San Francisco Bay Regional Water Quality Control Board

February 10, 2017
CIWQS Place ID 272077

Republic Services, Inc.
West Contra Costa Sanitary Landfill
Attn: Doug Brewer, PE Environmental Manager
1 Parr Boulevard
Richmond CA 94801
Sent via email to dbrewer2@republicservices.com

Subject: Notice of Violation and Requirement for Technical Reports: Ponding/Infiltration and Discharge to Waters of the State Related to Compost Operation - West Contra Costa Sanitary Landfill, Richmond, Contra Costa County

Mr. Brewer:

The purpose of this letter is to inform you that the West Contra Costa Sanitary Landfill (WCCLF) is in violation of the Regional Water Quality Control Board’s Updated Waste Discharge Requirements (RB-WDR) Order No. R2-2002-0066, as well as the State Water Resources Control Board’s Order No. WQ 2015-0121-DWQ (SB-WDR), General Waste Discharge Requirements for Composting Operations. Numerous violations were observed during our site inspection of your composting operation on January 25, 2017.

You are out of compliance with the following Prohibitions and Specifications in the RB-WDR:

**Prohibition A.2:**

“Leachate and ponded water containing leachate or in contact with waste shall not be discharged to waters of the State or of the United States unless specifically authorized under an NDPES permit.”

**Specification B.2:**

“The site shall be protected from any washout or erosion of wastes or cover material and from inundation that could occur as a result of a 100-year, 24-hour precipitation event, or as the result of flooding with a return frequency of 100 years.”

**Specification B.6:**

“The final cap system shall be graded and maintained to promote lateral runoff and prevent ponding and infiltration of water.”
WCCLF is in violation of the following Prohibitions and Specifications in the SB-WDR:

**Prohibition 6:**

“Discharge of wastes to surface waters is prohibited, except as authorized by an NPDES permit.”

**Prohibition 7:**

“Discharge of wastes including overflow, wastewater, or bypass from transport, treatment, storage, or disposal systems to adjacent drainages or adjacent properties is prohibited.”

**Specification 3:**

“All feedstocks, additives, amendments, and compost (active, curing, or final product) must not cause, threaten to cause, or contribute to conditions of pollution, contamination, or nuisance. These discharges must comply with the applicable Basin Plan requirements.”

**Specification 4:**

“Areas used for receiving, processing, or storing feedstocks, additives, amendments, or compost (active, curing, or final product) must be designed, constructed, and maintained to control and manage all run-on, runoff, and precipitation which falls onto or within the boundaries of these areas, from a 25-year, 24-hour peak storm event at a minimum.”

**Specification 5:**

“Areas used for receiving, processing, or storing feedstocks, additives, amendments, or compost (active, curing, or final product) must be protected from inundation by surface flows associated with a 25-year, 24-hour peak storm event at a minimum.”

**Specification 11:**

“Drainage conveyance systems must be designed, constructed, and maintained for conveyance of wastewater from the working surface in addition to direct precipitation from a 25-year, 24-hour peak storm event at a minimum. Ditches must be properly sloped to minimize ponding and kept free and clear of debris to allow for continuous flow of liquid. Ditches must be adequately protected from erosion, and must not cause, threaten to cause, or contribute to conditions resulting in contamination, pollution, or nuisance. Ditches must be inspected and cleaned out prior to the wet season every year.”

Additionally the SB-WDR requires that:

- Detention pond requirements: Applicable detention pond requirements include Specifications 6 through 9 (under “Design, Construction, and Operation Requirements -
All Tiers”) and Specifications 2 and 3 (under “Design, Construction, and Operation Requirements – Tier II Only”).

- Maintenance Requirements: Applicable maintenance requirements include Specifications 1 and 2 (under “Maintenance Requirements”). It is unclear if Republic Services meets the above requirements.

Timeline and Details Resulting in Violation

Since September 2016, Contra Costa Environmental Health, Solid Waste Program (CCEH) and the Bay Area Air Quality Management District received over 400 odor complaints from the compost operation. These complaints extended as far as 5 to 7 miles from the WCCLF. CCEH staff initiated regular inspections and noted numerous violations which resulted in anaerobic decomposition and combustion of compost.

Between January 1 and 23, 2017, the site received approximately 13 inches of rain (Republic Services staff, pers. comm., January 25, 2017).

