

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area        | Comment<br>Number | Commenter<br>Affiliation                            | First<br>name | Last name  | Summary of Comment  | CalRecycle Response   |
|-------------------------|-------------------|---|---------------|------------|---|---|
| <b>General Comments</b> |                   |   |               |            |   |   |
|                         | 115A01            | Self  | Kathleen      | Housel     | Add definition for Odor and it should read:<br>“Odor” A Smell, Scent, or Aroma detectable by any number of persons.   | Per §17867(a)(2), the operator shall conduct activities as to minimize odor impacts so as not to cause a nuisance. Nuisance is defined in §17852(a)(27.5).  |
|                         | 115A02            | Self  | Kathleen      | Housel     | Amend proposed definition for “Nuisance”:<br>12) "Nuisance" includes anything which:<br>(A) is injurious to human health; or, is annoying or indecent or offensive to the senses, and interferes with the comfortable enjoyment of life or property, and may be injurious to human health.<br>(B) affects at the same time an entire community, neighborhood or any considerable number of persons any number of persons in the neighboring communities. The extent of annoyance or damage inflicted upon an individual may be unequal.   | The “Nuisance” definition is the same as the existing definition of “Nuisance” in the Transfer/Processing Operations and Facilities Regulatory Requirements [§17402(a)(12)].<br><br>The definition of “Nuisance” is standard legal language for defining a “public nuisance” as found in California Civil Code §§ 3479 and 3480 and which forms the basis for public agencies to abate nuisances in Civil Code §§ 3491 and 3494.<br><br>The phrase “entire community or neighborhood” is one alternative standard. The definition also allows use of “considerable number of persons.”<br><br>Revisions to the draft regulation text are not necessary. |
|                         | 115C01            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark      | As previously indicated by the Task Force on several occasions starting with our letters of August 13, 2008, December 8, 2008, June 14, 2011, May 15, 2012, November 21, 2012, March 28, 2013, October 10, 2013, and October 30, 2014, there is a clear need for CalRecycle to define the terms “organic”, “organic material,” “non-organics” and “non-compostable organic,” such as plastic material [e.g. Sections 17850(c), 17852(a) (13.5), (26), etc. (emphasis added). These terms are being used by CalRecycle throughout the Draft Regulation Text without having defined their terminology. The Task Force respectfully requests CalRecycle to (1) define these terms through the regulatory process, or (2) avoid further use of these undefined terms. | It is not necessary to define such terms as “non-organics” and “plastics” since these terms are commonly used in statute and regulations.   |
|                         | 115C02            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark      | ...the proposed “Joint Permit Application Form” should be modified to indicate if the LEA, CalRecycle, and/or Water Board are the “Responsible Agency” pursuant to the requirements of CEQA and enumerate mitigating measures that these agencies are responsible for monitoring and enforcing (emphasis added).  | It is not necessary and redundant to modify the “Joint Permit Application Form” to indicate that the LEA, CalRecycle, and/or the Water Board are the “Responsible Agency.”  |
|                         | 115K02            | INIKIA  | Jessica       | Toth       | We ask that CalRecycle encourage LEAs to collaborate with their jurisdictions and be flexible in helping create projects that meet both the interest and unique needs of the community.   | CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.   |
|                         | 1151A02           |   | Tyla          | Montgomery |   |   |
|                         | 115K05            | INIKIA  | Jessica       | Toth       | Finally, we continue to advocate for, and request that CalRecycle provide guidance and support to projects seeking education and training. Projects with some level of training will give assurance to LEAs and local leaders that the project will be properly managed.  | CalRecycle will provide training and guidance to implement these regulations.   |
|                         | 1151A05           |   | Tyla          | Montgomery |   |   |
|                         | 115L01            | Synagro   | Layne         | Baroldi    | Synagro supports the requirement that digestate be composted at a permitted operation or facility, unless otherwise allowed as an alternative use by a state agency (like the California Department of Food and Agriculture).   | CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary. §17896.57(a)(3)(B) allows for digestate to be used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. Any digestate that will be applied to land must meet the requirements of §17852(a)(24.5).  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area  | Comment<br>Number | Commenter<br>Affiliation                               | First<br>name | Last name      | Summary of Comment  | CalRecycle Response   |
|---|-------------------|--|---------------|----------------|---|---|
|   | 115S03            | Almond Hullers & Processors Association                | Kelly         | Covello        | For clarity purposes on a go forward basis, Almond Hullers & Processors Association would appreciate the Department addressing the non-regulation of rocks and soil in the rulemaking's final statement of reasons.   | Rocks and soil are not human-made so they would not be considered physical contaminants as defined in§17852(a)(32).   |
|   | 115Y01            | Burke, Williams, & Sorensen, LLP                       | Timothy       | Colvig         | In general, the City supports amendments that strengthen the ability of CalRecycle and the Local Enforcement Agency to identify odor impacts and nuisances emanating from composting operations, and proactively to require immediate and complete mitigation of such impacts and nuisances through effective enforcement mechanisms.   | CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.   |
|   | 115Y02            | Burke, Williams, & Sorensen, LLP                       | Timothy       | Colvig         | Remove the word "public" before "nuisance" in Sections 17863.4 and 17896.31   | CalRecycle revised the text to remove the term “public” from the definition.  |
|   | 1151B05           | Wester Agricultural Processors Association             | Chris         | McGlothlin     | The Western Agricultural Processors Association seeks full exemption from any further regulations limiting the use of Agricultural By-Product Material by facilities that are collecting the material through the processing operation.   | Material handled or processed at the site where the material is generated is not subject to these regulations, however if the material is taken off-site for further processing then it would fall under these regulations. |
|   | 115T02            | County of Solano                                       | Jagjinder     | Sahota         | RE: EA Notifications: The LEA is concerned about this required concurrence from CalRecycle for reduced inspection frequency at these operations. These operations are not under the solid waste facility permit and the LEA thinks that this process will be an unnecessary intrusion into the LEA's discretionary authority for making these adjustments. The LEAs at the local level are more suited to allow the reduced frequency on their own. | The requirement for Department concurrence or approval on alternate inspection frequencies is consistent with existing regulation [See 14 CCR §18083(a)(3)].  |
| <b>§17381.1. Activities That Are Not Subject to the Construction and Demolition/Inert Debris Regulatory Requirements.</b> |                   |  |               |                |   |   |
| (d)(2)  | 115O01            | County of San Diego Department of Environmental Health | Karilyn       | Merlos         | The County of San Diego LEA believes 90 days is too short a storage limit for this type of material and requests modifying the limit to six months.   | CalRecycle will not consider lengthening the storage limit from 90 days to one year. Existing regulation (§17384) authorizes an LEA to approve alternative storage time limits if 90 days is insufficient.                  |
| <b>§17852. Definitions.</b>   |                   |  |               |                |   |   |
|   | 115G05            | Santa Barbara County Environmental Health Services     | Lisa          | Sloan          | Is there a public health and safety or permitting reason behind the fact that green materials does not include animal manure in the definition?   | Manure is defined as an agricultural material [§17852(a)(5)].   |
|   | 115I03            | Waste Less Living                                      | Christine     | Lenches-Hinkel | Please consider including a definition for “solid waste” and to consider the following:<br>“Solid waste is defined as any pre-or post-consumer non-recyclable or non-compostable discarded material for landfill disposal and having no other resource value in the marketplace.”   | Solid waste is defined in Public Resources Code §40191. The Public Resources Code is the enabling statute for these regulations.  |
|   | 115I05            | Waste Less Living                                      | Christine     | Lenches-Hinkel | Please consider the inclusion of the following terms and suggested definitions:<br>“Biodegradable” – the biological breakdown of material into very small and distinguishable parts by microorganisms such as bacteria and fungi.<br>Biodegradable is not the same as compostable.  | It is not necessary to define “biodegradable” as the term is not utilized in the regulations.   |
|   | 115I08            | Waste Less Living                                      | Christine     | Lenches-Hinkel | Please consider the inclusion of the following terms and suggested definitions:<br>“Organic” – any material of, relating to, or derived from living matter.   | It is not necessary to define the term “organic” since this term is commonly used in statute and regulation and is generally understood within the context of the authority and scope of these                              |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation                     | First<br>name | Last name        | Summary of Comment  | CalRecycle Response  |
|------------------|-------------------|--|---------------|------------------|---|--|
|                  |                   |  |               |                  |   | regulations (see §17850 and §17896.1), which refer to biological decomposition of waste through composting and digestion.  |
|                  | 115L02            | Synagro                                      | Layne         | Baroldi          | Synagro recommends that CalRecycle include an express definition in this rule for “stabilized compost” as there is no definition specifically expressed in this proposed rule revision. Please note that under the proposed rule’s section for digesters that digestate is being considered “compost”. There is a definition for “digestate” that should be used throughout the digester section of this proposed rule instead of “compost”. These products are not interchangeable nor the same. Synagro proposed that CalRecycle include in Section 17852 the following definition of “Stabilized Compost”: “Stabilized Compost” means any organic material that has undergone the Process to Further Reduce Pathogens (PFRP), as described in section 17868.3, and has reached a stage of reduced biological activity as indicated by reduced temperature and rate of respiration below that of active compost.” | Stabilized compost is defined in §17852(a)(36).<br><br>Digestate is not being considered compost in the regulations. Pursuant to §17896.57(a), digestate shall, within 24 hours, be either: 1) stored or processed on site in a stored container, 2) incorporated in an on-site aerobic compost process, or 3) removed from the site and transported to another solid waste facility for additional processing, composting, or disposal, or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. |
|                  | 115M01            | Self   | Jim           | Mortensen        | I believe the definition (Agricultural By-Product Material) should be amended to include material generated or separated in the field.  | Material handled or processed at the site where the material is generated is not subject to these regulations, however if the material is taken off-site for further processing then it would fall under these regulations.<br><br>Further, the handling of certain agricultural materials could be excluded pursuant to §17855(a)(1).   |
|                  | 115X04            | California Refuse Recycling Council          | Kathryn Ralph | Lynch & Chandler | ...no definition of “chipped and ground material” is included in the proposed regulations, though the term is used throughout. We believe this was an oversight and ask that a definition be included in subsequent proposed language changes.  | CalRecycle is not proposing any changes to existing regulations that affect the use of the term “chipped and ground material.”   |
|                  | 1151N07           | Waste Management                             | Chuck         | White            |   |  |
|                  | 1151C07           | County of Ventura Resource Management Agency | Charles       | Genkel           | The term "mulch" should be defined and land application should be limited to compostable material that has been mechanically reduced in size through the process of chipping, grinding or screening.  | Chipped and ground material such as mulch that meets the definition of compostable material is considered to be compostable material in the context of the regulations. Mulch that does not meet the definition of compostable material may meet the definition of Construction and Demolition wood mulch is defined in §17381(f) and be regulated as such. The regulations do not limit or restrict the size of material land applied, but do limit the thickness of the material applied at any given time.                                |
|                  | 1151H01           | Humboldt State University                    | Galen         | O’Toole          | Recommend adding in:<br>“ <u>Black Soldier Fly Composting</u> ” means an activity producing stabilized compost or stabilized compost leachates using the activity of black soldier fly ( <i>hermetia illucens</i> ) larvae. The EA may determine whether an activity is or is not black soldier fly composting. The handling of compostable material prior to and after use as a growth medium is subject to regulation pursuant to this chapter and is not considered black soldier fly composting. Larvae or protein meal derived from black soldier fly composting is subject to testing and approval for animal feed use pursuant to the California Food and Agricultural Code, Division 7, Chapter 6: 14901-15103.”  | Nothing in the regulations would prevent a “Black Soldier Fly Composting” activity. It is not necessary to specifically identify this activity in the regulations.   |
|                  | 1151K01           | Local Worm Guy Worm Farm                     | Lloyd L.      | Barker, IV       |   |  |
|                  | 1151M03           | Recology                                     | Erin          | Merrill          | ...the proposed regulations do not include a definition of “chipped and ground material.”   | CalRecycle is not proposing any changes to existing regulations that affect the use of the term “chipped and ground material.”   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area            | Comment<br>Number | Commenter<br>Affiliation                                       | First<br>name | Last name  | Summary of Comment   | CalRecycle Response  |
|-----------------------------|-------------------|--|---------------|------------|--|--|
| (a)(4.5)                    | 115S01            | Almond Hullers & Processors Association                        | Kelly         | Covello    | We are supportive of the Department’s proposed definition.   | CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.  |
| (a)(4.5)<br>(a)(24.5)(B)(4) | 115U01            | Stanislaus County Food Processing By-Products Re-Use Committee | Martin        | Reyes      | The amendments recognize that Stanislaus County’s Food Processing By-Product Use Program has and will continue to adequately regulate land application of food processing by-product without unnecessary and duplicative regulatory oversight due to the Department’s rules rightly directed at land application of compostable materials or compost.  | CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.  |
| (a)(4.5)                    | 1151B01           | Wester Agricultural Processors Association                     | Chris         | McGlothlin | Wester Agricultural Processors Association appreciates the inclusion of sticks, leaves, hulls and shells in the "Agricultural By-Product Material" section of the revised draft.   | CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.  |
| (a)(4.5)                    | 1151B03           | Wester Agricultural Processors Association                     | Chris         | McGlothlin | The piles are monitored closely so as to prevent temperature increases which would harm the integrity of the by-product material intended for sale. In summary, an easier path to sell the leftover material to dairies for feed.  | Material handled or processed at the site where the material is generated is not subject to these regulations, however if the material is taken off-site for further processing then it would fall under these regulations.  |
| (a)(4.5)                    | 1151C01           | County of Ventura Resource Management Agency                   | Charles       | Genkel     | The term "Agricultural By-Product Material" conflicts with the definition of "agricultural material" and "food material" as defined in Section 17852. By adding this definition, this material cannot be accepted at an Agricultural or Green Composting Operation and would be limited to land application or a fully permitted composting operation...Refine the definition to identify the acceptable uses other than land application.   | The regulations only address land application of Agricultural By-Products and are not intended to address other potential uses of Agricultural By-Products.  |
| (a)(4.5)                    | 115V01            | ROLL global  | Melissa       | Poole      | We support the proposed definition of agricultural by-product material, but do not believe that the inclusion of this definition offers clear guidance regarding the intent of CalRecycle to exempt certain agricultural activities from the regulations. The definitions, and corresponding exemptions under section 17855, should be further clarified to make clear that agricultural byproducts are not subject to the new rules.  | The only place where the term “agricultural by-product materials” is used other than the definition is in the land application section [§17852(a)(24.5)]. If this material is to be composted, a determination would be made as to what type of composting handling material operation or facility or exclusion [§17855) would accept this material. |
| (a)(5)                      | 115S02            | Almond Hullers & Processors Association                        | Kelly         | Covello    | “Agricultural Material” means <u>waste material of plant or animal origin, which result directly from the conduct of agriculture, animal husbandry, horticulture, aquaculture, silviculture, vermiculture, viticulture and similar activities undertaken for the production of food or fiber for human or animal consumption or use production and processing of farm, ranch, agricultural, horticultural, aquacultural, silvicultural, floricultural, vermicultural, or viticultural products which is separated at the point of generation, and which contains no other solid waste. With the exception of grape pomace or the material generated by and during nut hulling, shelling and processing, agricultural material has not been processed except at its point of generation and has not been processed in a way that alters its essential character as a waste resulting from the production of food or fiber for human or animal consumption or use. Material that is defined in this section 17852 as “food material” or “vegetative food material” is not agricultural material. Agricultural material includes, including but is not limited to, manures, orchard and vineyard prunings, grape pomace, and crop residues.</u> | CalRecycle revised the definition to address the material generated during nut and grain hulling, shelling, and processing.  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation  | First<br>name | Last name      | Summary of Comment  | CalRecycle Response  |
|------------------|-------------------|---|---------------|----------------|---|--|
| (a)(10)          | 1151C02           | County of<br>Ventura<br>Resource<br>Management<br>Agency        | Charles       | Genkel         | Change the definition to read as follows: "Chipping and Grinding Operations and Facilities" means an operation or facility, that does not produce <u>active</u> compost, that mechanically reduces the size ... "   | If a chipping and grinding operation or facility store piles of material that become active compost, then they would be considered a composting operation or facility. Chipping and grinding operations and facilities are required to remove material from the site within 48 hours (or up to seven days if allowed by EA). The removal frequency is designed in part to address issues associated with material reaching temperatures and the biological activity characteristics of active compost. |
| (a)(11)          | 115I06            | Waste Less<br>Living  | Christine     | Lenches-Hinkel | Please consider the inclusion of the following terms and suggested definitions:<br>"compostable material" – any organic material and/or bio-product meeting the ASTM D6400 standard for compostability and capable of biodegrading and ultimately disintegrating into carbon dioxide, water, inorganic compounds and biomass (aka soil) at a rate similar to paper and which contains no toxic residue. The original organic material being processed is indistinguishable after composting and is an input to making compost.  | The existing definition of compostable material [§17852(a)(11)] is adequate for the purpose of these regulations.  |
| (a)(11)          | 115V02            | ROLL global   | Melissa       | Poole          | We again urge CalRecycle to provide a clear exemption for agricultural materials and agricultural by-products intended for beneficial uses (i.e., biomass conversion, biofuel feedstock and animal feed or bedding), from the definition of "compostable materials" under section 17852(a)(11).   | Material handled or processed at the site where the material is generated is not subject to these regulations, however if the material is taken off-site for further processing then it would fall under these regulations.  |
| (a)(12)          | 115C03            | Los Angeles<br>County Solid<br>Waste<br>Management<br>Committee | Margaret      | Clark          | The proposed expansion of "compostable materials handling operation or facility" definition to include "vegetative food material composting facilities" may not be allowable since it expands the requirements of AB 1826 (Chapter 727 of the 2014 State Statutes) as stipulated in Section 42649.82, Subsection (d), Paragraphs (1) (B) and (2). AB 1826 was chaptered using the existing "compostable materials handling operation or facility" definition and does not incorporate any future addition and/or deletion. This issue needs to be addressed prior to promulgation of the proposed regulations.  | These regulations set forth minimum standards and permitting requirements for compostable material handling operations and facilities for the protection of public health and safety and the environment. Vegetative food material is that fraction of food material that may be composted under a Registration permit. These regulations are not intended to be the implementing regulations for AB 1826.   |
| (a)(12)          | 115L03            | Synagro   | Layne         | Baroldi        | ...does not reflect biosolids material composting operation. Biosolids facilities should be reflective as a "compostable materials handling operation" and biosolids are <b>not</b> included in the definitions of those listed. Please consider making the following changes bold and italicized to the wording as shown below: (12) "Compostable Materials Handling Operation" or "Facility" means an operation or facility that processes, transfers, or stores compostable material. Handling of compostable materials results in controlled biological decomposition. Handling includes composting, screening, chipping and grinding, and storage activities related to the production of compost, compost feedstocks, and chipped and ground materials. "Compostable Materials Handling Operation or Facility" does not include activities excluded from regulation in section 17855. "Compostable Materials Handling Operation or Facility" <b>also</b> includes, <b>but is not limited to</b> :<br>a. agricultural material composting operations;<br>b. green material composting operations and facilities;<br>c. vegetative food material composting facilities;<br>d. research composting operations; <del>and</del><br>e. chipping and grinding operations and facilities; <b>and</b><br>f. <b><i>biosolids composting operations.</i></b> | CalRecycle revised this subdivision to include biosolids composting at a POTW.   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area               | Comment<br>Number | Commenter<br>Affiliation                                   | First<br>name  | Last name       | Summary of Comment  | CalRecycle Response   |
|--------------------------------|-------------------|--|----------------|-----------------|---|---|
| (a)(13.5)<br>Also:<br>§17868.2 | 115P01<br>1151I01 | CR&R<br>Environmental<br>Services                          | Clarke<br>Paul | Pauley<br>Relis | Recommend changing definition of digestate to say means the solid and/or liquid <u>product</u> remaining after organic material has been processed in an in-vessel digester, as defined in section 17896.2(a).  | Digestate may or may not become a product therefore CalRecycle prefers the phrase “residual material.”  |
