CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. 96-098
CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR COMPOSTING OPERATIONS

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter called the Board) finds that:

1. Section 13260 (a) of the California Water Code (WC) requires that any person discharging waste or proposing to discharge waste within any region, other than to a community sewer system, that could affect the quality of the waters of the State, shall file a Report of Waste Discharge (ROWD).

2. WC Section 13269 authorizes the Board to waive Waste Discharge Requirements (WDRs) for a specific discharge or for a specific type of discharge where such a waiver is not against the public interest. Such a waiver is conditional: it may be terminated for any type of discharge at any time; does not authorize any discharge that is otherwise prohibited or regulated; does not preclude the need for permits which may be required by other local or governmental agencies; and does not preclude the Board from taking enforcement actions for violations of the terms and conditions set forth in this Order or for any discharges that cause or threaten to cause violation of provisions of the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) or that create or threaten to create a condition of pollution or nuisance.

3. WC Sections 13263 and 13267(c) authorize the Board to enter a facility premise without prior notice in order to inspect: (a) the areas used for storage or treatment of green waste, food processing waste, agricultural waste, or paper waste, and (b) features needed for compliance with the Conditions set forth in the Order;

4. Title 23 of the California Code of Regulations (23 CCR) Section 2200 authorizes the Board to require the discharger to submit a fee of $750.00 to the Board to cover staff review of the Report of Waste Discharge (ROWD).

5. The California Integrated Waste Management Board (CIWMB) has adopted regulations governing the composting of green material, animal material, sewage sludge and municipal solid waste under Title 14, Division 30, Chapter 3.1. There are significant differences in the scope, authority and focus of the CIWMB's regulations governing composting and the State Water Resources Control Board (SWRCB) regulations governing discharges of waste to land.

6. "Green waste" consists of or contains waste from plants, including leaves, clippings, cuttings, trimmings of grass, weeds, shrubbery, bushes, or trees, residential or community garden wastes, and untreated wood wastes.

7. "Food processing waste" consists of or contains only pre-processed and post-processed waste derived from plants, or foods processed or produced at restaurants, hospitals and food distributors.

8. "Agricultural waste" consists of the plant waste coming directly from an agricultural commodity, and is the product of farms and ranches and by-products processed from these products, as defined in Division 21, Part 2, Chapter 1 Section 58619 of the Food and Agriculture Code. Agricultural waste includes agricultural, floricultural, silvicultural, vermicultural or viticultural products.

9. "Paper waste" consists of nonhazardous paper and paper by-products.

10. "Additive" consists of wastes or products (including manures, fertilizers, and chemical amendments), acceptable to the Executive Officer, used for mixture with the feedstocks or treated wastes (as defined in Findings 6 through 9) in order to adjust the moisture level, carbon to nitrogen ratio, or porosity in order to create a condition favorable to composting, or to improve the end-product, and does not include any of the substances listed in Finding No. 12.

11. "Discharger" means any person who discharges waste which could affect the quality of waters of the state, and includes any person who owns a waste management unit or who is responsible for the operation of a waste management unit [Title 23, California Code of Regulations (23 CCR) Section 2601].

12. Compliance with the terms and conditions of this Order is not sufficient to prevent the threat to water quality posed by discharges of the following wastes for treatment by composting:
    (A) municipal solid waste;
    (B) sludges (including sewage sludge, water treatment sludge, and industrial sludge);
    (C) septage;
    (D) liquid wastes, unless specifically approved by the Board;
    (E) animal waste, except manure when used as an additive;
    (F) oil and grease; and
    (G) hazardous, designated, and other wastes determined by the Board to pose a potential threat to water quality.

13. Discharges of up to 500 cubic yards at any given time of green waste, food processing waste, agricultural waste, or paper waste for storage and treatment by composting on properties such as agricultural or residential property, parks, community gardens, or nurseries are unlikely to affect the quality of the waters of the state.

14. Discharges whose total volume exceeds 500 cubic yards at any given time (including green waste, food processing wastes, agricultural waste, paper waste, or any approved additives) for storage and treatment by composting may affect the quality of the waters of the state through discharge of leachate containing organic or inorganic by-products of decomposition into ground or surface waters. Discharges of green waste, food processing waste, agricultural waste, or paper waste can be managed and treated in a manner that chemically or biochemically degrades by-products contained in waste and leachate, and contains, controls, or prevents any discharge of waste or associated leachate to waters of the state.

