Motion to substitute
By Gordon

Substituting the below comments for Attachment A, City of Minneapolis Comments on the Proposed Minnesota Pollution Control Agency Compost Rule Changes.

Proposed Minnesota Pollution Control Agency Compost Rule Changes
City of Minneapolis Comments

Executive Summary

A goal of the City of Minneapolis is to operate an effective city-wide integrated solid waste management program that maintains environmental protections. For this reason, the City is supportive of the Minnesota Pollution Control Agency's intent to amend the rules governing Compost Facilities, Minnesota Rules, Chapter 7035 to create a new tier within the composting rules for composting source-separated organics materials (SSOM) with yard waste. The Agency has commented that the goal of the new rule for SSOM composting facilities is to provide regulatory relief without jeopardizing environmental protection.

It is the belief of the City of Minneapolis that the proposed rule language creates new barriers to backyard composting and composting at community gardens than the current rule and does not reflect the "need to update requirements so they reflect current practices" that is stated on page six of the Statement of Need and Reasonableness (SONAR).

The City of Minneapolis has a strong interest in seeing regulatory relief for SSOM composting facilities. More appropriate rules for SSOM composting facilities will likely allow for a greater number of composting facilities coming online, which will help the City meet its organic waste goals. For that reason, the City supports the Minnesota Composting Council's comments on the proposed rules regarding SSOM composting facilities.

The City of Minneapolis requests a contested case hearing of the entire proposed rule to adequately address the impacts the proposed rules have on residents who compost at backyard compost sites and at the more than 214 community gardens in Minneapolis, small composting businesses that may operate in Minneapolis under a more beneficial regulatory regime, and the capacity of the City to implement source separated organics collection on a broad scale.

Definitions

Comment 1: The definition for a backyard compost site was removed from the 2nd Preliminary Draft rule when backyard compost sites were encompassed in the small compost site definition. As the proposed rule currently reads, the Agency can regulate small compost sites. The Agency has commented that the intention of these rules was for backyard compost sites to remain exempt from Agency regulation. Furthermore, backyard composters in

Minneapolis are currently allowed to compost poultry litter from their chickens at their backyard compost sites. To continue to allow this practice, other items should be allowed to be composted in backyard compost sites as approved by local units of government by ordinance.

Recommendation: Reinstate the backyard compost site definition from the 2nd Preliminary Draft, allow additional materials to be composted per city ordinance, and leave regulation of backyard compost sites up to local units of government as is depicted in our proposed changes below:

> **Backyard compost site means:** a site used to compost food scraps, garden waste, weeds, lawn cuttings, leaves, and prunings from a single family or household, apartment building, or single commercial office, a member of which is the owner, occupant, or lessee of the property. Additional materials may be deemed acceptable by the local unit of government by ordinance. These sites are exempt from Agency regulation.

Comment 2: Subitem 1 on page 16 of the SONAR states that incidental amounts of fats, oils, grease, meat and dairy resulting from food preparation or post-consumer scraps will be received by small compost sites. The same is true of animal manure; however, it is not stated in the SONAR. If small sites are allowed to accept yard waste it will be impossible to eliminate animal manure since pets and wild animal waste is regularly incorporated in yard waste.

Recommendation: The City of Minneapolis requests the MPCA includes the acceptance of incidental amounts of fats, oils, grease, meat, dairy, and animal manure within the rule. In addition, we would appreciate if the Agency would allow local units of government to allow for other items as acceptable materials by ordinance and only include the actively composting materials in the 80 cubic yard allotted volume. Our proposed modifications to the small compost site definition are shown below.

> *Subp. 99a. **Small compost site**. "Small compost site" means a site that:*
> *A. is used to compost:*
> *(1) food scraps;*
> *(2) yard waste;*
> *(3) poultry litter generated on site only if the compost produced is used on site;*
> *(4) nonrecyclable paper; or*
> *(5) compostable materials meeting ASTM D6400 or ASTM D6868, incorporated by reference under part 7035.0605;*
> (6) incidental amounts of fats, oils, grease, meat, dairy, and animal manure
> (7) other items as approved by a local unit of government by ordinance
> *B. does not accept ~~fats, oils, grease, meat, dairy, animal manure,~~ diapers~~,~~ or sanitary products;*
> *C. does not exceed 100 cubic yards on site at any one time, including collected raw materials and compost being processed, but excluding carbon materials and finished compost; and*

D. is where the materials under item A are managed to minimize odor and the creation of nuisances and public health risks.

Solid Waste Management Facilities Governed

Comment 3: 7035.2525 Subp. 2. A. as currently written does not clearly accomplish the Agency's intent, as set out in the SONAR, to exempt small compost sites from Agency regulation.

Recommendation: The rule should explicitly state that the MPCA will not regulate small compost sites under the jurisdiction of local ordinances, as in the proposed amendment below.

Comment 4: The rule currently reads that all backyard compost sites in addition to small compost sites must comply with the sections listed above meaning that they are regulated by the Agency.

Recommendation: If the Agency's intent is to not regulate backyard compost sites, Subp. 2 should accurately reflect that intent as shown below.

*Subp. 2. **Exceptions**. Parts 7035.2525 to 7035.2915 do not apply to the following solid waste management facilities or persons, except as indicated:*

A. ~~backyard compost sites~~ backyard compost sites
B. small compost sites must only comply with parts 7035.2535, subpart 1, items A to E, 7035.2555; and 7035.2565 if there is no existing ordinance regulating these facilities by the local unit of government.

Operation Requirements

Comment 5: The requirement for 12 inches of porous materials at the base of each windrow is not realistic for small un-funded community garden sites. Wood chips or other porous materials are not readily available and community gardens do not have the funding to purchase these materials or purchase a grinder to meet this requirement.

Furthermore, best management practice for the windrow method of composting, utilized by most community gardens in Minneapolis, is to leave compost piles sit for extended periods of time. Turning piles every couple days, especially in cold Minnesota winters, will result in the death of microbes needed in the compost process to meet PFRP.

Recommendation: Remove requirements for 12 inches of porous materials to be placed at the base of each windrow. Other items such as PVC piping, drainage tile, etc. may be used to increase aeration at the base of each windrow. Maintaining aerobic conditions throughout the composting process and turning requirements should be addressed by individual compost site operations and should meet best management practices of a minimum of five turns within the fifteen day PFRP period.

Subp. 11. Operation requirements for a source-separated organics material compost facility.

10. (a) The windrow method for reducing pathogens consists of an unconfined composting process involving periodic aeration and mixing. ~~Construction of each windrow must include a minimum of 12 inches of porous materials at the base of the windrow that promotes aerobic conditions within the windrow.~~ Blended source-separated organic materials may be placed ~~on top of the porous material~~ to a maximum height of 12 feet. Aerobic conditions must be maintained during the compost process. A temperature of 55 degrees Celsius must be maintained in the windrow for at least 15 days. The windrow must be turned at least <u>five times within the fifteen (15) day PFRP period.</u> ~~once every three to five days.~~

<u>Compost Facilities</u>

Comment 6: The current rules for SSOM facilities are an important step towards providing regulatory relief without jeopardizing environmental protection, but there are a number of ways in which the proposed rules fail to meet that stated goal. The City of Minneapolis supports the comments made by the Minnesota Composting Council regarding SSOM composting facilities.

Recommendation: Adopt the recommendations of the MN Composting Council regarding SSOM composting facilities.