| (a)(18)                        | 1151L01           | Rancho Los<br>Encinitos<br>Consulting                      | Gene           | Ybarra          | I see no clear...language of the existing or proposed regulations that links the definition of “ <i>Enforcement Agency (EA)</i> ” (and the permitting responsibilities and obligations thereto) to the local land use and zoning permit authority.  | The duties of an EA are set forth in Public Resources Code 43209. Existing regulation [§17850] sets forth the Authority and Scope for the Compostable Materials Handling Operations and Facilities Regulatory Requirements. As specified in §17850(d), nothing in these standards shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, or reports, or other requirements of other regulatory or EA, including but not limited to, local health entities, regional water quality control boards, air quality management districts or air pollution control districts, local land use authorities, and fire authorities. |
| (a)(19)                        | 115H01            | City of San<br>Diego Local<br>Enforcement<br>Agency        | William<br>E.  | Prinz           | Please consider including digestate in the definition of "Feedstock ": §17852. Definitions. (a) For the purposes of this Chapter:<br>(19) "Feedstock" means any compostable organic material used in the production of compost or chipped and ground material including, but not limited to, agricultural material , green material, vegetative food material , food material , biosolids , mixed solid waste material and digestate .<br>Feedstocks shall not be considered as either additives or amendments. | CalRecycle revised the subdivision to include digestate in the definition of “feedstock.”   |
| (a)(20)                        | 115I01            | Waste Less<br>Living                                       | Christine      | Lenches-Hinkel  | Remove any reference of “waste” to “food” i.e. (20) “Food Material”. “Food scraps” and “organic/compostable material” need to be clearly defined as a “resource” and input to the manufacturing of compost NOT a waste item in need of landfill disposal. Consider excluding “food material” and “organic/compostable material” from solid waste definition.  | It is appropriate for CalRecycle to use the term “waste,” because Public Resources Code §43020 provides CalRecycle with the authority to adopt and revise which set forth standards for solid waste handling, transfer, composting, transformation, and disposal. Solid waste, as defined in Public Resources Code §40191, includes, but is not limited to, all putrescible and nonputrescible wastes including vegetable and animal solid and semisolid waste.   |
| (a)(20)                        | 1151C03           | County of<br>Ventura<br>Resource<br>Management<br>Agency   | Charles        | Genkel          | Strike the word "dry" in all subsections that refer to contamination by weight in definitions related to feedstock provided to composting operations. Strikeout "of" from subsection (A) "Vegetative food material contains no greater than 1.0 <del>of</del> percent physical contaminants by <del>dry</del> weight, and meets the requirements of section 17868.5."   | CalRecycle added dry weight to §17852(a)(20) to be consistent with existing requirements for maximum metal concentrations (§17868.2) and pathogen reduction (§17868.3) and standards industry practices.<br><br>CalRecycle revised the subdivision to strikeout the word “of.”  |
| (a)(21)                        | 1151S01           | California<br>Cotton Ginners<br>and Growers<br>Association | Chris          | McGlothlin      | CalRecycle utilizes State Water Board/Regional Water Board provisions and regulations pursuant to Waste Discharge Requirements as the allowable guideline in land application...regulated by two separate state agencies for the exact same practice...we ask that you leave the regulation of agricultural practices under the State Water Board's focus.  | There is no reference to State Water Quality Control Board or Regional Water Quality Control Board in this subdivision. CalRecycle staff believe the commenter meant to reference §17852(a)(24.5)(B), which specifies the land application requirements set forth in these proposed regulations do not apply to the land application of certain materials applied in accordance with State Water Quality Control Board or Regional Water Quality Control Board requirements.  |
| (a)(21)                        | 1151M01           | Recology   | Erin           | Merrill         | Recology recommends that all green and food material to be used as compost feedstock be held to a 3.0% contamination limit as measured just prior to active composting.   | Any material with greater than 1.0% contamination is defined as mixed material [§17852(a)(26)]. This limit is the basis for determining what types of material can be handled in the lower regulatory tiers of CalRecycle’s regulatory tier structure. Increasing the limit to 3.0% contamination would not be as protective of public health and safety and the environment.   |
| (a)(24)                        | 115L04            | Synagro  | Layne          | Baroldi         | Please consider adding chipped wood to the definition on Insulating Materials: (24) “Insulating Material” means material used for the purpose of minimizing the loss of heat from a compost pile undergoing the “Process to Further Reduce Pathogens” (PFRP), as described in section 17868.3. Insulating material includes, but is not limited to, soil, <u>chipped wood</u> , and stabilized compost.   | The definition does not exclude the use of chipped wood as an insulating material if it minimizes the loss of heat from the compost pile, therefore it does not need be specifically included. Soil and stabilized compost have been demonstrated as being effective as insulating material and so have been specifically included.   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area                                    | Comment<br>Number | Commenter<br>Affiliation   | First<br>name | Last name | Summary of Comment  | CalRecycle Response   |
|---|-------------------|--|---------------|-----------|---|---|
| (a)(24.5)   | 115L05            | Synagro  | Layne         | Baroldi   | Section 17852(a) 24.5 should not apply to “finished compost”. Synagro understands that the language in this section is intended only to apply to “Compostable Material”. CalRecycle defines “Compostable Material” as “any organic material that when accumulated will become active compost as defined in section 17852(a)(1).” As such, Synagro understands that Section 24.5 applies only to such organic material that has not gone through a treatment process to be considered “Stabilized Compost”. “Stabilized Compost” is defined by CalRecycle as any organic material that has undergone the Process to Further Reduce Pathogens (PFRP), as described in section 17868.3, and has reached a stage of reduced biological activity as indicated by reduced temperature and rate of respiration below that of active compost. Land application of “Stabilized Compost” products containing biosolids are already regulated by the SWRCB’s Biosolids General Order requirements (General Order No. 2000-10-DWQ). Such intent to only regulate “Compostable Materials” should be clearly distinguished from this section being misinterpreted to apply to “Finished Compost”. | Per §17852(a)(24.5)(B)1., this subdivision does not apply to compost produced in compliance with Article 3.1 and/or 3.2 of this Division.   |
| (a)(24.5)   | 115L06            | Synagro  | Layne         | Baroldi   | ...this limit should be deleted in this Section and modified to: “application of biosolids based finished compost shall be limited to the nitrogen needs of the crop to be grown based on the crop year.” Section 17582(a) 24.5 should only apply to “Compostable Materials” as defined in the proposed text.   | Per §17852(a)(24.5)(B)1., the land application requirements set forth in these proposed regulations do not apply to the use of compost produced in compliance with Article 3.1 and/or 3.2 of Division 7.<br><br>Per §17852(a)(24.5)(B)6., the land application requirements set forth in these proposed regulations do not apply to the beneficial reuse of biosolids pursuant to Part 503, Title 40 of the Code of Federal Regulations and State Water Resources Control Board General Order No. 2004-0012-DWQ, or site-specific Waste Discharge Requirements or other issued requirements from the State Water Resources Control Board or a Regional Water Quality Control Board having jurisdiction. |
| (a)(24.5)   | 1151F01           | California<br>Compost<br>Coalition                                   | Neil          | Edgar     | We are highly supportive of the proposed limits on physical contaminants allowed in compost products (currently set at 0.5%, by weight) and look forward to helping develop the proper sampling and field testing protocol that are needed. However, we do not believe that the proposed implementation deadline of January 1, 2018 is achievable, strongly supporting our recommended January 1, 2020 date.  | The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time to develop sampling and analysis protocol.   |
| (a)(24.5)(A)<br>Also:<br>§17868.2<br>§17868.3(b)(1) | 115B02            | California<br>League of Food<br>Processors                           | Rob           | Neenan    | Section 24.5(A), Section 17868.2, and Section 17868.3(b)(1) describe the pathogen and metals concentration limits. California League of Food Processors assumes that sites that are in compliance with Section 24.5(B)4 by having a land application permit from the Regional Water Board would be exempt from CalRecycle’s requirements, and only subject to any pathogen and metals limits and testing requirements stipulated in the Regional Water Board permit. If that is not the case, CLFP recommends that the text be amended to avoid duplicative or conflicting requirements.  | Per §17852(a)(24.5)(B), the pathogen reduction and maximum metal concentrations requirements do not apply to the final deposition of agricultural by-product material spread on land as authorized by the State Water Resources Control Board or a Regional Water Quality Control Board.  |
| (a)(24.5)(A)  | 115E01            | County of<br>Sacramento<br>Environmental<br>Management<br>Department | Lea           | Gibson    | The Sacramento County LEA recommends requiring the generator of the material to send off samples of the material for testing prior to shipping the material offsite for land application. We understand the concern that chip and grind facilities could be in violation of material holding time limits while awaiting lab results, however, the samples could be taken by the Operator and sent to the laboratory, then the material could be shipped offsite and the   | Pursuant to §17862.1(d), chipping and grinding operations and facilities are required to sample for every 5,000 cubic yards of material produced to determine the percentage of physical contaminants using a method that provides accurate results and has been approved by the LEA.<br><br>Given the throughput limit of 48 hours (or up to 7 days), it is not practical to subject chipping and grinding operations and facilities to the same materials sampling and analysis requirements as   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation                                 | First<br>name | Last name | Summary of Comment  | CalRecycle Response   |
|------------------|-------------------|--|---------------|-----------|---|---|
|                  |                   |  |               |           | lab results forwarded to the land owner. This would reduce the time that the land owner would have to store the material while awaiting lab results and reduce the potential for violations.  | composting operations and facilities. In addition, not all material produced at a chipping and grinding operation or facility is applied to land. If material produced at a chipping and grinding operation or facility will be land applied, the material must meet the requirements specified in §17852(a)(24.5)(A).<br><br>Per §17862.1(e), a chipping and grinding operation or facility is not required to sample for pathogens and metals. However, if it is land applied it must meet requirements of §17852(a)(24.5). The regulation allows, but does not require, the owner/operator of a chipping and grinding operation or facility to produce these test results.   |
| (a)(24.5)(A)     | 115E02            | County of Sacramento Environmental Management Department | Lea           | Gibson    | We also recommend the addition of a section requiring land appliers to maintain physical contamination, pathogen and metals records on site and make the records available to relevant regulatory agencies. Finally, we strongly recommend requiring the land owner to have a contingency plan or agreement with the material provider to ensure removal and proper disposal of any material that exceeds the metals and pathogen density limits.   | Chipping and grinding operations are required by §17869 to keep records on physical contamination limits required by §17862.1(d).<br><br>Chipping and grinding operations and facilities are one potential source of land-applied material. Other sources of include transfer/processing, landscapers, and landfills, some of which are not subject to these regulations.<br><br>The requirements of §17852(a)(24.5) are designed to be an enforcement tool to be used as needed. CalRecycle has chosen not to add land application sites to the regulatory tiers and promulgate State Minimum Standards. Instead CalRecycle has chosen to set baseline standards by which an activity is considered to be land applying compostable materials, and not disposing of them. The LEA can take enforcement action, as necessary, to ensure compliance with this subdivision.   |
| (a)(24.5)(A)     | 115W03            | Integrated Waste Management Consulting                   | Matthew       | Cotton    | I think you mean "than" not "that".   | CalRecycle revised the subdivision to correct the error.  |
| (a)(24.5)(A)     | 115W04            | Integrated Waste Management Consulting                   | Matthew       | Cotton    | Therefore, verification of compliance (line 53, page 10) should not be "upon request" of the EA, but should be maintained at the point of production, should be kept on file for inspection by the LEA and should be available to any LEA at any time for verification purposes. Further, any chipping and grinding facility or digestion facility proposing to send compostable material or digestate to land application should be required to maintain a log of locations where material was applied. Why would CalRecycle think it appropriate to require less regulation for land application of compostable material and/or digestate then for compost? | Per §17862.1(d), a chipping and grinding operation or facility must sample every 5,000 cubic yards of chipped and ground material and determine the percentage of physical contaminants in the material. Per §17869(f), the operator must keep records of these determinations. Per §17862.1(e), a chipping and grinding operation or facility is not subject to the provisions of §17868.1 (sampling), §17868.2 (maximum metal concentrations), or §17868.3 (pathogen reduction). However, if compostable material from the chipping and grinding operation is land applied, it must meet requirements of §17852(a)(24.5). Per §17852(a)(24.5)(A)5., verification of compliance with the land application requirements must be provided to the EA upon request. This verification may come from any source.<br><br>Further, chipping and grinding operations and facilities are one potential source of land-applied material. Other sources of include transfer/processing, landscapers, and landfills, some of which are not subject to these regulations. |
| (a)(24.5)(A)     | 115W05            | Integrated Waste Management Consulting                   | Matthew       | Cotton    | Page 10, line 29 (l): I must reiterate that the point of compliance should be at the point of production (as it is for any permitted compost facility), not "at the time of land application". Has the Department, or any of the EAs considered how to properly take a sample from a pile of to-be-land applied compostable material of digestate once it is piled on land? Has the Department considered that "at the time of application" has already occurred once the material is dumped on the application site? In the case that this material does not meet either the metals, pathogens, or inerts contamination                                      | Per §17862.1(d), a chipping and grinding operation or facility must sample every 5,000 cubic yards of chipped and ground material and determine the percentage of physical contaminants in the material. Per §17869(f), the operator must keep records of these determinations. Per §17862.1(e), a chipping and grinding operation or facility is not subject to the provisions of §17868.1 (sampling), §17868.2 (maximum metal concentrations), or §17868.3 (pathogen reduction). However, if compostable material from the chipping and grinding operation is land applied, it must meet requirements of §17852(a)(24.5). Per §17852(a)(24.5)(A)5., verification of compliance with the land application requirements must be provided to the EA upon request. This verification may come from any source.  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area                         | Comment<br>Number | Commenter<br>Affiliation                                 | First<br>name  | Last name       | Summary of Comment   | CalRecycle Response  |
|--|-------------------|--|----------------|-----------------|--|--|
|  |                   |  |                |                 | requirements, how is it to be handled? Does the Department expect the producer to remove and dispose of the material properly? By not requiring compliance at the point of production, CalRecycle is setting up a very weak system of oversight.   | Further, chipping and grinding operations and facilities are one potential source of land-applied material. Other sources of include transfer/processing, landscapers, and landfills, some of which are not subject to these regulations.<br><br>CalRecycle uses the term “at the time of land application” to ensure that the environmental health standards are verified as close as practical to the time of application. If an LEA finds that land-applied compostable material does not meet the standards for land application, the LEA will take appropriate enforcement action with regard to the illegal disposal of solid waste.   |
| (a)(24.5)(A)                             | 1151C04           | County of<br>Ventura<br>Resource<br>Management<br>Agency | Charles        | Genkel          | Maintain the proposed contamination level at 0.1% by weight. This section is a prescriptive requirement and should be contained in a separate section for land application. It is not a definition.  | CalRecycle revised the physical contamination limit from 0.1% to 0.5% (not to exceed 20% film plastic) for compost product, compostable material, and digestate spread on land. The physical contamination limit will be operative on January 1, 2018.<br><br>The limit on the percentage of physical contaminants is consistent with nationwide trends (the states of Massachusetts, Minnesota, Montana, Ohio, Washington, and Wisconsin, as well as the United Kingdom, have limits on physical contaminants). In California, the Department of Transportation’s (Caltrans) Revised Compost Nonstandard Specification 21-1.02M, calls for physical contaminants (plastic, glass, and metal) to be less the 0.5% by dry weight.<br><br>It is appropriate to include the land application requirements §17852(24.5) as they are conditions by which the activity is considered land application, not disposal. |
| (a)(24.5)(A)                             | 1151M02           | Recology   | Erin           | Merrill         | The proposed regulations: lack of a land application limit for chipped and ground material. “Land application” as defined applies to compostable material and digestate, but does not, as written, include chipped and ground material.  | Chipped and ground material meets the definition of compostable material pursuant to §17852(a)(11).  |
| (a)(24.5)(A)(1)<br><br>Also:<br>§17868.1 | 115P02<br>1151I02 | CR&R<br>Environmental<br>Services                        | Clarke<br>Paul | Pauley<br>Relis | The Land Application Phase in time should be extended to January 1, 2020...Land Application physical contamination limits puts an undue burden on the operator for potential frequent PCL testing...With a 0.5% PCL limit, the only way to process virtually all compostable materials will be composting and screening...The requirement that pathogen density limits are met at the time of land application puts an undue burden on the operator for potential frequent pathogen testing. This requirement should be tied back to meeting satisfactory testing results at the frequencies prescribed in section §17868.1. | The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time for the regulated community to adjust to the new standard.  |
| (a)(24.5)(A)                             | 1151D01           | Californians<br>Against Waste                            | Nick           | Lapis           | Regarding direct land ap/chip& Grind requirements: No material should be spread until the lab results are received. It is clearly an improvement to require the regular sampling, but it is not clear what would happen if the lab results came back inconsistent with the requirements after the material has left the facility. The material can be moved off site, but it should not be spread until the lab results come back.   | Per §17862.1(d), a chipping and grinding operation or facility must sample every 5,000 cubic yards of chipped and ground material and determine the percentage of physical contaminants in the material. Per §17869(f), the operator must keep records of these determinations. Per §17862.1(e), a chipping and grinding operation or facility is not subject to the provisions of §17868.1 (sampling), §17868.2 (maximum metal concentrations), or §17868.3 (pathogen reduction). However, if compostable material from the chipping and grinding operation is land applied, it must meet requirements of §17852(a)(24.5). Per §17852(a)(24.5)(A)5., verification of compliance with the land application requirements must be provided to the EA upon request. This verification may come from any source.   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation                                 | First<br>name | Last name | Summary of Comment   | CalRecycle Response   |
|------------------|-------------------|--|---------------|-----------|--|---|
|                  |                   |  |               |           |  | Further, chipping and grinding operations and facilities are one potential source of land-applied material. Other sources of include transfer/processing, landscapers, and landfills, some of which are not subject to these regulations.<br><br>CalRecycle uses the term “at the time of land application” to ensure that the environmental health standards are verified as close as practical to the time of application. If an LEA finds that land-applied compostable material does not meet the standards for land application, the LEA will take appropriate enforcement action with regard to the illegal disposal of solid waste.  |
|                  | 1151D03           |  |               |           | Chip-and-grind facilities should report where they receive material from and where they take it to.  | Per §17862.1(d), a chipping and grinding operation or facility must sample every 5,000 cubic yards of chipped and ground material and determine the percentage of physical contaminants in the material. Per §17869(f), the operator must keep records of these determinations. Per §17862.1(e), a chipping and grinding operation or facility is not subject to the provisions of §17868.1 (sampling), §17868.2 (maximum metal concentrations), or §17868.3 (pathogen reduction). However, if compostable material from the chipping and grinding operation is land applied, it must meet requirements of §17852(a)(24.5). Per §17852(a)(24.5)(A)5., verification of compliance with the land application requirements must be provided to the EA upon request. This verification may come from any source.<br><br>Further, chipping and grinding operations and facilities are one potential source of land-applied material. Other sources of include transfer/processing, landscapers, and landfills, some of which are not subject to these regulations. |
|                  | 1151D04           |  |               |           | The contamination limits for direct land application should NOT be set at the same level as for finished compost. The standards need to take into account that contaminants account for a significantly greater percentage of fully degraded material than they do of the incoming material, and that the concentrations of contaminants will increase after material is directly land-applied. We recommend a standard for uncomposted material that is no more than half of the standard for finished compost. | CalRecycle will consider the effects of variability of volume and mass reduction as it develops its sampling and analysis methodology.  |
| (a)(24.5)(A)4    | 115E03            | County of Sacramento Environmental Management Department | Lea           | Gibson    | We recommend deferring the responsibility for document review, approval of alternate land application methods, and enforcement at land application sites solely to CDFA and/or RWQCB. Alternatively, land application sites could be added to the regulatory tiers and additional regulations promulgated to impose State Minimum Standards.   | The requirements of §17852(a)(24.5) are designed to be an enforcement tool to be used as needed. CalRecycle has chosen not to add land application sites to the regulatory tiers and promulgate State Minimum Standards. Instead CalRecycle has chosen to set baseline standards by which an activity is considered to be land applying compostable materials, and not disposing of them. The LEA can take enforcement action, as necessary, to ensure compliance with this subdivision.<br><br>CalRecycle consulted with the California Department of Food and Agriculture and the State Water Resources Control Board in the development of these regulations. Each of the agencies are charged with regulatory oversight under their authority.  |