15. The use of additives, as acceptable to the Executive Officer, is not expected to pose a significant threat to water quality.

16. It is not against the public interest for the Board to waive the issuance of WDRs for discharges of green waste, food processing waste, agricultural waste or paper waste to waste management units for composting, provided such units are properly designed and operated and that such discharges comply with the Conditions set forth in this Order.

17. Section 402 of the Clean Water Act (33 U.S.C. Section 1342(p) and regulations adopted by the U.S. Environmental Protection Agency (40 CFR Section 122.26) require that facilities which discharge storm water associated with industrial activity be regulated by a National Pollutant Discharge Elimination System (NPDES) permit. The SWRCB has adopted a General NPDES Permit for industrial activity (NPDES General Permit No. 91-13-DWQ, as amended by No. 92-12-DWQ). Accordingly, composting operations are included in Standard Industrial Classifications 2875 and 2879. Persons engaged in mixing fertilizers from purchased fertilizer materials (2875) or in manufacturing soil conditioners (2879) must, as a condition of this waiver of WDRs, obtain coverage and comply with the conditions of the General Permit.

18. The Regional Board adopted a revised Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) on June 21, 1995. This revised Basin Plan was approved by the State Water Resources Control Board and the Office of Administrative Law on July 20 and November 13, 1995, respectively. The conditions of the waiver of WDRs provided for by this Order implement the Basin Plan for the San Francisco Bay Region, and are consistent with applicable provisions of SWRCB regulations governing discharges of waste to land [Title 23, California Code of Regulations (23 CCR) Sections 2510-2601, "Chapter 15"].

19. The Board has circulated a Negative Declaration for Conditional Waiver of WDRs for the discharge of green waste, food processing waste, agricultural waste or paper waste for composting, in accordance with the California Environmental Quality Act (CEQA) and with the terms and conditions of the waiver of WDRs contained herein. The Board has assessed the potential impacts on the physical environment of such discharges and has considered all of the comments received. The Board has adopted the Negative Declaration by Resolution No. 96-099, as part of this Order. Individual composting operations may have site-specific or local impacts on the physical environment that cannot be anticipated at this time; such impacts may require supplemental environmental assessment under CEQA by state or local governmental agencies.

20. This Order does not preempt or supersede the authority of federal or state agencies, or municipalities or other local agencies to prohibit, restrict, or control discharges of waste subject to their jurisdiction.

IT IS HEREBY ORDERED that:

I. WAIVER OF WDRs

WDRs for discharge of green waste, food processing waste, agricultural waste, or paper waste to land for composting are waived, as follows:

1. Any person discharging or proposing to discharge up to 500 cubic yards at any given time of green waste, food processing waste, agricultural waste or paper waste for storage and treatment by composting shall not be required to file a ROWD and shall not be subject either to the Conditions set forth in this Order or to the issuance or waiver of WDRs.

2. Any person discharging or proposing to discharge waste whose total volume exceeds 500 cubic yards at any given time (including green waste, food processing waste, agricultural waste, paper waste, and any approved additives) for storage and treatment by composting under the terms of this Order shall submit a ROWD to the Board documenting compliance with the conditions set forth in this Order, and either a Notice of Intent to comply with the requirements set forth in State Water Resources Control Board (SWRCB) Order Nos. 91-13-DWQ and 92-12-DWQ for discharge of storm water or documentation that NPDES storm water permit requirements are not applicable to the discharger's composting facility, together with the appropriate filing fee. Such persons shall comply with the conditions set forth in this Order.

II. CONDITIONS

1. Any ROWD submitted pursuant to this Order shall contain the following information:

   A. Name and address of discharger;
   B. Taxpayer identification number;
   C. Name, address, and telephone number of contact person if discharger is a corporation or limited partnership;
   D. Name of landowner if different from name of discharger;
   E. Address or legal description of property upon which green waste, food processing waste, agricultural waste, or paper waste will be discharged;
   F. Description of composting operation which includes an explanation describing the manner in which storage and treatment areas will be designed, constructed, and managed in order to impede the migration of liquid phase constituents to ground or surface water;
   G. Total expected precipitation from the 24-hour, 25-year storm event;
   H. Description of land and water use within a one-mile radius of the operation;
   I. Soil characteristics, including soil permeability;
   J. Average depth to ground water;
   K. Date of commencement of operation;

L. Maximum cubic yards or tons of incoming waste per day, month, or year, and anticipated quantities of compost to be generated in cubic yards or tons per day, month, or year;

