be used for influencing soils, plant growth, or crop or plant quality.

STATUS: Re-referred to Senate Appropriations. **SUPPORT**

### AB 1103 (Dodd)

TOPIC: This bill would establish a reporting requirement for a self-hauler of recyclable or compostable materials.

STATUS: Sent to Senate Floor. **SUPPORT**

## A New Approach to Compost Emissions Regulation

The regulation of composting operations by air districts is nothing new. After all, CCC participated in rulemaking related to compost emissions in both the San Joaquin APCD and South Coast AQMD, which are summarized below and were adopted in the summer of 2011. What was less apparent were recent permitting requirements instituted by the Bay Area AQMD...because no public rulemaking process specific to compost occurred. Beginning with the December 2014 approval of the modified permit for the Redwood Landfill, including the composting operations there, BAAQMD began applying existing rules to composting emissions...one facility at a time.

This compost operations permitting did not occur at all operations at the same time, creating a regulatory imbalance; not the typical level playing field. Facilities were being permitted as they sought to modify their permits, resulting in unexpected – sometimes exorbitant – fee increases for VOC emissions. The VOC fees were based on projected emissions and current technology of the facility, without giving operators an opportunity to mitigate the emissions by use of control technologies: forced aeration, finished compost cover (pseudo-biofilter), or water application methods adopted in other districts.

CCC requested and attended a meeting at BAAQMD offices in late July 2016 to learn about policies related to composting and organics processing operations. Below are two summary points made by BAAQMD staff at our meeting:

BAAQMD has supported the ARB's Short-Lived Climate Pollutant Strategy and has stated goals to facilitate the removal of organics from landfills. BAAQMD will undertake a public rulemaking process for GHG reductions in 2017 which will impact composting operations to some degree.

BAAQMD has been under pressure from the public and their elected officials following the proposed expansion of

Newby Island Landfill, which resulted in hundreds of odor complaints to the staff (many related to the composting operations), leading them to undertake regulatory action at composting facilities district wide, including the implementation of VOC emissions fees at some facilities. Staff will continue to regulate composting operations, but is allowing operators to conduct source testing and implement mitigation measures in an effort to reduce air quality impacts and reduce fees.

### SJVAPCD Rule 4566

The San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) adopted Rule 4566, in August 2011. The rule is designed to limit ozone-producing volatile organic compounds (VOCs) and particulate matter (PM) emissions from composting and chipping and grinding operations. Approved mitigation measures in Rule 4566 include the application of a finished compost "cap" and irrigation of windrows (expected to "wet scrub" emissions at all smaller facilities) during the "active" phase, or the first 22 days of the composting cycle; covered aerated static piles (CASP) – those using a synthetic cover and forced aeration, either positive or negative, are identified as alternative compliance options, but are not required due to cost considerations.

### AQMD Rule 1133.3

In July 2011, the South Coast Air Quality Management District (AQMD) adopted their Rule 1133.3 for green waste composting. The regulations are somewhat more stringent than San Joaquin, and include CASP for compost piles blending more than 10% food waste with green waste, at facilities that accept more than 5,000 tons per year of food waste; all other green waste composting facilities will be subject to installation of a compost cap (on the windrow for the first 7 days) and irrigation for the subsequent 15 days. All facilities will require implementation of substantial monitoring and recordkeeping programs.

### Waste Discharge Requirements for Composting Facilities

#### August 4 Deadline has arrived!

The State Water Resources Control Board (SWRCB) has concluded its efforts to establish statewide regulations for composting facilities. The SWRCB officially released final language on August 31, 2015, which can be found on the Board's [composting website](#).

Existing composting operations, except those with individual WDRs, general WDRs, or conditional waivers of WDRs are required to seek coverage under this General Order by submitting a complete Notice of Intent (NOI), and a Technical Report with information requested in the General Order. The NOI, Technical Report must be submitted by August, 4, 2016 and shall include a proposed schedule for full compliance which must be as short as practicable but may not exceed 6 years from the date of the NOI.

### Revision to Compostable Materials & Transfer/ Processing Regulations

CalRecycle has completed updating the Title 14/27 regulations to address a broad list of topics, mainly related to the expanding diversion of organic materials from landfills.