| (a)(24.5)(A)4    | 1151C05           | County of Ventura Resource Management Agency             | Charles       | Genkel    | Land application should be limited to parcels zoned as "agriculture or "open space." This section is a prescriptive requirement and should be contained in a separate section for land application. It is not a definition.  | CalRecycle is promulgating these regulations to have state-wide application. However, as specified in §17850(d), nothing in these standards shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, or reports, or other requirements of other regulatory or EA, including but not limited to, local health entities, regional water quality control boards, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation                     | First<br>name | Last name        | Summary of Comment  | CalRecycle Response  |
|------------------|-------------------|--|---------------|------------------|---|--|
|                  |                   |  |               |                  |   | It is appropriate to include the land application requirements §17852(24.5) as they are conditions by which the activity is considered land application, not disposal.   |
| (a)(24.5)(A)4    | 1151F05           | California Compost Coalition                 | Neil          | Edgar            | Additionally, the new proposed language in §17852 (a)(24.5)(A)(4)(b) appears to allow up to 36” of compostable materials and/or digestate to be applied on land zoned for agricultural uses in three applications per 12 month period. This effectively triples the previous 12” annual allowance and is wholly contrary to compost industry needs to maintain cost competitive feedstock streams while, at the same time, tripling the aforementioned potential threats to the environment. We certainly hope that is not CalRecycle’s intent at that this section can be rewritten to provide more sensible guidelines.   | Per §17852(a)(24.5)(A)(4)(b), the material spread on land shall not exceed 12 inches in total accumulated depth on the land surface.   |
| (a)(24.5)(A)4.a. | 1151B02           | Wester Agricultural Processors Association   | Chris         | McGlothlin       | There is no evidence that displays any harmful impacts of spreading tree nut sticks, leaves and hulls more than 3 times a year. The major area of concern is the contamination aspect; sticks, leaves, shells and hulls are far below the contamination threshold that has been applied through this draft. We respectfully request that you remove the application frequency from this draft altogether.   | Through the proposed definition of land application [§17852(a)(24.5)], CalRecycle is providing a pathway for land application that meets specified conditions to not be considered disposal. The land application requirements of §17852(a)(24.5) do not apply to the final deposition of agricultural by-product material spread on land in accordance with §17852(a)(24.5)(B)4.  |
| (a)(24.5)(A)4.a. | 115X03            | California Refuse Recycling Council          | Kathryn Ralph | Lynch & Chandler | The proposed language currently reads “at the time of the land application, the compostable material shall not exceed 12 inches in total, accumulated depth on the land surface.” The “at the time” inclusion makes it sound as though 12 inches in total can be applied on three separate occasions, therefore leading to a maximum of 36 inches in total accumulated depth. We do not believe this was the intention of the language and recommend clarifying this piece in your next iteration of regulatory language changes.   | Per §17852(a)(24.5)(A)4.b., the material spread on land shall not exceed 12 inches in total accumulated depth on the land surface.   |
|                  | 1151N09           | Waste Management                             | Chuck         | White            |   |  |
| (a)(24.5)(A)4.b. | 1151C06           | County of Ventura Resource Management Agency | Charles       | Genkel           | Land application should be limited to <b>once</b> per year. Modify the following sentence to read, "The EA, <del>in consultation</del> <u>may consult</u> with the California Department of Food and Agriculture to determine if the land application is agronomically beneficial and with the Regional Water Quality Control Board regarding water quality <u>to</u> determine that the alternative will not adversely affect public health and safety or the environment. <u>The property owner may submit to the EA a written request and justification, based upon site-specific conditions, to allow alternative frequencies and depths of land application.</u> " | <p>CalRecycle consulted with the California Department of Food and Agriculture and the State Water Resources Control Board in the development of these regulations. The California Department of Food and Agriculture is charged with and has the expertise for determining whether or not land application is agronomically beneficial. Regional Water Quality Control Boards are charged with and have the expertise for determining whether or not land application poses a threat to water quality. Therefore, CalRecycle determined that the consultation shall be mandatory rather than optional.</p> <p>The suggested modification to the sentence beginning with “the EA, in consultation with the California Department of Food and Agriculture...” is not acceptable because it eliminates the key phrase “may approve alternative frequencies and depths...”</p> <p>It is not necessary to add the suggested text regarding the property owner submitting a written request and justification to allow alternative frequencies and depths. Such an action would already be allowable.</p> |
| (a)(24.5)(A)(5)  | 1151F02           | California Compost Coalition                 | Neil          | Edgar            | ...this section is vague and needs to be modified to include specific language that any and all sampling and testing results related to compliance with this subsection be subject to the General Record Keeping Requirements found in §17869.  | Per §17862.1(d), a chipping and grinding operation or facility must sample every 5,000 cubic yards of chipped and ground material and determine the percentage of physical contaminants in the material. Per §17869(f), the operator must keep records of these determinations. Per §17862.1(e), a chipping and grinding operation or facility is not subject to the provisions of §17868.1 (sampling), §17868.2 (maximum metal concentrations), or §17868.3 (pathogen reduction). However, if compostable material from the chipping and grinding operation is land applied, it must meet requirements of   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area             | Comment<br>Number | Commenter<br>Affiliation                            | First<br>name | Last name  | Summary of Comment   | CalRecycle Response  |
|------------------------------|-------------------|---|---------------|------------|--|--|
|                              |                   |   |               |            |  | <p>§17852(a)(24.5). Per §17852(a)(24.5)(A)5., verification of compliance with the land application requirements must be provided to the EA upon request. This verification may come from any source.</p> <p>Further, chipping and grinding operations and facilities are one potential source of land-applied material. Other sources of include transfer/processing, landscapers, and landfills, some of which are not subject to these regulations.</p>  |
| (a)(24.5)(B)                 | 115B04            | California League of Food Processors                | Rob           | Neenan     | ...local environmental enforcement agencies should have broad discretion to approve alternative material application depths and frequencies. They are responsible for the health and safety of their communities and have the best understanding of how local environmental resources should be managed.   | CalRecycle consulted with the California Department of Food and Agriculture and the State Water Resources Control Board in the development of these regulations. The EA has the discretion to approve alternative application depths and frequencies in consultation with a Regional Water Quality Control Board and/or the California Department of Food and Agriculture, depending on the land use zoning. The California Department of Food and Agriculture is charged with and has the expertise for determining whether or not land application is agronomically beneficial. Regional Water Quality Control Boards are charged with and have the expertise for determining whether or not land application poses a threat to water quality. |
| (a)(24.5)(B)4                | 115B01            | California League of Food Processors                | Rob           | Neenan     | Section 24.5(B)4 provides an exemption for land application sites that have a permit, waiver, or resolution issued by a Regional Water Board. California League of Food Processors assumes that this would also include a county or municipal organic by-product recycling program that has been approved by the Regional Water Board. If that is not the case, California League of Food Processors requests that the text be clarified regarding this point. | CalRecycle revised the subdivision to specify that the land application requirements of §17852(a)(24.5)(A) do not apply to the final deposition agricultural by-product material spread on land as authorized by the State Water Resources Control Board or a Regional Water Quality Control Board pursuant to Waste Discharge Requirements, a Waiver of Waste Discharge Requirements, a Resolution, or “other issued requirements from the State Water Resources Control Board or Regional Water Quality Control Board having jurisdiction.”  |
| (a)(24.5)(B)4                | 1151B04           | Wester Agricultural Processors Association          | Chris         | McGlothlin | We ask that you leave the regulation of agricultural practices with the use of Agricultural By-Product Material under the State Water Board's focus.   | Through the proposed definition of land application [§17852(a)(24.5)], CalRecycle is providing a pathway for land application that meets specified conditions to not be considered disposal. The land application requirements of §17852(a)(24.5) do not apply to the final deposition agricultural by-product material spread on land as authorized by the State Water Resources Control Board or a Regional Water Quality Control Board pursuant to Waste Discharge Requirements, a Waiver of Waste Discharge Requirements, a Resolution, or other issued requirements from the State Water Resources Control Board or Regional Water Quality Control Board having jurisdiction.   |
| (a)(26)                      | 115C04            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark      | The existing definition refers to “non-organics” and “plastics” (emphasis added). As previously indicated, these terms need to be clearly defined for the purpose of “Compostable Materials Handling Operations and Facilities Regulatory Requirements,” and “In-Vessel Digestion Operations and Facilities Regulatory Requirements.” (Title 14 of the CCR, Division 7).   | It is unnecessary to define such terms as “non-organics” and “plastics” since these terms are commonly used in statute and regulations.  |
| (a)(26)                      | 115N01            | OWS, Inc.   | Norma         | McDonald   | We strongly urge this definition be modified to state "(26) "Mixed Solid Waste" means any material that is part of the municipal solid waste stream, and is mixed with or contains non-organics, processed industrial materials, or plastics. A feedstock that is not separated or contains <b>15.0%</b> or more physical contaminants by weight is mixed solid waste."  | The regulatory tier structure for compostable material handling operations and facilities is based on potential risks posed by feedstock types and volumes. Increasing the allowable physical contamination limit in mixed material from 1.0% to 15.0% would not be consistent with existing regulatory tier structure. An incoming percentage above 1.0% is not protective of public health and safety and the environment.   |
| (a)(27.5)(A)<br>(a)(2.75)(B) | 115C05            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark      | Based on the proposed definition, “nuisance” may be anything that is injurious to human health and affects at the same time an “entire community” (emphasis added). Please expand the definition to specifically define the term “entire community” and factors considered to define the term. For cases such as surface and ground water contamination or “odor” what criteria are to be used to establish the boundaries of the entire affected community?   | <p>The “Nuisance” definition is the same as the existing definition of “Nuisance” in the Transfer/Processing Operations and Facilities Regulatory Requirements [§17402(a)(12)].</p> <p>The definition is standard legal language for defining a “public nuisance” as found in California Civil Code §§ 3479 and 3480 and which forms the basis for public agencies to abate nuisances in Civil Code §§ 3491 and 3494.</p>  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area   | Comment<br>Number | Commenter<br>Affiliation  | First<br>name | Last name | Summary of Comment   | CalRecycle Response   |
|--|-------------------|---|---------------|-----------|--|---|
|  |                   |   |               |           |  | The phrase “entire community or neighborhood” is one alternative standard. The definition also allows use of “any considerable number of persons.”  |
| (a)(27.5)(A)<br>(a)(2.75)(B)   | 115C06            | Los Angeles<br>County Solid<br>Waste<br>Management<br>Committee | Margaret      | Clark     | It is strongly recommended the proposed definition be revised by deleting Subparagraph “B” and deleting the word “and” at the end of the Subparagraph “A.”   | The “Nuisance” definition is the same as the existing definition of “Nuisance” in the Transfer/Processing Operations and Facilities Regulatory Requirements [§17402(a)(12)].<br><br>The definition is standard legal language for defining a “public nuisance” as found in California Civil Code §§ 3479 and 3480 and which forms the basis for public agencies to abate nuisances in Civil Code §§ 3491 and 3494.<br><br>§17852(a)(27.5)(B) is consistent with California Civil Code §3480, so it is not appropriate to delete subdivision (B).  |
| (a)(38.5)  | 115W01            | Integrated<br>Waste<br>Management<br>Consulting                 | Matthew       | Cotton    | I am not aware of any food-containing material that doesn't meet the new "Agricultural by-Product Material", that meets the new proposed definition and is also something that generators in CA routinely need to send to a compost facility. I have long been an advocate for allowing the lower-tier facilities to accept food scraps. This definition, which I believe is trying to accomplish this, is so restrictive that it does not serve this purpose (or any purpose I can conceive of). Can the Department provide a practical example of a feedstock routinely generated in CA that meets this definition?                | The only place where the term “agricultural by-product materials” is used other than the definition is in the land application section [§17852(a)(24.5)]. If this material is to be composted, a determination would be made as to what type of composting handling material operation or facility or exclusion [§17855) would accept this material.<br><br>Food material can be a source of odors, vectors, and other nuisances, which poses a greater risk to public health, safety, and the environment. Food material would not be adequately regulated in the lower tiers. Vegetative Food Material Composting Facilities with 12,500 cubic yards or less on-site at any one time qualify for the Registration tier. |
| (a)(38.5)  | 115W02            | Integrated<br>Waste<br>Management<br>Consulting                 | Matthew       | Cotton    | Perhaps a better solution is to set a maximum volume of food scraps at a Registration-tier food material composting facility. Since this tier of facility will be limited to less than 12,500 cubic yards on-site, (maybe roughly 100 tons per day) why not allow these facilities to accept up to 25 percent of "food material" (broadly defined) since, I imagine, the bigger concern with these facilities accepting food is odor, not blowing litter or contamination? Additional food scraps composting capacity is critical considering the pending requirements of AB 1826.   | Food material can be a source of odors, vectors, and other nuisances, which poses a greater risk than green material to public health, safety, and the environment. Facilities that receive food material can do so under a compostable material handling permit.   |
| <b>§17854.1. Regulatory Tier Requirements for Compostable Material Handling Operations and Facilities.</b> |                   |   |               |           |  |   |
|  | 115C07            | Los Angeles<br>County Solid<br>Waste<br>Management<br>Committee | Margaret      | Clark     | Please provide a list of criterion used for establishing a threshold limit of 12,500 cubic yards for “Green Material Composting Operations” under the “EA Notification Tier” and “Registration Permit Tier.”   | Table 1 in §17854.1 provides a summary of the placement of compostable material handling operations and facilities into the regulatory tiers. The information in Table 1 comes directly from the actual sections that set forth the tier placement. In the case of green material operations and facilities, §17857.1 sets forth the actual tier placement. CalRecycle is not proposing changes to §17857.1 as it relates to the threshold limits used to determine tier placement.   |
|  | 1151L02           | Rancho Los<br>Encinitos<br>Consulting                           | Gene          | Ybarra    | In the absence of EA responsibilities designated to the local permit agencies, I believe local agencies would have no compelling reason or obligation to adopt local land use and zoning regulations to enable the various Compostable Material Handling Operations and Facilities shown in Table 1 of §17854.1 of the proposed regulations...it is fundamentally necessary that the proposed regulations cause local permit agencies to adopt local land use and zoning permit processes to enable compostable materials handling and facilities that are at least commensurate with the proposed tiered requirements for the same. | Per §17850(d), nothing in these standards shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, or reports, or other requirements of other regulatory or EA, including but not limited to, local health entities, regional water quality control boards, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area                    | Comment<br>Number | Commenter<br>Affiliation                          | First<br>name | Last name      | Summary of Comment   | CalRecycle Response  |
|-------------------------------------|-------------------|---|---------------|----------------|--|--|
| <b>§17855. Excluded Activities.</b> |                   |   |               |                |  |  |
|                                     | 115102            | Waste Less Living                                 | Christine     | Lenches-Hinkel | Include small to medium in-vessel composting systems as an Excluded Activity that can process between <1 cy to 20 cy of organic material a day, an amount that is significantly below the notification threshold of 5,000 cy.  | Within-vessel composting processes are subject to the exclusion of §17855(a)(4) if the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet.  |
|                                     | 115V03            | ROLL global                                       | Melissa       | Poole          | We support the exclusion of compostable material from certain compostable material handling rules under section 17855, and suggest that the regulations be further amended to make clear that agricultural by-product materials and agricultural processing facilities fall under these same exclusions.   | <p>The only place where the term “agricultural by-product materials” is used other than the definition is in the land application section [§17852(a)(24.5)]. If this material is to be composted, a determination would be made as to what type of composting handling material operation or facility or exclusion [§17855) would accept this material.</p> <p>An agricultural exclusion is provided in existing regulation [§17855(a)(1)].</p>  |
|                                     | 1151S02           | California Cotton Ginners and Growers Association | Chris         | McGlothlin     | The California Cotton Ginners and Growers Association respectfully seek a full exemption from being included in future composting regulation.  | <p>Material handled or processed at the site where the material is generated is not subject to these regulations, however if the material is taken off-site for further processing then it would fall under these regulations. Further, if the site receives waste from other sources, then the activity would fall under these regulations.</p> <p>An agricultural exclusion is provided in existing regulation [§17855(a)(1)].</p> <p>CalRecycle revised the definition of land application and added a definition for agricultural by-product material [§17852(a)(4.5)]. The land application requirements of §17852(a)(24.5) do not apply to the final deposition of agricultural by-product material spread on land in accordance with §17852(a)(24.5)(B)4.</p> |
| (a)                                 | 1151H02           | Humboldt State University                         | Galen         | O’Toole        | <p>Proposed additions:<br/> <u>“Black soldier fly composting is an excluded activity. The handling of compostable material prior to and after its use as a growth medium during the black soldier fly composting process is not an excluded activity and is subject to the requirements of this chapter or the Transfer/Processing Operations and Facilities Regulatory Requirements (Title 14, California Code of Regulations, Division 7, Chapter 3, Article 6.0-6.35), whichever is applicable, as follows:</u><br/> <u>(A) when the compostable material is active compost or is likely to become active compost, as determined by the EA, the requirements of this chapter apply;</u><br/> <u>(B) at all other times when it is not being used as a growth medium during black soldier fly composting, the compostable material is subject to the Transfer/Processing Operations and Facilities Regulatory Requirements.”</u></p> | <p>Nothing in the regulations would prevent a “Black Soldier Fly Composting” activity. It is not necessary to specifically identify this activity in the regulations.</p>  |
|                                     | 1151K02           | Local Worm Guy Worm Farm                          | Lloyd L.      | Barker, IV     |  |  |
| (a)(1)                              | 115F01            | Dairy Cares                                       | J.P.          | Cativiela      | Change Section 17855 (a) (1) to read (or add a similar section immediately following): “An activity is excluded if it is located on an agricultural site, and handles exclusively agricultural materials derived from that agricultural site or other agricultural sites. An <u>unlimited amount</u> of compost product derived from such agricultural materials may be given away or sold annually.”  | The selling or giving-away of an incidental amount of material (1,000 cubic yards per year) is used in the regulations to define a distinction between composting done in support of an agricultural activity and one that is producing compost for the greater market place.  |
| (a)(1)                              | 115V04            | ROLL global                                       | Melissa       | Poole          | Section 17855(a)(1)- An activity is excluded if it handles agricultural material <u>or agricultural by-product material</u> , derived from an agricultural or <u>agricultural processing</u> site, and returns a similar amount of the material produced to that same agricultural <u>or agricultural processing</u> site, or an agricultural or agricultural processing site owned or leased by the owner,  | This exclusion is specific to activities handling agricultural material as defined in §17852(a)(5). Agricultural by-product material generated at an agricultural processing site may not be meet the definition of agricultural material.   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation          | First<br>name | Last name  | Summary of Comment   | CalRecycle Response  |
|------------------|-------------------|-----------------------------------|---------------|------------|--|--|
|                  |                   |                                   |               |            | parent, or subsidiary of the com posting activity. No more than an incidental amount of up to 1,000 cubic yards of compost product may be given away or sold annually.   | The only place where the term “agricultural by-product materials” is used other than the definition is in the land application section [§17852(a)(24.5)]. If this material is to be composted, a determination would be made as to what type of composting handling material operation or facility or exclusion [§17855) would accept this material.   |
| (a)(1)           | 1151J01           | Agriculture Council of California | Emily         | Rooney     | Change Section §17855(a)(1) to read: “An activity is excluded if it is located on an agricultural site and handles exclusively agricultural materials derived from that agricultural site or other agricultural sites. An unlimited amount of compost product may be given away or sold annually.”   | The selling or giving-away of an incidental amount of material (1,000 cubic yards per year) is used in the regulations to define a distinction between composting done in support of an agricultural activity and one that is producing compost for the greater market place.  |
