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May 16, 2011

Mr. Tracy Goss
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Re: Comments on PAR 1133.1b and PR 1133.3b

Dear Mr. Goss:

The Association of Compost Producers (ACP) respectfully submits the following comments on the May 3, 2011 drafts of Proposed Amended Rule 1133.1 (PAR1133.1b ~~strikeout-underline~~) and Proposed Rule 1133.3 (PR 1133.3b). Our comments and recommendations both underscore & extend the comments and discussion at the workshop held at the SCAQMD GB Conference Room, May 10, 2011. ACP continues to work closely with the stakeholders listed on our previous joint comment letters and we will repeat only specific comments and recommendations from previous letters that we feel deserve continued, focused attention in this process..

We have segmented our comments into topic headings that include individual sub-comments and recommendations. We anticipate specific responses to these comments and recommendations so as to help clarify further resolutions to some of our major concerns, as well as continued working with SCAQMD Staff, Management and Leadership to create a rule that both achieves the Air District's objectives, while allowing this important industry to prosper and grow.

Our comments and recommendations fall in to the following broad categories:

- Operational Definitions of Key Materials Being Regulated in these Rules
- Permitting Methods to Come Into Compliance with 1133.1 & 1133 .3
- Permitting Conflicts and Related Issues
- Testing Costs for Compliance with these Rules
- Technology Consideration Details for using BACT
- Negative Industry Impacts, and Their Mitigation
- Ongoing Engagement with Regulatory & Permitting Leaders & Staff within and beyond SCAQMD.

We address the following comments and recommendations in each of these areas in the following tables.

Operational Definitions of Key Materials Being Regulated in these Rules

During the May 10, 2011 workshop at SCAQMD, it became clear that the definitions of some of the materials being regulated were not clear to compost producers. This means that ambiguity in the regulatory process will likely lead to inefficiencies, and higher costs, for both regulators (Air District staff) and the regulated industry (chip & grind operations and permitted compost facilities). We make the following observations (comments and recommendations) relative to creating operational definitions for these key material terms. In most cases we recommend a parallel definitional structure to existing Calrecycle administered regulations relative to compost operations. We also adopt their use of terms related to "compostable materials" rather than using the generic, and often misleading, "waste" term:

Item	Comment	Recommendation
food waste	Residuals derived from food producing and storage enterprises (food processing facilities, restaurants and grocery stores) are typically not exclusively food waste. Rather, they typically include a lot of wrapping and container material (paper & plastic). For this reason when the rule says 10% food waste (e.g. 1133.3(d)(2)), it contains a significant portion (>50% by weight, depending on the source) of non-putrescible (non-VOC producing) material.	Define "food material" (no need for the word "waste", use the Title 14 term) as "FOOD MATERIAL is that portion of the compostable material feedstock that is directly derived from vegetable or animal matter. The "food material weight" refers only to the portion of putrescible material (VOC producing) typically received from the food by-product generating enterprise of the entire loads, thus accounting for the non-putrescible portion of those loads. The percent of food material will be determined for feedstock coming into the entire facility, not just one pile or windrow. If the food material weight differs within 20% (higher or lower) of the statewide industry standard, the local facility will define the actual percentage for the purposes of this rule."
green waste	So-called "green waste" is not entirely composted of "leafy green" material, the putrescible portion, the primary VOC producing component. For this reason, for the purposes of this rule, green material should be specifically defined as the VOC portion of those materials.	Define "green material" as per Title 14: "GREEN MATERIAL means any green leafy plant material that is separated at the point of generation, contains no greater than 1.0 percent of physical contaminants by weight, and meets the requirements of section 17868.5. Green material includes, but is not limited to, yard trimmings, landscape and agricultural leafy green residuals derived from mowing, trimming and plant removal. Green material does not include food material, biosolids, mixed solid waste, material processed from commingled collection, wood material, wood containing lead-based paint or wood preservative, mixed construction or mixed demolition debris.
wood waste	Woody material, while compostable, typically is used in chipped or ground fashion to provide a very slow degrading "bulking agent" added to more putrescible materials. Alternatively, it is used for decreative "wood chips" or sent to biomass burn facilities for fuel.	Define "WOOD Material" as: "WOOD MATERIAL means lumber, and the woody material portion of mixed demolition and construction wastes and branches and limbs --woody material portion--of Green Material, larger than 1" in diameter."