M. Determination whether a seasonal (with periods of operation) or a continuous operation;

N. Verification of CEQA compliance (with documentation) or statement that compliance is unnecessary;

O. A scaled, topographic map indicating the following:

1. The property boundary;
2. All onsite and adjacent surface water bodies, including perennial and intermittent streams, and artificial drainages;
3. Location of nearest domestic, agricultural or municipal water supply well within one mile of the operation;
4. Specific areas of the site used for onloading and offloading, storage and treatment (composting) of wastes, and for curing or storage of compost of treated wastes;
5. Final grades of all storage and treatment areas;
6. Berms, or surface water drainage structures, if any;
7. Water retention basins, if any; and
8. Topography of the compost operation and surrounding landscape.

P. Additional site-specific information if required by the Board, in order to determine whether a proposal meets the conditions of this waiver.

2. Any discharger who violates or fails to comply with the terms and conditions contained in this Order or who fails to notify the Board within 30 days of any significant changes in the nature of the discharge, or in ownership, operation, or location of the facility, shall be found to be discharging waste in violation of WC Section 13264.

3. The discharge of green waste, food processing waste, agricultural waste, or paper waste for storage and treatment by composting shall not cause or threaten to cause a condition of contamination, pollution or nuisance.

4. The use of additives is allowed, provided that such use of additives does not pose a threat to water quality, and is approved by the Executive Officer.

5. The discharge of any waste other than green waste, food processing waste, agricultural waste, paper waste, or additives (refer to Finding No. 10), on any area used to store or treat wastes is prohibited. Such wastes include but are not limited to those listed in Finding No. 12.

6. Containment structures such as berms, liners or surface impoundments shall be maintained in order to ensure proper performance whenever wastes are discharged.

7. The discharger shall design, construct and maintain the areas used for storage and treatment of green waste, food processing waste, agricultural waste, or paper waste and additives to control and manage all runon, runoff, and precipitation which falls onto or within the boundaries of the storage and treatment areas. All areas at which green wastes, food processing wastes, agricultural wastes, or paper waste and additives are discharged for storage or treatment shall be protected from inundation by surface flows associated with the 24-hour, 25-year storm event that may occur during the period of storage of wastes or treatment. In the event that rainfall exceeds the 24-hour, 25-year storm event, liquids and storm water shall be discharged in a manner consistent with the General NPDES Storm Water Permit and shall not cause or threaten to cause contamination, pollution, or nuisance.

8. By October 15 of each year, the discharger shall conduct an annual survey of the operation in order to assure that the site has been graded and prepared for the rainy season to prevent degradation of surface and groundwater water quality, erosion, and ponding. All wet weather preparations shall be completed by November 15 of each year. The discharger shall submit a letter to the Board, documenting the results of this survey, and any corrective measures that were conducted.

9. The discharger shall allow the Board staff to:

   A. Copy any record required to be kept under the terms and Conditions of this Order;
   B. Sample any waste, additives, discharge, runon or runoff; and
   C. Take recordings, photographs, or videotapes of the facility.

10. All areas upon which waste is discharged for storage and treatment shall have surfaces capable of preventing degradation of waters of the state as a result of waste storage or treatment. Such surfaces shall be designed, constructed and maintained to: (1) impede vertical movement of liquid phase constituents and (2) reliably transmit most of the liquid generated during storage and treatment of waste laterally across the upper surface of the layer, thereby preventing significant quantities of liquids from entering ground or surface waters throughout the lifetime of the operation. If the equipment operating near or on storage and treatment areas produces subsidence, cracking, or otherwise compromises any surface, the discharger shall repair any damaged areas immediately.

11. The discharger shall inspect storage and treatment areas for emergence of leachate, ponding, or surface failures such as cracking or subsidence; such inspections shall be frequent enough to ensure compliance with the Conditions of this Order. If visible leachate, ponding, cracking, or subsidence of surfaces is observed, the discharger shall immediately take necessary measures to maintain the performance standards described in Condition 10.

12. A discharger shall notify the Board of: (1) any significant change in the nature and quantity of waste composted, area of operation, or season of operation; (2) termination of operation; or (3) any problems which threaten public health or surface or groundwater quality.

13. This Order shall remain in effect until such time as it is rescinded.

I, Loretta K. Barsamian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a conditional waiver of WDRs implementing Chapter 15, adopted by the San Francisco Bay Regional Water Quality Control Board, on July 17, 1996.

Richard H. Whitsel for

Loretta K. Barsamian
Executive Officer