| (a)(5)           | 115D01            | Del Monte Foods, Inc.             | Timothy P.    | Ruby       | ...expand to list the following activities as excluded activities for compostable materials handling permitting if:<br><u>(K) the activity is part of a food processing facility and is used to temporarily store, process, and/or transfer agricultural by-product materials not used in the production of compost; or</u><br><u>(L) the activity is part of an authorized State Water Resources Control Board, Regional Water Quality Control Board, and/or County permitted agricultural by-products materials land spreading operation or program.</u> | Material handled or processed at the site where the material is generated is not subject to these regulations, however if the material is taken off-site for further processing then it would fall under these regulations. Further, if the site receives waste from other sources, then the activity would fall under these regulations.<br><br>Agricultural by-product material being land applied as authorized by the State Water Resources Control Board or a Regional Water Quality Control Board is not be subject to these regulations.  |
| (a)(5)(E)        | 115V05            | ROLL global                       | Melissa       | Poole      | Section 17855(a)(5)(E) - The activity is part of an agricultural <u>or agricultural processing</u> operation and is used to temporarily store or process agricultural material <u>or agricultural by-product material</u> not used in the production of compost or mulch.  | This exclusion is specific to activities handling agricultural material as defined in §17852(a)(5). Agricultural by-product material generated at an agricultural processing site may not be meet the definition of agricultural material.<br><br>The only place where the term “agricultural by-product materials” is used other than the definition is in the land application section [§17852(a)(24.5)]. If this material is to be composted, a determination would be made as to what type of composting handling material operation or facility or exclusion [§17855) would accept this material. |
| (a)(5)(G)        | 115V06            | ROLL global                       | Melissa       | Poole      | Section 17855(a)(5)(G)-The activity is part of an agricultural <u>or agricultural processing</u> operation used to chip and grind agricultural material <u>or agricultural by-product</u> material produced on lands owned or leased by the owner, parent, or subsidiary of the agricultural <u>or agricultural by-product</u> operation, for use in biomass conversion.   | This exclusion is specific to activities handling agricultural material as defined in §17852(a)(5). Agricultural by-product material generated at an agricultural processing site may not be meet the definition of agricultural material.<br><br>The only place where the term “agricultural by-product materials” is used other than the definition is in the land application section [§17852(a)(24.5)]. If this material is to be composted, a determination would be made as to what type of composting handling material operation or facility or exclusion [§17855) would accept this material. |
| (a)(5)(K)        | 115F02            | Dairy Cares                       | J.P.          | Cativiela  | Add Section 17855 (a) (5) (K) “the activity takes place on a dairy or other confined animal facility regulated under waste discharge requirements or a conditional waiver of waste discharge requirements issued by a Regional Water Quality Control Board, and the materials handled are limited to manure as defined in Section 17852 (a) (25).  | This activity is already excluded per §17855(a)(1). It is not necessary to add an additional exclusion.  |
| (a)(5)(K)        | 1151J02           | Agriculture Council of California | Emily         | Rooney     | Change Section §17855(a)(1) to read: “the activity takes places on a dairy or other confined animal facility regulated under waste discharge requirements issued by a Regional Water Quality Control Board, and the materials handled are limited to manure as defined in Section17852(a)(25).”  | This activity is already excluded per §17855(a)(1). It is not necessary to add an additional exclusion.  |
| (a)(4)           | 115K01            | INIKAI                            | Jessica       | Toth       | We are excited that the new rules will expand small-scale, community composting for California. We do feel that the proposed 750-square foot footprint could be small for some compost techniques, especially those that   | Per §17855(a)(4), composting green material, food material, and vegetative food material is an excluded activity if the total <u>amount of feedstock and compost on-site at any one time</u> does not exceed 100 cubic yards and 750 square feet.  |
|                  | 1151A01           | INIKAI                            | Tyla          | Montgomery |  |  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area  | Comment<br>Number | Commenter<br>Affiliation                            | First<br>name | Last name  | Summary of Comment   | CalRecycle Response   |
|---|-------------------|---|---------------|------------|--|---|
|   |                   |   |               |            | utilize flatter, wider piles commonly preferred in biodynamic farming. However, we will support CalRecycle’s proposal moving forward, so long as it is understood that the footprint encompasses the dimensions of only the feedstock and compost piles, and does not include other areas such as aisles and work sheds.   |   |
|   | 115K03            | INIKA   | Jessica       | Toth       | We have identified a couple of scenarios that could pose problems for farms seeking to participate in their communities' waste diversion strategies, particularly those farms with composting operations larger than the 100 cy/ 750 sf permit exemption. These scenarios include:<br><ul style="list-style-type: none"> <li>• A farmer backhauling the collective of spoiled produce from a farmers market back to their own farm for composting.</li> <li>• A farmer who distributes directly to restaurants or small markets and backhauls spoils and trimmings for composting.</li> </ul>  | The regulations do not preclude or prevent the activities described.  |
|   | 1151A03           | INIKA   | Tyla          | Montgomery |  |   |
|   | 115K04            | INIKA   | Jessica       | Toth       | In our previous comment letters, we specifically asked that farms be allotted a small, accessory allowance for offsite material such as food. Let's not shut farms out of the conversation, they should not be required to enroll in a Registration or Full Permit for accepting small volumes of offsite material. And farms theoretically could maintain a 100 cubic yard "excluded" pile, in addition to their ongoing agricultural composting.   | The regulations do not preclude or prevent the activities described.  |
|   | 1151A04           | INIKA   | Tyla          | Montgomery |  |   |
| <b>§17855.2. Prohibitions.</b>                              |                   |   |               |            |  |   |
| (a)   | 115C08            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark      | It has been indicated that composting residential food materials and residuals that may contain unprocessed mammalian tissues, including but not limited to, flesh, organs, hide, bone and marrow do not constitute “compostable material handling operation or facilities.” Prior to granting such an exemption, the impact on public health and the environment needs to be addressed.   | §17855.2 is an existing section prohibiting the composting of unprocessed mammalian tissue, including but not limited to, flesh, organs, hide, blood, bone and marrow. It is not an exemption.  |
| (a)   | 1151G01           | Baker Commodities Inc.                              | Doug          | Smith      | (a) The composting of unprocessed mammalian tissue, including but not limited to, flesh, organs, hide, blood, bone and marrow is prohibited, except when received, <u>unless regulated by the California Department of Food and Agriculture</u> :<br>(1) from the a food service industry facility as defined in Health and Safety Code section 113789, <del>grocery stores</del> , or residential food scrap collection,; or<br>(2) as part of a research composting operation for the purpose of obtaining data on pathogen reduction or other public health, animal health, safety, or environmental concern, in accordance with section 17862.; or (3) from a source approved by the Department in consultation with the State | §17855.2 is an existing section prohibiting the composting of unprocessed mammalian tissue.   |
| <b>§17856. Agricultural Material Composting Operations.</b> |                   |   |               |            |  |   |
| (a)<br>Also:<br>§17854                                      | 115P03            | CR&R Environmental Services                         | Clarke        | Pauley     | ...Recommend change to: "If their feedstock is limited to agricultural material generated from <b>on-site</b> agricultural operations, agricultural material composting operations may handle unlimited quantity of agricultural material on the site from which that the material is generated and may sell or give away any or all compost they produce. If the material is generated off-site and transferred to the compost operation site, then the operation is subject  | The suggested change is not consistent with existing regulations (§17856), which place agricultural material composting operations in the EA Notification tier regardless of the source (on-site or off-site) of the feedstock.<br><br>Agricultural material generated on-site is eligible for exclusion per §17855 (a)(1). |
|   | 1151I03           |   | Paul          | Relis      |  |   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area  | Comment<br>Number | Commenter<br>Affiliation                            | First<br>name | Last name | Summary of Comment   | CalRecycle Response   |
|---|-------------------|---|---------------|-----------|--|---|
|   |                   |   |               |           | to Article 2, 17854 - Compostable Materials Handling Facility Permit Requirements.”  |   |
| (c)   | 115C09            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark     | Considering that such an operation may be a nuisance to adjacent properties due to potential odor generation, there is a need for more frequent and inspection by the LEA (i.e. at least on a quarterly basis).  | Subdivision (c) applies agricultural material composting operation using only agricultural material. Existing regulation [§17856(b)] requires the EA to inspect these operations <b>at least once</b> each calendar year. The proposed regulation [§17856(c)] requires the EA to inspect at the time when compostable material on the site is active compost. The EA has the discretion to inspect more frequently, if necessary.   |
| (d)(2)(B)   | 1151C08           | County of Ventura Resource Management Agency        | Charles       | Genkel    | Modify the language to read: “Operations located on land that is not zoned for agricultural uses and operations that sell or give away 1,000 cubic yards or more of compost per year <del>may handle an unlimited amount of agricultural, but may not stockpile more than 12,500 cubic yards of green material feedstock on the site at any time</del> shall be regulated as a green material composting operation.” | Existing regulations set forth requirements for Agricultural Material Composting Operations. The proposed regulations do not change these requirements; the changes to this section reorganize text for clarity.  |
| (e)   | 115C10            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark     | ...this section needs to be expanded to include the following new subsection:<br><br>“These sites shall record the quantities of agricultural materials received, by jurisdiction of origin, and submit the data to the appropriate jurisdictions on a calendar quarterly basis.”  | The specific purpose and necessity of these proposed regulations relate to the protection of public health and safety and the environment. The tracking of the origin of material is outside the scope of this set of regulations. Material tracking is addressed in other Title 14 regulations.  |
| <b>§17857.1. Green Material Composting Operations and Facilities.</b> |                   |   |               |           |  |   |
| (b)(3)  | 115P04            | CR&R Environmental Services                         | Clarke        | Pauley    | Recommend change to: “In addition, the EA <b>may</b> issue a cease and desist order pursuant to section 18304 directing, among other things, that the operator immediately cease accepting material at the site until the operator has demonstrated to the EA that it has corrected the violation and eliminated the cause of the violation.”  | It is not appropriate to change the “shall” to “may.” §17857.1(b) already allows the operator three opportunities to correct issues before a cease and desist order is issued.  |
|   | 1151I04           |   | Paul          | Relis     |  |   |
| (d)   | 115C11            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark     | ...this Section needs to be expanded to include the following new subsection:<br><br>“Subsection (d) - These sites shall record the quantities of green materials received by jurisdiction of origin and submit the data to the appropriate jurisdictions on a calendar quarterly basis.”  | The specific purpose and necessity of these proposed regulations relate to the protection of public health and safety and the environment. The tracking of the origin of material is outside the scope of this set of regulations. Material tracking is addressed in other Title 14 regulations.  |
| <b>§17862. Research Composting Operations.</b>                        |                   |   |               |           |  |   |
|   | 115C12            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark     | Please expand to (a) require surface and ground water protection, (b) prohibit any surface water from leaving the property without a National Pollutant Discharge Elimination System (NPDES) Permit, and (c) control and mitigate any odor nuisances and obtain a permit from the appropriate local air pollution control district/air quality management district.  | Pursuant to Public Resources Code §40055(b), CalRecycle regulations may not duplicate or be in conflict with any determination relating to water quality control made by the State Water Quality Control Board or Regional Water Quality Control Boards. Pursuant to Public Resources Code §43020, regulations adopted by CalRecycle may shall not include any requirements already under the authority of the state water board for the prevention of water pollution.<br><br>§17863.4, §17863.41, and §17867(a)(2), require all compostable material handling operations and facilities to be conducted in a manner that minimizes odor impacts so as not to cause a nuisance, and specify actions the operator must take if odor impacts are occurring.<br><br>Pursuant to Public Resources Code §40055(a), CalRecycle regulations do not limit the power of any air pollution control district or air quality management district. Pursuant to Public Resources Code §43020, regulations adopted by CalRecycle may shall not include any requirements already under the authority of the State Air Resources Board for the prevention of air pollution. |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area  | Comment<br>Number | Commenter<br>Affiliation                           | First<br>name | Last name | Summary of Comment   | CalRecycle Response  |
|---|-------------------|--|---------------|-----------|--|--|
|   | 115T03            | County of Solano                                   | Jagjinder     | Sahota    | ...clarification in the case of a permitted composting site that would want to run one or a few trial projects on a new material and or process....a full permit should not be avoided by breaking operations into more than one smaller projects.   | Trials of new materials can be addressed through a request to conduct a research project or a request to adjust permit conditions to allow new material trials.  |
| <b>§17862.1. Chipping and Grinding Operations and Facilities.</b> |                   |  |               |           |  |  |
|   | 115G01            | Santa Barbara County Environmental Health Services | Lisa          | Sloan     | Contaminant sampling requirements in §17862.1 for a chipping and grinding operation or facility should be left to the discretion of the LEA.   | Per §17862.1(d), the LEA is given the discretion to approve the method used to determine the percentage of physical contaminants. The prescribed sampling frequency is consistent with the sampling frequency for existing environmental health standards (i.e., pathogens and metals) [§17868.1].   |
|   | 1151C10           | County of Ventura Resource Management Agency       | Charles       | Genkel    | Add section (h) that reads as follows: " <u>If a chipping and grinding operation or facility is observed handling active compost more than three times in a one year period. The operation shall be regulated as a green material composting operation or facility, as set forth in this Chapter. Feedstock piles are excluded from temperature requirements, provided the piles are chipped and ground within same day of receipt.</u> "  | The regulations already provide the EA with the authority to regulate any chipping and grinding operation that is producing active compost as a composting operation or facility.  |
|   | 1151D02           | Californians Against Waste                         | Nick          | Lapis     | The chip-and-grind facility should have the same long-term record keeping requirements as composting facilities, to allow LEAs to inspect old lab results. This should not be an especially onerous requirement but it would help create an even playing.  | Chipping and grinding operations and facilities are subject to §17896 General Record Keeping Requirements. CalRecycle revised §17896(f) to specify chipping and grinding operations and facilities must record the determinations of percentage of physical contamination required by §17862.1(d).   |
|   | 1151F03           | California Compost Coalition                       | Neil          | Edgar     | We understand that chipping and grinding operations and facilities have restrictive time limits for the storage of materials onsite; however, this time limit need not impact their ability to receive and retain lab results after tested materials have shipped, in order to verify compliance, as noted above, when needed. Additionally, current language suggests that chipping and grinding operations would only be required to sample and test materials upon EA request; we do not support a lower standard for sampling and testing at chipping and grinding operations, as the materials they produce are processed to a much lower level than compost, and represent a significantly higher threat for the spread of pathogens and/or invasive pests. Chipping and grinding operations and facilities should be subject to the same materials sampling and testing requirements as composting operations and facilities. | Pursuant to §17862.1(d), chipping and grinding operations and facilities are required to sample for every 5,000 cubic yards of material produced to determine the percentage of physical contaminants using a method that provides accurate results and has been approved by the LEA.<br><br>Given the throughput limit of 48 hours (or up to 7 days), it is not practical to subject chipping and grinding operations and facilities to the same materials sampling and analysis requirements as composting operations and facilities. In addition, not all material produced at a chipping and grinding operation or facility is applied to land. If material produced at a chipping and grinding operation or facility will be land applied, the material must meet the requirements specified in §17852(a)(24.5)(A). |
| (d)   | 1151F04           | California Compost Coalition                       | Neil          | Edgar     | A typo is apparent in §17862.1 (a)(1)(d) which states "the operator shall analyze at least one composite sample of compost"; we believe this is inappropriate for this section.  | CalRecycle revised §17862.1(d) to state "the operator shall analyze at least one composite sample of "chipped and ground material."  |
| (a)   | 115V07            | ROLL global  | Melissa       | Poole     | Paramount interprets section 17862.1(a), regarding chipping and grinding operations, to mean that chipped and ground materials derived from an agricultural or agricultural by-product site and returned to the same site or a site leased or owned by the same owner of that site would be excluded from the compostable material handling operations. If this is not how CalRecycle interprets this section, we request that the text be clarified to reflect this point.  | §17862.1(a) does not address the activity described. The identified section addresses requirements for operations that chip and grind material handled by a green material composting operation.   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation   | First<br>name | Last name | Summary of Comment   | CalRecycle Response  |
|------------------|-------------------|--|---------------|-----------|--|--|
| (a)<br>& (d)     | 1151C09           | County of<br>Ventura<br>Resource<br>Management<br>Agency             | Charles       | Genkel    | Reduce the volume to require a composite sample for every 1,000 cubic yards of chipped and ground material.  | The requirement to sample every 5,000 cubic yards is consistent with sampling frequencies specified elsewhere in these regulations (see §17868.1, §17896.58, and §17896.61). CalRecycle does not see sufficient cause to reduce the frequency to every 1,000 cubic yards.  |
|                  | 1151C12           |  |               |           | Strike the word "dry" in all subsections that refer to contamination by weight. Maintain the current contamination level at 0.1% by weight.  | CalRecycle added dry weight to §17862(d) to be consistent with existing requirements for maximum metal concentrations (§17868.2) and pathogen reduction (§17868.3) and standards industry practices.<br><br>CalRecycle revised the physical contamination limit from 0.1% to 0.5% (not to exceed 20% film plastic) for compost product, compostable material, and digestate spread on land. The physical contamination limit will be operative on January 1, 2018.<br><br>The limit on the percentage of physical contaminants is consistent with nationwide trends (the states of Massachusetts, Minnesota, Montana, Ohio, Washington, and Wisconsin, as well as the United Kingdom, have limits on physical contaminants). In California, the Department of Transportation's (Caltrans) Revised Compost Nonstandard Specification 21-1.02M, calls for physical contaminants (plastic, glass, and metal) to be less the 0.5% by dry weight.   |
| (d)              | 115E04            | County of<br>Sacramento<br>Environmental<br>Management<br>Department | Lea           | Gibson    | Require the Operator to provide the contamination sample results to the land owner(s) for any material intended for land application.  | The regulations do not prevent an operator from providing contamination sample results to land owners.<br><br>Not all chipped and ground material will be applied to land. For material that will be applied to land, the text in this subdivision related to meeting the requirements of §17852(a)(24.5) (Land Application) is meant to be informative (i.e., the final deposition of compostable material applied to land must meet specified standards). The regulation allows, but does not require, the owner/operator of a chipping and grinding operation or facility to produce these test results.<br><br>Chipping and grinders are one potential source of this material. Other sources include transfer/processing, landscapers, landfills some of which are not subject to regulations.  |
| (d) & (e)        | 115P05            | CR&R<br>Environmental<br>Services                                    | Clarke        | Pauley    | The proposed requirement for chip and grind operations to meet PCL of 0.5%, pathogen, and metals requirements if the material will be land applied essentially will be requiring virtually all chip and grind material to be composted and screened prior to being land applied. If this is the intent of CalRecycle, additional permits for new and expanded compost and in-vessel facilities will be necessary to accommodate the additional volume of organics that will be required to be properly processed by this rulemaking. | Chipping and grinding operations will not need to compost material to meet the requirements of subdivisions (d) and (e).<br><br>Per §17862.1(d), chipping and grinding operations and facilities are required to sample for every 5,000 cubic yards of material produced to determine the percentage of physical contaminants using a method that provides accurate results and has been approved by the LEA.<br><br>Per §17862.1(e), chipping and grinding operations and facilities are not subject to the provisions of §17868.1 (Sampling Requirements), §17868.2 (Maximum Metal Concentrations), or §17868.3 (Pathogen Reduction).<br><br>Not all chipped and ground material will be applied to land. For material that will be applied to land, the text in this subdivision related to meeting the requirements of §17852(a)(24.5) (Land Application) is meant to be informative (i.e., the final deposition of compostable material applied to land must meet specified standards). The regulation allows, but does not require, the owner/operator of a chipping and grinding operation or facility to produce these test results. |
|                  | 1151I05           |  | Paul          | Relis     |  |  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area                               | Comment<br>Number | Commenter<br>Affiliation                                 | First<br>name | Last name | Summary of Comment  | CalRecycle Response   |
|--|-------------------|--|---------------|-----------|---|---|