compost	Composting and compost are already defined in other regulations as time and temperature for pathogen reduction (PFRP). In this way, the time and temperature that is already regulated at compost facilities will be included in these rules in a consistent fashion.	Define "Active Compost" as in Title 14, i.e. (http://www.calrecycle.ca.gov/laws/regulations/Title14/ch31.htm): "ACTIVE COMPOST" means compost feedstock that is in the process of being rapidly decomposed and is unstable. Active compost is generating temperatures of at least 50 degrees Celsius (122 degrees Fahrenheit) during decomposition; or is releasing carbon dioxide at a rate of at least 15 milligrams per gram of compost per day, or the equivalent of oxygen uptake." Also, include "Compost Overs" in the definitions (see comments below on "Technology Considerations") to read: "FINISHED COMPOST means a humus-like material, and /or compost overs, that results from the controlled biological decomposition of organic waste materials and is biologically stable. Both the active and curing phases of the green material composting are required to achieve this product."
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Permitting Methods to Come Into Compliance with 1133.1 & .3

We are not clear, based solely on these proposed rules, what the permitting methods will be for implementation of these rules to exclusive chip & grind operations, the chip & grind portion of MRF, landfill and compost operations as well as the permitted compost portion of any green material handling operation.

Item	Comment	Recommendation
Permitting Methods	Compost producers need to have a better understanding of how the district staff plans to address BACT (best available control technology) for windrow composting vs. ASP (aerated static pile) composting for food material. Additionally, the percentage targets for BACT are not clearly defined. This whole discussion needs to be more fully articulated by the Air District staff in order for us to have a better understanding of permitting and source testing methods and requirements	Immediately (within the next month) hold stakeholder meeting(s) with Permitting and Enforcement staff(s) of SCAQMD (and SJVAPCD) (similar to our December 2010 Meeting with Rule staff) to begin an initial discussion on how this rule will likely be specifically interpreted by the Air District's permitting and enforcement staffs. We are prepared to make more detailed and specific recommendations regarding percentage targets and how best to regulate to achieve those intended results.

Permitting Conflicts and Related Issues

There appear to be some potential permitting conflicts between these rules and the use of equipment for chip & grind operations whether stand alone, or part of a permitted compost facility. These will need to be clarified and resolved prior to implementation of this proposed rule.

Item	Comment	Recommendation
Potential Permitting Conflicts	It is not clear to us if permitting could be required if you have a trammel screen or other piece of equipment or control device that is listed in the permitting rules. Equipment can fall under PERP and/or the stationary source rules. Not everything is exempt.	Clarify what constitutes the definition and triggering of an 1133.1 permit based on equipment on any given site. Define how that would be regulated and permitted relative to both 1133.1 and 1133.3.

Testing Costs for Compliance with These Rules

At the May 10, 2011 workshop, we heard testimony from multiple participants that the flux chamber testing used to obtain both the emissions factors, as well as the percent reductions in VOC emissions based on the various BACT proposals included in the Proposed Rule, would cost a facility from \$50,000 to \$100,000 depending on the size of the facility and the specific protocol. We also heard (from SCAQMD permitting and/or enforcement staff?) that it should only cost approximately \$5,500 per test cycle. This represents a high degree of uncertainty for the industry to be expected to absorb.

Item	Comment	Recommendation
Testing Methods and Costs	Given the one to two orders of magnitude variance in potential cost for measuring the effectiveness of VOC reduction, this is unacceptable to every green material compost producer in the South Coast Air District. And, by itself, this burden will put many compost operations out of business as soon as this rule is promulgated.	1) Determine the specific methods that will be used to measure VOC reduction compliance for the purposes of this rule. 2) Determine the specific cost of this method (\$5,000 or \$100,000?). 3) Add these costs to the economic analysis and burden that the compost enterprise will need to assume.