Required physical contaminant limits of 0.5% for compost begin January 2018. Additionally, land application of green waste to agricultural sites is subject to this new requirement and meetings between CalRecycle, CDFA, and the Water Board are taking a closer look on developing compliance mechanisms. The timing of these new contaminant limits is expected to coincide with the implementation of AB 901 regulations where requisite reporting will include mulch going to land application. There is still a need to develop field testing and lab testing methodologies which will provide a standardized approach to contaminant measurement and stakeholder outreach is pending in this regard. We will notify you as input is sought.

### The California Compost Coalition

is a registered Lobbying Coalition with the Fair Political Practices Commission (FPPC), created in 2002 by a group of compost operators in response to demands for increased recycling of organic materials & production of clean compost, bioenergy, renewable natural gas, and biochar.

### CCC Members

Agromin  
Atlas Disposal  
Burrtec Waste Industries  
Caglia Environmental  
California Wood Recycling  
CleanFleets.net  
Clover Flat Compost  
Cold Canyon Compost  
CT Bioenergy Consulting LLC  
Harvest Tulare  
Harvest Lathrop  
Marin Sanitary Service  
Mt. Diablo Recycling  
Napa Recycling Compost  
Northern Recycling Compost  
Organic Waste Solutions  
Phoenix Energy  
Quackenbush Mt. Compost  
Recology Blossom Valley Organics  
Recology Feather River Organics  
Recology Jepson Prairie Organics  
ReFuel Energy Partners  
Soiland Co, Inc.  
Sonoma Compost  
Tracy Delta Compost  
Upper Valley Recycling  
Vision Recycling  
Zanker Road Resource Management  
Z-Best Compost Facility  
Zero Waste Energy Development  
Zero Waste Energy, LLC

### CCC Executive Committee

Bill Camarillo, *Agromin*  
Greg Kelley, *Northern Recycling Compost*  
Eric Potashner, *Recology*  
Rachel Oster, *Recology*  
Will Bakx, *Sonoma Compost*  
Christy Pestoni Abreu, *UVR Compost*  
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### CCC Team

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Steve Peterson, Financial Advisor  
Rick Moore, Peer Review Engineer  
Monica White, Sustainability Advisor  
Sean Edgar, Fleet Advisor

### CCC Legislative Affairs

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Neil Edgar, Edgar & Associates Inc.

# Soiland of Sonoma County Family-owned & operated since 1962

Founded in 1962, Soiland Company is a second-generation family business based in Sonoma County. We mine aggregate rock from our quarry in Cotati, and manufacture compost, soil, and mulch products from our Sonoma and Santa Rosa locations.

Our Santa Rosa location, **Grab N' Grow Soil Products**, is the oldest soil yard in Sonoma County and has been a fixture in our community since its creation in 1960. Today, we focus on hand-crafted, high quality "green-debris-only" compost produced using the CASP System, along with soil and mulch for gardeners, landscapers and farmers throughout Sonoma County. Sustainability and resource management are two key pillars of our operation that allow us to reduce the environmental footprint we leave behind. Grab N' Grow uses reclaimed water for all of our processing needs; we do not depend on municipal water supplies for production. In addition, we recycle our retention

pond water during initial compost production, which allows us to sustainably filter stormwater, recycle nutrients, and maintain appropriate moisture levels in our compost piles. To help reduce the amount of debris sent to landfills out of the area, Grab N' Grow also accept green debris from homeowners and commercial landscapers. This yard debris intake gives us a sustainable source of material for our compost blends and offers an alternative way for community members and landscape companies to recycle green debris locally.

**Grab N' Grow** has been a valuable resource in our community for decades, but recently it has become even more vital to the local agricultural industry as we are one of the only private companies licensed to legally compost in the county. We are way to expand our operation in 2017 so that we can continue to provide Sonoma County with high quality composts made with locally sourced materials.



For additional information about Grab N' Grow's compost products, please contact Tom Shearer, 707-575-7275, [tom@soilandrocks.com](mailto:tom@soilandrocks.com).