| (e)  | 115E05            | County of Sacramento Environmental Management Department | Lea           | Gibson    | We recommend requiring the Chip & Grind Operator to send off samples to the laboratory prior to shipping material offsite for land application and requiring the Operator to provide the land owner with the lab results. Additionally, we recommend a requirement that the Chip and Grind Operator must develop a contingency plan or an agreement with the land owner to ensure proper disposal of any material sent offsite for land application that exceeds the metals and pathogen density limits [see 115E01].   | <p>Pursuant to §17862.1(d), chipping and grinding operations and facilities are required to sample for every 5,000 cubic yards of material produced to determine the percentage of physical contaminants using a method that provides accurate results and has been approved by the LEA.</p> <p>Per §17862.1(e), chipping and grinding operations and facilities are not subject to the provisions of §17868.1 (Sampling Requirements), §17868.2 (Maximum Metal Concentrations), or §17868.3 (Pathogen Reduction).</p> <p>Not all chipped and ground material will be applied to land. For material that will be applied to land, the text in this subdivision related to meeting the requirements of §17852(a)(24.5) (Land Application) is meant to be informative (i.e., the final deposition of compostable material applied to land must meet specified standards). The regulation allows, but does not require, the owner/operator of a chipping and grinding operation or facility to produce these test results.</p> <p>Chipping and grinders are one potential source of this material. Other sources include transfer/processing, landscapers, landfills some of which are not subject to regulations.</p> |
| (d)  | 1151E12           | Association of Compost Producers                         | Dan           | Noble     | This regulation implies that these facilities must collect samples and test, thereby generating data on these parameters throughout the year. We highly recommend that this record keeping be required, and/or a reporting loop be set up with each local enforcement agency.   | Chipping and grinding operations are required by §17869 to keep records on physical contamination limits required by §17862.1(d).   |
|  | 1151N06           | Waste Management   | Chuck         | White     |   |   |
| <b>§17863.4. Odor Impact Minimization Plan</b> |                   |  |               |           |   |   |
| (f)  | 115C13            | Los Angeles County Solid Waste Management Committee      | Margaret      | Clark     | We strongly recommend specifying a timeframe by which the Enforcement Agency (EA) is to direct the operator to prepare and implement a Best Management Practice Feasibility Report (Report) as specified in Section 17863.4.1. We also strongly recommend specifying a timeframe (possibly a week) within which the EA would review the results of the Report in order to reduce and eliminate the time the public is exposed to the odor nuisance. If the foregoing measures are ineffective in addressing the odor nuisance then alternatives should be considered such as enclosing operations within a structure that operates under negative pressure. As an alternative, the facility's permitted daily waste intake can be incrementally reduced until such time the nuisance is eliminated or reduced to a level that is no longer a nuisance to the public. Considering odor nuisances are hazardous to public health and safety, it is imperative that mitigation measures be clearly established to ensure such nuisances are addressed in an efficient and timely manner. | <p>It is not necessary to specify a timeframe by which the EA is to direct the operator to prepare an Odor Best Management Practice Feasibility Report. The EA will utilize professional judgement, taking into account site-specific conditions, in determining the appropriate timeframe.</p> <p>Per §17863.4.1.(c), if the EA has required the operator to prepare an Odor Best Management Practice Feasibility Report, the operator must, within 14 days or other timeframe approved by the EA, submit the a plan and schedule for implementing best management practices.</p> <p>Per §17863.4.1.(d), within 30 days of receipt of an Odor Best Management Practice Feasibility Report and associated plan, the EA is required to direct the operator to implement the plan and/or submit specific changes or additional information.</p>   |
| (f)  | 115Q01            | Western Placer Waste Management Authority                | Eric          | Oddo      | The Western Placer Waste Management Authority previously requested that this section be amended to say "...the EA shall <u>may</u> direct the operator to prepare an Odor Best Management Feasibility Report ... ". The EA should have discretion -consistent with other sections (e.g. Section (e))-to determine necessary efforts based on specific circumstances, such as targeted best management practices when odor sources are known or of a temporary nature, as opposed to a full site-wide feasibility report.  | It is not appropriate to change the "shall" to "may." The EA's action to direct an operator to prepare Odor Best Management Feasibility Report is taken only after concluding an investigation (per §18302(d)) and determining that the operator is following an Odor Impact Minimization Plan but odor impacts are still occurring. CalRecycle has mandated preparation of an odor best management practice feasibility report under these circumstances to provide information to the EA to determine whether enforcement is appropriate. The operator may also voluntarily prepare an Odor best management practice feasibility report.  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area   | Comment<br>Number | Commenter<br>Affiliation                  | First<br>name | Last name        | Summary of Comment  | CalRecycle Response   |
|--|-------------------|---|---------------|------------------|---|---|
| (f)  | 115X02            | California Refuse Recycling Council       | Kathryn Ralph | Lynch & Chandler | The timeline of 14 days is not nearly enough time to prepare a suitable report and analysis. We recommend a more reasonable 60 days be provided in order that a comprehensive and accurate report can be completed in an achievable timeline.   | Per §17863.4.1.(d)(2), the EA can extend the 14 day timeframe. Further, the operator can draw on available experience and data from the implementation of their Odor Impact Minimization Plan, so they would not be starting from zero.   |
|  | 1151N08           | Waste Management                          | Chuck         | White            |   |   |
| (f)(3)   | 115Q02            | Western Placer Waste Management Authority | Eric          | Oddo             | Section (f)(3) states that an EA may issue a Notice and Order in the event of a public nuisance. A public nuisance is difficult to define, as what is considered 'offensive' or 'indecent' is subjective. Solid waste operations that are in full compliance with permits are often subjected to odor complaints resulting from encroaching development beyond the control of the operator. The WPWMA previously recommended that this section be amended to offer some protection for otherwise compliant solid waste management facilities. Specifically, the regulation should provide that <u>no compostable material handling operation conducted in a manner consistent with applicable regulations and permits be considered a nuisance due to any changed condition in local land use (e.g. encroaching development) if it was not a nuisance at the time it began.</u> Current law provides this protection to other industries, such as agriculture, and similar protection should be provided to essential public services such as solid waste facilities. | <p>The “Nuisance” definition is the same as the existing definition of “Nuisance” in the Transfer/Processing Operations and Facilities Regulatory Requirements [§17402(a)(12)].</p> <p>The definition is standard legal language for defining a “public nuisance” as found in California Civil Code §§ 3479 and 3480 and which forms the basis for public agencies to abate nuisances in Civil Code §§ 3491 and 3494.</p> <p>CalRecycle revised the sections to remove the term “public.”</p> |
|  | 115Q03            | Western Placer Waste Management Authority | Eric          | Oddo             | The proposed regulation permits an operator to voluntarily prepare an Odor Best Management Practice Feasibility Report, and states that the EA shall determine the components to be implemented for both EA-required and voluntarily-provided reports. Operators submitting voluntary reports should not be automatically required to include and implement LEA-identified components. The Western Placer Waste Management Authority requests Section (d) be amended to clarify that <u>implementation of voluntary reports is not mandatory</u> in the absence of compliance issues, and that the operator shall have the discretion of implementing components according to site-specific conditions and operational considerations.  | Per §17863.4.1.(b)(3)(C), the operator develops a plan and schedule for implementing best management practice based on the Odor Best Management Practice Feasibility Report. The EA has discretion per §17863.4.1.(d) to approve changes to the Odor Best Management Practice Feasibility Report or associated plan and may consider compliance status when exercising this approval.   |
| <b>§ 17863.4.1. Odor Best Management Practice Feasibility Report</b> |                   |   |               |                  |   |   |
|  | 1151F06           | California Compost Coalition              | Neil          | Edgar            | While we understand that this new Odor Best Management Practice Feasibility Report would be required at a critical time in the compliance and enforcement process for an odor issue, it is highly infeasible that such a report be produced within 14 days, if the goal is to produce a comprehensive plan that may represent the operator’s last, best chance to survive. Unless the odor issue is a proven threat to public health and safety – which is rarely the case – we see no good reason why allowing 60 days for proper development and submittal of this report should be a problem.  | Per §17863.4.1.(d)(2), the EA can extend the 14 day timeframe. Further, the operator can draw on available experience and data from the implementation of their Odor Impact Minimization Plan, so they would not be starting from zero.   |
| (d)  | 115Q03            | Western Placer Waste Management Authority | Eric          | Oddo             | The Western Placer Waste Management Authority requests Section (d) be amended to clarify that implementation of voluntary reports is not mandatory in the absence of compliance issues, and that the operator shall have the discretion of implementing components according to site-specific conditions and operational considerations.  | Per §17863.4.1.(b)(3)(C), the operator develops a plan and schedule for implementing best management practice based on the Odor Best Management Practice Feasibility Report. The EA has discretion per §17863.4.1.(d) to approve changes to the Odor Best Management Practice Feasibility Report or associated plan and may consider compliance status when exercising this approval.   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area                             | Comment<br>Number | Commenter<br>Affiliation          | First<br>name  | Last name       | Summary of Comment   | CalRecycle Response  |
|--|-------------------|-----------------------------------|----------------|-----------------|--|--|
| (c) (d)                                      | 115T04            | County of Solano                  | Jagjinder      | Sahota          | This section needs clarification. Please explain what "consultation with CalRecycle" consists of.  | The phrase "consultation with CalRecycle" is used throughout California Code of Regulations, Title 14, Division 7. The meaning of the phrase is commonly understood.   |
| <b>§ 17867. General Operating Standards.</b> |                   |                                   |                |                 |  |  |
| (a)(2)                                       | 115T05            | County of Solano                  | Jagjinder      | Sahota          | This proposed subsection might lead to confusion about the definition of "nuisance". The LEA recommends removing this definition or just including a simple citation to the Civil Code §3479 as-"Nuisance" includes any condition creating a public nuisance as provided in Civil Code §3479 et seq.   | The "Nuisance" definition is the same as the existing definition of "Nuisance" in the Transfer/Processing Operations and Facilities Regulatory Requirements [§17402(a)(12)].<br><br>The definition is standard legal language for defining a "public nuisance" as found in California Civil Code §§ 3479 and 3480 and which forms the basis for public agencies to abate nuisances in Civil Code §§ 3491 and 3494.   |
| <b>§ 17868.1. Sampling Requirements.</b>     |                   |                                   |                |                 |  |  |
| (a)<br>Also:<br>§17862<br>§17863             | 115P06<br>1151I06 | CR&R<br>Environmental<br>Services | Clarke<br>Paul | Pauley<br>Relis | We recommend the section be modified as follows, and then referenced back to throughout the document:<br>(a) Operators shall verify that compost meets the maximum acceptable metal concentration limits specified in section 17868.2, and pathogen reduction requirements specified in section 17868.3. Verification of maximum acceptable metal concentrations and pathogen reduction requirements shall <u>be achieved by</u> taking and analyzing at least one composite sample of compost, following the requirements of this section as follows:<br>(1) An operator who composts agricultural material, green material, food material, vegetative food material, or mixed material shall take and analyze one composite sample for every 5,000 cubic-yards of compost produced. If the compostable material handling operation or facility produces less than 5,000 cubic-yards of compost in a 12 month period, the operator shall analyze at least one composite sample of compost produced every 12 month period.<br>(2) (as is)<br>(3) (as is)<br>(4) <u>The above verification sampling and testing shall occur prior to the point where compost is removed from the site, or beneficially used on-site. Sample Test results of verification samples must be received by the operator prior to removing compost from the composting operation or facility where it was produced.</u><br>(c) (alternative methods- as is)<br>(d) (new) [we suggest adding a reference to a yet to be developed guidance document (California Guide to Field and Laboratory Methods for Compost and Digestate Testing, or something similar) that can be co-developed with CalRecycle, academia, industry associations, and private industry and could provide recommended field and laboratory testing methods for compost, chip and grind, and digestate materials. This guidance document could be updated from time to time as science and industry innovation informs us of new and efficient ways to sample and test these materials for desired results, both in the field and in the laboratory.] | §17868.1(a) specifies what environmental health standards (i.e., pathogen reduction and metal concentration) apply to compost, and at what point in the composting process an operator is required to verify compliance with these standards. §17868.2 and §17868.3 specify how compliance with the standards is achieved.<br><br>The suggestion for §17868.1(a)(1) is consistent with the proposed text.<br><br>The suggestion for §17868.1(a)(4) is better suited in subdivision (a), as proposed by CalRecycle. §17868.1(a) specifies what environmental health standards (i.e., pathogen reduction and metal concentration) apply to compost, and at what point in the composting process an operator is required to verify compliance with these standards.<br><br>Prior to the January 1, 2018 operative date of the physical contamination limit, CalRecycle intends to develop, with stakeholder input, a sampling and analysis method that can produce repeatable and reproducible results. |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area              | Comment<br>Number | Commenter<br>Affiliation                      | First<br>name | Last name | Summary of Comment   | CalRecycle Response  |
|-------------------------------|-------------------|---|---------------|-----------|--|--|
|                               | 115L08            | Synagro                                       | Layne         | Baroldi   | The regulations should be clear that biosolids composting facilities can land apply compost immediately for beneficial use so long as the composting technology meets temperature and residence time requirements for pathogen destruction. Synagro suggest modifying the language in this Section to be as follows: “should it not be possible to obtain analytical results prior to it being necessary to move biosolids based compost off-site, the permittee may do so, but assumes all liability for site evaluation and remediation if necessary, should the results show non-compliance with any limits.” This would assure CalRecycle that the permittee has enough confidence in its operational experience at the facility and the financial commitment to assume results will be in compliance with all applicable limits in the rule. Sections 17868.2(b) and 17868.3(d) allow alternatives but only at the discretion of the EA. The suggested language above provides certainty for facilities and eliminates ambiguity. | Per §17852(a)(24.5)(B)1., this subdivision does not apply to compost produced in compliance with Article 3.1 and/or 3.2 of this Division.<br><br>The suggested text is not consistent with the requirement for an operator to verify that compost meets environmental health standards. Sampling can occur in advance of screening to allow sufficient time to obtain analytical results.  |
| Also:<br>§17868.2<br>§17868.3 | 115R01            | California Association of Sanitation Agencies | Greg          | Kester    | Some permits limit storage of post screened compost to 7 days or less, making it very difficult or impossible to obtain analytical results prior to the need to move compost. Flexibility is provided for this requirement for all other compost feedstocks except biosolids. California Association of Sanitation Agencies recommends modifying the language as follows: “should it not be possible to obtain analytical results prior to it being necessary to move biosolids based compost off site, the permittee may do so, but assumes all liability for site evaluation and remediation if necessary, should the results show non-compliance with any limits.”  | The suggested text is not consistent with the requirement for an operator to verify that compost meets environmental health standards. Sampling can occur in advance of screening to allow sufficient time to obtain analytical results.   |
|                               | 1151E01           | Association of Compost Producers              | Dan           | Noble     | Biosolids Composting operations not consistent for different parameters: As written in, §17868.1 (a),(2), large biosolids composters will have to sample monthly for metals and pathogens, but §17868.3.1 (b) requires sampling every 5,000 cubic yards for physical contaminants. We feel this is inconsistent, and unnecessary given the fact that biosolids have not been associated with physical contaminants more than other feedstocks. To resolve this inconsistency and simplify compliance, on Page 26 – 17868.3.1(b), we request referring any statements of sampling frequency to §17868.1 (a)(1&2).   | It is not appropriate to simply refer any statements of sampling to §17868.1(a)(1) and (2) because: <ul style="list-style-type: none"> <li>the requirements of §17868.1 only apply to composting operations that sell or give away greater than 1,000 cubic yards of compost annually, and all composting facilities,</li> <li>the requirements of §17868.1 only apply to sampling for pathogen density and maximum metal concentrations,</li> <li>the physical contamination limits of §17868.3.1 apply to compost produced at any composting operation or facility.</li> </ul>   |
|                               | 1151N01           | Waste Management                              | Chuck         | White     |  |  |
|                               | 1151E02           | Association of Compost Producers              | Dan           | Noble     | This same protocol should apply to all “compostable material handling operations or facilities”, i.e. chipping and grinding operations, not just compost operations, and the sampling should not be different for any potential contaminant [be they metals, biological or physical (trash)].  | It is not appropriate to apply the same protocols because: <ul style="list-style-type: none"> <li>the requirements of §17868.1 only apply to composting operations that sell or give away greater than 1,000 cubic yards of compost annually, and all composting facilities,</li> <li>the requirements of §17868.1 only apply to sampling for pathogen density and maximum metal concentrations,</li> <li>the physical contamination limits of §17868.3.1 apply to compost produced at any composting operation or facility.</li> </ul><br>The sampling requirement in §17868.1(b) are consistent with the sampling requirements in §17868.3.1(d). |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation               | First<br>name | Last name | Summary of Comment  | CalRecycle Response   |
|------------------|-------------------|--|---------------|-----------|---|---|
|                  | 1151E06           | Association of<br>Compost<br>Producers | Dan           | Noble     | <p>Either 1) “Composite Sampling” be defined in the Definition section (§ 17852. Definitions.(a), and simply put the wording of §17868.1 (b) in there (and refer all “composite sampling” references back to the “composite sampling” definition)</p> <p>Or 2) include “Chipping and Grinding Operations” in Article 7. Environmental Health Standards, § 17868.1. Sampling Requirements:</p>   | <p>It is not necessary to define the term “composite sampling” as the meaning is evident from the process set forth in existing §17868.1(b).</p> <p>Per §17862.1(d), a chipping and grinding operation or facility must sample every 5,000 cubic yards of chipped and ground material and determine the percentage of physical contaminants in the material. Per §17869(f), the operator must keep records of these determinations. Per §17862.1(e), a chipping and grinding operation or facility is not subject to the provisions of §17868.1 (sampling), §17868.2 (maximum metal concentrations), or §17868.3 (pathogen reduction). However, if compostable material from the chipping and grinding operation is land applied, it must meet requirements of §17852(a)(24.5). Per §17852(a)(24.5)(A)5., verification of compliance with the land application requirements must be provided to the EA upon request.</p>                |
|                  | 1151E07           | Association of<br>Compost<br>Producers | Dan           | Noble     | <p>This section starts with “All composting operations ...” and then includes in § 17868.1.(a)(1) “compostable material handling operation or facility”. So do these regulations include “Chipping and Grinding Operations”, or only “composting operations”?</p> <p>We strongly recommend simply substituting the phrase “compostable handling material operations” for “composting operation”, or adding “composting operation, or chipping and grinding operation” to the “Sampling Requirements” section.</p>   | <p>CalRecycle revised §17868.1(a)(1) to refer only to composting operations and facilities.</p> <p>It is not appropriate to substitute the phrase “compostable handling material operations” for “composting operation,” or add “composting operation, or chipping and grinding operation” to the “Sampling Requirements” section. because:</p> <ul style="list-style-type: none"> <li>the requirements of §17868.1 only apply to composting operations that sell or give away greater than 1,000 cubic yards of compost annually, and all composting facilities,</li> <li>the requirements of §17868.1 only apply to sampling for pathogen density and maximum metal concentrations,</li> <li>the physical contamination limits of §17868.3.1 apply to compost produced at any composting operation or facility.</li> </ul>  |
|                  | 1151E10           | Association of<br>Compost<br>Producers | Dan           | Noble     | <p>We recommend that the proposed regulations include reference to a separate, “Guide to Title 14/27 Compliance Methods,” that contains the proposed and verified field and lab sampling and testing methods. This guide could be unique to these new regulatory revision testing, but would also include the current industry standard testing methods used by the Seal of Testing Assurance (STA) compost producers promulgated by the US Composting Council’s, Testing Methods for the Examination of Composting and Compost (TMECC). CalRecycle could publish and update this guide as new testing methods and standards are introduced with the input of labs, academia, industry associations, and compost operators.</p> | <p>Prior to the January 1, 2018 operative date of the physical contamination limit, CalRecycle intends to develop, with stakeholder input, a sampling and analysis method that can produce repeatable and reproducible results.</p>   |
|                  | 1151N04           | Waste<br>Management                    | Chuck         | White     |   |   |
|                  | 1151V01           | Waste<br>Management                    | Chuck         | White     | <p>We simply do not believe that green waste chipping and grinding operations should be held to the same standards. For example, while Waste Management’s chipping and grinding operations are typically able to meet 0.1 percent contamination by product weight requirement imposed by Ventura County, Waste Management has certainly not suggested that these standards are appropriate for composting operations. Because of the nature of composting processes, achieving this standard for compost materials is simply not appropriate. Similarly, applying compost test procedures for metals and other parameters for composting are simply not appropriate.</p>  | <p>CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.</p> <p>Chipping and grinding operations and facilities are not subject to the same metal concentration and physical contaminant sampling and analysis requirements as composting operations and facilities.</p> <p>Per §17862.1(d), a chipping and grinding operation or facility must sample every 5,000 cubic yards of chipped and ground material and determine the percentage of physical contaminants in the material using a method that provides accurate results and is approved by the EA. Per §17862.1(e), a chipping and grinding operation or facility is not subject to the provisions of §17868.1 (sampling), §17868.2 (maximum metal concentrations), or §17868.3 (pathogen reduction). However, if compostable material from the chipping and grinding operation is land applied, it must meet requirements of</p> |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area                                  | Comment<br>Number | Commenter<br>Affiliation  | First<br>name  | Last name         | Summary of Comment  | CalRecycle Response   |