Technology Consideration Details for using BACT

During the May 10, 2011 workshop and in other comments in meetings with staff, we have discussed many potential alternative technologies and management practices to achieve the desired ozone VOC reductions to achieve the higher air quality results intended by these proposed rules.

Item Detail	Comment	Recommendation
Use of "Compost Overs"	The use of compost overs (finished compost that is excluded from a 2" screen (called 2"+) is often an extra material that has limited commercial value, and exists in quantity at some compost operations. The use of it to create the "pseudo biofilter" (compost cover) will be very useful and cost effective, at some operations.	Define Compost Overs as: "COMPOST OVERS are any finished compost that is excluded from a 2" screen (also referred to as '2 inch plus composted material')" Specifically include "compost overs" as recommended above in the revised "FINISHED COMPOST" definition.

Blanket & aeration	As stated under the "Permitting Comments" above, we need a specific understanding of how the district staff will address windrow composting vs. ASP composting permitting for food material (especially given our recommended new definition for both food and green materials). This will be required to make investments that will be in compliance. Recent data has shown that compost blanket with aeration can work as well as a canvas covered or in vessel compost operation.	Specifically identify alternative technologies that can be built and used by composters that will bring them into compliance with the proposed rule. Create a clear method or procedure for quickly obtaining permitting of new technologies as they become available to compost facility developers and operators. (i.e. don't allow the BACT of this rule to limit compost technology innovation in the immediate future).
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Negative Industry Impacts, and Their Mitigation

There has been much discussion between our organics industry representatives about the potential negative impacts that we believe the promulgation of these proposed rules will have on our industry. These impacts transcend, but include and are based on, the specific costs of elements of the rules themselves. This was articulated in previous letters (specifically our February 25, 2011 letter titled "ACP_PR_1133_Comment_Ltr_022511"). Further discussion with staff has underscored both the procedural limitations as well as the analysis shortcomings of the current "socio-economic analysis" process used by the Air District. This is in contradistinction to adequately representing the actual financial impact of these rules on, especially, the compost producers. While we understand these limitations, we are not in a position to accept them as a modus operandi for Air District rule making. This is so for two important reasons 1) the unique, major consequences that the implementation of these rules could have on composters, and 2) the importance of moving from an old "linear, non-renewable" industry analysis to a more robust "renewable, circular" industry analysis that is core to creating a renewable carbon economy. So we reiterate our concerns here, in order that both Air District staff and leadership can come to understand our new and important perspective on this issue, and hopefully work with us to help mitigate any negative impacts as best as possible moving forward.

Item	Comment	Recommendation
Robust Total Industry Analysis	As stated in the Feb. 25 th letter, "We want to be sure that we, right now, set a new precedent of socio-economic analysis for our industry, that is fundamentally based on the new sustainable economies-of-scope as applied to 'renewable carbon management'." While we understand that this is "beyond the scope" of the current, prescribed, methods of the Air Districts socio-economic analysis, we believe that we have a unique opportunity to use this rule making process to introduce an evolutionary change in this process.	1) Continue to affirm the strategic importance of compost producers as crucial component in returning carbon to the soil, as an environmentally beneficial and sustainable resource management system. 2) Allow staff to go beyond the immediate financial analysis of this industry on the general economy, and make professional opinion and guidance statements on maintaining composting as part of the developing future "renewable carbon economy" that Air Districts will be engaging with in perpetuity.

More Financial Input from Industry Experts	We believe that the compost industry is unique, and strategically positioned, compared to any other industry, in helping society move to a sustainable, renewable carbon society. And since carbon is central to all life and economics, this industry is core to the emerging sustainable economy. And for these reasons, the compost industry should be given new, and unique, analysis considerations. Principals with in our industry associations have been at the leading edge of environmental industry analysis and can be partnered with to create new, more realistic and useful analyses and socio-economic solutions.	Work with the compost industry closely , right now, to craft a new socio-economic analysis that adequately articulates and demonstrates the importance of this relatively small industry, within the larger context of renewable carbon management; including, but not limited to: <ul style="list-style-type: none"> • Gaseous carbon: <ul style="list-style-type: none"> ○ AD & renewable fuels, CH₄ ○ VOC & nitrogen cycles ○ CO₂ evolution & GHG's • Liquid carbon: <ul style="list-style-type: none"> ○ Fats, oils, greases ○ Biofuels • Solid carbon & organic nutrients: <ul style="list-style-type: none"> ○ Green, food & woody material ○ Nitrogen, phosphorous cycles and energy • Alternative pathways for carbon recycling <ul style="list-style-type: none"> ○ Uncomposted, composted, ○ Mass burn, soil, landfill, land application
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Ongoing Engagement with Regulatory & Permitting Leaders and Staff