On January 25, 2017, Regional Board staff inspected the site along with CCEH staff. Staff documented rainwater and compost wastewater leaching from compost piles, with evidence of ponding, uncontrolled runoff resulting in erosion of the landfill cover, inadequately designed and maintained wastewater and runoff conveyance systems, and discharge of the compost wastewater to ponds which do not appear to meet the requirements set forth for design, construction, and maintenance of detention ponds in SB-WDR.

On January 27, 2017, Regional Board staff sent you an email urging you to immediately implement measures to prevent the following:

- Runoff of water that has been in contact with compost from uncontrolled surface drainage over the landfill slopes.
- Runoff of water that has been in contact with compost from discharging to waters of the State.
- Ponding of water that has been in contact with compost on the landfill surface.
- Erosion of the landfill cap and/or cover materials as a result of runoff from the compost operation.”

Provision C.20 of the RB-WDR requires notification of any flooding, ponding, settlement, equipment failure, slope failure, exposure of waste, or other change in site conditions that could impair the integrity of the landfill cap, waste or leachate containment facilities, and/or drainage control structures and shall immediately make repairs.1 Pursuant to this Provision, it is our expectation that you will take immediate action to rectify the violations noted herein. Provision

1 Similarly, State Notification Requirement 4 of the SB-WDR requires notification of violations and steps taken or planned to reduce, eliminate, or prevent recurrence of the noncompliance, and, depending on the severity of the violation, the Regional Water Board may require the Discharger to submit a separate technical report regarding the violation within 10 working days of the initial notification.
C.20 requires a technical report within 30 days documenting the corrective measures taken. Given that our inspection occurred on January 25, 2017, this report would be due on February 24, 2017.

Provision C.17 of the RB-WDR requires the submittal of a technical report to the Board, acceptable to the Executive Officer, detailing the repair and maintenance activities that need to be completed prior to the commencement of the next rainy season (starting October 15 of each year). All violations and corrective actions pursuant to the requirements of this notice and documented in the required technical reports above shall be incorporated into the next Annual Maintenance Report, due by July 31, 2017.

As described above, you are currently in violation of both the RB-WDR and the SB-WDR. Violations of these orders may result in the imposition of administrative civil liability pursuant to Water Code section 13350, including $10 per gallon of waste discharged, or up to $5,000 per day of violation. For any actual discharge to waters of the State or United States, you may be subject to administrative civil liability up to $10,000 per day per violation, and up to $10 per gallon of waste discharged over 1,000 gallons not cleaned up. The Regional Water Board may refer the matter to the Attorney General for enforcement. The Regional Water Board reserves the right to take any enforcement action authorized by law.

In addition, you also must submit a Technical Report to demonstrate that retention ponds are compliant with all requirements of the SB-WDR or include a Work Plan outlining measures and timeframe for bringing retention ponds into full compliance. This submittal is due no later than March 31, 2017.

This requirement for a report is made pursuant to Water Code Section 13267, which allows the Regional Water Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. The attachment provides additional information about Section 13267 requirements. Any extension in the above deadline must be confirmed in writing by Regional Water Board staff.

If you have any questions, please contact Cleet Carlton of my staff at (510) 622-2374 or by email at cleet.carlton@waterboards.ca.gov.

Sincerely,

Dyan C. Whyte
Assistant Executive Officer

Attachment: Fact Sheet – Requirements for Submitting Technical Reports under Section 13267 of the California Water Code
cc w/ attachment:

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Fact Sheet – Requirements for Submitting Technical Reports
Under Section 13267 of the California Water Code

What does it mean when the Regional Water Board requires a technical report? Section 13267¹ of the California Water Code provides that “…the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.”

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so? The requirement for a technical report is a tool the Regional Water Board uses to investigate water quality issues or problems. The information provided can be used by the Regional Water Board to clarify whether a given party has responsibility.

Are there limits to what the Regional Water Board can ask for? Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The Regional Water Board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified? A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don’t comply? Depending on the situation, the Regional Water Board can impose a fine of up to $5,000 per day, and a court can impose fines of up to $25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply? There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the Regional Water Board staff will not change the requirement and/or date to comply? You may ask that the Regional Water Board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the Regional Water Board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

If I have more questions, whom do I ask? Requirements for technical reports include the name, telephone number, and email address of the Regional Water Board staff contact.

Revised January 2014

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.