|---|-------------------|---|----------------|-------------------|---|---|
|   |                   |   |                |                   |   | <p>§17852(a)(24.5). Per §17852(a)(24.5)(A)5., verification of compliance with the land application requirements must be provided to the EA upon request. This verification may come from any source.</p> <p>Per §17868.1 all composting operations that sell or give away greater than 1,000 cubic yards of compost annually and all composting facilities must verify that compost meets the requirements of §17868.2 (maximum metal concentrations) and §17868.3 (pathogen reduction). Per §17868.3.1(b), the operator of a compostable material handling operation or facility shall sample every 5,000 cubic yards of compost produced and determine the percentage of physical contaminants using a method that provides accurate results and is approved by the EA. If the EA has reason to believe that the determination of physical contaminants made pursuant to §17868.3.1(b) is not accurate, per §17868.3.1(c), the EA may require the operator to send a sample to a laboratory to determine the percentage of physical contaminants.</p> |
| <b>§17868.2. Maximum Metal Concentrations</b>     |                   |   |                |                   |   |   |
| (a)   | 115P07<br>1151I07 | CR&R<br>Environmental<br>Services                                 | Clarke<br>Paul | Pauley<br>Relis   | ...we recommend changing the language to: "...Test results of <u>verification</u> samples <u>collected at the minimum frequency described in § 17868.1</u> must be received by the operator prior to removing compost from the composting operation or facility where it was produced."   | §17868.1 and §17868.2 are existing sections. The relationship between the sampling requirements of §17868.1 to the maximum metal concentration requirements of §17868.2 are well established. There have been no issues or concerns with the implementation of this existing section that warrant the suggested changes.  |
| (a)   | 115L07<br>115R02  | Synagro<br>California<br>Association of<br>Sanitation<br>Agencies | Layne<br>Greg  | Baroldi<br>Kester | We recommend adding molybdenum with a limit of 75 mg/kg to the list of metals for testing. This will allow compost to be in compliance with the risk based federal biosolids standards. We are curious as to CalRecycle's rational for not requiring other non-biosolids composters to meet VAR.  | The list of metals in §17868.2 is consistent with requirements federal requirements.  |
| (a)   | 115L09            | Synagro   | Layne          | Baroldi           | Synagro recommends changing the language to: "Sample results <u>collected at the frequency prescribed in section 17867.1(a)(1) and must be available for review by EA at the composting site.</u> "   | <p>§17868.1 and §17868.2 are existing sections. The relationship between the sampling requirements of §17868.1 to the maximum metal concentration requirements of §17868.2 are well established. There have been no issues or concerns with the implementation of this existing section that warrant the suggested changes.</p> <p>Existing §17869(f) requires operators to record all test results generated by compliance with Article 7. Environmental Health Standards. All such records must be kept in one location and accessible for five (5) years and must be available for inspection by authorized representatives during normal business hours.</p>  |
| <b>§17868.3.1. Physical Contamination Limits.</b> |                   |   |                |                   |   |   |
|   | 115B03            | California<br>League of Food<br>Processors                        | Rob            | Neenan            | The testing requirements for physical contaminants outlined in Section 17868.3.1 require that the site operator must receive the sample testing results prior to removing the material from the facility of origin. California League of Food Processors remains concerned that removing food processing by-products quickly to land application sites to avoid internal temperature increases that could cause composting may conflict with the time frame needed to obtain the sample results from the testing laboratory. California League of Food Processors suggests that the regulations be amended to allow facilities some discretion in terms of holding materials pending the receipt of lab results, or allowing land application sites to temporarily stockpile material until the test results are available. | §17868.3.1 applies to compost produced at compostable material handling operations or facilities and not to the activity described.   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation                                    | First<br>name    | Last name           | Summary of Comment  | CalRecycle Response  |
|------------------|-------------------|---|------------------|---------------------|---|--|
|                  | 115G02            | Santa Barbara<br>County<br>Environmental<br>Health Services | Lisa             | Sloan               | Contaminant sampling requirements in 17868.3.1 for a compostable material handling operation or facility should be left to the discretion of the LEA.   | Per §17868.3.1(b), the LEA is given the discretion to approve the method used to determine the percentage of physical contaminants. The prescribed sampling frequency is consistent with the sampling frequency for existing environmental health standards (i.e., pathogens and metals).  |
|                  | 115P08            | CR&R  | Clarke           | Pauley              | ...we recommend changing the operative date to <b>January 1, 2020</b> .   | The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time for the regulated community to adjust to the new standard.  |
|                  | 1151I08           | Environmental<br>Services                                   | Paul             | Relis               |   |  |
|                  | 115Z01            | County<br>Sanitation<br>Districts of Los<br>Angeles County  | Paul             | Prestia             | We appreciate CalRecycle's change of the maximum physical contamination allowed for finished compostable material from 0.1 to 0.5% of contaminants greater than 4 millimeters, on a dry weight basis.   | CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.  |
|                  | 115Z03            | County<br>Sanitation<br>Districts of Los<br>Angeles County  | Paul             | Prestia             | CalRecycle should consider adding language in this section that would extend the operative date beyond January 1, 2018, if a reproducible and accurate field test method is not developed by then.  | The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time to develop sampling and analysis protocol.  |
|                  | 115Q04            | Western Placer<br>Waste<br>Management<br>Authority          | Eric             | Oddo                | The Western Placer Waste Management Authority previously expressed concerns with the proposal of stricter physical contamination standards for compostable material handling operations. The Western Placer Waste Management Authority appreciates that CalRecycle amended the proposed language and believes diverting a broader range of organic material would result in higher overall diversion levels and a greater reduction in emissions of greenhouse gases. | CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.  |
|                  | 1151C11           | County of<br>Ventura<br>Resource<br>Management<br>Agency    | Charles          | Genkel              | Strike the word "dry" in all subsections that refer to contamination by weight.   | CalRecycle added dry weight to §17868.3.1 to be consistent with existing requirements for maximum metal concentrations (§17868.2) and pathogen reduction (§17868.3) and standard industry practices.<br><br>A definition for the term “dry weight basis or dry weight” is found in §17852(a)(16).  |
|                  | 115T01            | County of<br>Solano   | Jagjinder        | Sahota              | The LEA agrees with the comments provided by California Conference Directors of Environmental Health regarding the need for development of a field testing methodology for checking physical contaminant and concurs with California Conference Directors of Environmental Health assessment for the need of a phased approach for physical contaminants as described in their December 5, 2014 letter.   | Subdivision (b) of this section allows for any sampling method that produces accurate results and is approved by the EA.<br><br>Prior to the January 1, 2018 operative date of the physical contamination limit, CalRecycle intends to develop, with stakeholder input, a sampling and analysis method that can produce repeatable and reproducible results. |
|                  | 115X01            | California<br>Refuse<br>Recycling<br>Council                | Kathryn<br>Ralph | Lynch &<br>Chandler | We still have concerns about the testing methodology that will be used to determine this standard, as well as the short introduction time in applying the standard...We need time to adjust to this collection and ask that any state standard on contamination of the compostable/digestate material begin January 1, 2020.  | The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time to develop sampling and analysis protocol.  |
|                  | 1151N07           | Waste<br>Management   | Chuck            | White               |   |  |
|                  | 1151E03           | Association of<br>Compost<br>Producers                      | Dan              | Noble               | The section should read: “Any sampling conducted to comply with this section shall require a compost sample, as per §17868.1 (b).”  | It is not appropriate to refer to §17868.1(b) because: <ul style="list-style-type: none"> <li>the requirements of §17868.1 only apply to composting operations that sell or give away greater than 1,000 cubic yards of compost annually, and all composting facilities,</li> </ul>  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation                      | First<br>name | Last name | Summary of Comment   | CalRecycle Response  |
|------------------|-------------------|---|---------------|-----------|--|--|
|                  |                   |   |               |           |  | <ul style="list-style-type: none"> <li>the requirements of §17868.1 only apply to sampling for pathogen density and maximum metal concentrations,</li> <li>the physical contamination limits of §17868.3.1 apply to compost produced at any composting operation or facility.</li> </ul> <p>The sampling requirement in §17868.1(b) are consistent with the sampling requirements in §17868.3.1(d).</p>  |
|                  | 1151E08           | Association of Compost Producers              | Dan           | Noble     | We recommend that CalRecycle, through the LEA's, authorize chipping and grinding operations to either keep the material longer, otherwise, obtain a compost production permit. (Of course, in most instances, to keep the material longer will necessitate a compost permit, anyway).  | If a chipping and grinding operation or facility store piles of material that become active compost, then they could be considered a composting operation or facility. Chipping and grinding operations and facilities are required to remove material from the site within 48 hours (or up to seven days if allowed by EA). The removal frequency is designed in part to address issues associated with the material becoming active compost.   |
|                  | 1151N02           | Waste Management                              | Chuck         | White     |  |  |
|                  | 1151E09           | Association of Compost Producers              | Dan           | Noble     | We are proposing test protocols to CalRecycle staff that can be performed in the field, and that are not dry mass based. Once these new tests and protocols are validated, calibrated and approved, the tests could be used in lieu of a dry mass based test. We will continue to seek approval from CalRecycle for these alternative testing methods. CalRecycle should consider referring to these alternative, but approved, test methods in these regulations, this would make this new 0.5% physical contaminant standard operationally workable. We would like to also leave the physical contamination testing method open to further innovation, and believe that an additional process of preparing guidance a document as a companion to this regulation package would provide an ongoing process for implementing these regulations, while providing for continuous cost and quality improvements.                  | Subdivision (b) of this section allows for any sampling method that produces accurate results and is approved by the EA.<br><br>Prior to the January 1, 2018 operative date of the physical contamination limit, CalRecycle intends to develop, with stakeholder input, a sampling and analysis method that can produce repeatable and reproducible results.<br><br>CalRecycle will develop guidance on sampling and analysis methodologies separate from this rulemaking.   |
|                  | 1151N03           | Waste Management                              | Chuck         | White     |  |  |
| (a)(b)(c)        | 115R03            | California Association of Sanitation Agencies | Greg          | Kester    | California Association of Sanitation Agencies appreciates the change in the physical contaminant level in the revised regulations and the delay of their implementation until January 1, 2018. Please confirm that our understanding is correct that CalRecycle plans to work with the industry to develop methods to assess the contaminant level, which the operator can perform in the field. Furthermore, the only time a sample would be sent to a lab is if the EA upon inspection had reason to doubt the operator's finding. It is also our understanding that CalRecycle will work to ensure there are analytical methods in the lab, which can reliably calculate the contaminant level. Should it not be possible to develop both field and lab methods to determine compliance in time for the 2018 implementation date, we request that the implementation date be delayed until such time as they are available. | <p>Prior to the January 1, 2018 operative date of the physical contamination limit, CalRecycle intends to develop, with stakeholder input, a sampling and analysis method that can produce repeatable and reproducible results.</p> <p>A laboratory sample is required only if the EA has reason to believe that the sampling required pursuant to subdivision (b) is not accurate.</p> <p>The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time to develop sampling and analysis protocol.</p> |
| (b)              | 115P09            | CR&R Environmental Services                   | Clarke        | Pauley    | We recommend, as above for clarity to refer back to § 17868.1 for verification sampling. Otherwise, this could be interpreted to mean operators are required to sample every load. If field methods of physical contamination limit sampling are developed, § 17868.1 as we propose, will contain reference to a new testing methods guidance document.  | <p>It is not appropriate to refer to §17868.1 because:</p> <ul style="list-style-type: none"> <li>the requirements of §17868.1 only apply to composting operations that sell or give away greater than 1,000 cubic yards of compost annually, and all composting facilities,</li> <li>the requirements of §17868.1 only apply to sampling for pathogen density and maximum metal concentrations,</li> <li>the physical contamination limits of §17868.3.1 apply to compost produced at any composting operation or facility.</li> </ul>                  |
|                  | 1151I09           |   | Paul          | Relis     |  |  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation                          | First<br>name | Last name | Summary of Comment  | CalRecycle Response  |
|------------------|-------------------|---|---------------|-----------|---|--|
|                  |                   |   |               |           |   | <p>§17868.3.1(b) specifies the operator shall sample every 5,000 cubic yards of compost produced and determine the percentage of physical contaminants using a method that provides accurate results and has been approved by the EA.</p>  |
| (b)              | 115L10            | Synagro   | Layne         | Baroldi   | <p>Synagro suggest that CalRecycle develop such a standardized and repeatable on-site testing protocol in combination with a reasonable containment target level of 1% in a manner that will ensure that health and environmental goals of the regulation are met and the testing can be achievable by the compost industry. In the alternative, physical contamination testing frequency pursuant to section 17867.1(a)(1) is recommended.</p>   | <p>CalRecycle revised the physical contamination limit from 0.1% to 0.5% (not to exceed 20% film plastic) for compost product, compostable material, and digestate spread on land. The physical contamination limit will be operative on January 1, 2018.</p> <p>The limit on the percentage of physical contaminants is consistent with nationwide trends (the states of Massachusetts, Minnesota, Montana, Ohio, Washington, and Wisconsin, as well as the United Kingdom, have limits on physical contaminants). In California, the Department of Transportation’s (Caltrans) Revised Compost Nonstandard Specification 21-1.02M, calls for physical contaminants (plastic, glass, and metal) to be less the 0.5% by dry weight.</p> <p>Prior to the January 1, 2018 operative date of the physical contamination limit, CalRecycle intends to develop, with stakeholder input, a sampling and analysis method that can produce repeatable and reproducible results.</p> <p>CalRecycle will develop guidance on sampling and analysis methodologies separate from this rulemaking.</p> <p>It is not appropriate to refer to §17868.1(a)(1) because:</p> <ul style="list-style-type: none"> <li>the requirements of §17868.1 only apply to composting operations that sell or give away greater than 1,000 cubic yards of compost annually, and all composting facilities,</li> <li>the requirements of §17868.1 only apply to sampling for pathogen density and maximum metal concentrations,</li> <li>the physical contamination limits of §17868.3.1 applies to compost produced at any composting operation or facility</li> </ul> |
| (b)              | 115R04            | California Association of Sanitation Agencies     | Greg          | Kester    | <p>We request that the monitoring frequency for this requirement be the same as for metals and pathogens as specified in sub 17868.1(a)(1 &amp; 2). This would make the monitoring frequency for biosolids composting consistent with federal and state requirements for metals, pathogens, and vector attraction reduction and would be appropriate for physical contaminant levels in biosolids.</p>  | <p>The sampling frequencies specified in §17868.1(a)(2) for biosolids composting facilities are consistent with requirements federal requirements. There are no comparable federal or state standards for physical contaminants sampling frequency.</p> <p>Further, §17868.3.1(b) specifies the operator shall sample every 5,000 cubic yards of compost produced and determine the percentage of physical contaminants using a method that provides accurate results and has been approved by the EA. A laboratory sample is required only if the EA has reason to believe that the sampling required pursuant to subdivision (b) is not accurate.</p>  |
| (b)              | 115Z02            | County Sanitation Districts of Los Angeles County | Paul          | Prestia   | <p>(b) The operator of a compostable material handling operation or facility shall <del>sample every 5000 cubic yards of compost produced and</del> determine the percentage of physical contaminants greater than 4 millimeters in the <del>sample product</del> using a <u>field</u> method that provides accurate results and has been approved by the EA. <u>Sampling shall follow the frequency schedule and composite sampling requirements of Section 17868.1. If the compostable material handling operation or facility produce less than 5,000 cubic yards of</u></p> | <p>It is not appropriate to refer to §17868.1 because:</p> <ul style="list-style-type: none"> <li>the requirements of §17868.1 only apply to composting operations that sell or give away greater than 1,000 cubic yards of compost annually, and all composting facilities,</li> <li>the requirements of §17868.1 only apply to sampling for pathogen density and maximum metal concentrations,</li> <li>the physical contamination limits of §17868.3.1 applies to compost produced at any composting operation or facility.</li> </ul>  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area                                    | Comment<br>Number | Commenter<br>Affiliation                            | First<br>name | Last name        | Summary of Comment   | CalRecycle Response   |
|---|-------------------|---|---------------|------------------|--|---|
|   |                   |   |               |                  | <u>compost in a 12 period, the operator shall analyze at least one composite sample of compost produced every 12 month period.</u>   | It is not appropriate to refer to the determination method specified in subdivision (b) as a "field" method because it may or may not be conducted in the field.<br><br>The regulations direct the operator to determine the percentage of physical contaminants in the sample, which is representative of the product.   |
| <b>§17869. General Record Keeping Requirements.</b> |                   |   |               |                  |  |   |
|   | 115X06            | California Refuse Recycling Council                 | Kathryn Ralph | Lynch & Chandler | We consider the fact that there is no guidance for recordkeeping and reporting under chipping and grinding facilities to be an oversight. Please consider including a reporting and recordkeeping requirement with the LEAs, comparable to the other activities.   | Chipping and grinding facilities are included in the definition of compostable material handling operation or facility per §17852(a)(12). All compostable material handling operations and facilities are subject to the record keeping requirements of §17869.   |
|   | 1151N12           | Waste Management                                    | Chuck         | White            |  |   |
| <b>§17896.1. Authority and Scope.</b>               |                   |   |               |                  |  |   |
| (d)   | 115C15            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark            | In part, this Subsection states ".....However, no city or county may promulgate or enforce laws which otherwise conflict with the provisions of this Chapter (emphasis added)." Such an authority is far reaching and it is limited to the State Legislative body and not the State Administrative body because the proposal would negatively impact a local jurisdiction's land use decision. As such, the term "conflict" needs to be defined or the statement should be revised to read "....However, no city, county, or special district may promulgate or enforce laws which are less restrictive than the provision of this Chapter." | Public Resources Code, §40053 states, "This division, or any rules or regulations adopted pursuant thereto, is not a limitation on the power of a city, county, or district to impose and enforce reasonable land use conditions or restrictions on solid waste management facilities in order to prevent or mitigate potential nuisances, <b>if the conditions or restrictions do not conflict with</b> or impose lesser requirements than the policies, standards, and requirements of this division and all regulations adopted pursuant to this division."  |
| <b>§17896.2. Definitions</b>                        |                   |   |               |                  |  |   |
| Also: 17852(a)(41)                                  | 115I07            | Waste Less Living                                   | Christine     | Lenches-Hinkel   | Please consider the inclusion of the following terms and suggested definitions:<br>"in-vessel systems" - "a process in which compostable material is enclosed in a drum, silo, bin, tunnel, reactor, or other container for the purpose of producing compost, maintained under uniform conditions of temperature and moisture where air-borne emissions are controlled" – Title 14 CCR, Division 7, Chapter 3.1, Section 17852   | The activity described appears to be a type of composting activity or a type of in-vessel digestion process, both of which are addressed in the regulations.  |
| (a)   | 115C16            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark            | Please expand this Subsection to provide definition for the processed mammalian tissue, flesh, organs, hide, blood, bones, and marrow.   | The term "processed mammalian tissue, flesh, organs, hide, bones, and marrow" is not used in the regulations and does not need to be defined in the regulations.  |
| (a)   | 115P11            | CR&R Environmental Services                         | Clarke        | Pauley           | Distribution Center In-vessel Digestion Operations is placed in Notification Tier with no volume limit. This seems like an opportunity for large "Distribution Center" food waste anaerobic digestion to be unregulated.<br>Recommend Change: "Small Distribution Center In-Vessel Digestion Operations (less than 60 yd <sup>3</sup> or 15 tpd)"<br>Distribution center in-vessel digestion operations larger than this should be regulated under "Medium Volume" and "Large Volume" requirements.  | The activity is regulated under the requirements. Distribution Center In-Vessel Digestion Operations receive only unsold products from retail stores to which the products were originally sent. All unsold products are required to be collected and processed in covered, leak-proof containers, and remain in the custody of the owner at all times. All unsold products that are putrescible shall be refrigerated at the retail store and shall be maintained at a core temperature of 13 degrees Celsius (55 degrees Fahrenheit) or less during transport to the operation. These requirements reduce the need for in-vessel digestion facility permit. |
| (a)(6), (a)(13)                                     | 115P10            |   | Clarke        | Pauley           |  |   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation  | First<br>name | Last name | Summary of Comment  | CalRecycle Response   |