As alluded to under the permitting and enforcement sections, we are already looking forward to how these proposed rules will affect facility permitting as well as how enforcement will be interpreted and implemented. Also, we are seeing that this rule, now that emissions factors have been adopted for open windrow facilities, are likely going to come under "new source review" as a major new emissions source. For example, as part of a December 9, 2010 presentation by Dave Warner, Director of Permit Services, SJVAPCD on "Future Permitting Issues for Compost Facilities in the San Joaquin Valley", he made the following comparison of compost facilities to other industries (slide #12 of his presentation) of a "Hypothetical Case Study"

- New 100,000 wet ton per year green waste composting facility
- Uncontrolled windrow VOC emissions:
 - 570,000 lb/yr, or 286 tons/yr
- Comparisons...
 - Largest oilfield source: 281 tons VOC/yr
 - Largest winery: 224 tons VOC/yr
 - Largest refinery: 208 tons VOC/yr
 - Largest manufacturer: 100 tons VOC/yr

Buying offsets for any traditional green material facility will now become prohibitively expensive, and will drastically change the overall economics of composting as compared to non-composting (chip & grind with unregulated "land application" of un-composted green material).

Item	Comment	Recommendation
Permitting and Enforcement	We require a better understanding of how permitting and enforcement of this rule will: 1) Be interpreted by the respective staffs, and 2) Get a better understanding of the impact on specific facility operations.	As per the recommendation above: Immediately (within the next month) hold stakeholder meetings with Permitting and Enforcement staff(s) of SCAQMD (and SJVAPCD) (similar to our December 2010 Meeting with Rule staff) to begin an initial discussion on how this rule will likely be specifically interpreted by the Air District's permitting and enforcement staffs.

<p>Regulatory Staff inclusive of the Air Districts</p>	<p>Because of the importance and potentially very significant impacts of this particular rule on the compost industry, we believe this rule will have long range consequences on a number of other policies within regulatory and resource agencies within California, especially:</p> <ul style="list-style-type: none"> • Calrecycle's Strategic Directives related to "Sustainable Organics Management" • CARB's implementation of AB 32 mitigation alternatives • CEC's renewable energy portfolio objectives • CDFA's organic amendment and fertilizer strategies 	<p>Immediately hold a high Level meeting with EPA, CARB, Calrecycle, SCAQMD and SJVAPCD to address, at a minimum, our concerns of:</p> <ul style="list-style-type: none"> • Making any composter processing more than 20,000 tons per year into a "Major Source" and thus subject to New Source Review and BACT • Potential \$1.5 million offset barrier to new composting facilities (New Source Review... and buying off-sets. This will "kill" the industry, not a technology problem.) • Realistic uses for green waste and food scraps moving forward (other than AD and composting)? Or accept higher capital (and cash flow) business for bio energy, compost (organic soil amendments) and organic fertilizers.
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Thank you, again, for the ongoing opportunity to work with you to better understand and implement the details of these proposed and amended air rules. ACP principals and industry associates and colleagues remain prepared and willing to continue working with the SCAQMD PAR 1133.1 & 1133.3 team, to make sure these comments and recommendations can be incorporated in this process. We believe that our industry shares the Air District's desire to create rules that make good enviro-socio-economic sense from both local and state level community and society perspectives. And we reiterate our core mission to become major contributors, and sustainable leaders and participants, in the emerging renewable carbon economy.

We look forward to discussing these comments, and implementing our recommendations, with you at your earliest convenience.

Very truly yours,



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