|------------------|-------------------|---|---------------|-----------|---|---|
|                  | 1151I10           | CR&R<br>Environmental<br>Services   | Paul          | Relis     | Recommend change the definition to: "Digestate means the solid and/or liquid residual <u>product</u> remaining after organic material has been processed in an in-vessel digester."   | It is preferred to describe digestate as a material, as digestate may or may not be considered a product.   |
| (a)(9)           | 1151D05           | Californians<br>Against Waste   | Nick          | Lapis     | Non-land ap issue: ...the regs allow an exclusion for a distribution center digester if the material is backhauled in refrigerated trucks....recommend a broader standard based on minimizing nuisances or something along those lines, but requiring refrigeration seems like an unnecessary cost and source of greenhouse gas emissions.  | CalRecycle revised the definition to state that unsold products that are putrescible shall be maintained at a core temperature of 13 degrees Celsius (55 degrees Fahrenheit) or less during transport.  |
| (a)(12)          | 1151G02           | Baker<br>Commodities<br>Inc.  | Doug          | Smith     | Remove grocery stores in the definition.  | §17896.2(a)(12) is adapted from an existing definition in the Compostable Materials Handling Operations and Facilities Regulatory Requirements [§17852(a)(20)]. CalRecycle is not proposing a change as it relates to grocery stores. Further, §17896.2(a)(12) specifies that food material does not include any material that is required to be handled only pursuant to the California Food and Agricultural Code and regulations adopted pursuant thereto. |
| (a)(12)(A)       | 1151C15           | County of<br>Ventura<br>Resource<br>Management<br>Agency                    | Charles       | Genkel    | Strike the word "dry" in all subsections that refer to contamination by weight in definitions related to feedstock provided to composting operations.<br>Strikeout "of" from subsection (A): "Vegetative food material contains no greater than 1.0 <del>of</del> percent physical contaminants by <del>dry</del> weight, and meets the requirements of section 17868.5."   | CalRecycle added dry weight to §17896.2(a)(12) to be consistent with requirements for maximum metal concentrations (§17896.59) and pathogen reduction (§17896.60) and standards industry practices.<br><br>The misplaced "of" would have no regulatory effect.  |
| (a)(15)          | 1151U03           | San Luis Obispo<br>County<br>Integrated<br>Waste<br>Management<br>Authority | William       | Worrell   | The Integrated Waste Management Authority respectfully requests that the proposed definitions...<br>(15) "Large Volume In-vessel Digestion Facility" means a facility that receives solid waste for digestion in an in-vessel digester. The facility shall not exceed the solid waste daily receiving and storage capacity limitations of the general design of the facility.   | The daily average and the weekly maximum weight and volume specifications are necessary for determining proper regulatory tier placement.   |
| (a)(16)          | 1151U01           | San Luis Obispo<br>County<br>Integrated<br>Waste<br>Management<br>Authority | William       | Worrell   | The Integrated Waste Management Authority respectfully requests that the proposed definitions...<br>(16) "Limited Volume In-vessel Digestion Operation" means an operation that receives less than 105 tons (or 420 cubic yards) per week of solid waste for digestion in an in-vessel digester. Additionally, the operation shall not exceed the solid waste daily receiving and storage capacity limitations of the general design of the facility (whichever is less). | The daily average weight and volume specifications are necessary for determining proper regulatory tier placement.  |
| (a)(19)          | 1151U02           | San Luis Obispo<br>County<br>Integrated<br>Waste<br>Management<br>Authority | William       | Worrell   | The Integrated Waste Management Authority respectfully requests that the proposed definitions...<br>(19) "Medium Volume In-vessel Digestion Facility" means a facility that receives less than 700 tons (or 2,800 cubic yards) per week of solid waste for digestion in an in-vessel digester. Additionally, the facility shall not exceed the solid waste daily receiving and storage capacity limitations of the general design of the facility (whichever is less).    | The daily average weight and volume specification are necessary for determining proper regulatory tier placement.   |
| (a)(20)          | 115C17            | Los Angeles<br>County Solid<br>Waste<br>Management<br>Committee             | Margaret      | Clark     | Please refer to the Specific Comment #2 for concerns and recommendations.   | The "Nuisance" definition is the same as the existing definition of "Nuisance" in the Transfer/Processing Operations and Facilities Regulatory Requirements [§17402(a)(12)].<br><br>The definition is standard legal language for defining a "public nuisance" as found in California Civil Code §§ 3479 and 3480 and which forms the basis for public agencies to abate nuisances in Civil Code §§ 3491 and 3494.  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area   | Comment<br>Number | Commenter<br>Affiliation                     | First<br>name  | Last name       | Summary of Comment  | CalRecycle Response  |
|--|-------------------|--|----------------|-----------------|---|--|
|  |                   |  |                |                 |   | §17896.2(a)(2)(B) is consistent with California Civil Code §3480, so it is not appropriate to delete subdivision (B).  |
| (a)  | 115I04            | Waste Less Living                            | Christine      | Lenches-Hinkel  | Please consider the inclusion of the following terms and suggested definitions:<br>“Putrescible waste” – “includes any organic material that is NOT in the process of being properly composted resulting in rapid microbial decomposition causing nuisances such as that of odors, vectors, gases or other offensive conditions.  | Putrescible wastes is defined in §17896.2(a)(28). The definition is the same as the existing definition of “Putrescible Wastes” in the Transfer/Processing Operations and Facilities Regulatory Requirements [§17402(a)(21)].  |
| <b>§17896.3. Pre-Existing Permits and Notifications.</b>   |                   |  |                |                 |   |  |
| (a)  | 115L11            | Synagro                                      | Layne          | Baroldi         | Synagro request that CalRecycle include similar language for composters. As written, the regulation will provide undue impacts, both financial and operational, to composters as well as the local LEA’s that have to review and approve revised OIMP’s, etc.   | It is not necessary to provide pre-existing permits and notifications provisions for composters as the regulations do not require compostable material handling operations and facilities to change their regulatory tier placement.   |
| <b>§ 17896.5. Regulatory Tiers Requirements for In-Vessel Digestion Operations and Facilities.</b> |                   |  |                |                 |   |  |
|  |                   | FEED Resource Recovery                       | Ryan           | Begin           | FEED Resource Recovery Inc. delivers on-site Anaerobic Digestion solutions: we are asking CalRecycle to include projects like ours on the list of Excluded Activities (§ 17896.5. Excluded Activities) that do not require a full solid waste permit, but require EA Notification, maintaining quarterly inspections. This proposed process would be similar to the permit structure of the Research Notification, which has proven successful for our application.   | Distribution center in-vessel digestion operations are placed within the EA notification tier.   |
|  | 1151C13           | County of Ventura Resource Management Agency | Charles        | Genkel          | The conversion of 4 yards per ton of anaerobic digestion feedstock is not accurate since the material is predominantly manure, food and vegetative waste. Considering mixed municipal sources of feedstock can have a moisture content of approximately 74%, the average weight of food waste weight is 1,500 pounds per cubic yard. Revise Table 1 to use a conversion of .75 tons per cubic yard of feedstock. As an alternate, eliminate the volume reference.   | Materials with higher moisture content may be the predominant feedstock for digestion, however, they will not be the only feedstocks received at an in-vessel digestion operation or facility (i.e., not all waste received will be digested). The daily average weight volume specifications are consistent with existing specifications in the Transfer/Processing Operations and Facilities Regulatory Requirements [§17402(a)(8), (9), and (11)].  |
| <b>§ 17896.6. Excluded Activities.</b>   |                   |  |                |                 |   |  |
| (a)(1)   | 115J01            | IEUA   | Sylvie         | Lee             | We were pleased with the exclusion tier of anaerobic co-digestion material with POTW wastewater.  | CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.  |
| (a)(3)(B)  | 1151F07           | California Compost Coalition                 | Neil           | Edgar           | The new proposed language in §17896(a)(3)(B) provides an exclusion for operators who annually sell or give away less than 1,000 cubic yards of compost produced from digestate. It requires that digestate not composted may not be given away or sold. This allows for operators who pay to have digestate – no matter how little that payment – to be land applied without being composted. We would ask that the language be revised to limit the exclusion to include materials for which the operator may pay to land apply the digestate. | The sell or give away restriction in §17896.6(a)(3)(B) pertains to compost produced from digestate produced at a dairy from the co-digestion of manure with agricultural material derived on-site, imported agricultural material, and/or imported vegetative food material. If a dairy imports digestate from another source for land application, the digestate is subject to the land application requirements of §17852(a)(24.5) whether the digestate is paid for or not.                               |
| (a)(3)<br>Also:<br>(a)(3)(B)   | 115P12<br>1151I12 | CR&R Environmental Services                  | Clarke<br>Paul | Pauley<br>Relis | We see that in this round of proposed edits, that dairy digesters that take in imported agricultural material and vegetative food material are proposed to be excluded from this regulation. We question the merit of this exclusion. As written, there is a loophole that would allow potentially large scale dairy and agricultural material digesters that could accept outside vegetative food material that would not be subject to these regulations. There are several   | The exclusion is provided to in-vessel digestion at a dairy involving the co-digestion of manure with agricultural material derived on-site, imported agricultural material, and/or imported vegetative food material in accordance with Waste Discharge Requirements issued by a Regional Water Quality Control Board. CalRecycle is providing the exclusion in recognition of the level of regulatory oversight through the Waste Discharge Requirements issued by a Regional Water Quality Control Board. |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation            | First<br>name | Last name        | Summary of Comment   | CalRecycle Response  |
|------------------|-------------------|-------------------------------------|---------------|------------------|--|--|
|                  |                   |                                     |               |                  | already identified permitting tiers that these operations could fall under based on the proposed volume of feedstock. Why are these types of facilities proposed to be exempt without limit? Are there not equal public health and safety issues associated with these types of operations as with the other in-vessel operations that are proposed to be regulated?   |  |
| (a)(3)(A)        | 115X05            | California Refuse Recycling Council | Kathryn Ralph | Lynch & Chandler | ...concerned about the exclusion of in-vessel digestion at dairy or rendering facilities. First, there is no size limit on these operations and no limit on the amount of imported vegetative material they can accept. Second, there is no guarantee that these facilities will be properly regulated as these facility types will have no regulatory oversight by the LEA...We suggest that these operations fall under a regulatory tier based on their proposed volume of operation. | <p>The exclusion in §17896.6(a)(3) pertains to in-vessel digestion at a dairy involving the co-digestion of manure with agricultural material derived on-site, imported agricultural material, and/or imported vegetative food material in accordance with Waste Discharge Requirements issued by a Regional Water Quality Control Board. CalRecycle is providing the exclusion in recognition of the level of regulatory oversight through the Waste Discharge Requirements issued by a Regional Water Quality Control Board. This exclusion is consistent with existing Compostable Materials Handling Operations and Facilities Regulatory Requirements [§17855(a)(1)].</p> <p>The exclusion in §17896.6(a)(5) pertains to rendering activities authorized by §19300 of the Food and Agricultural Code. These activities are regulated by the California Department of Food and Agriculture. CalRecycle is providing the exclusion in recognition of the level of regulatory oversight provided by the California Department of Food and Agriculture. This exclusion is consistent with existing Transfer/Processing Operations and Facilities Regulatory Requirements [§17402.5(c)(7)] and Compostable Materials Handling Operations and Facilities Regulatory Requirements [§17855(a)(5)(H)].</p> |
|                  | 1151N11           | Waste Management                    | Chuck         | White            |  |  |
| (a)(3)(B)        | 1151J03           | Agriculture Council of California   | Emily         | Rooney           | Delete Section §17896.6 (a)(3)(B) so as not to restrict the amount of material that could be given away or sold annually.  | §17896.6(a)(3) is adapted from existing Compostable Material Handling Operations and Facilities Regulatory Requirements [§17855(a)(1)]. This subdivision provides an exclusion for the traditional agricultural practices of co-digestion of manure with other specified materials. The selling or giving-away of an incidental amount of material (1,000 cubic yards per year) is considered part of the traditional agricultural practice that does not constitute a commercial activity. An activity that has obtained the proper authorization pursuant to these regulations may sell or give-away more than the incidental amount.  |
| (a)(3)(B)(5)     | 1151E11           | Assoc. of Compost Producers         | Dan           | Noble            | Compost producers and other in-vessel digester operations, that use the same “vegetative food material” feedstock, are not exempt from these regulations. They, therefore, have ongoing LEA oversight, to assure that public health and the environment are protected. However, these above exempted facility types [dairy, rendering] will have no regulatory oversight by the LEA, so how will the state, or more importantly the public, know if these facilities are in compliance?  | <p>The exclusion in §17896.6(a)(3) pertains to in-vessel digestion at a dairy involving the co-digestion of manure with agricultural material derived on-site, imported agricultural material, and/or imported vegetative food material in accordance with Waste Discharge Requirements issued by a Regional Water Quality Control Board. CalRecycle is providing the exclusion in recognition of the level of regulatory oversight through the Waste Discharge Requirements issued by a Regional Water Quality Control Board. This exclusion is consistent with existing Compostable Materials Handling Operations and Facilities Regulatory Requirements [§17855(a)(1)].</p> <p>The exclusion in §17896.6(a)(5) pertains to rendering activities authorized by §19300 of the Food and Agricultural Code. These activities are regulated by the California Department of Food and Agriculture. CalRecycle is providing the exclusion in recognition of the level of regulatory oversight provided by the California Department of Food and Agriculture. This exclusion is consistent with existing Transfer/Processing Operations and Facilities Regulatory Requirements [§17402.5(c)(7)] and Compostable Materials Handling Operations and Facilities Regulatory Requirements [§17855(a)(5)(H)].</p> |
|                  | 1151N05           | Waste Management                    | Chuck         | White            |  |  |
|                  | 115P13            |                                     | Clarke        | Pauley           |  |  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area   | Comment<br>Number | Commenter<br>Affiliation                               | First<br>name | Last name | Summary of Comment   | CalRecycle Response   |
|--|-------------------|--|---------------|-----------|--|---|
|  | 1151I13           | CR&R<br>Environmental<br>Services                      | Paul          | Relis     | We see that in-vessel digestion associated with rendering operations are also proposed to be excluded from these regulations. It is not clear why these operations would be categorically excluded from these regulations considering the potential for public health and safety issues arising from in-vessel digestion of rendering material. Imagine the potential odor concerns of a large-scale in-vessel digester operation co-located at a rendering operation? There are several already identified permitting tiers that these operations could fall under based on the proposed volume of feedstock. | The exclusion in §17896.6(a)(5) pertains to rendering activities authorized by §19300 of the Food and Agricultural Code in which no solid waste feedstock bypasses the rendering process. These activities are regulated by the California Department of Food and Agriculture. CalRecycle is providing the exclusion in recognition of the level of regulatory oversight provided by the California Department of Food and Agriculture. This exclusion is consistent with existing Transfer/Processing Operations and Facilities Regulatory Requirements [§17402.5(c)(7)] and Compostable Materials Handling Operations and Facilities Regulatory Requirements [§17855(a)(5)(H)]. |
| (a)(6)   | 115R05            | California<br>Association of<br>Sanitation<br>Agencies | Greg          | Kester    | We request a change in this section to read as follows: "Other discrete handling activities that are already subject to <u>equally</u> stringent handling requirements under Federal or State law, as determined by <u>the Department in consultation with the EA and other state agencies as appropriate</u> , are excluded. <u>Furthermore, POTWs with dedicated digesters receiving only hauled-in anaerobically digestible materials without co-digesting with wastewater at POTWs, can submit a request for exclusion in accordance with sub (a)(1)(D).</u>   | The changes are not necessary as the described activity can already be considered under §17896.6(a)(6).   |
| (a)(6)   | 1151O02           | East Bay<br>Municipal<br>Utility District              | Donald        | Gray      | Other discrete handling activities that are already subject to <del>more</del> <u>equally</u> stringent handling requirements under Federal or State law, as determined by the EA in consultation with the Department, are excluded. <u>Furthermore, POTWs with dedicated digesters receiving only hauled-in anaerobically digestible materials without co-digesting with wastewater at POTWs, can submit a request (or exclusion in accordance with Section 17896.6(a)(1)(D).</u>   | The changes are not necessary as the described activity can already be considered under §17896.6(a)(6).   |
| (a)(6)   | 115J02            | IEUA   | Sylvie        | Lee       | 17896.6(aX6) "Other discrete handling activities that are already subject to <u>equally</u> stringent handling requirements under Federal or State law, as determined by the Department in consultation with the EA, are excluded. <u>Furthermore, dedicated In-vessel Digester, including Large Volume In-vessel Digestion Facility operating at a POTW owned property, and receiving only hauled-in anaerobically digestible materials without co-digesting with wastewater, are exempt."</u>  | The changes are not necessary as the described activity can already be considered under §17896.6(a)(6).   |
| <b>§ 17896.7. Prohibitions.</b>                            |                   |  |               |           |  |   |
| (a)(3)   | 1151O01           | East Bay<br>Municipal<br>Utility District              | Donald        | Gray      | (3) from a source <u>and processed by a facility</u> approved by the Department in consultation with the State Water Resources Control Board and the California Department of Food and Agriculture, <u>on a case-by-case basis ."</u>  | CalRecycle revised this section to clarify that the facility will be approved the Department on a case-by-case basis.   |
| <b>§ 17896.8. Research In-Vessel Digestion Operations.</b> |                   |  |               |           |  |   |
|  | 1151F08           | California<br>Compost<br>Coalition                     | Neil          | Edgar     | We would recommend that the limit of two, two-year periods be removed, with current language retained which leaves the time limit at the discretion of the EA.   | The limit of two, two-year periods is appropriate to ensure that this section is used for its intended purpose.   |
| <b>§ 17896.19. Biogas Control.</b>                         |                   |  |               |           |  |   |
|  | 115T06            | County of<br>Solano                                    | Jagjinder     | Sahota    | The hyphenation of on-site creates a grammatical error. Consider adding "to" before on-site as" The operator of an in-vessel digestion operation or facility must take adequate measures to prevent the uncontrolled release of biogas that may have harmful effects to on-site users and the general public".   | CalRecycle revised the text to address the suggested revision.  |
| <b>§17896.21. Drainage and Spill Control.</b>              |                   |  |               |           |  |   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area  | Comment<br>Number | Commenter<br>Affiliation  | First<br>name  | Last name       | Summary of Comment  | CalRecycle Response   |
|---|-------------------|---|----------------|-----------------|---|---|
|   | 115C18            | Los Angeles<br>County Solid<br>Waste<br>Management<br>Committee | Margaret       | Clark           | The proposed requirements need to be expanded to prohibit any off-site drainage without a NPDES Permit.   | Pursuant to Public Resources Code §40055(b), CalRecycle regulations may not duplicate or be in conflict with any determination relating to water quality control made by the State Water Quality Control Board or Regional Water Quality Control Boards. Pursuant to Public Resources Code §43020, regulations adopted by CalRecycle may shall not include any requirements already under the authority of the state water board for the prevention of water pollution.   |
| <b>§17896.30. Odor Best Management Practice Feasibility Report.</b> |                   |   |                |                 |   |   |
|   | 115C19            | Los Angeles<br>County Solid<br>Waste<br>Management<br>Committee | Margaret       | Clark           | Pursuant to Sections 17852 (a) (27.5) and 17896.2 (a) (20), please identify/describe the boundaries of the community that may potentially be affected.  | <p>The “Nuisance” definition is the same as the existing definition of “Nuisance” in the Transfer/Processing Operations and Facilities Regulatory Requirements [§17402(a)(12)].</p> <p>The definition of “Nuisance” is standard legal language for defining a “public nuisance” as found in California Civil Code §§ 3479 and 3480 and which forms the basis for public agencies to abate nuisances in Civil Code §§ 3491 and 3494.</p> <p>The phrase “entire community or neighborhood” is one alternative standard. The definition also allows use of “considerable number of persons.”</p> <p>Revisions to the proposed regulation text are not necessary.</p> |
| <b>§17896.31. Odor Minimization Plan.</b>                           |                   |   |                |                 |   |   |
| (f)   | 115P14            | CR&R<br>Environmental<br>Services                               | Clarke         | Pauley          | Recommend change “shall direct” to “may direct.”  | It is not appropriate to change the “shall” to “may.” The EA’s action to direct an operator to prepare Odor Best Management Feasibility Report is taken only after concluding an investigation (per §18302(d)) and determining that the operator is following an Odor Impact Minimization Plan but odor impacts are still occurring. CalRecycle has mandated preparation of an odor best management practice feasibility report under these circumstances to provide information to the EA to determine whether enforcement is appropriate. The operator may also voluntarily prepare an Odor best management practice feasibility report.                        |
|   | 1151114           |   | Paul           | Relis           |   |   |
| <b>§17896.45. Record Keeping Requirements.</b>                      |                   |   |                |                 |   |   |
|   | 115C20            | Los Angeles<br>County Solid<br>Waste<br>Management<br>Committee | Margaret       | Clark           | Please expand to require each operator to record the quantities/tonnages of incoming waste received and outgoing residual waste, by jurisdiction of origin, and submit the data to the appropriate jurisdictions on a calendar quarterly basis.”  | The specific purpose and necessity of these proposed regulations relate to the protection of public health and safety and the environment. Requiring each operator to record the quantities/tonnages of incoming waste received and outgoing residual waste, by jurisdiction of origin, and submit the data to the appropriate jurisdictions on a calendar quarterly basis is not consistent with this specific purpose and necessity.  |
| <b>§17896.57. Digestate Handling.</b>                               |                   |   |                |                 |   |   |
| *Cited wrong section (§17896.56) (a)(2)(A)                          | 1151Q01           | JPB Consulting  | Juliette       | Bohn            | Why limit on-site composting of digestate to large facilities only?   | A compostable material handling facility permit is required for facilities that receive and handle digestate because the characteristics of the digestate may vary greatly due to feedstock type, moisture content, retention time, technology used, etc. Furthermore, it is anticipated that feedstock for In-vessel Digester facilities will have similar characteristics as food material and/or mixed materials, which, if composted, is required to be sent to a facility that has a compostable material handling facility permit.  |
| (a)(3)(A)<br>Also:<br>(a)(2)(B)<br><br>*Cited wrong                 | 115P15<br>1151115 | CR&R<br>Environmental<br>Services                               | Clarke<br>Paul | Pauley<br>Relis | Digestate is not solid waste, it is a waste derived soil product. Suggest: remove "solid waste" Suggest: "(A) transported to another solid waste facility or operation, or facility that has obtained a Compostable Materials Handling Facility Permit pursuant to section 17854 for disposal, composting, or additional processing; or..." | CalRecycle revised §17896.57(a)(3) to remove the term “as solid waste.” §17896.57(a)(3)(A) specifies digestate may be transported to another solid waste facility or operation for additional processing, composting, or disposal. If digestate is transported to another solid waste facility for composting, the Compostable Materials Handling Operations and Facilities Regulatory Requirements [§17852(a)(13.5)] specify digestate intended to be composted may only be handled at a facility that has obtained a Compostable Materials Handling Permit pursuant to §17854.  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area                                | Comment<br>Number | Commenter<br>Affiliation               | First<br>name  | Last name       | Summary of Comment   | CalRecycle Response   |
|---|-------------------|--|----------------|-----------------|--|---|
| section<br>§ 17896.45.                          |                   |  |                |                 | Digestate sampling frequency for metals, pathogens, and physical contamination should mirror the compost regulations.(b) should be revised to reflect this sampling/testing standard in section 17896.58 below.  | Subdivision (b) specifies the acceptable end uses for digestate that is known to contain metals, pathogens or physical contaminants that exceeds allowable concentrations, or digestate that has not been analyzed for these constituents and therefore is presumed to contain these constituents in excess of allowable concentrations. Sampling requirements in §17896.58, maximum metal concentrations in §17896.59 and pathogen reduction in §17896.60 all mirror the composting regulations.   |
| <b>§17896.58. Sampling Requirements.</b>        |                   |  |                |                 |  |   |
|   | 115P16<br>1151I16 | CR&R<br>Environmental<br>Services      | Clarke<br>Paul | Pauley<br>Relis | Recommend change to: “The sampling of compost <u>and digestate</u> produced at an in-vessel digestion facility (pursuant to section 17896.57(a)(2)) shall occur at the point (1) where the digestate or compost is removed from the site, bagged for sale, given away for beneficial use and removed from the site or otherwise beneficially used, or (2) at the site of final curing, blending, processing or composting at a fully permitted solid waste facility (reference codes). Analytical results indicating compliance with sections 17896.59, 17896.60, and 17896.61 shall be received by the operator within 15 business days of digestate being removed from in-vessel digester. Sample results must be received by the operator prior to removing digestate or compost from the in-vessel digestion facility or final composting site where it was produced.” | The regulations do not require digestate to be sampled. Pursuant to §17896.57(a), digestate shall, within 24 hours, be either: 1) stored or processed on site in a stored container, 2) incorporated in an on-site aerobic compost process, or 3) removed from the site and transported to another solid waste facility for additional processing, composting, or disposal, or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. If composted at the in-vessel digestion facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits must be made prior to compost being removed from facility, consistent with compost regulations. If composted at another composting facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits will be made at that facility. If used in a manner approved by local, state, and federal agencies having appropriate jurisdiction, the agencies will determine how and where verification is made.   |
|   | 1151E04           | Association of<br>Compost<br>Producers | Dan            | Noble           | The section should read: “Any sampling conducted to comply with this section shall require a compost sample, as per §17868.1 (b).”   | Pursuant to §17896.57(a), digestate shall, within 24 hours, be either: 1) stored or processed on site in a stored container, 2) incorporated in an on-site aerobic compost process, or 3) removed from the site and transported to another solid waste facility for additional processing, composting, or disposal, or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. If composted at the in-vessel digestion facility, sampling shall be conducted pursuant to §17868.1 (pathogen and metals) and §17868.3.1 (physical contamination). If used in a manner approved by local, state, and federal agencies having appropriate jurisdiction, the agencies will determine how and where verification is made.   |
| <b>§17896.59. Maximum Metal Concentrations.</b> |                   |  |                |                 |  |   |
| (a)<br>Also:<br>(a)(1)                          | 115P17<br>1151I17 | CR&R<br>Environmental<br>Services      | Clarke<br>Paul | Pauley<br>Relis | Line 33, 43, and 44. Recommend, “Compost and Digestate”.   | The regulations do not require digestate to meet maximum metal concentration requirements. Pursuant to §17896.57(a), digestate shall, within 24 hours, be either: 1) stored or processed on site in a stored container, 2) incorporated in an on-site aerobic compost process, or 3) removed from the site and transported to another solid waste facility for additional processing, composting, or disposal, or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. If composted at the in-vessel digestion facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits must be made prior to compost being removed from facility, consistent with compost regulations. If composted at another composting facility, verification of meeting maximum physical metal concentrations, pathogen reduction and physical contamination limits will be made at that facility. If used in a manner approved by local, state, and federal agencies having appropriate jurisdiction, the agencies will determine how and where verification is made. |
| <b>§17896.60. Pathogen Reduction.</b>           |                   |  |                |                 |  |   |
|   | 115P18<br>1151I18 | CR&R<br>Environmental<br>Services      | Clarke<br>Paul | Pauley<br>Relis | We are concerned that no efforts were made in the last round of edits to address any of the recommendations on pathogen reduction that are unique to Anaerobic Digestion versus composting.  | Line 8-51: A product that meets maximum metal concentrations, pathogen reduction, and physical contamination limits would be considered a compost. There is no need to add digestate.   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area                                 | Comment<br>Number | Commenter<br>Affiliation       | First<br>name  | Last name       | Summary of Comment   | CalRecycle Response  |
|--|-------------------|--------------------------------|----------------|-----------------|--|--|
|  |                   |                                |                |                 | <p>Line 8-51: Recommend, "Compost and Digestate"</p> <p>Line 13-15: Recommend: "<u>Sample results collected at the frequency prescribed in section 17896.58(b)(1)</u> must be received by the operator prior to removing compost or digestate from either the in-vessel digestion facility where it was produced, or at the site of final curing, blending, processing or composting at a fully permitted solid waste facility (reference codes)."</p> <p>Line 17: Recommend: Recommend: "<u>Sample results collected at the frequency prescribed in section 17896.58(b)(1)</u> must be received by the operator prior to removing product from the in-vessel digestion facility site, or the site of final curing, blending, processing or composting at a fully permitted solid waste facility (reference codes)."</p> <p>Line 22: Recommend: "(2) at in-vessel digestion facilities using an enclosed or within-vessel digestion process, active Substrate shall be maintained at a temperature of 55 degrees Celsius (131 degrees Fahrenheit) or higher for a pathogen reduction period of 3 days, or 120 degrees Fahrenheit or higher for a pathogen reduction period of 15 days. Delete (b) 2(A)."</p> <p>Line 28: Recommend delete and Replace with: "(3) Provided substrate temperatures in an in-vessel digestion facility are maintained according to minimum standards prescribed in section 17896.60(b)(2) and sample results prescribed in section 17896.60 (b) are within acceptable limits, no further pathogen reduction of digestate processed in this manner or compost produced from this digestate, shall be required."</p> <p>Line 32: Recommend Delete (b)(4), as this is redundant with the composting regulations.</p> | <p>Line 13-15, 17, 22, 28: The regulations do not require digestate to meet pathogen reduction requirements. Pursuant to §17896.57(a), digestate shall, within 24 hours, be either: 1) stored or processed on site in a stored container, 2) incorporated in an on-site aerobic compost process, or 3) removed from the site and transported to another solid waste facility for additional processing, composting, or disposal, or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. If composted at the in-vessel digestion facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits must be made prior to compost being removed from facility, consistent with compost regulations. If composted at another composting facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits will be made at that facility. If used in a manner approved by local, state, and federal agencies having appropriate jurisdiction, the agencies will determine how and where verification is made.</p> <p>§17896.58 and §17896.60 are adapted from an existing prohibition in the Compostable Materials Handling Operations and Facilities Regulatory Requirements [§17868.1 and §17868.3]. The relationship between the sampling requirements of §17868.1 to the pathogen reduction requirements of §17868.2 are well established. There have been no issues or concerns with the implementation of this existing section that warrant the suggested changes.</p> <p>Line 32: The entire section, which applies to the on-site aerobic composting of digestate, is adapted from existing compostable material handling regulations.</p> |
| <b>§17896.61. Physical Contamination Limits.</b> |                   |                                |                |                 |  |  |
|  | 115P19<br>1151119 | CR&R<br>Environmental Services | Clarke<br>Paul | Pauley<br>Relis | <p><b>Suggested Revision:</b><br/> <b>This section shall become operative January 1, 2020.</b> Compost and digestate produced at an in-vessel digestion facility shall not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters; no more than 20% by dry weight of this 0.5% shall be film plastic greater than 4 millimeters. Compost <u>and Digestate</u> that contains physical contaminants in excess of either one or both of these limits shall be designated for, additional processing, disposal, or other use as approved by local, state or federal agencies having appropriate jurisdiction. Verification of physical contamination limits shall occur at the point where compost <u>or digestate</u> is sold and removed from the site, bagged for sale, given away for beneficial use and removed from the site or otherwise beneficially used. Sample results, <u>collected at the minimum frequency prescribed in section 17868.3.1(c)</u>, must be received by the operator prior to removing compost <u>and digestate</u> from the in-vessel digestion facility <u>or associated composting operation facility</u> where it was produced.</p> <p>(b) All in-vessel digestion facilities with an on-site <u>compost process or fully permitted solid waste facilities where final curing, blending, processing or composting occurs (reference codes)</u>, shall take one representative sample for</p>  | <p>The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time for the regulated community to adjust to the new standard.</p> <p>The regulations do not require digestate to meet physical contamination limits. Pursuant to §17896.57(a), digestate shall, within 24 hours, be either: 1) stored or processed on site in a stored container, 2) incorporated in an on-site aerobic compost process, or 3) removed from the site and transported to another solid waste facility for additional processing, composting, or disposal, or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. If composted at the in-vessel digestion facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits must be made prior to compost being removed from facility, consistent with compost regulations. If composted at another composting facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits will be made at that facility. If used in a manner approved by local, state, and federal agencies having appropriate jurisdiction, the agencies will determine how and where verification is made.</p>  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area                                       | Comment<br>Number | Commenter<br>Affiliation                            | First<br>name | Last name | Summary of Comment   | CalRecycle Response  |
|--|-------------------|---|---------------|-----------|--|--|
|  |                   |   |               |           | every 5,000 cubic-yards of compost produced and send to a laboratory at which physical contaminants greater than 4 millimeters shall be collected and weighed, and the percentage of physical contaminants determined.<br>(c) Alternative methods of compliance to meet the requirements of this section may be approved by the EA if the EA determines that the alternative method will ensure the physical contaminant requirements of this section are met. |  |
|  | 115G03            | Santa Barbara County Environmental Health Services  | Lisa          | Sloan     | This testing requirement in 17896.61. Physical Contamination Limits may not be necessary, especially for digestate intended as alternative daily cover or disposal.  | §17896.61 only applies to compost produced at an in-vessel digestion operation or facility. Pursuant to §17896.57(a), digestate shall, within 24 hours, be either: 1) stored or processed on site in a stored container, 2) incorporated in an on-site aerobic compost process, or 3) removed from the site and transported to another solid waste facility for additional processing, composting, or disposal, or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction.  |
|  | 1151C14           | County of Ventura Resource Management Agency        | Charles       | Genkel    | Strike the word "dry" in all subsections that refer to contamination by weight.  | CalRecycle added dry weight to §17896.61 to be consistent with requirements for maximum metal concentrations (§17896.59) and pathogen reduction (§17896.60) and standards industry practices.  |
|  | 1151E05           | Association of Compost Producers                    | Dan           | Noble     | The section should read: "Any sampling conducted to comply with this section shall require a compost sample, as per §17868.1 (b)."   | Pursuant to §17896.57(a), digestate shall, within 24 hours, be either: 1) stored or processed on site in a stored container, 2) incorporated in an on-site aerobic compost process, or 3) removed from the site and transported to another solid waste facility for additional processing, composting, or disposal, or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. If composted at the in-vessel digestion facility. If composted at another composting facility, sampling shall be conducted pursuant to §17868.1 (pathogen and metals) and §17868.3.1 (physical contamination). If used in a manner approved by local, state, and federal agencies having appropriate jurisdiction, the agencies will determine how and where verification is made. |
| <b>§18302 Written Complaints of Alleged Violations</b> |                   |   |               |           |  |  |
|  | 115Y03            | Burke, Williams, & Sorensen, LLP                    | Timothy       | Colvig    | Revise Section 18302 to require allow the Enforcement Agency, when investigating and taking action in response to odor complaints, to rely upon all material information, including investigations performed by other regulatory agencies, including investigations by the applicable Regional Air Quality Management District and Regional Water Quality Control Board.   | CalRecycle revised this section to require the EA to include in an odor complaint investigation, any known facts relevant to an alleged violation provided by local, state, and federal agencies having appropriate jurisdiction.  |
| (c)  | 115C21            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark     | Please revise this Subsection to require the EA investigate any odor complaint by the next business day instead of the stated 15 days.   | CalRecycle is not proposing changes to the regulation section.<br><br>Requiring the EA to investigate any odor complaint by the next business day instead of the stated 15 days in §18302(c) would place an unnecessary burden on the EA. The EA may need more than one day to examine a written complaint of alleged violation, visit a facility where the alleged violation occurred, and document the findings. Requiring the EA, upon receipt of an odor complaint, to investigate the complaint as soon as practical prior to issuing a violation for failing to minimize odor as stated in §18302(d) is a more reasonable approach than requiring the EA to investigate any odor complaint by the next business day.   |
| (d)  | 115C22            | Los Angeles County Solid Waste                      | Margaret      | Clark     | Please expand Line #1 to insert the phrase "but not later than one business day" after "...as soon as practical,"...   | Requiring the EA, upon receipt of an odor complaint, to investigate the complaint as soon as practical prior to issuing a violation for failing to minimize odor as stated in §18302(d) is a more reasonable approach than requiring the EA to investigate any odor complaint by the next business day.  |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area                                    | Comment<br>Number | Commenter<br>Affiliation  | First<br>name | Last name | Summary of Comment   | CalRecycle Response   |
|---|-------------------|---|---------------|-----------|--|---|
|   |                   | Management<br>Committee   |               |           |  |   |
| (d)   | 115Q04            | Western Placer<br>Waste<br>Management<br>Authority              | Eric          | Oddo      | The Western Placer Waste Management Authority appreciates that Cal Recycle has clarified this section to state that the EA will investigate the complaint as soon as practical to determine whether the operator has failed to minimize odor and that, after investigation, the EA may issue violation at their discretion. We believe this will give the EA the discretion they are afforded throughout the regulation.   | CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.   |
| (d)   | 115Z04            | County<br>Sanitation<br>Districts of Los<br>Angeles County      | Paul          | Prestia   | Section 18302(d) implies that the EA will issue a violation to the operator after investigating the odor complaint. This precludes any due process. We request the following change:<br><br>(d) Upon receipt of an odor complaint related to a compostable material handling operation or facility, the EA shall investigate the complaint as soon as practical <u>to determine that the compostable material handling operation or facility is the source of the odor and that the odor represents a nuisance condition. Based on these findings, the EA may issue a notice of violation for failing to minimize odors.</u> The odor complaint investigation shall include the following: <del>as soon as practical prior to issuing a violation for failing to minimize odors.</del> | CalRecycle revised the section to require the EA to investigate the complaint as soon as practical to determine whether or not to issue a violation for failing to minimize odor.   |
| (d)(2)  | 115C23            | Los Angeles<br>County Solid<br>Waste<br>Management<br>Committee | Margaret      | Clark     | Please expand the paragraph to require the EA to also collect weather related data for the time that the odor complaint was received.  | It is not appropriate to require the EA to collect weather-related data for the time the odor complaint was received because it may not be feasible to obtain such data. The EA will utilize professional judgement during the complaint investigation to identify any available facts relevant to an alleged violation.  |
| (d)(3)(B)   | 115T07            | County of<br>Solano   | Jagjinder     | Sahota    | The LEA is concerned with the change in this section. The LEA staff should not only document, but should make a finding on whether he/she believes the odor is offensive.  | The EA is required to investigate the complaint and document the complainant's claim, if any, that the odor is interfering with the complainant's use and comfortable enjoyment of life or property. The EA's role is to determine whether or not to issue a violation for failing to minimize odor, as required by §17867(a)(2), not to make a finding on whether he/she believes the odor is offensive. |
| <b>Solid Waste Facility Permit Application Form</b> |                   |   |               |           |  |   |
| Part 1. A,B,C.<br>1-6                               | 115G04            | Santa Barbara<br>County<br>Environmental<br>Health Services     | Lisa          | Sloan     | Page 64 Application instructions numbering of Part 1. A, B, C.1 through 6 do not coordinate with numbering in the application form itself, which includes Part 1. A, B, C.1 through 5.   | CalRecycle revised the application form, CalRecycle E-1-77, to correct the numbering discrepancy.   |
| Part 2. E.12  | 115C24            | Los Angeles<br>County Solid<br>Waste<br>Management<br>Committee | Margaret      | Clark     | Please expand to define the term "commercial sources" to be consistent with the definition provided by AB 341 (2011), as amended.  | It is unnecessary to define the term "commercial sources" in the definition of Municipal Solid Waste to be consistent with the definition provided by AB 341 because, for the purposes of the Solid Waste Facility Permit, Municipal Solid Waste includes waste from any source regardless if it is consistent with the definition in AB 341.   |
| Part 3.<br>(A)(1)(a)                                | 1151M04           | Recology  | Erin          | Merrill   | ...the term "permitted maximum tonnage" in the Solid Waste Facility Permit Application should apply only to waste materials being brought to a facility for transfer, processing, or disposal and not to materials coming into a facility for beneficial reuse. To include beneficial reuse materials, including those to be used for ADC, road construction, landscaping, unit construction, wet-weather  | Part 3.A.1. is information applicable to all existing facilities and requires the applicant to include solid waste and other material the applicant is authorized by the EA to receive in the Report of Facility Information (RFI) through the gate per day as part of normal, day to-day operations.   |

**CalRecycle Responses to 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

| Section/<br>Area | Comment<br>Number | Commenter<br>Affiliation                            | First<br>name | Last name | Summary of Comment  | CalRecycle Response   |
|------------------|-------------------|---|---------------|-----------|---|---|
|                  |                   |   |               |           | pad construction, and other purposes, in this tonnage limit would put facilities at risk of not being able to accept these materials because they may exceed their maximum daily tonnage.   | Part 3.A.2. is information regarding proposed changes or information applicable to new SWFPs and must be filled out by every applicant requesting a change to any item(s) listed under part 3.A.1. The EA will review the request and establish the terms and conditions of a proposed SWFP for the request that are supported by documents submitted by the applicant.   |
| Part 3 A.1.a.2.  | 115C25            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark     | Please expand line 8 to also include “compost.”   | It is not necessary expand line 8 to also include “compost” since compost is covered in the existing language.  |
| Part 3 A.4.      | 115C26            | Los Angeles County Solid Waste Management Committee | Margaret      | Clark     | Please expand to describe the disposal footprint by latitude and longitude and expressed in degrees, minutes, and seconds, or decimal degrees identifying the boundaries of the waste footprint for existing and/or proposed new areas. | It is not practical to require the disposal footprint to be described by latitude and longitude and expressed in degrees, minutes, and seconds, or decimal degrees as the disposal footprint is not a point location.<br><br>The operator is required under Part 2.B.2. to identify the location of the facility in Degrees, Minutes, Seconds, or Decimal Degrees identifying the center of the waste footprint for existing or proposed disposal sites and identifying the office or main gate for all other facilities. |